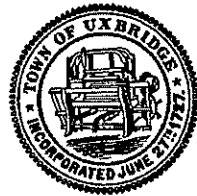


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John Gniadek, Member
Mark Kaferlein, Member
Thomas McNulty, Associate Member



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

REC'D UXB TOWN CLERK
2019 JUL 11 AM9:12

MEETING MINUTES: Wednesday, June 5, 2019

Present: Rob Knapik, Chair, Members, Mark Kaferlein, and Thomas McNulty and Administrator Melissa Shelley

Absent: Member John Gniadek

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. **FY19-13: 66 Elm Street, Mark & TJ Lavallee, Owners/Applicant** is seeking a **SPECIAL PERMIT** to construct a 25'x25' attached garage and patio pursuant to Uxbridge Zoning Bylaws Section 400-12 (E) and MGL Chapter 40A Section 6. The applicants also seek a **DETERMINATION** that the proposed modification is not more detrimental than the existing non-conforming structure to the neighborhood. The property is shown on the Town of Uxbridge Assessor's **Map 12C** and **Parcel 2654** and described in a deed recorded at the Worcester Registry of Deeds **Book 59168 Page 376**. The property is located in the **Residential C Zone**.

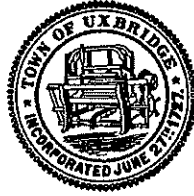
Discussion: Attorney Mark Wickstrom represented the applicant during the hearing. He reviewed MGL Chapter 40A Section 6 standard (*that the Board make a finding that the proposal for the extension of the pre-existing non-conforming structure is not substantially more detrimental than the existing non-conforming structure to the neighborhood*) and offered the following reasons they believe they meet the standard: (i) the garage and patio is further from side lot line than its nearest neighbor's structure is to that side lot line; (ii) the addition of the garage will allow the Lavallee's to store additional vehicles and lawn equipment inside; (iii) the proximity to residential A and business zoning districts which requires lesser frontage and acreage, multifamily houses and certain uses; (iv) the majority of the lots in the across the street on Hartford Ave. and down Elm St. do not meet the current zoning bylaw setback requirements and; (iv) it is a sensible extension of a pre-existing use.

Attorney Wickstrom also addressed the how this application differs from the applicant's submission for Variance earlier this year. He reviewed the legal standards for obtaining a Variance and explained this application falls under a different legal standard. He also stated the design has substantially and materially changed because that the garage is closer to the house/away from the side-setback and is now attached versus detached. He asked the board make a factual finding that the application is materially different from the prior application to meet the legal requirement.

Mr. Kaferlein asked how the buildings are attached via the patio and Attorney Wickstrom explained there would be one poured slab for the garage and patio and there will be a connecting gate to the corner of the structure. Mr. Lavallee provided some more detail (i) the foundation for the garage is a 4' footing/T-section cross wall (ii) the patio is a little lower than the top of the pad and (iii) all foundations are touching and the corner between the house and garage will be attached by a steel structure.

Larry Lench, Uxbridge Building Inspector, discussed the fire resistance requirements and offered some more information regarding attaching buildings via footings and party walls. Attorney Knapik recalled a previous ZBA case on Hecla Street in which the board had to decide whether two buildings connected by a foundation wall could be considered attached. During that hearing it was discussed that in Uxbridge we are sort of bound by precedent that derives from litigation over structures in the Ledgemere Development

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that this means of attaching one structure to another was considered to be attached. Attorney Knapik further went on to say it was for the Board to decide whether the structures are attached.

Attorney Henry Lane attended on behalf of Sally Staples, the owner of the property immediately abutting to the north, in opposition to the project. He provided the following "technical comments" to be considered by the Board: (i) this is not an extension of a building it's an entirely separate building; (ii) if the Board comes to the conclusion that it is not attached then this is not a substantially different application than the prior submittal; (iii) the Bylaw and the Statute define an extension as adding to a residential structure and a garage is not considered a "residential structure", it is customarily an accessory structure; (iv) by not actually modifying the non-conforming nature of this building the non-conformity is newly created which would require a Variance; (v) the Uxbridge Zoning Bylaws definition of the front on a corner lot is the side in which has the narrowest frontage – so technically the frontage for this property would be Hartford Ave East – from this standpoint the entire house (not including the existing garage) is actually a conforming structure. In closing Attorney Lane emphasized the difficulty for the Board to make a determination on whether or not this is detrimental to the neighborhood with the information provided.

