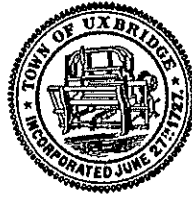


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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

REC'D UXB TOWN CLERK  
2020 JUN 15 AM 8:01

### MEETING MINUTES: Wednesday, May 6, 2020

**Present:** Rob Knapik, John Gniadek, Mark Kaferlein, Thomas McNulty, Jim Blackburn and Land Use 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. 946 9800 0685. All motions will be voted on with roll call vote in alphabetical order by last name (Blackburn, Gniadek, Kaferlein, Knapik, McNulty)*

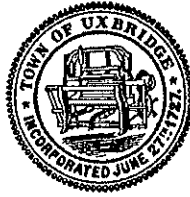
#### II PUBLIC HEARINGS

1. **FY20-09: 125 North Main Street, George Vrahliotis, the applicant is seeking a SPECIAL PERMIT**, in Uxbridge Zoning Bylaw Appendix B Table of Use Regulations, to operate a drop off dry-cleaning establishment at the location. The property is located in the **Residential A Zoning District** and is shown on the Town of Uxbridge Assessor's **Map 18B Parcel 2965** and described in a deed recorded at the Worcester Registry of Deeds **Book 45554 Page 63**.

**Discussion:** George Vrahloitis, the applicant and Dilip Mehta, the property owner attended the hearing. Mr. Vrahloitis explained he owns and operates two other dry-cleaning establishments - his primary location is in Hopkinton and the second is in Southborough. He is proposing to offer "drop-off" dry cleaning and tailoring services at the Uxbridge location. Garments will be taken off site to the Hopkinton location for the actual dry cleaning. Mr. Mehta provided a brief background explaining the location was previously the site of Young's dry cleaners, in operation in Uxbridge for 25 years, until the he and his wife retired in 2016. They continue to own the property and have been looking for someone to lease it in this capacity because they still see a big need in Uxbridge.

Mr. Knapik announced voting members would be himself, Mr. Gniadek and Mr. Kaferlein. During Board comments Mr. Blackburn mentioned he is familiar with Mr. Vrahloitis' other locations and that they are well kept. He thought the entrance and exit at the location are adequate and that it would have a low impact on utilities as it is just counters and racks. Parking was discussed – there are 5 spaces in the front and 2 on the side for customers and 4 in the back from employees. Hours were also discussed and Mr. Vrahloitis anticipated hours of operation to be m-f 7-7 and sat 8-4. It was also mentioned during

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discussion that the Young's dry-cleaning machines were removed in 6/2019. Members did not have additional comments and agreed it would be a good use of the property.

Larry Lench, Uxbridge Building Inspector, attended the hearing and explained the reason he referred the applicant to the Board was because the building hadn't been used as a dry-cleaner for more than 4 years. He did not have any objections to the proposal.

Mr. Knapik read a letter, Jane Keegan, an abutter - 17 Arch Street, submitted to the board to request they consider conditions related to hours of operation, signage, and lighting since the site abuts residential property. No other abutters commented during the hearing.

Members discussed and agreed upon conditions with the applicant related to the sign and hours of operation. Mr. Vrahloitis is planning to use the existing sign.

**Motion:** Mr. Gniadek made a motion to close the Public Hearing for FY 20-09 for 125 North Main Street. Motion seconded by Mr. Kaferlein passed unanimously by roll call vote of 3-0-0 (Gniadek – aye, Kaferlein -aye, Knapik – aye).

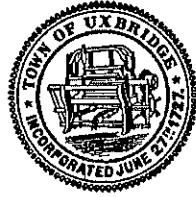
During deliberations, members applied the request to the Special Permit criteria outlined in Section 400-50 (B) of the Uxbridge Zoning Bylaws as follows:

1. Social, economic or community needs – *members agreed the proposal meets criteria: there is a need in Uxbridge for a dry cleaner*
2. Traffic flow and safety, including parking – *members agreed the proposal meets criteria: parking appears adequate; there are some traffic challenges in this part of town but are not the burden of this applicant*
3. Adequacy of utilities and other public services – *members agreed the proposal meets criteria: existing utilities are adequate and the new business should have no impact*
4. Neighborhood character and social structures – *members agreed the proposal meets criteria: existed as a dry cleaner for many years and fit in fine*
5. Impact on natural environment – *members agreed the proposal meets criteria: impact on the environment is negligible*
6. Fiscal impact including impact on town services, tax base and employment – *members agreed the proposal meets criteria: should be a positive fiscal impact for the town*

They agreed the application satisfied the criteria and discussed extending the hours of operation to allow some flexibility for the applicant.

