

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 NOV 17 AM 9:46

**MEETING MINUTES: Wednesday, October 7, 2020**

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

**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 871 9429 3994. All motions will be voted on with roll call vote.*

**II PUBLIC HEARINGS**

*\* The Chairman took the hearings out of the the published agenda order to accommodate the applicant for 165 Ironstone Road.*

1. **FY21-05:** 165 Ironstone Road, Chad Woodward, Applicant, is seeking a SPECIAL PERMIT in order to obtain a Class II Auto Dealer License to conduct the sales of used trucks. The property is shown on the Town of Uxbridge Assessor's Map 51, Parcel 0927 and described in a deed recorded at the Worcester Registry of Deeds in Book 10858 and Page 111. A portion of the property is located in the Business Zone and a portion is located in the Agricultural Zone.

**Presentation:** Chad Woodward, the applicant, presented his application to the Board. He explained his company, SD Trucking, has operated at the location as a truck repair facility since 1987. He would like the ability to have five to ten trucks for sale to generate additional revenue for the shop. He also noted the previous owners were licensed to sell vehicles from the location. The types of vehicles currently being repaired and proposed to be for sale include semi-commercial vehicles such as dump trucks; hook lift roll off trucks and tractor trailer type cab and chassis. Mr. Woodward did not anticipate the expansion would result in a noticeable change in his business or the need for additional frontage to display vehicles for sale.

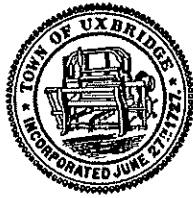
**Discussion:** The Chairman identified the following two the applicable sections of the Uxbridge Zoning Bylaw that could be applied to the request (i) Appendix A, Table of Use Regulations, D. Commercial Uses and (ii) Section 400-12 Nonconforming Uses & Structures, B. Nonconforming Uses. Members agreed to address all related points.

There was discussion with the applicant about the number of vehicles that can safely fit on the property. Mr. Woodward estimated the site can hold 25-30 total vehicles depending on the size and said that 16 is an average number of vehicles in for repair at any given time. He plans to have vehicles in for repairs parked on the left side and vehicles for sale parked on the right.

No members of the public spoke in favor or opposition to the proposal. During deliberations, Board members agreed the application, as proposed, was an appropriate use of the property and that met the following criteria outlined in Section 400-50 (B) of the Uxbridge Zoning Bylaws:

1. Positive impact on social, economic or community needs if properly cited

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2. Little to no impact on traffic flow and safety, including parking, and loading due to the location and size of the business
3. The utilities and other public services are adequate because this business should have a low impact
4. This business is suitable for neighborhood character and social structures and the expansion will not result in any negative impacts
5. There should be no impact on natural environment
6. The fiscal impact including impact on town services, tax base and employment appears to be a net benefit

**Motion:** Mr. Blackburn made a motion to close the Public Hearing FY 21-05 for 165 Ironstone Road. Motion seconded Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Blackburn -aye, Gniadek – aye, Knapik – aye).

**Motion:** Mr. Blackburn made a motion that the Zoning Board of Appeals grant the Special Permit request FY21-05 for the expanded use of the property at 165 Ironstone Road to include the retail sale of used vehicles. The approval is subject to the following conditions. Motion seconded by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Blackburn -aye, Gniadek – aye, Knapik – aye).

1. Hours of operation are limited to: Monday-Friday 8:00am to 5:00pm and Saturday 8:00am to 12:00pm.
2. Number of vehicles permitted on the site at any given time is limited to: twenty-five (25).
3. Vehicles must be parked and maintained within the bounds of the property.
4. A prohibition on vehicles parked within ten feet (10') of the structure with the exception of the side where the garage doors are located.

**Motion:** Mr. Blackburn made a motion to find that the expansion to the business shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. Motion seconded by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Blackburn -aye, Gniadek – aye, Knapik – aye).

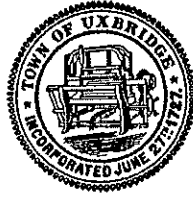
1. **FY21-01:** 502 and 486 Douglas Street, the applicant Uxbridge Gas and Market, LLC, is seeking a SPECIAL PERMIT, in accordance with the Uxbridge Zoning Bylaws Appendix B: Table of Uses, for a 5000 s.f. Filling Station/Convenience Store and drive through coffee shop with five (5) gasoline pump islands and two (2) high speed diesel pump islands. The properties are shown on the Town of Uxbridge Assessor's Map 23 Parcels 4364 and 4424 and described in deeds recorded at the Worcester Registry of Deeds in Book 54556 and Page and Book 27722 Pages 63 and 346. (Public Hearing Opened August 5, 2020).

