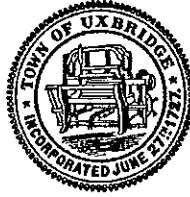


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 Thomas Bentley, Alternate Member
 Bruce Desilets, Alternate Member
 Joseph Frisk, Alternate Member
 Kevin Harn, Alternate Member



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**TOWN OF UXBRIDGE
 ZONING BOARD OF APPEALS**

**Received by
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MEETING MINUTES: WEDNESDAY, AUGUST 3, 2016

Minutes of the Uxbridge Zoning Board of Appeals meeting on **Wednesday August 3, 2016** in the **Board of Selectmen Meeting Room, Uxbridge Town Hall, 21 South Main Street, Uxbridge, MA:**

Present: Alternate Member, Tom Bentley; Alternate Member, Bruce Desilets, and participating remotely, Alternate Member Joseph Frisk.

Absent: Chairman Mark Wickstrom; Alternate Member Kevin Harn; Administrative Assistant, Lynn Marchand

It being approximately 6:00 pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Acting Chair, who led the Pledge of Allegiance.

The Acting Chair, Tom Bentley, stated that Mr. Frisk would be participating remotely per MGL on electronic participation and all votes will be by roll call vote for the Public Hearings that he participates in.

He stated that Petition FY16-16, 52 Pond Street would be taken later in the meeting due to an error on the public hearing notice stating that the meeting would be at 7:00.

I. PUBLIC HEARINGS

Continued from July 6, 2016

1. FY16-15: 671 & 685 Quaker Highway, Cardinal Enterprise Realty, LLC, Owner. Applicant is seeking a **SPECIAL PERMIT** to construct a proposed gas service station and retail (convenient store) on a parcel of land within an Industrial Zoned area. In accordance with the Uxbridge Zoning Bylaws Appendix A D. Commercial Uses "Gasoline or Oil Filling Station" requires a Special Permit from the Zoning Board of Appeals in accordance with Article IX, Chapter 400, Section 50. Property is shown on the Town of Uxbridge Assessor's Map 45 Parcels 3895 & 4725 and described in a deed recorded at the Worcester Registry of Deeds Book 42585 Page 253.

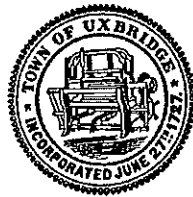
a. No voting quorum present.

2. FY16-16: 52 Pond Street, Glen & Janet Hadlock, Owners. Applicants are seeking a **VARIANCE** to allow conversion of a single family dwelling with "in-law" apartment to a duplex and an **APPEAL OF A RULING**, the June 27, 2016 zoning violation letter. Property is shown on the Town of Uxbridge Assessor's Map 28 Parcel 3224 and described in a deed recorded at the Worcester Registry of Deeds Book 53795 Page 148 and is located in an agricultural zone.

Attorney Henry Lane spoke on behalf of the applicant. He stated that the owner previously received a special permit from the ZBA to build an in-law apartment, with conditions. The building inspector at the time disagreed and would not allow the owner to build it according to the Special Permit; He would only allow it to be built as a separate living unit due to building codes and would only give permits for a two-family. It is not practical or financially feasible to make it an in-law apartment and the applicant is asking for zoning relief as it will be a large financial loss to the applicant without it.

Abutters' concerns: setting a precedence for allowing a two family in a single family neighborhood, zoned for single family residences.

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The applicant stated that he could not sell the property as in-law apartment. The Town taxes it as a two family and it has existed as a two-family.

The potential buyers of the property spoke to the petition. He stated that he and his wife were both army veterans and were seeking to move into a community that is veteran friendly. He stated he and his wife wanted to use the additional unit as a mortgage helper.

MOTION I: to close the Public Hearing made by Mr. Desilets.

Motion was seconded by Mr. Frisk.

Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

Discussion was had regarding the hardship vs the previous decision with conditions.

MOTION II: Mr. Frisk made a motion to deny the request for a variance for FY16-16, 52 Pond Street a variance to allow the conversion of a single family dwelling with "in-law" apartment to a duplex.

Motion was seconded by Mr. Desilets.

Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

MOTION III: Mr. Frisk made a motion to uphold the building inspector's denial decision of FY16-16, 52 Pond Street.

Motion was seconded by Mr. Desilets.

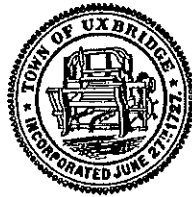
Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

3. FY17-1: 502 Douglas Street, Maureen & Gerald Griffiths c/o Aris Group, LLC / Aris Group, LLC Owner/Applicant. Owner/applicant is seeking a **SPECIAL PERMIT** to construct a gas service station and retail (convenience store), on a parcel located within an agricultural and business zoned area. In accordance with the Uxbridge Zoning Bylaw Appendix D, Commercial Uses "Gasoline or Oil Filling station" requires a special permit from the Zoning Board of Appeals in accordance with Article IX, Chapter 400, Section 50. Property is shown on the Town of Uxbridge Assessor's Map 23 Parcel 4364 and described in a deed recorded at the Worcester Registry of Deeds Book 05815 Page 0239.