**Motion:** Mr. Kaferlein made a motion that the Zoning Board of Appeals APPROVE the SPECIAL PERMIT for an offsite dry-cleaning operation at 125 North Main Street subject to the following CONDITIONS:

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- Hours of Operation may occur Monday through Friday between 6:30am and 8:00pm and Saturday between 6:30am and 5:00pm.
- The signage must remain in the location and be of the same size as the existing sign on the property.
- The signage lighting must be off between the hours of 10:00pm and 6:00am.

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

2. **FY20-10: 455 Douglas Street, Veronica Zaitoun, the owner/applicant** is seeking a **SPECIAL PERMIT**, to keep five (5) chickens outside in a coop on the property, in accordance to the Uxbridge Zoning Bylaw Appendix B Table of Use Regulations. The property is located in the **Residential B Zoning District** and is shown on the Town of Uxbridge Assessor's **Map 23 Parcel 3634** and described in a deed recorded at the Worcester Registry of Deeds **Book 54010 Page 234**.

**Discussion:** Ms. Zaitoun presented her application to the Board. She is requesting a special permit to keep five (5) Black Australorp chickens in a coop on her property. She lives on a ½ acre lot with a large fenced in back yard. The feed and supplies will be stored in a garage and protected by a housecat. Manure from cleaning the coop will be used to fertilize and mulch her garden and plants. Ms. Zaitoun has experience raising chickens as indicated in her thorough application.

Larry Lench, Uxbridge Building Inspector, attended the hearing and had no comment on the application.

One abutter from Summerfield Drive expressed a concern that chicken feed may attract rodents to the area – in accordance to her own experience with raising 25 chickens on a 17-acre farm. After discussion, she agreed her concerns were addressed by the applicant's preparation and plan of care.

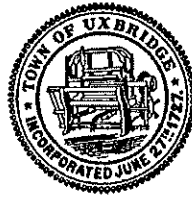
Members agreed they have the authority to issue the special permit per the Uxbridge Zoning Bylaw Appendix A Section C. Agricultural Uses. There was a brief discussion and agreement with the applicant on potential conditions (no rooster, keep them as proposed, & proper care).

**Motion:** Mr. Gniadek made a motion to close the Public Hearing for FY 20-10 for 455 Douglas Street. Motion seconded by Mr. Blackburn passed unanimously by roll call VOTE of 3-0-0 (Blackburn – aye, Gniadek – aye, and Knapik – aye).

During deliberations, members of the Board applied the request to the Special Permit criteria outlined in Section 400-50 (B) of the Uxbridge Zoning Bylaws:

1. Social, economic or community needs – *members agreed it meets these criteria*
2. Traffic flow and safety, including parking – *members agreed there would be no impact*
3. Adequacy of utilities and other public services – *members agreed there would be no impact*

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4. Neighborhood character and social structures – *members agreed there would be no negative impact*
5. Impact on natural environment – *members agreed there would be no negative impact*
6. Fiscal impact including impact on town services, tax base and employment – *members agreed there is no negative impact*

**Motion:** Mr. Blackburn made a motion that the Zoning Board of Appeals approve the Special Permit as requested in the application FY20-10, subject to the following conditions:

1. The number of chickens allowed is limited to 5 hens and may not contain a rooster
2. The chickens are kept on the property in a manner consistent with what was described in the application.
3. The applicant follows Best Management Practices for the keeping of chickens and the storage of their food.

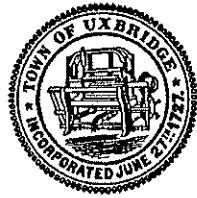
Motion seconded by Mr. Gniadek passed unanimously by roll call VOTE of 3-0-0 (Blackburn – aye, Gniadek – aye, and Knapik – aye).

3. **FY20-11: 56 Industrial Drive, the applicant Ronald Parsons, Trustee of 56 Industrial Drive Realty Trust,** is seeking a **VARIANCE** on four (4) dimensional zoning requirements. 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**.