Abutters Ms. Staples, 72 Elm and Ms. Mirabal, 73 Elm, both spoke during in the hearing in opposition to the project. Their primary concerns were related to the potential to negatively affect their property values, potential for increased noise level, potential for use of chemicals and the possibility of a business operating from the location. They both mentioned that there already is an existing attached 2-car garage.

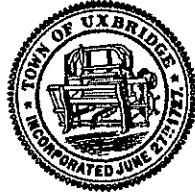
Attorney Knapik summarized the issues and questions before the Board (Is the garage as presented attached to the house? If the answer is to that question is *no* than the standard that they applied under does not apply. If the Board agrees *it is attached*, is this the kind of extension that was implied in the bylaw and if so is it more substantially more detrimental to the neighborhood?). He offered to the applicant the opportunity to continue the public hearing to allow additional time to address the concerns raised and to investigate the setbacks and determine whether this is an accessory structure or not. Additionally, the Board discussed their own interest in continuing the hearing to allow time to investigate what constitutes an attached structure. The applicant was agreeable to continuing the public hearing.

Motion / Vote: Mr. McNulty moved to continue the public hearing FY19-13 66 Elm Street to the July 10 meeting of the ZBA. Mr. Kaferlein seconded, and the motion passed unanimously by vote of 3-0-0.

2. **FY17-29-Mod: 30 Monahan Drive, Peterson Pereira, All for One Inc., Owner/Applicant**, is seeking a **MODIFICATION** to his **SPECIAL PERMIT** for a Class II Auto Dealer License to increase the number of vehicles allowed on the site. The property is shown on the Town of Uxbridge Assessor's Map **51 Parcel 2755** and described in a deed recorded at the Worcester Registry of Deeds Book **57224** Page **342**. The property is located in the **Business Zone**.

Discussion: Mr. Pereira, owner of All for One Inc., attended the meeting to describe his petition. The request is motivated by a letter he received from the Uxbridge Building Inspector on March 25 regarding a Zoning Violation of a Condition of his Special Permit (FY17-29) related to the number of vehicles allowed for sale on the property. Mr. Pereira explained that during the 2017 hearing he was asked and agreed on a number of thirty (30) vehicles that would be "for sale". He stated did not anticipate that this would be the number of vehicles allowed on the property at any given time. He further explained he owns a transportation company in addition to the dealership, with a fleet of approximately eighty (80) trucks and would like to have

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the ability to have one hundred (100) vehicles on site. The number of vehicles for sale will still be the agreed upon number of thirty (30).

Larry Lench, Uxbridge Building Inspector, attended the hearing, described his site-visit observations and expressed concern for safety and the ability of the fire department to respond due to the number of vehicles and how they are arranged on the property. Mr. Lench said it would be helpful to have the parking spaces defined. After further discussion, members agreed that having plan that depicts the property, buildings, edge of pavement, and measured parking spaces would provide the Board the certainty that the property can accommodate what Mr. Pereira is asking for.

Mr. Pereira agreed to providing the parking plan and continuing the hearing until its completion.

Motion / Vote: Mr. McNulty moved to continue the public hearing FY17-29-MOD 30 Monahan Drive to the July 10 meeting of the ZBA, in anticipation of a parking plan. Mr. Kaferlein seconded, and the motion passed by unanimously by vote of 3-0-0.

3. **FY19-12: 151 North Main Street, Steven P. Lobisser, Applicant**, is seeking a **SPECIAL PERMIT** change a pre-existing, non-conforming Business/Professional use at the property, to include a laundromat. The property is shown on the Town of Uxbridge Assessor's Map **18A Parcel 2176** and described in a deed recorded at the Worcester Registry of Deeds Book **54726 Page 224**. The property is located in the **Residential A Zone**.