Steve O'Connell of Andrews Engineering spoke on behalf of the applicant. He described the location of the proposed gas station, which currently has a residential home which would be demolished in order to build the gas station/convenience store. He reviewed the preliminary site plan: 4000 square foot building, 16 vehicle fueling positions, 8 individual pumps, and adequate site distance in both directions. He also stated it was in a business zone.

He discussed the process which first begins with the ZBA and if approved that it would then go to the Planning Board for a full review. Mr. O'Connell acknowledged that in order to get adequate parking, a 40' easement would be needed or acquisition of part of the abutting land. He stated they wanted to show that the project could be as large in scale as shown and stated it's possible that it could be smaller depending on multiple factors.

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Abutters asked questions and expressed concerns regarding the location in relation to Taft Hill and Summerfield, fumes, traffic, site distance, safety, neighborhood character, environment, and lighting.

Henry Lane, representing the Taft Hill & Summerfield Trustees cited a previous ZBA denial of a special permit for a gas station on the abutting Desruisseaux property which was deemed inappropriate for the location. He stated that the considerations and concerns should be the same for this project. He further stated that there was not enough details given/shown to comply with the bylaw and that the project does not meet the criteria for a special permit.

Mr. O'Connell stated that additional detail could be provided if the Board felt the project might be something they would consider. He iterated positive aspects of the proposed project.

Mr. Desilets stated his concerns regarding the project and that he was not in favor of the project. Mr. Frisk expressed concerns mirroring the resident's concerns.

Mr. Bentley stated that to be truthful to the process, since a unanimous vote would be needed for approval and that Mr. Desilets had stated he did not support the project, he didn't think the application should spend money to provide additional details if the Board would not be able to grant a special permit.

Mr. O'Connell stated that based on the Board's discussion and likely outcome that he would respectfully like to withdraw the application without prejudice and stated residents would be re-notified if anything else were planned for this property.

Residents expressed concern about having to come back if/when the applicant chose to reapply. They asked that the Board vote it down so as not to have to go through the entire process and expense of appealing to the Board to vote it down.

MOTION I: to close the Public Hearing made by Mr. Desilets.

Motion was seconded by Mr. Frisk.

Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

MOTION II: Mr. Desilets made a motion to deny the petition due to on Criteria #'s 2, 4, & 5 (traffic flow & safety, including parking and zoning, neighborhood character and structures, and impacts on the natural environment).

Motion was seconded by Mr. Frisk.

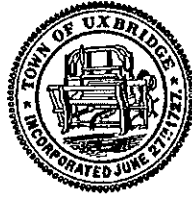
Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

4. FY17-2: 0 Elmdale Road, Aris Group LLC, Owner/Applicant. Applicant is seeking a **SPECIAL PERMIT** to remove sand and gravel from the property in accordance with Chapter 181 of the Uxbridge Zoning Bylaws. Property is shown on the Town of Uxbridge Assessor's Map 25 Parcel 3979 and described in a deed recorded at the Worcester Registry of Deeds Book 55344 Page 172 and is located in the residential A zoning district.

a. No voting quorum present

5. FY17-3: 0 Quaker Street, Richard Hurteau, Owner. Applicant is seeking a **VARIANCE** to construct a single family dwelling lacking the required frontage. The property has no frontage in the Town of Uxbridge.

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Property is shown on the Town of Uxbridge Assessor's Map 51 Parcel 2341 and 1438 and is shown on the Town of Millville Assessor's Map 124-9-14 and described in a deed recorded at the Worcester Registry of Deeds Book 39254 Page 67 and is located in the agricultural zoning district.

a. No voting quorum present

6. FY17-4: 262 Millville Road, Uxbridge Center Crossing, LLC / Aris Group, LLC, Owner/Applicant. Owner/applicant is seeking a **SPECIAL PERMIT** to construct a gas service station and retail (convenience store), on a parcel located within an industrial and business zoned area. In accordance with the Uxbridge Zoning Bylaw Appendix D, Commercial Uses "Gasoline or Oil Filling station" requires a special permit from the Zoning Board of Appeals in accordance with Article IX, Chapter 400, Section 50. Property is shown on the Town of Uxbridge Assessor's Map 30 Parcel 2077 and described in a deed recorded at the Worcester Registry of Deeds Book 51999 Page 210.

Steve O'Connell of Andrews Engineering spoke on behalf of the applicant. Property is known as the Cocke-n-Kettle restaurant. He described the property and surrounding area. The plan showed a 6000 square foot retail building which would accommodate a drive-thru, 6 pumps/12 vehicle fueling positions, parking in the back, pass-thru lane, unleaded fuel only (no diesel) and is zoned as partially business and partially industrial with most of the property being industrial.

Stormwater design is shown. Lighting and landscape were not shown. Sight distance was stated to be very good. Mr. O'Connell stated the residentially used property would be cut out as a separate lot if the petition was approved. Water and sewer would be available to the property.

