

**City of Newburyport
Zoning Board of Appeals
October 8, 2013
Council Chambers**

The meeting was called to order at 7:12 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Duncan LaBay (Secretary)
Robert Ciampitti (Vice-Chair), (*arrived during hearing #1*)
Jamie Pennington
Howard Snyder
Jared Eigerman (Associate Member), (*voting member in absence of Mr. Ciampitti in hearing #1*)
Richard Goulet (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of September 10, 2013 Meeting

Mr. Pennington made a motion to approve the minutes as submitted and Mr. Snyder seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – approve
Jared Eigerman – approve
Robert Ciampitti – absent

2013 046

Address: 2 Lancaster Road

Special Permit

Permit an in-law apartment (Use #109)

Mrs. Lenore Sciuto, owner, 2 Lancaster Road, appeared in front of the board seeking a Special Permit for the Use of an in-law apartment in her single family home. They intend to build an addition over their current family room, as well as over an existing patio. The 2nd story of the addition would house an additional family area as well as a kitchen. The upstairs bedrooms and

bathrooms of the existing home would be shared. The owner's daughter and granddaughter would be living in the in-law apartment.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Peter Doyle, 4 Lancaster Road

Mr. Doyle is an abutter to Mrs. Sciuto. He was opposed to in-law apartment because he said it could have negative impact on the neighborhood and would open the door for future requests of similar projects. There are 30 single-family homes in the R2 zoning district. Many have added additions, such as bedrooms, bathrooms, and garages, but never an in-law apartment. Many neighbors have had family members living with them, and some have added space to accommodate this, but none have added a kitchen to create an in-law apartment. Adding an in-law apartment on small lots like this could affect the overall future of the neighborhood.

Mr. Doyle questioned the plans submitted stating that they seemed minimal. He asked 'are these adequate for a Special Permit request?'

He also noted that on Friday, construction crews started digging on a foundation. On Saturday he received updated and changed plans. He still had questions on plans when construction began. Mr. Doyle also asked whether the ZBA had received the latest plans.

Mr. Doyle's last question concerned the parking layout and location. The proposal stated two additional spaces, leaving parking with four total spaces. Is there a plan on location, size, and material used for these spaces?

Michael Cronan, 17 Shandel Drive

Mr. Cronan was concerned that this could eventually lead to other neighbors building additions with in-laws and the neighborhood would change. He felt this could affect the value of his property.

Loree Hazard, 3 Lancaster Road

Mrs. Hazard was also concerned with the neighborhood becoming a 2-family neighborhood.

Mr. LaBay also passed a letter to Mrs. Sciuto, submitted by *Robert and Catherine Manning, 1 Lorum Street*, opposing the project.

Questions from the Board regarding Public Hearing #1:

Mr. Eigerman questioned the parking. They currently have two spots and would be adding one. Would all parking spaces be using the same driveway? Mrs. Sciuto answered yes, they are simply adding a space to the right of the existing two, and widening with asphalt. She stated that most driveways in the neighborhood have a similar setup.

Mr. Eigerman questioned the issue with excavation having already started. Mrs. Sciuto stated that Gary Calderwood granted the building permit already, so they began the project. Mr. Eigerman clarified that the Sciutos are before the ZBA simply to address in-law apartment. The addition itself meets building requirements. The kitchen is the only difference with this in-law apartment.

Mrs. Sciuto noted that plans are smaller than originally proposed.

Mrs. Sciuto addressed the 2-family concerns. Their daughter would be sharing bedrooms and bathrooms within the already existing home – there would be no private entrance to the in-law apartment. The only new addition is over the existing family room that includes more private living space for her daughter as well as a kitchen.

Mr. Eigerman explained that if in-law approval is granted, every year the owners must send proof that it is a blood relative living in the apartment. The permission would also only last three years, then they would need approval to extend the period. If the daughter does leave, they would have six months to remove the kitchen, making it an in-law. The building inspector needs more detailed plans, where the ZBA really only approves the larger picture project.

Mr. Pennington pointed out several dimensional discrepancies. He asked whether the plans he was holding, with small discrepancies were in fact the set of plans currently in construction. Mrs. Sciuto answered yes, they were.

Deliberations:

Mr. LaBay expressed displeasure, in that he did not believe that the board possessed a set of approved plans that were in construction.

Mr. Snyder agreed.

Mr. Ramsdell understood that the overall construction scale is within the ordinance and the building commissioner has approved. But stated that the ZBA does need to understand fully where and what the in-law apartment is.

Mr. Eigerman stated that the ZBA could use some better drawings. It would also help abutters to see the project better. He understands that it meets the ordinance and is reversible when no longer being used for the daughter. We need better drawings, including correct dimensions and parking layout.

Mrs. Sciuto asked for more specific instruction on what is needed.

