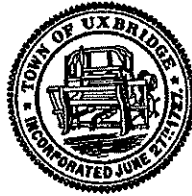


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Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

2023 JUN 7 10:00 AM  
2023 JUN 7 10:00 AM

### MEETING MINUTES: Wednesday, June 7, 2023

**Present:** Jim Blackburn, Thomas McNulty, Tariq Fayyad and Administrator Melissa Shelley

#### PUBLIC HEARINGS:

1. **FY22-02:** The owner Elizabeth Barry Crawford of 27 Pudding Street is seeking to **APPEAL** a Notice of Violation issued by the Uxbridge Building Commissioner on August 17, 2021. The property is located in both the **Agricultural and Residential C Zoning District**. It is shown on the Town of Uxbridge Assessor's **Map 17, Parcel 925** and described in a deed recorded at the Worcester Registry of Deeds in **Book 42005 and Page 207**. The hearing is held pursuant to the Worcester Superior Court's remand order of April 28, 2023 in Elizabeth Crawford v. Town of Uxbridge Zoning Board of Appeals et al., docket no. 2185CV01286A.

**Background:** Elizabeth Barry Crawford asked the Uxbridge Zoning Board of Appeals to overturn Notices of Violation dated August 17, 2021 and August 26, 2021 relating to 27 Pudding Street, both issued by the former Uxbridge Inspector of Buildings and Zoning Enforcement Officer Larry Lench.

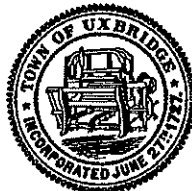
According to the ZEO, the trailer, in its location on the Property, its condition, and as used by Appellant, is not allowed by Section 400-22 of the Uxbridge Zoning Bylaw. Ms. Crawford argued, that ZEO's interpretation of the Bylaw is incorrect because" a.) the trailer is registered; b.) the Property is situated in an agricultural zoning district; and c.) the trailer is part of an allowable accessory use of caring for two horses.

Public hearings were held in October and November of 2021 and the ZEO's determination was upheld because the Board did not unanimously agree that it should be overturned. Ms. Crawford appealed the Board's decision to the Worcester Superior Court. Through counsel the town negotiated a Joint Motion for Remand which resulted in issuance of a remand order by the court on April 28, 2023. The remand order required the Board to conduct a remand public hearing based on the information previously provided and any new information submitted for consideration of which there was none. The Board obtained a current certified abutters list on May 8, 2023 and duly posted the public remand hearing to be held June 7, 2023.

**Presentation/Discussion:** Uxbridge Town Counsel Alex Weisheit, KP Law P.C. attended the meeting to provide support to the Board. He explained that the remand order essentially brings the case back before the Board. He said the Board was entitled to review all of the existing documents and information in the record, as well as any new testimony or information received during the public hearing. He noted that the remand order asked the Board to determine whether the trailer on the Ms. Crawford's property, which formed the basis for the ZEO's enforcement, is an allowable accessory structure appurtenant to an allowable accessory use of caring for two horses.

Attorney Mark Wickstrom, Wickstrom Morse, LLP, represented Elizabeth Crawford during the public hearing. He said not much has changed from the prior petition when it originated. He argued that the Uxbridge Zoning Bylaw Section 400-22, used by the ZEO to support the First and Second Notices,

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## **TOWN OF UXBRIDGE ZONING BOARD OF APPEALS**

### **MEETING MINUTES: Wednesday, June 7, 2023**

does not apply to Ms. Crawford's use of the trailer. Mr. Wickstrom said the use of this trailer on the Appellant's property is used simply to store hay for their horses. The horses are for the Appellant's personal riding use and as pets that they care for at home. He said it is all personal use and this is the type of use that is allowed as incidental and customary to a residential property in the agricultural zone.

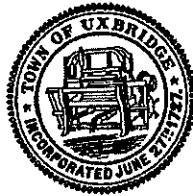
Attorney Robert Finnegan, 60 Londonderry Way, represented the abutters at 15 Pudding Street, during the June 7, 2023 public hearing as well as both public hearings in 2021. Their concern is the visual impact of this trailer from their property. The trailer is placed close to their property line and according to Mr. Finnegan it is located in the Residential C Zoning District portion of the parcel. They requested the public hearing be continued to a mutually agreed upon date so they could have the opportunity to review materials and participate in conversations with the Appellant's counsel to reach a negotiated settlement and if a resolution cannot be reached then possibly special conditions could be considered. They alleged that proper procedure was not followed and suggested the possibility of the special permit application which would provide the opportunity for conditions.

Mr. Wickstrom responded to the comments stating the purpose of being able to appeal a ZEO's decision is because sometimes they are wrong and their decisions are not law. ZEO decisions are based on their interpretation of the zoning bylaw and the Board's interpretation on appeal would trump the ZEO's decision. He argued that the appropriate procedure was followed in accordance with the remand order. He also stated that approximately 98% of the parcel is in the Agricultural Zoning District and the Residence C Zone line runs almost parallel with the lot line. Appellant's counsel reiterated that Ms. Crawford is looking for the Board to make the legal determination that the trailer which is used to store hay for pet horses is part of an allowable accessory use of caring for two horses.

