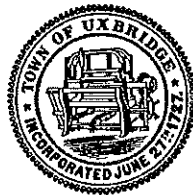


Rob Knapik, Member
John Gniadek, Member
Mark Kaferlein, Member
Thomas McNulty, Associate Member



Uxbridge Town Hall
21 South Main Street, Room 205
Uxbridge, MA 01569
508-278-8600 x2019 p

**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

MEETING MINUTES: Monday, July 9, 2018

SEP 6 '18 AM 10:42

Received by
Uxbridge
Town Clerk

Present: Rob Knapik, Chair and Members Mark Kaferlein, John Gniadek, Thomas McNulty 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, who led the Pledge of Allegiance.

II PUBLIC HEARINGS

1. **FY18-09: 426 Douglas Street, CA Calderon Landscaping, Inc., owner, & Northeast Venture Group & Realty, applicant** are seeking a **SPECIAL PERMIT** for residential use under Uxbridge Zoning Bylaws Section 400-12 F. The dwelling has been uninhabited for greater than two years and was formerly a residential use in a residential zone. The property is shown on the Town of Uxbridge Assessor's Map 23 Parcel 3743 and described in a deed recorded at the Worcester Registry of Deeds Book 52430 Page 180 and is located in **Business Zone**.

Byron Andrews, Andrews Survey and Engineering, on behalf of the Applicant, presented the proposal for Northeast Venture Group & Realty to construct a new single-family house within the existing setbacks on the Property. The new structure is replacing an existing dwelling abandoned several years ago and beyond repair. All the abutting properties are of residential use and the Property abuts Agricultural zoned properties. The proposed house will utilize town water and sewer.

Larry Lench, the building inspector, provided considerations and was in favor of the project stating it was the best use for the Property and, had the two-year time period not lapsed, he could have issued a building permit without the need for a Special Permit. An abutter was in attendance and also concurred that a residence is preferred over a business and that a prior petition for business use on this lot was denied.

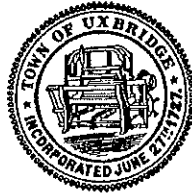
The board reviewed the standard under Uxbridge Zoning By-Law Section 400-12 F:

400-12 F. Abandonment or Non-Use A nonconforming use or structure which has been abandoned or not used for a period of two (2) years shall lose its protected status and be subject to all of the provisions of these Bylaws; provided, however, that, by issuance of a special permit, the Board of Appeals may reestablish such nonconforming use or structure where such reestablishment shall not cause substantial detriment to the community.

The Board found that the Applicant demonstrated that reestablishing residential use of the Property would not only not cause substantial detriment, but would cause no detriment at all and would actually be an asset to the community. There was also a discussion and agreement with the Property Owner on special conditions to the permit.

MOTION / VOTE: Mr. McNulty made a **MOTION** to close Public Hearing FY18-09 for 426 Douglas Street. **MOTION SECONDED** by Mr. Kaferlein passed unanimously by vote of 3-0-0.

MOTION / VOTE: Mr. Kaferlein made a **MOTION** that the Zoning Board of Appeals **APPROVE** and issue a **SPECIAL PERMIT** as requested in application FY18-09, 426 Douglas Street, to reconstruct a single-



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family dwelling in accordance with the Uxbridge Zoning Bylaws Section 400-12 F and the conditions listed below. **MOTION SECONDED** by Mr. Gniadek passed unanimously by vote of 3-0-0.

Condition 1: The Applicant shall construct, within the boundary of the Property, a driveway turnaround sufficient to allow a passenger motor vehicle to turn around and exit the Property facing Route 16 to address the safety concerns related to the difficulty and potential hazard of backing a vehicle out onto Route 16.

Condition 2: That the proposed dwelling remain a single-family structure and any future change of use must be in accordance with the applicable provisions of the Zoning Bylaw and that if the Owner should change such use then the Owner shall obtain whatever relief from the Zoning Bylaw may be necessary to change the use.

2. **FY18-10: 136 Henry Street, James Gornall owner**, is seeking a **Variance** for the sideline setback for an existing accessory structure. The property is shown on the Town of Uxbridge Assessor's Map 20 Parcel 3435, 3511, and 3524, and described in a deed recorded at the Worcester Registry of Deeds Book 44117 Page 350 and is located in **Residential C Zone**.

Byron Andrews, Andrews Survey and Engineering, on behalf of the Property Owner, presented the proposal to the Board. The Property is situated within the Residence C (R-C) zoning district. The Applicant would like to reconfigure the lot lines for three of his abutting properties, each of which contain a single-family dwelling and accessory structures. As shown on the Plan, an existing shed on 136 Henry Street is located on the lot line between 128 Henry Street and 136 Henry Street (the shed is located partly on 128 Henry Street and partly on 136 Henry Street). Reconfigured as shown on the Plan of Land, the existing shed on 136 Henry Street would be located entirely within the lot lines of 136 Henry Street, but would be located 4.7 feet from the side lot line which does not comply with the accessory side setback requirement of ten feet. The Applicant therefore requests a Variance to reduce the side setback for accessory structures from ten feet to 4.7 feet. The proposed lot line between 128 Henry Street and 136 Henry Street is located to comply with the dimensional requirements for a new septic system to be installed on 128 Henry Street.

The Board acknowledged that the Board may grant a variance from the applicable accessory side setback requirement of the Zoning Bylaw if the Board specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of the Property or structures and especially affecting the Property or structures but not affecting generally the zoning district in which the Property is located, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the Applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

The Board found that the Petition met the standard for the grant of a Variance based upon the existing shape of the Property, and particularly the location of the lot line between 128 Henry Street and 136 Henry Street, and that such conditions are unique and present a hardship in that the existing shed on 136 Henry Street is located on the lot line between 128 Henry Street and 136 Henry Street. Reconfigured as shown on the Plan of Land, the existing shed on 136 Henry Street would be located entirely within the lot lines of 136 Henry Street, and the reconfigured lot line is located on an existing stone wall which the Board found makes more practical sense. Additionally, the hardship of the septic system poses an impediment to that

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the reconfigured lot line meeting the side setback requirement for accessory structures. All Board members agreed that the Petition meets the standard for the grant of a variance. No abutters spoke to the Petition.

MOTION / VOTE: Mr. Gniadek made a **MOTION** to close Public Hearing FY18-10 for 136 Henry Street. **MOTION SECONDED** by Mr. McNulty passed unanimously by vote of 3-0-0.

MOTION / VOTE: Mr. Gniadek made a **MOTION** that the Zoning Board of Appeals to **GRANT** the **VARIANCE** as it was proposed for FY18-10 136 Henry Street to reduce the sideline setback requirement for an accessory building from 10 feet to 4.7 feet for the existing shed located on the west side of the lot. **MOTION SECONDED** by Mr. McNulty passed unanimously by vote of 3-0-0.

III MINUTES/MAIL/INVOICES

1. Review June 6, 2018 Meeting Minutes

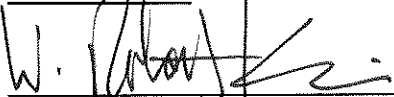
MOTION: Mr. Gniadek moved to approve the meeting minutes as amended. Mr. Knapik seconded and the motion passed by vote of 3-0-0.


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

V ADJOURNMENT: NEXT ZBA MEETING, Monday, August 1, 2018

MOTION: Mr. Kaferlein moved to adjourn the July 9 meeting of the ZBA. Mr. Gniadek seconded, and the motion passed by vote of 3-0-0.

SIGNATURES:


Rob Knapik, Member


John Gniadek, Member

Mark Kaferlein, Member


Thomas McNulty, Associate Member

Date