

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



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2019 p

**TOWN OF UXBRIDGE  
ZONING BOARD OF APPEALS**

REC'D UXB TOWN CLERK  
2020 JAN 8 AM 9:00

**MEETING MINUTES: Wednesday, November 6, 2019**

**Present:** Rob Knapik, John Gniadek, Thomas McNulty, Jim Blackburn and Land Use Administrator Melissa Shelley

**Absent:** Mark Kaferlein

**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, who led the Pledge of Allegiance

**II PUBLIC HEARINGS**

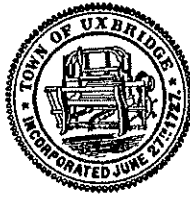
1. **FY17-29-MOD: 30 Monahan Drive, Peterson Pereira, All for One Inc., Owner/Applicant**, is seeking a **MODIFICATION** to his **SPECIAL PERMIT** for a Class II Auto Dealer License to increase the number of vehicles allowed on the site. The property is shown on the Town of Uxbridge Assessor's Map **51** Parcel **2755** and described in a deed recorded at the Worcester Registry of Deeds Book **57224** Page **342**. The property is located in the **Business Zone**.  
(Continued public hearing)

**Discussion:** Based on the evidence gathered at the October 18 site visit, members agreed on a reasonable number of allowable vehicles that address the concerns for safety and congestion. The Board also considered the Special Permit criteria outlined in Section 400-50 (B) of the Uxbridge Zoning Bylaws as follows:

1. social, economic, or community needs which are served by the proposal - *the modification will not negatively impact - members agreed it is an appropriate location for this use, there are no residential uses close by and the business employees individuals*
2. traffic flow and safety, including parking and loading - *impact was considered and addressed in the conditions imposed*
3. adequacy of utilities and other public services - *services are adequate and the modification has no impact on services*
4. neighborhood character and social structures - *the business fits in its location*
5. impacts on the natural environment - *the modification will have no impact on the natural environment*
6. potential fiscal impact, including impact on town services, tax base and employment - *no impact the business is healthy with employees that contribute to the tax base*

**Motion:** Mr. McNulty made a motion to close Public Hearing FY 17-29-MOD for 30 Monahan Drive. Motion seconded by Mr. Gniadek passed unanimously by VOTE (3-0-0).

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**Motion II:** Mr. McNulty made a motion that the Board grant the request to modify the Special Permit for 30 Monahan Drive subject to the conditions below. Motion seconded by Mr. Gniadek passed unanimously by VOTE (3-0-0).

**Conditions:**

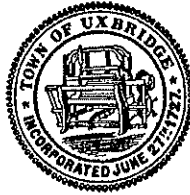
1. The maximum number of step-vans allowed on the property at any given time is limited to fifty (50).
  - For the purpose of this permit step-vans also known as walk-in or multi-stop delivery trucks are to be defined as Federal Express Trucks no longer than thirty feet (30') in length.
2. The maximum number of other vehicles allowed on the property at any given is limited to thirty (30).
3. The applicant must reduce the number of vehicles to the allowable amount no later than May 1, 2020.
4. The applicant must maintain at least fifteen feet (15') between the buildings and any vehicle on the property at all times for emergency access.
5. The applicant must maintain a sufficient area on the west side of the garage at all times for emergency vehicles to have the ability to enter the property and turn around.
6. The applicant must limit parking and storing vehicles to inside the fence and the limit of property.

**2. FY20-06: 306 Hazel Street, Richardson-North Corporation, Owner** is seeking a **VARIANCE** to reduce the frontage dimensional requirement from three-hundred feet (300') to zero feet (0'). Access to the property is provided by a twenty foot (20') right-of-way driveway easement. The property is shown on the Town of Uxbridge Assessor's Map **23** Parcel **545** and described in a deed recorded at the Worcester Registry of Deeds Book **18429** Page **144**. The property is located in the **Agricultural Zoning District**.  
*(Continued public hearing)*

**Discussion:** Travis Brown, Andrew's Survey and Engineering presented the application on behalf of the Applicant. Elias Richardson, the property owner, was also in attendance and offered some comments during the meeting. Mr. Brown described the property as a four-acre parcel, without any frontage, that can be accessed through a driveway easement. He explained that the Zoning Board of Appeals issued a Special Permit in January 10, 2000 that authorized construction of a single dwelling on the property. He also stated that this parcel has been taxed as a "buildable lot" since 2000 and that the applicant became aware the Special Permit had lapsed when his application for building permit was denied this year.

The Chair noted the initial form of relief granted was a Special Permit and explained why the lot at this time would require a Variance as was requested. Members acknowledged that in order to grant a Variance, as defined in M.G.L. Chapter 40A, Section 10, their charge is to find that circumstances owing to the soil, shape, or topography of the land that resulted in a hardship and the relief granted cannot nullify

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or derogate from the intent of the Zoning Bylaw. The Board also took into consideration several similar court cases for requests for a Variance.

Members verified the long-term validity of the easement and discussed whether it is appropriately sized for all required access. They agreed frontage requirement laws were enacted to ensure every lot might be reached by agencies charged with protecting the health safety and welfare of the public.

Members found the area of the parcel is well in excess of the area required. They considered how to ensure the purpose of the bylaw is maintained if they grant the Variance and what conditions would be appropriate.

