

**City of Newburyport
Zoning Board of Appeals
November 13, 2018
Auditorium**

The meeting was called to order at 7:10 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Renee Bourdeau
Edward Cameron
Mark Moore

Absent:

Maureen Pomeroy

2. Business Meeting

a) Approval of Minutes

Minutes of the 10/23/18 meeting

Mr. Ciampitti made a motion to approve the minutes and Mr. Moore seconded the motion.
The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – approve
Maureen Pomeroy – absent
Edward Cameron – absent
Mark Moore – approve

b) Request for Minor Modification – Hillside Center (2016-005, 2016-006 and 2016-040)

David Hall, President of Hillside Living LLC presented the request. The applicants are requesting the following minor modifications;

1. The project originally included three shorter greenhouses. They propose to remove two and make one larger greenhouse. The reasoning is to accommodate a large cistern under a greenhouse for the rainwater collection system.
2. Originally The Cottage Court building was set up in six nodes, each stepping up 24". Due to handicapped accessibility accommodation, the first two nodes need to be equal in elevation.
3. The gable end views of the buildings would go from a two-window configuration on second floor to three windows. This change is due to the elimination of north facing windows because are an energy loser. Delivering daylight to the space would be accomplished by adding east and west facing windows instead.
4. Instead of paving the entire parking area neat the solar canopies, they propose just paving lanes exposed to weather between canopies and adding pea stone in other places.

Mr. Ciampitti commented on the detailed and appropriate requests as the project evolves.
The rest of the Board agreed.

Mr. Ciampitti made a motion to approve the request for minor modification and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – approve
Renee Bourdeau – approve
Maureen Pomeroy – absent
Edward Cameron – recused/absent
Mark Moore – approve

c) Request for Minor Modification – 6 Elmira Avenue (2016-072)

Debbie Dimes presented the application and is currently residing at 6 Elmira Avenue. There is a precious variance on the property, so permission is needed from ZBA to make any modifications. The applicants would like to add a frame dormer to situate a bathroom renovation on the ¾ story.

Chair Ramsdell commented that the dormer on one end strikes him as strange looking for the area, but could understand the good reason for it.

Mr. Moore commented that it struck him as well, but he understood what they are trying to achieve.

Mr. Ciampitti noted that since this was the subject of a variance, attention to placement, and potentially changing the context of the neighborhood and/or street must be considered. He asked if the applicants had tried to accomplish their goal in another way.

Ms. Dimes explained that she has done over many homes in Newburyport and uses Matt Cummings as her contractor. The problem is the placement of the existing bathroom. If a shed dormer was added the length, it really would have changed the look of the house. They considered raising the roof, but there is a deed restriction on the house from the variance. If you balance another dormer onto the other side, you would only accommodate half the bedroom.

The Board discussed whether holding a full hearing to trigger a notice to the neighbors would be appropriate here. Ms. Dimes noted that the neighbors have been pleased with work on the house thus far.

Ms. Bourdeau commented that other options were explored and even if neighbors were notified and opposed the modification, she would not deny application. This is a unique house. It may be odd in appearance, but she did not see an alternative other than leaving it as is.

Mr. Ciampitti appreciated that and was persuaded. Even in opposition of neighbors, he recognized the need for this particular change.

Mr. Moore also agreed. It was not about aesthetics, but taking into account they explored other options. This is a unique situation.

Chair Ramsdell was not content, but not sure driving to a full hearing would change that.

Mr. Ciampitti made a motion to approve the request for minor modification and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – absent

Mark Moore – approve

d) Request for Minor Modification – 42 Merrimac Street (2008-034 and 2008-035)

There was no applicant present for this request throughout the meeting, and the Board decided to continue the application.

Ms. Ciampitti made a motion to continue the request for minor modification to 12/11/2018 and Mr. Cameron seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – absent

Mark Moore – approve

Ed Cameron arrived 7:32p.

3. Public Hearings

2018 053

Address: 11 Coffins Court

Special Permit for Non-conformities

Demolish and reconstruct a pre-existing non-conforming single family home

This hearing was continued from 10/9/18. John Pelletier, owner presented. At the last meeting, the issue was raised regarding whether or not this application was suitable for a Special Permit for Non-conformities or whether it should be a variance. The City heard back from City Solicitor who made a ruling that this should be a variance application. This application may be left open, but continue as a variance as the City's legal notice covers the change and allows the application to continue.

Mr. Pelletier has spoken with all direct abutters and neighbors, and they have all have been in support. The home would remain a single-family use. The property is located in the HSR-A zoning district, includes deep lots from High Street, preventing subdivisions. He did not believe that this application would go against the intent of the district. The lot is very unique and under the HSR-A would be

considered not buildable. In the immediate neighborhood of Coffins Court, this lot would have the third most open space as proposed.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Tom Kolterjahn, 64 Federal Street, Newburyport Preservation Trust

Concerns included; The agenda advertising this application as SPNC, not variance, which is what we have now, the loss of a historic building and absence of a hardship when they could renovate and add onto the existing historic home.

Questions from the Board:

Mr. Ciampitti asked what materials would be used. Materials would be sensitive to the architecture of the neighborhood.

Chair Ramsdell clarified that for variance hardship they were relying on lot shape and size.

Ms. Bourdeau, who was not present at the last meeting, but qualified herself to participate this evening, asked if the Board solicited Historical Commission advice. The owners did not request it as this has already been through demolition delay and NHC review.

Ms. Newhall-Smith confirmed that the property did go through the demolition delay process in 2005 and the one-year has expired. Zoning enforcement verified that there is nothing in the ordinance regarding expiration of judgment. The demolition is a moot question.

Mr. Cameron asked if there was a known reason for the demolition and if the house was in need of extensive repair at the time. Ms. Newhall-Smith did not know the situation at the time.

Mr. Ciampitti agreed with that. There is an absence of language in the ordinance and for the Board to impose restrictions and create expiration dates would not be good practice. Those that crafted the ordinance chose not to add limits.

Ms. Bourdeau confirmed that the Board was just looking at the application as putting a new house on the lot.

Chair Ramsdell agreed.

Deliberations:

Ms. Bourdeau commented that based on the discussion, they would treat this almost as a new application with no existing house. With the overlay district, the ordinance made this essentially a non-buildable lot. This was not the intent of the ordinance. The applicants are keeping it a single family home, mass is not overly large and it fits in with the neighborhood.

Mr. Ciampitti agreed. It is an anomaly of the ordinance. Hardship is uniquely tied to lot shape.

Chair Ramsdell addressed Mr. Kolterjahn on the agenda showing the application as a SPNC and indicated that the published legal notice has language that allows for the change to a variance and continuance of the application. If the project completely changed, they would bounce it back.

Condition;

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that this project does trigger the requirements of the ordinance relative to sidewalks and trees. The Newburyport DPS recommended no new street trees but did recommend a new 5' wide sidewalk with new 6" granite curbing in front of the whole property. The ZBA adopted this recommendation as a requirement of its decision.

Motion to approve application 2018-053 with above condition made by Mr. Ciampitti, seconded by Mr. Moore.

The motion passed.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – no

Mark Moore – approve

2018 055

Address: 18 Sylvester Street

Special Permit for Non-conformities

Construct a second story addition resulting in an upward extension of pre-existing non-conforming setbacks and apply the established front yard setback for the construction of an attached two-story garage

This hearing was continued from 10/9/18. Braden Monaco presented the application. The applicant left the last hearing looking at the design and size of the garage. They spent a lot of time and energy on fitting in with the changing neighborhood while creating a functional space above the garage. A change was made to the proposed roof and garage pitch, and sidewalls were decreased. The new differential in height is about 15". Neighbor support was submitted. They also changed the siding to horizontal clapboards instead of vertical.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell clarified that the 19.9' established front yard setback where 25' are required would be the average of the immediately adjacent property and the one across the street as this is a corner lot.

Deliberations:

Ms. Bourdeau was happy that fellow board members pushed for a lower barn and accomplished that, while still being in the spirit of what the applicants wanted.

The rest of the Board agreed.

Motion to approve application 2018-055 made by Mr. Cameron, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – approve

Mark Moore – approve

2018 059

Address: 11 69th Street

Special Permit for Non-conformities

Construct second story addition resulting in an upward extension of a pre-existing non-conforming side yard setback

Elizabeth Gemba, owner presented the application. The applicants are looking to expand and add a second story addition to their home. The roof is coming due for replacement, so this is a good time for the expansion.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Moore asked if they would be changing the look of the house. They would be expanding upward and changing siding.

Ms. Bourdeau asked if the second floor was currently an attic being converted to living space. Yes, and the decks are also new.

