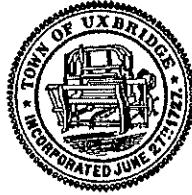


Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

MEETING MINUTES: Wednesday, June 3, 2020

Present: Rob Knapik, Mark Kaferlein, Thomas McNulty, Jim Blackburn and Administrator Melissa Shelley

Absent: John Gniadek

I CALL TO ORDER

It being approximately 6:00pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chair. He made the following statement to explain the purpose for the remote meeting: *Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Uxbridge Conservation Commission is being conducted via remote participation. Although, no in-person attendance of members of the public will be permitted, the Town of Uxbridge has made every effort to ensure the public can adequately access the proceedings in real time via technological means. This meeting is being streamed on Uxbridge Community Television and Zoom per the instructions on the agenda alternatively members of the public can call in by calling 301-715-8592 and using meeting i.d. 822 7889 5188. All motions will be voted on with roll call vote in alphabetical order by last name (Blackburn, Gniadek, Kaferlein, Knapik, McNulty)*

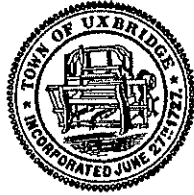
I. PUBLIC HEARINGS

- FY20-12: 56 Industrial Drive, the applicant Ronald Parsons, Trustee of 56 Industrial Drive Realty Trust, is seeking to amend the decision for VARIANCE Case # FY08-02 to once again tailor the lot to the unique needs of future tenants.** The applicant proposes to split the existing lot so that each existing building occupy its own lot for a future conveyance. Proposed lot 1 will contain the smaller building and is the subject of this request. The property is located in the **Industrial B Zoning District** and is shown on the Town of Uxbridge Assessor's **Map 40 Parcel 4659** and described in a deed recorded at the Worcester Registry of Deeds **Book 61681 Page 145**.

Discussion: Eli Leino, Mayer, Antonellis, Jachowicz & Haranas, LLP and Stephen O'Connell, Turning Point Engineering represented Mr. Parsons. Mr. Leino stated in 2008 the ZBA granted relief finding that there was a "substantial hardship to the angular sideline and the shape of the lot and that the hardship was financial in nature and not detrimental to the public good". He said, through the creation of the lot and the placement of the original building (in the center of the lot) which was later expanding with variance relief, the lot has been substantially tied up. He argued the lot is large enough and has enough frontage to be split into two lots but without the variance relief. However, due to the placement of the buildings they do need variance relief to re-site the lot lines and split the lot. Without the variance, the Applicant will either be forced to demolish and reconfigure the buildings on the site, or leave one of the buildings entirely vacant. A hardship, he suggested, that can be remedied through the requested relief without detriment to the public good nor substantial derogation from the Zoning By-Laws.

Larry Lench, the Uxbridge Building Inspector pointed out the similarities in this and the past application. He explained the applicant had difficulty "reading the room" during the last meeting because it was held remotely and not in person. He indicated had the applicant noticed any member hesitation he may have postponed the decision or requested a withdraw w/o prejudice had it been a regular meeting at the town hall. Additionally, Mr. Leino explained that not much has changed with the lot itself since the previous variance was granted but the buildings were configured in a way that worked for previous owner. As they work to find a new user for this specifically tailored location – they are hoping for relief granted in able to reconfigure it for a new user.

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Members questioned why the lot needed to be divided and not be utilized as is. Mr. Leino explained the Applicant has a potential leaser for the larger building but water supply regulations limiting the number of employees would leave the smaller building unusable. He argued dividing the lot will allow the Applicant to apply for a second well which Mr. O'Connell said will "unequivocally meet any BOH/DEP requirements". A second well will allow the applicant to double the capacity of the allowable employees in a 24-hour period. Everyone agreed the Applicant will be required to comply with all applicable state and local regulations.

There was discussion regarding whether the shape of the *structure* could be considered a circumstance leading to hardship. There was review & discussion of a similar case - Emily Cyrus vs BOA of Cambridge.

Jon Normandin, 40 Industrial Dr., spoke in opposition to the project. He did not believe there would be enough room for parking, he noted water run-off problems, he had questions about the concrete loading dock and in general did not believe splitting the lot was in the best interest to the area. Mr. O'Connell and Mr. Leino responded how they could address those items.

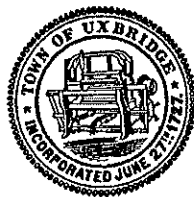
Mr. Knapik read two letters of support of the project written by Board of Selectman members Brian Butler and Jeffrey Shaw.

During the meeting it was mentioned that the potential user is a cannabis grow/processing facility. The HCA and the potential revenue to the town was considered.

The Chair confirmed with Town Counsel that the Board must apply the following four statutory requirements outlined in MGL of Ch. 40A Section 10 to this request to amend an existing variance. Members acknowledged the difficulty in meeting the standard for a variance and the uniqueness of this application as the circumstance for the hardship relates to the structure, the hardship is operational and economic, and its equity aspects.

1. Circumstances relating to soil conditions, shape, or topography that especially affect the property for which a variance is sought but do not generally affect the zoning district in which the land or structure is located. *Members agreed there were no obvious soil conditions, shape, or topography that especially affect the land of the property. However, they did agree that the shape of the building is unique in that it consists of two separate structures connected by a loading dock. It was suggested that soil conditions could also be considered a circumstance due to the regulatory limitations for the water supply.*
2. Facts showing that substantial hardship, financial or otherwise, will result from literal enforcement of the applicable zoning restrictions to the land or building. *Members agreed the applicant established a substantial economic and operational hardship.*
3. Facts supporting a finding that the relief sought will be desirable and without substantial detriment to the public good. *Members did not note any detriment to the public good. Per the applicant's presentation, the smaller parcel and the existing unique building could be available for lease or purchase for uses that are allowed in the Industrial B zone. The larger building has a potential user, a cannabis company with a Host Community Agreement with the Town.*
4. Facts supporting a finding that the relief sought may be given without nullifying or substantially derogating from the intent and purpose of the Zoning Bylaws. *Members agreed that the findings support the belief that the relief sought may be given without nullifying or substantially derogating from the intent and purpose of the Zoning Bylaws.*

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Motion: Mr. McNulty moved to close the public hearing for FY20-12 56 Industrial Drive. Mr. Kaferlein seconded, and the motion passed unanimously by roll call vote of 3-0-0 (Kaferlein – aye, Knapik – aye, McNulty – aye).

Motion: Mr. McNulty moved to approve the request for variances as requested subject to the condition that the concrete loading dock between the buildings be removed. Mr. Kaferlein seconded, and the motion passed unanimously by roll call vote of 3-0-0 (Kaferlein – aye, Knapik -aye, McNulty – aye)

II. MINUTES/MAIL/INVOICES

1. 05/06/20 Meeting Minutes Review

Motion: Mr. McNulty moved to approve the 5/6/20 ZBA meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Kaferlein – aye, Knapik – aye, McNulty – aye).

III. ANY OTHER BUSINESS, which may lawfully come before the Board

1. Review the ZBA Meeting Schedule for fiscal year 2021.

Motion: Mr. McNulty moved to approve the FY2021 Meeting Schedule. Mr. Kaferlein seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Kaferlein – aye, Knapik – aye, McNulty – aye).

IV. ADJOURNMENT: NEXT ZBA MEETING, Wednesday, July 1, 2020

Motion: Mr. Blackburn moved adjourn the June 3, 2020 meeting of the ZBA. Mr. McNulty seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Kaferlein – aye, Knapik – aye, McNulty – aye).

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SIGNATURES:

Rob Knapik, Member

absent

John Gniadek, Member

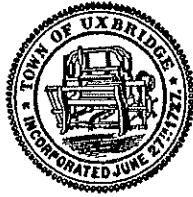
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Date

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absent

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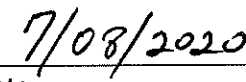
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SIGNATURES:

absent

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John Gniadek, Member

Mark Kaferlein, Member



Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

Date

July 1, 2020