Mr. Blackburn referenced a point made in the initial decision that there was an error on an old Assessors map leading the applicant to believe he had frontage on Hazel Street. Mr. Richardson confirmed the lot did not have frontage, which is why he purchased the right away from his Aunt, and he thought the error might be related to the size of the lot and the property has since been surveyed.

The owner of the property directly abutting on the easterly side attended the meeting and spoke in opposition to the request. Another member of the public, to speak in favor of the applicant, arrived at the meeting shortly after the public hearing closed.

During deliberations, members acknowledged the difficulty in meeting the strict standard for the granting of a Variance. They recognized the financial hardship but there was not agreement on whether the circumstances related to the soil conditions, shape or topography of such land led to the hardship.

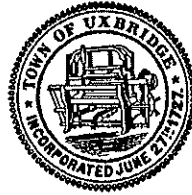
**Motion:** Mr. McNulty made a motion to close the Public Hearing for FY 20-06 for 306 Hazel Street. Motion seconded by Mr. Gniadek passed unanimously by vote of 3-0-0.

**Motion II:** Mr. Gniadek made a motion that the Zoning Board of Appeals grant the Variance as requested in the application package FY20-06 for 306 Hazel Street. Motion seconded by Mr. McNulty failed by VOTE of 2-1-0.

3. **FY20-07: 503 Elmwood Avenue, Wayne S. and Melodie A. Roy Owners / Elias Richardson Applicant** are seeking a **VARIANCE** to reduce the frontage dimensional requirement from 300 feet to 46.76 feet. The property is shown on the Town of Uxbridge Assessor's Map **49** Parcel **3057** and described in a deed recorded at the Worcester Registry of Deeds Book **41118** Page **371**. The property is located in the **Agricultural Zoning District**.

**Discussion:** Travis Brown, of Andrew's Survey and Engineering, presented the application on behalf of the applicant. Mr. Brown explained that the Uxbridge Zoning Board of Appeals issued a Special Permit on January 12, 2000 that was never acted upon. The permit allowed for a buildable lot with of forty-seven

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feet (47') of frontage on and six and one half (6.5) acres of land on Elmwood Avenue. The permit was issued based on a hardship created when a portion of the property, consisting of approximately four hundred and seventy-eight feet (478') of frontage on Elmwood Avenue, was taken by eminent domain by the Boston Edison Electric Company. It was mentioned that a large portion of the property has frontage on Locust Street, which has been discontinued and is no longer a public roadway. Mr. Brown also pointed out a proposed easement on the property to allow for the existing driveway for 505 Elmwood, the property directly abutting on the westerly side.

There was one abutter in attendance that spoke in opposition to the project. Larry Lench, Uxbridge Building Inspector, attended requested the Board consider defining the lot lines or adding a condition that would to ensure the dwelling is not constructed in the narrow neck of the property. Board members agreed upon a hardship caused by the taking of land by the utility company, which resulted in a "pork chop" shaped lot and discussed potential conditions with the applicant's representative.

**Motion:** Mr. McNulty made a motion to close the Public Hearing for FY 20-07 for 503 Elmwood Avenue. Motion seconded by Mr. Gniadek passed unanimously by VOTE of 3-0-0.

**Motion II:** Mr. McNulty made a motion that the Zoning Board of Appeals grant a variance to reduce the frontage dimensional requirement from three hundred feet (300') to forty-six and three quarters feet (46.76') as requested in the application package FY20-07 for 503 Elmwood Avenue with the following conditions:

1. Only one (1) single family dwelling may be constructed on the property in compliance with the Uxbridge Zoning Bylaw and any other applicable rules and regulations
2. The principal structure must be at least four hundred feet (400') from the front line of the property on Elmwood Street
3. The driveway and access to the property must comply with current fire code standards
4. Any further subdivision of the property is prohibited

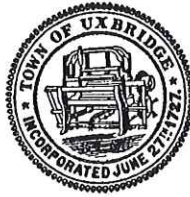
The Board made a finding that there is a circumstance, unique to this property, as it relates to the shape of the land, specifically to a taking of a portion of the property by a utility company, and that a literal enforcement of the bylaw would result in substantial hardship and granting relief would not derogate from the intent of the bylaw or harm the public good.

### **III MINUTES/MAIL/INVOICES**

#### **1. 10.2.19 Meeting Minutes Review & 10.18.19 Site Visit Minutes Review**

- Motion: Mr. Knapik approved the 10.2.19 meeting minutes as written. Mr. McNulty seconded, and the motion passed by vote of 2-0-1 (Mr. Gniadek abstained)

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- Motion: Mr. Knapik approved the 10.18.19 meeting minutes as written. Mr. McNulty seconded, and the motion passed by vote of 2-0-1. (Mr. Gniadek abstained)

**IV ADJOURNMENT: NEXT ZBA MEETING, Wednesday, December 4, 2019**

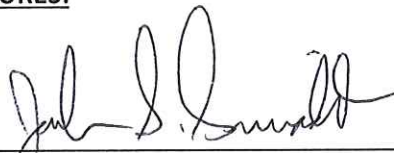
**Motion:** Mr. Gniadek moved adjourn the November 6, 2019 meeting of the ZBA. Mr. McNulty seconded, and the motion passed by vote of 3-0-0.

**SIGNATURES:**

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Rob Knapik, Member

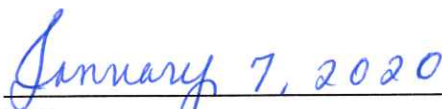
(absent)

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Date