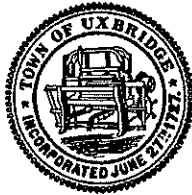
Discussion: Steven Lobisser, the applicant and owner of Double Bubble Laundromat and Laundry Services presented his application to the Board. Mr. Lobisser owns and operates laundromats in Upton and Milford and through his customers and market research determined a need for these services in Uxbridge. The most recent use of the building on the property was a tattoo parlor and prior to that it was a laundromat. Mr. Lobisser will be leasing the space with the hopes of purchasing in the future. Services to be offered include self-service laundry, wash-dry-fold, and senior citizen valet. Mr. Lobisser requested hours of operation of 5:00am to 10:00pm and explained the doors are unlocked and locked automatically and staff will be onsite approximately one half of the open hours. He estimates there will be approximately thirty-eight (38) machines to be able to handle six hundred an estimated eighty (80) pounds of capacity of laundry. There are fifteen (15) available parking spots, including a handicap parking spot, which Mr. Lobisser found sufficient for the business. There are no plans to modify the existing building exterior and Mr. Lobisser stated any plumbing modifications would comply with state building codes.

Larry Lench, Uxbridge Building Inspector attended the meeting, suggested conditions and verified the parking requirements (1500 sq. ft., the amount of space being leased, requires eight parking spaces). No members of the public offered comment during the hearing.

Board members considered each of the following criteria in compliance with the Uxbridge Zoning Bylaws Section 400-50 (B):

1. social, economic or community needs – *Members agreed the proposed business serves a community need.*
2. traffic flow and safety, including parking – *Members agreed parking is adequate.*
3. adequacy of utilities and other public services – *Members agreed utilities and services are adequate.*

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4. neighborhood character and social structures – *Members agreed that this change of use would have minimal impact if any on the neighborhood*
5. impact on natural environment – *Members agreed there should be no change to the natural environment as no construction is proposed.*
6. fiscal impact including impact on town services, tax base and employment – *Members agreed it should be comparable to the existing business and should not have a heavy effect on town resources.*

During deliberations, members agreed that the application met the general and specific criteria for granting a Special Permit, was an appropriate use of the property and considered potential conditions.

Motion / Vote: Mr. McNulty made a motion close the Public Hearing FY 19-12 for 151 N. Main Street. Motion seconded by Mr. Kaferlein passed unanimously by vote of 3-0-0.

Motion / Vote: Mr. McNulty made a motion that the Zoning Board of Appeals grant the Special Permit request FY19-12 for 151 North Main Street under Section 400-12 B (2) of the Uxbridge Zoning Bylaws to change the use of a non-conforming business use of an existing building to a different non-conforming use of a laundromat. The Board specifically finds the proposed use is not more detrimental to the neighborhood and fulfills the criteria set forth in Section 400-50 (B). Motion seconded by Mr. Kaferlein and the motion passed unanimously by vote of 3-0-0.

The approval is subject to the following Conditions:

1. Hours of Operation allowed are 5am – 10pm 7 days a week
2. The applicant obtain and maintain an necessary state and local licenses for commercial laundromat

III MINUTES/MAIL/INVOICES

1. March 6, 2019 Meeting Minutes Review

Motion: Mr. McNulty moved to approve the March 6, 2019 meeting minutes as written. Mr. Kaferlein seconded, and the motion passed by vote of 3-0-0.

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

1. Review and discuss proposed Town of Uxbridge Zoning Board of Appeals Rules and Regulations

- Discussion passed over

2. Fiscal Year 2020 Meeting Schedule Review

- Members reviewed and approved the meeting schedule dates for fiscal year 2020 (June 2019 – July 2020).

V ADJOURNMENT: NEXT ZBA MEETING, Wednesday, July 10, 2019

Motion: Mr. McNulty moved adjourn the June 5 meeting of the ZBA. Mr. Kaferlein seconded, and the motion passed by vote of 3-0-0.

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SIGNATURES:

Rob Knapik, Member

Mark Kaferlein, Member

July 10, 2019

Date

(absent)

John Gniadek, Member

Thomas McNulty, Associate Member

