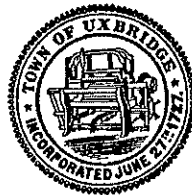


Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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Uxbridge, MA 01569
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**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

REC'D UXB TOWN CLERK
2021 AUG 31 AM 9:17

MEETING MINUTES: Wednesday, July 7, 2021

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

CALL TO ORDER:

It being approximately 6:00 pm, the meeting being properly posted, duly called, and a quorum being present, the remote meeting was called to order by the Chairperson. Because all the applications were for Variances he reviewed the standard for the grant of a variance outlined in M.G.L. Chapter 40A §10. Due to the number of applications, members agreed to take testimony & close each public hearing before deliberations.

PUBLIC HEARINGS:

1. **FY21-15:** The applicant, **Michael Martin**, is seeking a **VARIANCE** of two-feet (2') to the rear setback requirement of five feet (5') for the placement of a detached garage at **75 High Street**. The property is located in the **Residential A Zoning District**, shown on the Town of Uxbridge Assessor's **Map 24B** as **Parcel 3128**, and described in a deed recorded at the Worcester Registry of Deeds **Book 60223 Page 204**.

Discussion: The applicant was not in attendance so members agreed to continue the hearing to the next meeting to allow for their input.

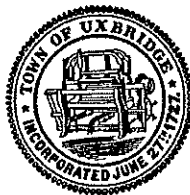
Motion: Mr. McNulty moved to continue FY21-15 to the August 4, 2021 meeting of the Zoning Board of Appeals. Mr. Gniadek seconded, and the motion passed by vote of 4-0-0 (Blackburn – aye, Gniadek – aye, McNulty – aye, Knapik – aye).

2. **FY21-16:** The applicant, **Bill Perkins**, is seeking a dimensional **VARIANCE** for the property at **85 South Main Street**. The property is shown on the Town of Uxbridge Assessor's **Map 25**, **Parcel 2531** and described in a deed recorded at the Worcester Registry of Deeds in **Book 60402 and Page 215**. The front portion of the property located in the **Business Zoning District** and the rear portion of the property is located in the **Residential C Zoning District**.

Presentation: Stephen O'Connell, Turning Point Engineering represented the applicant during the public hearing. Mr. Perkins was in attendance and also provided comments. Mr. O'Connell provided a description of the property: The site contains 3.04± acres of land with 131.94± feet of frontage along South Main Street and 56.86± feet of frontage along McCaffrey Street. It is divided by the Business zoning district in the front of the property along South Main Street and the Residence C zoning district at the rear of the property partially along McCaffrey Street. The site also contains three (3) existing non-residential buildings that are situated predominantly in the Business zoning district and are accessed from South Main Street. The property is serviced by town sewer and water from connections on South Main Street.

The applicant proposes to split the existing lot so that the three (3) existing buildings in the Business zoning district will be situated on a new lot that conforms to zoning with frontage exclusively along South Main Street. The remaining land will become a separate lot with land situated mostly in the Residence C zoning district and 56.86± feet of frontage exclusively along McCaffrey Street. The Variance, if granted, will allow for the residentially-zoned land to be redeveloped for a single-family dwelling in an area that consists of other residential properties.

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No comments from members of the public or the Zoning Enforcement Officer were provided during the public hearing.

Mr. Blackburn asked whether there was any thought to creating a retreat lot. Mr. O'Connell said they had but the Retreat Lot Bylaw does not allow the lot to be located in two zoning districts, which this parcel is. There was a brief discussion as to whether any conditions would be appropriate.

Motion: Mr. Blackburn made a motion to close the Public Hearing FY 21-16 for 85 S. Main Street. Motion seconded by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Blackburn -aye, Gniadek – aye, Knapik – aye).

Member Deliberations: They agreed there is ample area for the existing lot to be divided into two (2) conforming lots, however, the shape of the lot relative to the existing zoning district boundary and the frontage configuration results in a circumstance that prevents the residentially zoned land to be reasonably used in accordance with the intent of the purpose of the Uxbridge Zoning Bylaw.

Motion: Mr. Blackburn made a motion that the Zoning Board of Appeals grant the request outlined in ZBA petition FY21-16, 85 S. Main for a 143.15-foot frontage variance along McCaffrey Street. Motion seconded by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Blackburn -aye, Gniadek – aye, Knapik – aye).

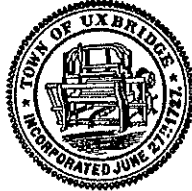
3. **FY21-17:** Applicants **Scott F. Grehoski and Cheyl Ann Grehoski** are seeking a frontage **VARIANCE** of one hundred thirty-eight feet (138') from current frontage requirements for the property at **119 Aldrich Street**. The property is located in the **Agricultural Zoning District**, shown on the Town of Uxbridge Assessor's Map **45**, Parcel **1721** and described in a deed recorded at the Worcester Registry of Deeds in **Book 15298 and Page 108**.

Presentation: Henry Lane of Lane and Hammer, P.C., attended the meeting on behalf of the applicant. Mr. Lane explained this parcel of land was part of the Southern New England Railroad right-of-way that was never completed and left strips of land throughout Uxbridge. The property was acquired by the Grehoski family in 1952 before zoning was adopted. Once Zoning was adopted, the property became a pre-existing non-conforming lot because it did not meet the 200' frontage requirement of the agricultural district. When the property was acquired it was owned in common with another landlocked parcel that was sold to a neighbor in 1997. Although the lot still has conforming area, the sale of the adjoining landlocked parcel may technically have ended its "grandfather" status despite the fact that there was no increase in non-conformity. The applicants are requesting a variance of 138 feet from current frontage requirements in order to eliminate any ambiguity in its "grandfather" status.