Mr. Bentley asked if it was going to be a 24 hour operation. Mr. O'Connell stated they were not seeking that. Mr. Desilets stated he would be open to a sight walk. He also asked about a traffic light for that area. Mr. O'Connell suggested a traffic study. Mr. Frisk suggested having DPW weigh in regarding the traffic, lighting, and safety in that area.

It was stated that Joshua would be taking over the business, that he had a full time job with National Grid, and there would be a reduced volume of the operation.

Abutters asked questions and expressed concerns regarding: lighting pollution, traffic safety, increased traffic, adding another gas station in that area. One abutter felt there was not enough traffic for a gas station.

MOTION I: to continue the Public Hearing and request a site visit made by Mr. Desilets.

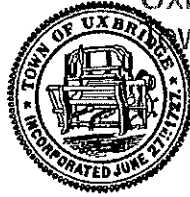
Motion was seconded by Mr. Frisk.

Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

Continued from June 1, 2016 & July 6, 2016; Site visit on 6-18-16

7. FY16-13: 950 Millville Road/Owners, Edward L. Thiebault and Debroah A. Thiebault and 0 Millville Road/Owner Edward L. Thiebault. Applicants are seeking a **SPECIAL PERMIT** pursuant to **Section 400-12** so that their son, **Joshua E. Thiebault**, may continue the non-conforming use that the owners began circa 1989, consisting of processing and selling firewood, which Joshua took over circa 2012. Property is shown

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on the Town of Uxbridge Assessor's Map 46 Parcels 2133 & 1395 and described in a deed recorded at the Worcester Registry of Deeds Books 12060 & 52741 Pages 88 & 305 and is located in Residential-C zone.

Representing the applicant, Attorney Knapik reviewed the details of the petition, the site visit, history of the property use, and affidavits. He stated the operation will not be an every-day/all year long operation, that it uses only part of the property, and that there are no employees.

One abutter, who has lived at his address since 1989, expressed support of the use and said the owner was a good neighbor. He stated the new processor that was purchased makes the operation very quiet.

Joshua Thiebault stated he had previously used professional chainsaws which were much louder. He stated that his new processor was much quieter which uses a diesel engine and the saw blade which makes a whizzing sound.

Mr. Frisk asked if the purchase of the additional property has increased the volume of use of the property. Mr. Thiebault stated he originally wanted to put a house but has no frontage. He stated he had a full time job and would not be doing the wood cutting business full time. August to February would be the primary time of the year for use.

MOTION I: to close the Public Hearing made by Mr. Desilets.

Motion was seconded by Mr. Frisk.

Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

Mr. Bentley stated his concerns regarding hours of operation and that it is in the Residential C zone.

Mr. Frisk agreed with limiting hours of operation to address abutters concerns but was supportive of the applicant's desire to continue using of the land with some restrictions in place.

Mr. Desilets stated his agreement.

MOTION II: Mr. Frisk made a motion that the Zoning Board of Appeals approve a Special Permit for FY16-13, for 950 Millville Rd, to allow the non-conforming use of processing and selling firewood, that may continue, and that the authority for granting the Special Permit does fall under the Uxbridge Zoning Bylaw 400-12 under sections E & F, the uses are allowed and not substantially detrimental to the neighborhood and uses shall not cause substantial detriment to the community with only the following conditions:

1. no operations on Sunday
2. no operations after 8pm on Monday thru Saturday

Motion was seconded by Mr. Bentley.

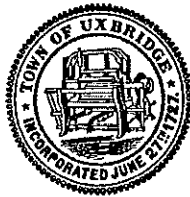
Motion carried by roll call vote 3-0-0. Mr. Bentley –aye, Mr. Desilets –aye, Mr. Frisk –aye.

II. NEW BUSINESS

1. FY15-19, 619 West Street – Extension requested under MGL Chapter 40A, Section 10

- a. to be heard at the next meeting.

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III. MINUTES/MAIL/INVOICES:

06/01/16 Meeting Minutes -passed over
07/16/16 Meeting Minutes -passed over

IV. OTHER BUSINESS, which may lawfully come before the Board.

1. FY2017 –Reorganization –passed over

V. ADJOURNMENT: NEXT ZBA MEETING: WEDNESDAY, SEPT. 7, 2016 IN UXBRIDGE TOWN HALL

At approximately 8:51 pm, Mr. Frisk made a motion to adjourn the meeting.
Motion was seconded by Mr. Bentley. Motion carried by roll call vote 3-0-0.
Mr. Frisk –aye. Mr. Desilets –aye. Mr. Bentley –aye.

Respectfully submitted,

Lynn Marchand
Land Use Administrative Assistant

SIGNATURE PAGE

Absent

Mark Wickstrom, Chairman

Joseph Frisk, Alternate Member

Absent

Kevin Harn, Alternate Member

Absent

Thomas Bentley, Alternate Member

Bruce Desilets, Alternate Member

Date

9-21-16