

**City of Newburyport
Zoning Board of Appeals
November 12, 2013
Council Chambers**

The meeting was called to order at 7:16 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Duncan LaBay (Secretary)
Robert Ciampitti (Vice-Chair)
Jamie Pennington – *arrived for hearings #4 and #5*
Howard Snyder
Richard Goulet (Associate Member)
Jared Eigerman (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of October 22, 2013 Meeting

Mr. Goulet made a motion to approve the minutes with amendments and Mr. Eigerman seconded the motion.

The motion passed unanimously.

Votes Cast:

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

2013 046 Address: 2 Lancaster Road Special Permit Permit an in-law apartment (Use #109)
--

This hearing is continued from the October 8th meeting. The board requested that the applicant provide plans with clear drawings, elevations, outlines and dimensions of the addition and in-law apartment as well as a drawing with the additional parking space clearly defined.

Mrs. Lenore Sciuto presented requested information to the board. She showed a drawing of the upper level of the house and new addition to the board. The addition is a total of 512 sq. ft. The bedrooms would be shared with the existing home. The total in-law apartment would be 807.2 sq. ft., which includes the shared bedrooms. The other document presented was a copy of plot plan with the existing home and proposed addition. It also showed the proposed driveway with new parking space.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #1:

Mr. LaBay noted that the board received a letter from an individual in city, Sharon Kingsley who was in opposition to project.

Mr. Goulet asked which area is the proposed new drive. Mrs. Sciuto pointed out the new driveway and pointed out the legend on the diagram differentiating new from old driveways.

Deliberations:

Mr. Ciampitti explained that the board is asked to rule upon in-law apartments often. The changing dynamic of families are certainly affecting the number of requests. He believes this is a very appropriate request. It is reasonable and appropriate and he is in support.

Mr. Snyder agreed. He spoke of the opposition in the letter submitted by a neighbor and noted that the family will need an annual permit renewed to ensure there is family living there.

Mr. Eigerman was in support.

Mr. LaBay commented that the application met all reasonable requirements under the bylaws of which the board operates. He made a point to discuss the letter submitted in opposition. The letter indicated that the neighbor chose a neighborhood with single family homes. An in-law apartment is not a 2-family home. He took seriously and was somewhat offended at the comment in the letter that the board is historically accurate, but when it comes to neighborhoods, they could care less. The board takes changes very seriously.

Mr. Ramsdell was in favor and believed this application to be a reasonable request.

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 – absent
Howard Snyder– approve
Richard Goulet – non-voting
Jared Eigerman – approve

2013 049

Address: 9 Pond Street

Special Permit for Non-conformities

Construct a 1-1/2 story 2-car attached garage with a 3.7' side yard setback where 10' is required

This hearing was continued from the October 22nd meeting. The Board requested that the applicant speak to the neighbors that expressed support for the project when the driveway was accessed from Pond Street to see if they will continue to support it if the access was via Court Street.

Erik Kaminski, of Kaminski Construction Management, 19 Eagle Street, Newburyport presented on behalf of property owners, Elizabeth and Emery Johnson. He explained that he presented the new driveway plans off Court Street to neighbors along with a letter to sign and all that he spoke with were in favor.

Chair Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. LaBay presented the letter noting that the owners discussed the driveway move with neighbors and they are in favor.

Mr. Ramsdell asked if by chance they were able to find hard evidence on right of access on Court Street. Mr. Kaminski said that the city plows and picks up garbage on this street, but he was unable to find hard evidence.

Mr. Ramsdell noted that assuming the board approves the driveway off Court Street, the board is not giving or not giving right of passage on Court Street. They are assuming the right.

Deliberations:

Mr. Eigerman said that the applicants risk whether they have the right to pass on Court Street and this should be in motion. Then he is in agreement.