There was discussion and review of M.G.L. Chapter 40A §6 Existing structures, uses or permits, for further understanding of the grandfathering status and how it applies to the petition. Conditions were considered and everyone agreed they would not be necessary.

There were no comments from members of the public or the Uxbridge Zoning Enforcement Officer.

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Motion: Mr. McNulty made a motion to close the Public Hearing for FY21-17 119 Aldrich Street. Motion seconded by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).

Member Deliberations: There was consensus among members that the constraints brought on by the shape of the parcel, identified through the testimony of the applicant, represented a circumstance in which literal enforcement bylaw would cause a financial hardship. They also found granting the relief would not be detrimental to the public or derogate from the intent of the Uxbridge Zoning Bylaw.

Motion: Mr. Gniadek made a motion that the Zoning Board of Appeals grant a variance to allow the frontage requirement to be reduced by 138' as requested in ZBA application package FY21-17. Motion seconded by Mr. McNulty passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Knapik -aye, McNulty – aye).

4. **FY21-18:** Applicants **Wayne S. Roy and Melodie A. Roy** are seeking a **VARIANCE** to reduce the frontage dimensional requirement of three hundred feet (300') to forty-six feet and three quarters (46.75') at **503 Elmwood Avenue**. The property is located in the **Agricultural Zoning District**, shown on the Town of Uxbridge Assessor's Map **49**, Parcel **3057** and described in a deed recorded at the Worcester Registry of Deeds in **Book 41118 and Page 371**.

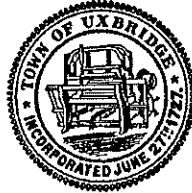
Presentation: The applicant was represented by Mark Wickstrom, Wickstrom Morse LLP. Mr. Wickstrom reviewed the request that the Uxbridge Zoning Board of Appeals re-issue a Variance granted on November 6, 2019. The Variance allowed for a buildable lot with of forty-seven feet (47') of frontage on six and one half (6.5) acres of land on Elmwood Avenue. The variance was granted 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. Wickstrom also pointed out that the original Variance referred to in the Petition should still be in full-force and effect since it would have expired during the Covid-19 pandemic. On its own terms, it would have expired December 17, 2020. The reason it is still in effect is found in the tolling provision of Governor Charles Baker's emergency acts related to the COVID-19 pandemic - Massachusetts Session Law in the Acts of 2020 – Chapter 53 Section 17. He explained the applicants have chosen to request the reissuance of the variance to allow for more time to proceed.

There was no comment from any members of the public or the Zoning Enforcement Officer.

Motion: Mr. Blackburn made a motion to close the Public Hearing for FY21-18 503 Elmwood Avenue. Motion seconded by Mr. Gniadek passed unanimously by roll call VOTE of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik - aye).

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Board members reviewed the standard for the grant of a variance as outlined in M.G.L. Chapter 40A §10 and the prior Zoning Board Decision. They agreed lack of frontage is not typically sufficient on its own as a hardship but in this case, there was the unique circumstance in which a utility company took a portion of the property. That taking resulted in a “pork chop” shaped lot with very little frontage and that literal enforcement bylaw would cause a financial hardship. They also found granting the relief would not be detrimental to the public or derogate from the intent of the Uxbridge Zoning Bylaw.

Members agreed the conditions from the previous decision were still appropriate and to adopt the same findings in this decision.

Motion: Mr. Blackburn 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 (46.75') as requested in the application package FY21-18 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.

Motion seconded by Mr. Gniadek and the motion passed unanimously by roll call vote of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye).

ADMINISTRATIVE:

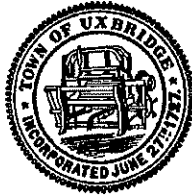
1. Meeting Minutes Review: 6/2/21

Motion: Mr. McNulty made a motion to approve the 6/2/21 meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by vote of 4-0-0 (Blackburn – aye, Gniadek – aye, McNulty – aye, Knapik – aye).

2. Zoning Bylaw Amendments

- Members re-visited the possibility of proposing changes to the zoning bylaw related to attached structures, accessory dwelling units, and the addition of a sign bylaw. The fall town meeting is scheduled for 10/26/21 and warrant articles are due 8/27/21. They agreed to provide the proposed changes to Economic Development, the Building Inspector and Planning Board Chairperson for review and input and to discuss in further detail during their August 4 meeting.

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ANY OTHER BUSINESS, which may lawfully come before the Board:

ADJOURNMENT: Next Regularly Scheduled ZBA Meeting, Wednesday, August 4, 2021

Motion: Mr. McNulty made a motion to adjourn the 7/7/21 meeting of the Zoning Board of Appeals. Mr. Blackburn seconded, and the motion passed unanimously by vote of 4-0-0 (Blackburn – aye, Gniadek – aye, McNulty – aye, Knapik – aye).

Respectfully Submitted,
Melissa Shelley

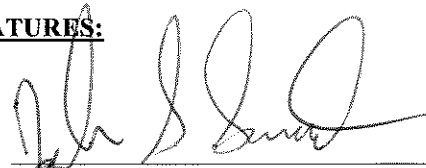
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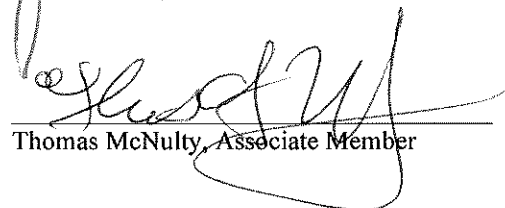
Rob Knapik, Member

Mark Kaferlein, Member

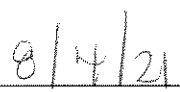
Jim Blackburn, Associate Member



John Gniadek, Member



Thomas McNulty, Associate Member



Date