Town Counsel stated his opinion that the agricultural use of the caring for the horses is an accessory use to the primary use of a single-family residence in the Agricultural District. He requested that the Board determine whether this trailer is a minor and incidental part and parcel of that accessory use and customary in this general neighborhood. Members considered and discussed whether the trailer constitutes a structure and/or use as defined in the Uxbridge Zoning Bylaw and how that impacts their determinations and the overall Appeal.

The Board asked whether Ms. Crawford would consider the suggestion of continuing the public hearing to allow for negotiations and a possible resolution for all parties. The Appellant stated they had been here twice before a couple of years ago and were asked to go back with the abutters and work with counsel to come up with a solution that really would appease all parties. She said they offered to plant trees, extend a fence, and consider relocating the trailer to minimize the appearance but they were never able to reach a resolution acceptable to the abutters. She asked the Board to issue a decision.

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### MEETING MINUTES: Wednesday, June 7, 2023

Members of the Board and Town Counsel agreed proper procedure was followed. The Board considered whether this decision could include conditions and counsel suggested that would be outside the scope of this type of appeal. Everyone agreed that this is an administrative appeal of the ZEO's determination and the Board's review is limited to the determination of whether or not the ZEO was correct, and therefore, whether the notice of violation should be upheld or overturned.

Members had a final conversation about visual screening with the Appellant who said they would be willing to extend the 6-foot vinyl privacy fence. They did not believe there was an alternative area that is level enough for the trailer to be moved to on the property that is within reasonable distance of the barn to get the hay in and out.

**Motion:** Mr. McNulty made a motion to close the remand public hearing for ZBA Case No. FY22-02 27 Pudding Street. Motion seconded by Mr. Fayyad passed unanimously by vote of 3-0-0.

**Motion:** Mr. Blackburn made a motion that the Board find that the trailer is not a structure as that term is defined in the Uxbridge Zoning Bylaw. Motion seconded by Mr. McNulty passed unanimously by vote of 3-0-0.

**Motion:** Mr. Blackburn made a motion that the Board find that the trailer is an allowable accessory use for the care of horses. Motion seconded by Mr. McNulty passed unanimously by vote of 3-0-0.

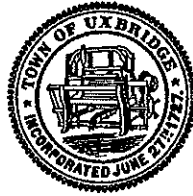
**Motion:** Mr. Blackburn made a motion to grant the appeal made by Elizabeth Crawford at 27 Pudding Street and overturn the Uxbridge ZEO's Notices of Violation dated August 17, 2021 and August 26, 2021 based upon the finding that the trailer is an allowable accessory use for the care and keeping of horses. Motion seconded by Mr. McNulty passed unanimously by vote of 3-0-0.

2. **FY23-13: 125 North Main Street, Kevin Donaldson** the applicant is seeking a **SPECIAL PERMIT** pursuant to a Class II Motor Vehicle Dealer License. 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**.

**Presentation:** Kevin Donaldson presented his application to the Zoning Board of Appeals (the "Board"). Mr. Donaldson explained he currently operates an automobile detailing business at the location and is hoping to expand his business to include the procurement and sale of exotic vehicles in compliance with state and local requirements for a Class II dealer license. Mr. Donaldson said he does not plan to display or store cars for sale outdoors at the location and does not expect the expansion of the business to have any noticeable impact on the neighborhood. He said that customer interactions would be by appointment only.

According to the Applicant's testimony, there is parking for nine (9) vehicles inside the building and parking for six (6) additional vehicles exterior to the building. On September 20, 2020 the Board granted a Special Permit with conditions to the Applicant to operate the existing automobile detailing business.

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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

### MEETING MINUTES: Wednesday, June 7, 2023

The Board acknowledged their role as the Special Permit Granting Authority in the process to obtain a Class II License and their authority identified in the Table of Use Regulations. Members considered the previously issued Special Permit and discussed potential conditions with the Applicant.

**Motion:** Mr. McNulty made a motion to close the Public Hearing FY 23-13 for 125 North Main Street. Motion seconded by Mr. Fayyad passed unanimously by vote of 3-0-0.

**Motion:** Mr. Fayyad made a motion that the Zoning Board of Appeals grant the Special Permit as requested in case FY23-13 for 125 N. Main Street with the following conditions:

- Hours of Operation may occur Monday through Friday between 7:00am and 7:00pm and weekends between 7:00am 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.
- The property is to be limited to a maximum of 6 vehicles parked external to the building.
- No on street parking.
- Lighting is to remain consistent with the existing fixtures. Any upgrades or changes should limit off site illumination and be downward facing.
- No auto repair to take place on site.