Motion to approve the application for a Special Permit for Non-conformities with stipulation of the applicants risk as to right of passage on Court Street made by Mr. LaBay, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

2013 052

Address: 2 K Street

Dimensional Variance

Construct a single-family home with non-conforming front and side yard setbacks

Lisa Mead of Blatman, Bobrowski & Mead LLC, 30 Green Street, Newburyport presented on behalf of George Haseltine, trustee, K Street Realty Trust and John & Susan DeCaprio, owners. The property is located on the corner of K Street and Old Point Road. The application requests to construct a single family on the property. It is currently an empty and buildable lot. It is one of the vacant lots grandfathered as a buildable lot at the implementation of the water and sewer project on the island. The owners have been paying betterments to city since 2006. The lot consists of 9,800 sq. ft. with 140 ft. of frontage on K Street. The new construction would be 1,972 sq. ft. with a 950 sq. ft. footprint. Due to soil condition, vegetation and wildlife the home is forced to the rear of the lot. Ms. Mead pointed out topography, vegetation, and wildlife habitat. The request is to locate the structure where there would be a 10.5 ft. side setback where 20 ft. are required and 13.2 front setback, where 20 ft. are required. Further exacerbating the soil condition is that K Street is actually paved 305 sq. ft. into the property line. The lot meets the qualifications for a variance. The structure is relatively small for the island these days. A wetlands specialist said there are scarce areas such as that on the property. The proposed structure is in harmony with other residences in area and there would be no detriment to the neighborhood. If the home were to be moved to another location on the property, they would stand to lose a valued wildlife habitat and significant vegetation. The proposed structure will have no negative effect on the public health or safety, nor will it place a greater demand on public serviced and/or utilities.

The Conservation Commission is hearing the matter and they have received comments from the DEP that are being addressed. They had a site visit at the end of the summer and noted that the most desirable place for structure is as it was presented. Given the topography, vegetation, and not being able to make a cut in the dune, it is believed that the structure could not be moved to another location on the lot that is more ideal.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Maureen Pollard, 8 K Street

Mrs. Pollard submitted a letter to the board from a neighbor Paul Lombardi, a permanent resident in Connecticut

Mrs. Pollard explained that when she purchased the home, she predicted that any building on that empty lot would be done in middle of lot. 13 years later, they started putting pilings in near her property. She has been made aware of conservation land and the logical placement. The new structure is very close to her home. She will have to eliminate a vegetable garden, it will obstruct her view, and restrict access on her side yard sand. The new home is more reminiscent of the city and not of Plum Island. It does not fit in with setbacks and character of neighborhood. She sympathizes with the builders and restrictions, but does not feel negotiating is viable solution.

Mr. LaBay read letter from Paul Lombardi opposing the new structure.

Questions from the Board regarding Public Hearing #3:

Mr. Eigerman asked if there is a building in 75-80 and 75-84, on the Lombardi property. Ms. Mead responded that 75-80 has a home on it, and 75-84 is vacant space.

Mr. LaBay noted that on the Assessors map, on the lot that contains a building of Lombardi's, it is tucked on back on the lot.

Mr. Snyder asked about the stockade fence on the property. Ms. Mead explained that this is actually a split rail fence, and it was an error on the plan. The Conservation Commission wants to define the area in front of the dunes.

Mr. LaBay asked for a walk through some of the elevations. Ms. Mead presented a diagram. The front faces K Street and the right side elevation faces Old Point Road.

Mr. LaBay asked about the square footage of use and whether there is any usable space of the third floor. Ms. Mead responded no, there are cathedral ceilings. Mr. LaBay also clarified the footprint dimensions of 24 ft. x 36 ft. and total square footage of 950.

Mr. Snyder had a concern with the top portion of the building and the average building height. It was explained that the average building height is due to the topography not being flat. The average height has been confirmed with the building department.

