

**City of Newburyport
Zoning Board of Appeals
December 11, 2018
Council Chambers**

The meeting was called to order at 7:08 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Renee Bourdeau
Maureen Pomeroy
Edward Cameron (arrived prior to public hearing #2)

Mark Moore

Absent:

Robert Ciampitti (Vice-Chair)

2. Business Meeting

a) Approval of Minutes

Minutes of the 11/27/18 meeting

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

Votes Cast:

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

b) Request for Minor Modification – 229-231 Merrimac Street (2018-027)

Aileen Graf of Graf Architects presented the request. The applicants are proposing a minor modification to the proposed dormers of a recently approved application. The southeast and northwest gable dormers would change to Nantucket style dormers. This is proposed for structural reasons and interior space.

Chair Ramsdell clarified that the Nantucket dormer is not large like the shed dormer. Ms. Graf agreed.

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

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

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

c) Approval of Final Plans – 9 Orange Street, Unit 2 (2018-060 and 2018-061)

Attorney Lisa Mead, of Mead Talerma and Costa LLC, 30 Green Street presented the request. Final plans were provided that show all detail on the existing structure to ensure consistency.

Ms. Bourdeau made a motion to approve the final plans and Mr. Moore seconded the motion.

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings

Public Hearings #1:

| | |
|-----------------------------------|------------|
| 2018 | 089 |
| Address: 2 Storey Avenue | |
| Sign Variance | |
| <i>Allow a free-standing sign</i> | |

The applicant requested a continuance. The Board continued the application to 2/12/18 due to qualified member anticipated attendance.

Motion to continue application 2018-089 to 02/12/19 made by Ms. Bourdeau, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

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

Public Hearings #2:

| | |
|--|------------|
| 2018 | 064 |
| Address: 193 High Street | |
| Special Permit for Non-Conformities | |

Remove existing added shed/garage, construct new attached 3-bay garage, create formal paved parking area at rear of site, construct exit driveway on the western side of existing building

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street, presented the application. Louis and Melinda Hebbelinck, owners were also present. The funeral home, now in the HSRB and DCOD overlay districts, has operated since the late 1920's. The property has a preexisting nonconforming use and structure. Currently, there is a small gravel parking area in the rear of the funeral home (about 30 informal spaces) and ingress and egress is via the same driveway. There is a small existing garage/shed that would be demolished and a three bay garage (30'x36') would be built. They propose to add 52 parking spaces in the rear and formalize the parking. Frontage, side yard setback, and parking are pre-existing non-conforming. This project would not trigger a DCOD Special Permit. There were staff comments as to the creation of parking on this property. This happened before the Hebbelincks owned the property, and they would bring it into zoning conformance. They are proposing an egress driveway on the Western side to provide better traffic circulation. A 6' solid fence is proposed next to the new driveway. They would not be clearing any trees in the back. Most activity at the funeral home is done by 8pm and the use of the funeral home would not change. The Hebbelincks purchased the property in 2015 and neighbors have complained about parking on High Street for funerals. This would be an improvement.

There would be no intensification or extension of any non-conformity and no new non-conformities added. The proposal would not be substantially more detrimental to the neighborhood. There would be no change to the Historic structure, additional parking to allow on site parking would be added freeing up High Street, and alleviating pedestrian crossing. An exit driveway would be more conducive to traffic flow. The Fire Department and Police Department believe this would improve existing conditions. Fire noted vastly improved fire access. An email from DPS was received that they are fine with plans for curb cut and parking as shown. Because more than 10 parking spaces are proposed, a major site plan review would be required from Planning Board as well.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Nora Duggan, retired Newburyport Police Officer

Works for the funeral home, often directing traffic and assisting pedestrians. Parking in the rear of the funeral home would be an improvement.

Tony Pettigrew, 1 Lavalley Lane

Works for the funeral home and is a retired Federal Agent. He spoke of the high character of the owners.

In Opposition:

Jerry Lischke, 187 High Street

Concerns included; Many changes made over the last few years, asking for relief for previously created parking, carriage house demolition on 1/29/15, 1080 s.f. expansion, 42% increase of business, 40% of land impervious area, petitioner undermining historic integrity of the neighborhood, public safety, encourage to create garden in rear instead of parking.

Bill Sheehan of Maclean Holloway Doherty & Sheehan, Peabody MA

On behalf of Stephen Delisle, 195 High Street

Concerns included; Increase of garage and parking, should not compare proposed extension of parking to what is there now, character of the property has changed without special permit, double curb cuts and entrances, not in the spirit of the zoning ordinance, master plan, safe streets to schools, safe access to rail trail, historic carriage barn potentially compromised, storm water runoff, snow plowing, rumblings of vehicles, safety of children in neighborhood, traffic mess, people will park where its easy – High Street. Comment from the Fire Department – unfamiliar with any issue they have had with access to back of building. