

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
2021 MAY 17 AM 9:09

MEETING MINUTES: Wednesday, April 7, 2021

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

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 861 620 3349. All motions will be voted on with roll call vote.*

PUBLIC HEARINGS (Please note the public hearings were taken out of published agenda order)

1. **FY21-13: 619 Quaker Highway, Applicant Kevin Powers**, is seeking a **SPECIAL PERMIT** for a use change to allow commercial truck and heavy equipment repair to be conducted on the site. The property is located in an **Industrial B Zoning District**, shown on the Town of Uxbridge Assessor's **Map 45** as **Parcel 2998**, and described in a deed recorded at the Worcester Registry of Deeds **Book 57502 Page 299**.

Presentation: Kevin Powers, represented himself during the hearing. He explained he would like to transfer his sealcoating supply business from 160 Ironstone Road to 619 Quaker Highway and also have the ability to repair his and his customer's vehicles onsite as a way to increase revenue.

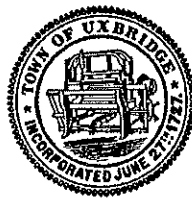
Discussion: Larry Lench, Uxbridge Building Inspector, explained he referred Mr. Powers to the ZBA because the Zoning Bylaw doesn't specify commercial truck repair as an allowed use. He confirmed Mr. Powers is moving his business from Ironstone Rd and provided a brief explanation of Mr. Powers operation.

There were inquiries about the number of vehicles expected to be onsite and inside at any given time. Mr. Powers said there are 2 bays that are each 80' deep and he estimated 2 tractor trailers or 4-6 unhitched tractors could be inside at one time. He also estimated that there would be no more than 25-30 vehicles on the site at any given time and said an area on the site of the building was cleared for this purpose. He noted the number is very dependent on the time of year – less in the winter. Maintaining an unobstructed lane around the building for emergency vehicles was also discussed and Mr. Powers was amenable to any related conditions. Mr. Powers also informed members that he worked with Mass DOT to design the entrance and exit curb cuts to control traffic flow onsite.

Mr. Blackburn inquired whether the building was designed and built with the intent of this type of work to be performed – have all the fire and building code requirements have been met? Mr. Powers said yes and no – the original plan was just to operate the seal coating business but the building was installed with the mechanical repairs in mind. Mr. Lench added an overhead door allows for trucks to enter but there must be a sand/gas separator which Mr. Powers did install.

The property was also in front of the Board of Selectman for a permit for outdoor propane storage. The request was discussed over several meetings and there appeared to be concerns from the fire department about vehicles being allowed inside the building. Mr. Powers said the Selectman issued the license but he still requires approval in the form of a permit from the Fire Chief who he is meeting with the following day (4/8/21). He emphasized this was for an outside permit and that the UFD wanted to ensure no propane trailers are allowed be inside the building.

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After discussion, members agreed in the value of giving the Fire Chief an opportunity to comment before voting on the change of use. Mr. Powers requested to meet sooner than the regularly scheduled May meeting and members agreed to hold a follow up meeting on 4/21/21.

There were no comments by members of the public during the hearing.

Motion: Mr. Blackburn made a motion to continue the public hearing for 619 Quaker Highway to April 21, 2021 at 6:00pm. Mr. McNulty seconded, and the motion passed unanimously by 3-0-0 (Blackburn – aye, Gniadek – aye, McNulty – aye).

2. **FY21-12: 46 South Main Street, MFZ Realty Trust, owner** is seeking a **SPECIAL PERMIT** to convert the existing commercial office space into a residential apartment unit. There is currently one (1) principal structure on the site that contains two (2) residential units and one (1) commercial office space. The property is located in the **Business Zoning District**, shown on the Town of Uxbridge Assessor's **Map 25 as Parcel 0981** and described in a deed recorded at the Worcester Registry of Deeds in **Book 62892 on Page 196**.

The Chairman explained the owner's request that the Board substitute the petitioner to John P. Brennan, Trustee of MFZ Realty Trust since Samuel Giard, the initial applicant, is no longer pursuing purchasing the property.

Motion: Mr. Gniadek made a motion to grant the owner's request to substitute the applicant from Samuel Giard to MFZ Realty Trust. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye).

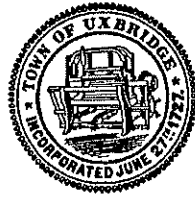
Presentation: The applicant was represented by Joseph C. Cove, Esq. who described the request to change 1,360 square feet of business use to 1,360 square feet of residential. The site contains approximately 13,068 square feet of land, on which a two-family house and attached commercial law office is situated. The two-family house was constructed in 1880 and the attached law office, previously an attached barn to the two-family residence, was converted to a law office in 1988. The existing nonconforming two-family residential structure covers approximately 2,300 square feet.