Stephen O'Connell, Turning Point Engineering, attended on behalf of the applicant. The following dimensional variances are being sought to allow the applicant to legally divide the lot: a 9,535 square foot variance for lot area, a 68.1-foot variance for lot frontage, a 21.2-foot variance for the right-side setback, and a 4.4-foot variance for the left side setback. Mr. O'Connell reasoned the shape of the existing larger structure is the circumstance leading to a hardship of being left with an unconventional building configuration constructed by the previous owner for their unique business operation which the applicant is finding difficult to utilize. The following are key points of Mr. O'Connell's presentation and discussion:

1. The site is 1.71 acres with 331.33 feet of frontage along Industrial Drive and contains two (2) existing buildings connected by a concrete loading dock.
2. The easterly building is 27, 545 sq. ft. and the westerly building is 4,825 sq. ft.
3. The larger building was constructed with the loading dock in 2007 and the smaller building was constructed in 2008.

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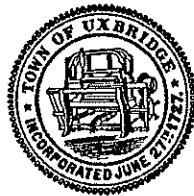
4. There is ample area for the existing lot to be divided into 2 conforming lots however, the shape of the larger structure prevents the proposed property line to be placed in a location that would allow both proposed lots to meet the dimensional requirements within the district.
5. 56 Industrial Drive is a pre-existing non-conforming lot.
6. The applicant purchased the property in December 30, 2019.
7. The site is serviced by a private well and public sewer.
8. The existing loading dock could be subjected to an easement allowing one/both parcels its use.
9. If the Variance is granted, both parcels would have adequate parking.
10. If the Variance is granted, both parcels would be used for legal purposes allowed in the Industrial B zone.
11. Abutting parcels contain structures close to the lot lines.

### DISCUSSION & DELIBERATIONS:

Members discussed the following four requirements outlined in MGL of Ch. 40A Section 10, that use variances are not permitted and cannot be granted unless all four conditions below are met. They acknowledged the difficulty in meeting the standard for a variance and the uniqueness of this application in particular as the circumstance for the hardship relates to the structure and not the actual land.

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 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. There was the additional consideration as to whether this constitutes as one structure per the Uxbridge Zoning Bylaw definitions.*
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 could not agree whether the applicant clearly established a substantial hardship, financial or otherwise.*
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.*
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. The Board may impose conditions and limitations both of time and of use, including the continued existence of any particular structures. However, the Board cannot impose conditions based on the continued ownership of the land or

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### MEETING MINUTES: Wednesday, May 6, 2020

structures to which the variance pertains. *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.*

Larry Lench, Uxbridge Building Inspector attended the hearing and presented the following legal precedence for consideration: "The extent that nonconforming structures or uses may be extended, altered or changed is left to the discretion of the local legislative body. The Zoning Act does not require that communities authorize the extension, alteration or change of nonconforming structures or uses. Blasco v. Board of Appeals of Winchdendoe 31 Mass. App. Ct 32 (1991)".

No members of the public offered comments during the hearing.

**Motion:** Thomas McNulty made a motion to close the Public Hearing for FY 20-11 for 56 Industrial Drive. Motion seconded by Mr. Kaferlein passed unanimously by roll call vote of 3-0-0 (Kaferlein – aye, Knapik – aye, McNulty – aye).

Mr. McNulty made a motion that the Zoning Board of Appeals approve the Variance as requested in ZBA application FY20-11. Motion seconded by Mr. Knapik. Motion failed by a roll-call vote of 2-1-0 (Kaferlein – no, Knapik – aye, McNulty – aye).

### III MINUTES/MAIL/INVOICES

#### 1. 02/05/20 Meeting Minutes Review

**Motion:** Mr. McNulty moved to approve the 2/5/20 ZBA meeting minutes. Motion seconded by Mr. Kaferlein passed by roll call vote of 4-0-1 (Blackburn – aye, Gniadek – aye, Kaferlein – aye, Knapik – abstain, McNulty – aye)

### IV ANY OTHER BUSINESS, which may lawfully come before the Board

### V ADJOURNMENT: NEXT ZBA MEETING, Wednesday, June 3, 2020

**Motion:** Mr. McNulty moved adjourn the May 6, 2020 meeting of the ZBA. Mr. seconded, and the motion passed by vote of 3-0-0.

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**TOWN OF UXBRIDGE  
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**MEETING MINUTES: Wednesday, May 6, 2020**

**SIGNATURES:**

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Rob Knapik, Member

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John Gniadek, Member

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Mark Kaferlein, Member

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Thomas McNulty, Associate Member

  
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Jim Blackburn, Associate Member

  
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Date

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June 15, 2020  
Date



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