Mr. Knapik provided an overview of the public hearing procedure and verified the voting members for the application are Tom McNulty, John Gniadek and himself.

**Presentation:** Attorney Thomas Reidy; David Faist, Engineer, CMG Environmental, Inc.; Robert Michaud, Traffic Engineer, MDM Transportation Consultants, Inc.; and Eric Simpson, LSP Compliance, TG2 Solutions represented the Applicant during the hearing.

Mr. Reidy provided an overview of items that have taken place since the public hearing opened in August: (i) the request for a Variance to the sign requirements, included in the original submittal, was withdrawn, (ii) site plans were revised based on town, abutter and peer review comments, (iii) a traffic study was completed and peer reviewed, (iv) third party engineering of the project was completed (iv) the Uxbridge Conservation Commission issued an Order of Conditions for the project (v) the Uxbridge Planning Board closed the public hearing and

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approved the project. Mr. Reidy explained they intend to use the ANR process to portion off the lot to the east if the project is approved.

Mr. Faist, CMG, presented the site plan for the project: (i) the final site will be approximately 1.87 acres in size (ii) 2 curb cuts on Douglas St. (iii) 2 underground gasoline storage tanks and 1 diesel fuel storage tank (iii) 10 automobile fueling stations will be located in the front (iv) 2 high speed diesel fueling stations will be located on the right side (v) the proposed convenience/Dunkin' store will include a drive thru window (vi) adequate parking proposed is based on Zoning regulations (vii) there are lanes in the rear of the site for drive thru and trucks to maneuver around the site (viii) 2 pylon signs are located at the front of the property (ix) 2 stormwater basins are located on the right side of the property. Mr. Faist also presented the grading plans and provided details regarding the site drainage. He explained the site is designated as a Land Use with Higher Potential Pollution Load under the Mass Stormwater Management Policy and therefore subject to higher design standard than a typical commercial site. The Graves Engineering review confirmed they are not increasing any offsite flow in comparison w/ existing conditions and they are providing the required treatment under the policy. Mr. Faist displayed the plan depicting the proximity of the project to the Taft Hill Condominiums including a profile view noting the closest structure is approximately 400 feet from the rear of the site.

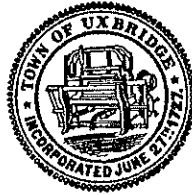
Mr. Simpson, LSP Compliance, presented installation and operational details of the proposed tanks: (i) the fuel storage system includes double-walled storage tanks constructed of reinforced fiberglass, (ii) each fuel storage tank contains an Automatic Tank Gauge which continuously tests for water or fuel intrusion into the interstitial space between the walls of each tank (iii) the monitoring system will immediately alert the operator of the facility in the event of groundwater intrusion or fuel leakage into the interstitial space between the fuel storage tank walls, (iv) a liquid-tight sump pump will be fused to the top of each fuel storage tank, with an additional sensor in each pump, and double-walled fiberglass fuel lines. Mr. Simpson also explained the additional safeguards incorporated into the project including spill protection, overfill protection, automatic shutoff valves and enhanced vapor recovery systems. He displayed photographs of a comparable installations and a schematic of the system.

Mr. Michaud, MDM Transportation, presented the results of the study focused on traffic, operational and safety characteristics of the site. The study was peer reviewed on behalf of the Town by Vanasse & Associates Inc. who confirmed the validity of the report and concurred with the results. The key findings of the report were highlighted: (i) there will be no significant increase in motorist delay or vehicle queuing during peak-volume hours, with or without improvements to the Route 146 and 16 ramp intersections, (ii) there is ample capacity (Level of Service D or better, (iii) adequate maneuvering area to accommodate large trucks and (iv) there is ample drive-through queue area. He explained the proposed Amazon sorting facility & was accounted for in some of the supplemental analysis because of the associated upgrades to the N and S bound ramp systems of 146 and the proximity to the project. He noted that Amazon has committed as a condition of that project that all commercial activity will be oriented to and from the 146 interchange. Covid influence was accounted for by comparing the 2020 data to data collected in 2018 for Medline Industrial Park on the west side of the interchange - a 20% net reduction in traffic activity was identified.

**Board Discussion:** The Chair reviewed the essential criteria the Board must consider and act upon in granting a special permit set forth in Section 400-50 B of the Uxbridge Zoning Bylaws.