Deliberations:

Mr. Ciampitti commented that for an application Plum Island with no opposition, it says something about sensitivity to the project. The applicants articulated they are keeping with the neighborhood. Families grow and homes need to accommodate this.

Chair Ramsdell this is a modest application for Plum Island.

Ms. Bourdeau commented that they are not exceeding FAR, so she could support.

Condition;

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that this project does trigger the requirements of the ordinance relative to sidewalks and trees. The Newburyport DPS recommended no new street trees but did recommend a new 5' wide sidewalk with new 6" granite curbing in front of the whole property. The ZBA adopted this recommendation as a requirement of its decision.

Motion to approve application 2018-059 with above condition made by Mr. Ciampitti, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – approve

Mark Moore – approve

2018 060

Address: 9 Orange Street, Unit 2

Dimensional Variance

Modify dimensional variance granted on 1/14/10 to allow a 134 s.f. second floor addition

2018 061

Address: 9 Orange Street, Unit 2

Special Permit for Non-conformities

Construct a 134 s.f. second floor addition resulting in an upward extension of a pre-existing non-conforming rear setback

Attorney Joel Quick of Mead, Talerman and Costa LLC, 30 Green Street presented the application. Architect Aileen Graf was also present. The Planning Board has approved a modification of a VI-C Special Permit. Historical Commission also approved the project. The project consists of a modest addition in the rear of the structure. The variance modification references two plans on record, however only one plan needs to change. There would be no expansion of the footprint, so the site plan does not change. The SPNC would be an upward extension of rear setback non-conformity. The changes would not be substantially more detrimental to the neighborhood. There would be a slight increase in massing, setback remains the same, scale is appropriate and the addition is in an area that can barely be seen from the street.

Ms. Graf explained that the footprint stays the same. They would be extruding the same roof toward the rear just over 10'. Roof deck area is already there. There would be two windows on the rear of the addition. Windows and materials would match existing. Attorney Quick noted that the staff report suggested ZBA adopting a Planning Board suggested condition with regard to materials and the applicants are agreeable.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell reinforced what he heard that both Planning Board and NHC are happy as presented. Yes, they were.

Deliberations:

Mr. Ciampitti commented that the applicants have been before NHC and Planning Board and have been vetted by both. The presentation was well executed, criteria met and he was happy with the preservation of a preservation restriction.

Mr. Cameron suggested the Board add the suggested condition from Planning Board.

The rest of the Board agreed.

Condition;

-The Board approved the application and adopted the condition imposed by the NHC (*The façade materials and windows installed on the second story addition shall match those that are on the existing structure in both style and color. The siding shall be the same material, style, and reveal as that which exists. The new windows shall be the same material and pattern as those found on the existing structure. The shingles on the addition's roof shall be identical to those on the existing roof.*) as part of its decision.

Motion to approve application 2018-060 with above condition made by Mr. Cameron, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – approve
Renee Bourdeau – approve
Maureen Pomeroy – absent
Edward Cameron – approve
Mark Moore – approve

Motion to approve application 2018-061 with above condition made by Mr. Moore, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – approve
Renee Bourdeau – approve
Maureen Pomeroy – absent
Edward Cameron – approve

Mark Moore – approve

2018 062

Address: 32 Collins Street

Special Permit for Non-conformities

Convert existing mudroom entrance to a bathroom and construct a 66 s.f. mudroom entrance

Paul Maiuri, father of owner Laureen Maiuri presented the application. The home has no bathroom on the first floor. There are two bathrooms on the second floor, but that is not practical for guests. They are proposing to take the existing mudroom and convert to a bathroom. They would also add a small addition alongside an existing non-conformity to replace the mudroom instead of having door open directly into kitchen.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell asked the applicants submit a clean set of plans without notes from the zoning administrator. The applicants agreed.

Deliberations:

Mr. Ciampitti commented on the modest request that met SPNC criteria

Ms. Bourdeau commented that you would not visually notice a difference.

Mr. Cameron used to live near this house and thought it was great to make it more livable.

Mr. Moore was in agreement with fellow Board members.

Motion to approve application 2018-062 made by Mr. Ciampitti, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – approve

Maureen Pomeroy – absent

Edward Cameron – approve

Mark Moore – approve

The meeting adjourned at 8:52pm

Respectfully submitted, Katie Mahan - Note Taker