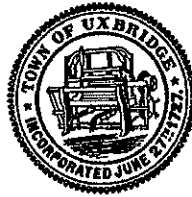
Motion seconded by Mr. McNulty passed unanimously by vote of 3-0-0.

3. **FY23-14: 104 Aldrich Street, Cole Lesperance** the applicant is seeking a **SPECIAL PERMIT and/or a VARIANCE** to construct an addition onto a pre-existing non-conforming single-family home. The property is located in the **Agricultural Zoning District** and is shown on the Town of Uxbridge Assessor's **Map 45 Parcel 1814** and described in a deed recorded at the Worcester Registry of Deeds **Book 57269 Page 234**.

**Presentation:** Cole Lesperance presented his Application to the Board. He explained the purpose of the expansion is to accommodate his growing family. He said he was referred to the Board for zoning relief by the Uxbridge Building Inspector because the addition did not meet the front setback requirement. He described the proposed addition as being approximately 24 feet wide by 45 feet long and it is expected to include 2 bedrooms, a living room and a bathroom. The existing deck will be removed and the addition constructed on the left side of the house with a connecting hallway. Mr. Lesperance said the location was chosen because of the available area on that side of the lot. Mr. Lesperance displayed his site plan showing the closest point of the addition to be 40 feet from the front property line.

Situated on the Property is one 1, 287 square foot single-family dwelling, a shed and related driveway. The property is serviced by private well and a recently approved upgraded septic system to accommodate three bedrooms. There are wetlands present in the rear of the property. The lot does not conform with minimum

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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

### MEETING MINUTES: Wednesday, June 7, 2023

frontage or area requirements and the existing structure does not conform with the minimum front or left side setback requirements as defined in the Table of Dimensions in the Uxbridge Zoning Bylaw.

The Board evaluated the standards and criteria for both the issuance of a Variance as set forth in MGL Chapter 40A Section 10 and the issuance of a Special Permit to reconstruct a non-conforming structure defined in the Uxbridge Zoning Bylaw Section 400-12 Non-Conforming Uses and Structures.

The Board agreed to apply the standards in the Uxbridge Zoning Bylaw Section 400-12 C. Nonconforming Structures: Special Permit Required - *The Board of Appeals may award a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.*

After deliberating, the Board found the expansion will not result in an increase in the non-conforming nature of the structure or lot and would not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

**Motion:** Mr. McNulty made a motion to close the Public Hearing FY 23-14 for 104 Aldrich Street. Motion seconded by Tariq Fayyad passed unanimously by vote of 3-0-0.

**Motion:** Mr. Fayyad made a motion that the Zoning Board of Appeals grant a Special Permit as requested for 104 Aldrich Street on a finding that the extension shall not be more detrimental more detrimental than the existing non-conforming structure to the neighborhood. Motion seconded by Mr. McNulty passed unanimously by vote of 3-0-0.

### ADMINISTRATIVE:

1. Meeting Minutes Review: 3/1/23, 4/5/23, 5/3/23

**Motion:** Mr. McNulty made a motion to approve the March 1, 2023 meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by vote of 3-0-0.

**Motion:** Mr. McNulty made a motion to approve the April 5 2023 meeting minutes as written. Mr. Fayyad seconded, and the motion passed unanimously by vote of 3-0-0.

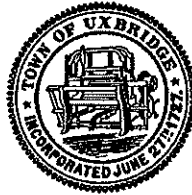
**Motion:** Mr. McNulty made a motion to approve the May 3, 2023 meeting minutes as written. Mr. Blackburn seconded, and the motion passed unanimously by vote of 3-0-0.

2. FY2024 Meeting Calendar Review

**Motion:** Mr. Blackburn made a motion to approve the FY2024 ZBA meeting calendar. Mr. Fayyad seconded and the motion passed unanimously by vote of 3-0-0.

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

Rob Knapik, Chairman  
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**TOWN OF UXBRIDGE  
ZONING BOARD OF APPEALS**

**MEETING MINUTES: Wednesday, June 7, 2023**


**ADJOURNMENT: Next Regularly Scheduled ZBA Meeting, Wednesday, July 7, 2023**

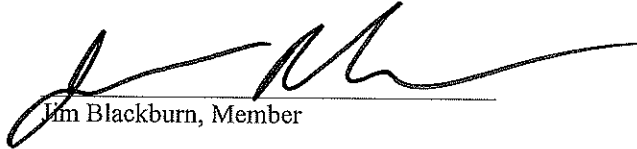
**Motion:** Mr. McNulty made a motion to adjourn the June 7, 2023 meeting of the Zoning Board of Appeals. Mr. Fayyad seconded, and the motion passed unanimously by vote of 3-0-0.


Respectfully Submitted,  
Melissa Shelley

**SIGNATURES:**

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Rob Knapik, Member

  
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Thomas McNulty, Member

  
\_\_\_\_\_  
Jim Blackburn, Member

  
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Tariq Fayyad, Associate Member

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Date