The following is a summary of the questions Board members proposed to the Representatives: (i) are tank locations (close to the street) typical? Mr. Simpson said this is preferred because it's more efficient and safer during fuel delivery. (ii) an unforeseen accident/event? - there is a 12" concrete mat on top of tanks and they are designed to be driven over - high speed pumps have to be engaged and held to dispense fuel (iii) gas station employees informed

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on safety protocols? – yes training required by DEP, manuals in store (iv) how was the Police Chief's concern for congestion addressed? – the study did not find any cause for congestion (v) discussion about traffic impacts from the Amazon sorting facility employees (vi) what are the impacts related to noise and screening? - noise from the gas station use is expected to be a nominal decibel level by the time it gets to the closest abutter, they are not proposing any music or advertisement proposed. Proposed plantings were reviewed and the Representative agreed to additional plantings if requested. (vii) what financial assurances are in place to protect the community? – the Dept of Revenue manages a 21 J fund, designed to be a backstop to cover a catastrophic release and Mass DEP is involved if there a release, if a facility goes defunct DEP takes ownership of the clean-up. (viii) will there be an impact on the Summerfield Driveway? – no, the study showed the number of trips introduced by the gas station to Rte. 16 to the E should be modest and not have an affect (ix) construction time for gas station? – 4-5 months weather permitting (x) construction time for the interchange upgrades? – complex multi-year project, practical completion estimate would be summer of 2024 subject to Mass DOT approval.

**Public Comments:** Patrick Stephan, 44 Andrews Drive - expressed concern for noise (no noise study conducted) and traffic from Amazon shift change, asked questions about the levels of service changes and crash data presented in the traffic study, reviewed comments related to the Special Permit criteria (also submitted to the Board).

Thomas Fields, 21 Summerfield Drive – provided various concerns to the Board for consideration that he identified during his review of the traffic studies of the Gas Station, Amazon and Medline projects. Mr. Michaud responded to each of Mr. Fields points of concern. Mr. Fields also expressed concern for noise from the diesel vehicles and offered some references to the Campanelli noise study and mitigation efforts.

Paul Balutis, 40 Taft Hill Lane – referred to his submittal outlining is objections to the project based on the special permit criteria, believed a noise study would be appropriate, pointed out State regulations related to electronic signage.

Frank Zersky, 7 Summerfield Drive – brought up concerns with potential queuing at the pumps and on the site, asked about the visual impact to the homes at the higher elevation in the development. Also expressed concerns with noise impacts. Mr. Zersky also pointed out the two previous denials were for projects with less impact.

Roger Messier, 55 Taft Hill Lane – inquired why the project could be heard after previous applications were denied, expressed concerns for the value of the abutting residences, recommended limiting the hours of operation.

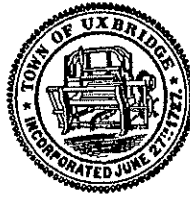
Michele Choineire, 15 Nikki Way – asked about how the garbage will be managed and where trucks are to park to use the convenience store. Mr. Faist and Mr. Reidy responded.

Harvey Char, 50 Summerfield Drive – concerns with trucks idling because there are not truck parking spaces; inquired whether doughnuts would be cooked on site.

Patricia Willard, 32 Summerfield Drive – opposed to the project and described the negative impact on her quality of life (concerns for traffic safety, loitering, trash etc).

Beth Zersky, 7 Summerfield Drive – pointed out that 95% of the residents of the Summerfields, and the residents they spoke to along Douglas Street strongly oppose to this latest gas station proposal but they are not opposed to other types of business more suited to the neighborhood characteristics.

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Richard Olsen, 14 Summerfield Drive – asked whether we really need another gas station and there was discussion regarding property use.

Mr. Stephan stated the Summerfield Community encourages the Board to vote on the project if the applicant does not have any additional revisions and Board members agree they have the information to do so.

**Discussion:** After discussion, Board members agreed they had enough time and information to decide on the petition this evening. They decided to leave the public hearing open and discuss conditions so the applicant and abutters could all have input on the following items: (music or audio, hours of operation, plantings, screening, garbage pick-up, & signage).

Conflicting maneuvers between vehicles during construction of the various projects was a concern brought up by a Board member. Mitigation measures discussed included, prohibiting left turn out of the western most exit, appropriate striping of Rte 16, assessing for a 6-month period and consulting w/ DPW and professionals to propose solutions.

The rooftop mechanicals were identified as a potential noise source and possible conditions to reduce the noise was discussed further with the applicant. It was mentioned that the equipment has to comply with energy efficiency standards and may not be too loud. It was agreed that the applicant would review the design and make any modifications that would mitigate noise. Adding plantings/screening along the top of the retaining wall was also considered as a condition.