Atty. Cove explained there will be no change in the existing footprint of the building and there will be no outside alterations. He noted that all parking will be off road. It was also pointed out that the general character of the neighborhood on both sides of South Main Street is residential (single family and multifamily) and the neighborhood has been residential long before the adoption of zoning bylaws in the Town of Uxbridge.

Atty. Cove reviewed the standard of review for the petition - Uxbridge Zoning Bylaws Section 400-12 (C) states in part as follows: "The Board of Appeals may award a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. He explained why he believes it's clear that the proposed change in use will not be substantially more detrimental and that in fact it will be less detrimental to the neighborhood. He also provided his assessment of the Special Permit Criteria outlined in the Zoning Bylaw Section 400-50 (B):

1. Extending the residential use to the proposed third unit will have a positive impact on social, economic and community needs as the proposed residential use is entirely consistent with the current use of all buildings in the immediate neighborhood.
2. All parking will be off road and there will be minimal to no impact on traffic flow; a residential use will produce less traffic than the previous professional use.

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3. Utilities and other public services are more than adequate to accommodate the extension of residential use; the proposed use does not place a high demand on utilities or public services.
4. This use is suitable for the neighborhood character and social structures. It is consistent with the surrounding uses.
5. The use will have little to no impact on the natural environment.
6. A positive fiscal impact on town services tax base and employment will follow by the addition of an income producing residential unit as proposed

Larry Lench, the Uxbridge Building Inspector, said that the application seems straightforward and he did not have any objections changing the use back to residential.

No members of the public commented during the hearing.

Member Discussion: Members concluded that they have the authority to grant the relief per the Uxbridge Zoning Bylaw Section 400-12 (C) extension of nonconforming uses. They found that the requested relief and that the proposed extension will not be substantially more detrimental than the existing nonconforming use to the neighborhood - they believed it to be *less* detrimental due to the reduction in traffic, noise, & intensity of use, etc. Members discussed conditions and agreed none were warranted. There was an additional brief review of the six special permit criteria.

During deliberations members agreed it would not be inappropriate for the Board to adopt the draft decision provided by Atty. Cove.

Motion: Mr. Gniadek made a motion to close the public hearing for 46 S. Main Street. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye).

Motion: Mr. Gniadek made a motion that the Zoning Board of Appeals grant the Special Permit as requested in the application FY21-12, 46 South Main Street, and extend the pre-existing residential use to the portion of the building previously used for business (law office) and adopt the findings recited above, concluding that the extension of the pre-existing use is not substantially more detrimental than the current non-conformity. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 3-0-0 (Blackburn – aye, Gniadek -aye, Knapik – aye).

ADMINISTRATIVE

1. Meeting Minutes Review: 2/3/21 and 3/3/21

Motion: Mr. McNulty made a motion approve the 2/3/21 ZBA meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Gniadek – aye, McNulty, Knapik – aye).

Motion: Mr. McNulty made a motion approve the 3/3/21 ZBA meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Gniadek – aye, McNulty, Knapik – aye).

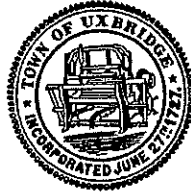
2. Zoning Bylaw Amendments

Members agreed to postpone pursuing definition of structure changes until the Fall Annual Town Meeting and to discuss the sign bylaw at a future meeting.

ANY OTHER BUSINESS, which may lawfully come before the Board

ADJOURNMENT: NEXT ZBA MEETING, Wednesday, May 5, 2021

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Motion: Mr. McNulty moved to adjourn the April 7 meeting of the Zoning Board of Appeals. Mr. Gniadek seconded and the motion passed unanimously by roll call vote of 4-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye, McNulty – aye).

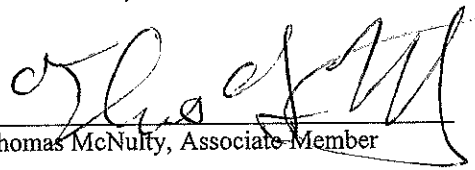
Respectfully Submitted,
Melissa Shelley

SIGNATURES:

Rob Knapik, Member

John Gniadek, Member

Mark Kaferlein, Member



Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

5/11/21
Date

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SIGNATURES:

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Thomas McNulty, Associate Member



Jim Blackburn, Associate Member

05/11/2021

Date