Mr. Ramsdell asked for plans with clear drawings, elevation, outline, dimensions, and parking spot. He noted to touch base with the planning office for more detail on what is needed, and they will continue this hearing. The hearing would be continued on 11/12/13. Mrs. Sciuto would need new materials into the planning office one week before the continued meeting. Construction may continue, but do not put a kitchen in yet.

Motion to continue the application for a Special Permit to November 12th made by Mr. Eigerman, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– approve
Jared Eigerman – approve
Richard Goulet – non-voting
Robert Ciampitti – non-voting, arrived late

2013 047

Address: 15 Tyng Street

Special Permit for Non-conformities

Remove existing rear addition and replace with a (22' x 24') 2-story addition; square off existing front corner, and convert existing enclosed porch into a farmers porch.

Everett Chandler of Design Consultants, Inc., 68 Pleasant Street, Newburyport, appeared before the board on behalf of James Bourque, owner, 15 Tyng Street. The owner is applying for a special permit to remove an addition and add a new 2-story addition. The existing structure is single family and will remain a single family. The frontage remains non-conforming. The front and side yard A setbacks are non-conforming, and would remain the same. They would not be adding or intensifying any of the non-conformities. They are taking a home that has seen better days, built around 1800, renovating and improving the whole structure. The owners have spoken with neighbors who all seem excited about the changes and are in support of the project. This project will increase the value of the neighborhood. The proposed home is going to be similar to other homes in the neighborhood and will be very much in character.

The board quickly discussed a discrepancy in the required front setback. Mr. Chandler stated that instead of 13.3, it should be 9.1 (the average of the abutting properties). The board corrected Mr. Chandler that this is only for a new construction.

Chair Ramsdell opened the hearing to public comment.

In favor:

James Bourque, 15 Tyng Street

Mr. Bourque is the builder and owner of the home. He will be living there when the project is finished. He explained that he passed a letter around to abutters and received positive feedback and support from neighbors.

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. Eigerman asked what other buildings in town Mr. Bourque had worked on. Mr. Bourque replied that he has worked on about 30 homes in past 10 years between renovations and new constructions.

Mr. Bourque also noted that he went before the Historic Commission before the ZBA and they approved the project.

Mr. Eigerman expressed how happy he was to see no dormers in the plans. He said the plans look great.

Mr. Bourque explained how he needed to change/update the floor plans and renovate, as he will be living there personally.

Deliberations:

Mr. Eigerman commented on the very attractive design. He noted that abutters are on board. He felt it was a strong project.

Mr. Snyder agreed. The scale and renderings show a cohesive project with the neighborhood.

Mr. Ciampitti asked about the Side A setback and whether it really was 1.7. Mr. Chandler replied yes, it is, and it is a very close setback.

Motion to approve the application for a Special Permit made by Mr. Ciampitti, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

- Ed Ramsdell– approve
- Duncan LaBay – approve
- Robert Ciampitti – approve
- Jamie Pennington – approve
- Howard Snyder– approve
- Jared Eigerman – non-voting
- Richard Goulet – non-voting

2. Business Meeting (Continued)

b) Discussion re: Special Permits vs. Variances

The board discussed 1-family and 2-family Special Permits vs. Variances. A zoning proposal has been submitted to city council, has gone to committee, but has yet to be discussed. The proposal put into council would change that new conformities would be a Special Permit and not a Variance. Chair Ramsdell felt the need to discuss this issue before the next meeting, where there will be an application with this issue. What do we do in the meantime, before the issue goes

before city council? The board discussed the pros and cons of a special permit vs. a variance in this situation. Ultimately, it was decided that for the time being, a variance would be required when creating a new non-conformity.

Mr. Eigerman made a motion to adopt a policy that existing non-conforming 1 and 2-families, creating a new non-conformity requires variances until city council adopts clarifying legislation. Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Duncan LaBay – approve
Robert Ciampitti – approve
Jamie Pennington – approve
Howard Snyder– approve
Jared Eigerman – approve
Richard Goulet – approve

c) Discussion re: corner lots

The current ordinance regarding corner lots says that the longest side facing the street is the primary front setback and the shorter side is the secondary front setback. A proposal has been made that the owner be able to choose what the front setback is. This proposal was submitted to city council, but has yet to be discussed. Chair Ramsdell asked for the board’s opinion on the issue and their support in opposing the new proposal. The board discussed the pros and cons of the current ordinance vs. the newly proposed and ultimately decided that they believe it should be left as it currently stands.

Mr. LaBay made a motion on behalf of the board to support leaving the ordinance regarding front setbacks on corner lots as it currently stands, Mr. Pennington seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Duncan LaBay – approve
Robert Ciampitti – approve
Jamie Pennington – approve
Howard Snyder– approve
Jared Eigerman – approve
Richard Goulet – approve

Adjournment

Motion to adjourn made by Mr. Goulet, seconded by Mr. LaBay at 8:22 PM.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Duncan LaBay – approve
Robert Ciampitti – approve
Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – approve
Jared Eigerman – approve

Respectfully submitted, Katie Mahan - Note Taker