Trash collection, lighting and hours of operation were discussed in more detail. The Applicant would like 24 hours and offered the option of scheduling a review date after 6-month trial period to evaluate. The abutters were strongly opposed to a 24-hour operation and requested it be closed between 12am and 5am.

**Motion:** Motion made by Mr. McNulty to close the Public Hearing for Case Number FY21-01. Motion seconded by Mr. Gniadek, and passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).

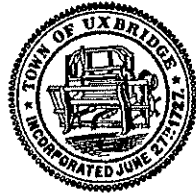
**Discussion:** Board members acknowledged the weight in deciding whether to grant the special permit and identified all the reviews, information and abutter concerns that were taken into consideration. There was agreement that the application of the bylaw could result in a finding that the adverse effects of the project do not outweigh the beneficial impacts to the Town or neighborhood (competition, tax revenue, convenience).

Conditions proposed included: limiting hours from 5am to 12am for a 6 month trial period, constructed in accordance to the plan, fuel stations are limited to the number designated on the plan, prohibition on music or audio advertising at the pumps, plantings be installed as shown on the plan and on top of the retaining wall and assured of one growing season, lighting be downcast lights, trash collection occur during suitable hours, no loitering signs be posted, no idling signs.

**Motion:** Motion made by Mr. Gniadek that the Board vote to grant a special permit, as requested in the Application for Case Number FY21-01, upon a finding by the Board for the reasons set forth hereinabove that the adverse effects of the Project will not outweigh its beneficial impacts to the Town or the neighborhood, in light of the criteria. Motion seconded by Mr. McNulty, passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).



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**Motion:** Motion made by Mr. Gniadek to impose the conditions discussed by the board. Motion seconded by Mr. McNulty, passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).

*Conditions as they appeared in the decision:*

1. *Hours of Operation shall be limited to 5:00 am to 12:00 am for a trial period of six (6) months after the Project opens to the public for business. Upon conclusion of such six-month period, the Applicant may petition the Board to modify this condition to enlarge or otherwise alter Hours of Operation. The decision of the Board to enlarge or alter Hours of Operation shall be based upon consideration of testimony, if any, of surrounding property owners, and testimony, if any, of appropriate officials or representatives of the Town, including but not necessarily limited to the Building Inspector, Uxbridge Police Department, and Uxbridge Fire Department.*
2. *The Project shall be constructed in accordance with the Site Plan.*
3. *The number of fuel stations shall be limited to the number depicted on the Site Plan.*
4. *Music or outdoor audio advertising shall be prohibited.*
5. *Plantings shall be installed as shown on the Site Plan and shall be supplemented with additional plantings along the top of the retaining wall. Plantings shall be assured for one (1) full growing season.*
6. *Outdoor lighting shall be downcast to avoid light spillover onto adjoining properties.*
7. *Trash collection, and any resulting noise created thereby, shall occur only during hours not likely to have an adverse effect on nearby residents, such as between the hours of 5:00 am and 8:00 am.*
8. *"No Loitering" signs shall be posted on the building.*

### III MINUTES/MAIL/INVOICES

1. 9/2/20 Meeting Minutes Review

**Motion:** Mr. McNulty moved to approve the ZBA's 9/2/20 meeting minutes as written. Mr. Gniadek seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Blackburn – aye, Gniadek – aye, Kaferlein – aye, Knapik – aye, McNulty – aye)

2. Zoning Bylaw Amendments

- Item passed over

### IV ADJOURNMENT: NEXT ZBA MEETING, Wednesday, November 4, 2020

**Motion:** Mr. McNulty moved to adjourn the October 7, 2020 meeting of the Zoning Board of Appeals. Mr. Blackburn seconded and the motion passed unanimously by roll call vote of 5-0-0 (Blackburn – aye, Gniadek – aye, Kaferlein – aye, Knapik – aye, McNulty – aye).

Respectfully Submitted,  
Melissa Shelley

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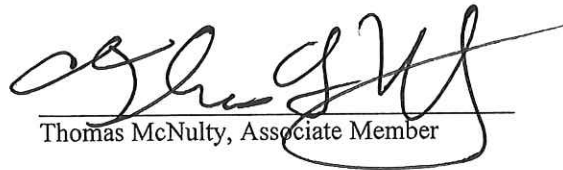
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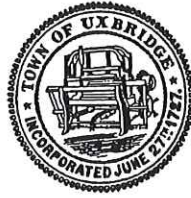
  
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