Deliberations:

Mr. Eigerman believed this presentation contained a careful analysis of property. The 10 ft. setback is not troubling to him. He was sympathetic with the Pollard family and their concerns. The pattern on Plum Island is all kinds of shortened setbacks. He was hopeful that the height is mechanical space, and there may be a way to lower height at very top. Ms. Mead noted that it already took a lot of work to bring it down to the presented height.

Mr. LaBay agreed with Mr. Eigerman in that it was a thorough presentation. There is not a large footprint. The height is particularly an issue from the perspective of Pollards as they currently look across a vacant lot. It would be a lot easier for him to approve a building that is shorter.

Mr. Ramsdell would like architect to take one more look at it. Any reduction that would be done will be reasonably small. If they reduce by 1 ft or 2 ft. would neighbors really gain a view. Unfortunately, he did not think this would do much for the neighbors and may not be useful.

Mr. Eigerman does think this is a significant issue that should be reviewed again.

Mr. LaBay said that the board may want to consider continuing the hearing until the architect takes a look at the height and also to see if the Conservation Commission changes anything.

Ms. Mead noted if the home were moved toward the center of the lot, the height would increase because of the height over dune.

Motion to continue the application to our next meeting on December 10, 2013 made by Mr. Snyder, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

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

2013 053

Address: 1-3 Neptune Street

Special Permit for Non-conformities

Reconstruct pre-existing non-conforming three-season porch and single story portion of home

Everett Chandler of Design Consultants, Inc, 68 Pleasant Street, Newburyport presented on behalf of owners, John and Susan Shortsleeve. This project is modest. The existing structure is listed as a 2-family, but will have a continued use as a single-family. The existing home was built between 1750-1800. They have been before the Historic Commission and were approved. The existing lot is non-conforming with area and lot shape. The structure is non-conforming with all setbacks. The proposal is to remove the existing single story and rebuild, changing roof line. It is currently a shed roof and will be replaced with a gable roof. With the change from the old to new roof, the structure will fit in more with the historic neighborhood. The height is nearly same, and the new roof is strictly cosmetic and will not impact views, sun, etc.

They have been before the Conservation Commission and were granted a negative determination of applicability.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Charles Robinson, 5 Neptune Street, representing his mother

Mr. Robinson asked whether the roof line would remain the same. He asked to see the Neptune Street vs. Water Street roof views.

Questions from the Board regarding Public Hearing #4:

None

Deliberations:

Mr. Snyder commented that this is a very straightforward application and they will not be increasing the height. It is a visual improvement and he believes it is a reasonable request.

Mr. LaBay agreed.

Mr. Ramsdell concurred, and commented there were minimal changes.

Mr. Pennington commented that this application tested the lower boundary of the board's authority.

Motion to approve the application for a Special Permit for Non-conformities made by Mr. LaBay, seconded by Mr. Pennington.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Duncan LaBay – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder– approve

Richard Goulet – non-voting

Jared Eigerman – non-voting

2013 054

Address: 37 Middle Street

Dimensional Variance

Increase height of structure to 36.5' where 35' is allowed

Mr. Eigerman and Mr. Ciampitti both made it known they know parties involved in the application, but do not believe it will interfere with their position.

Robert Brennan Jr., PC presented on behalf of BullDawg USA Realty I, LLC and owner Andrew de Bernardo. Mr. Brennan presented that the property is located downtown and on Middle street. It was built in 1811.

Mr. Ramsdell interjected here asking whether the Historic Commission had reviewed this project yet. Mr. Brennan responded that they have not been given direction to go to the Historic Commission, but it is a valid point.

Mr. Brennan asked for a continuance to prepare presentation materials as well as public support, and go before the Historic Commission.

Motion to continue hearings 054 and 055 to January 14, 2014 made by Mr. LaBay, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

<p>2013 055 Address: 37 Middle Street Special Permit Convert mixed use building to multi-family (#103) with three residential units</p>

Continued to January 14, 2014 meeting.

Adjournment

Motion to adjourn made by Mr. Ciampitti, seconded by Mr. LaBay at 8:39 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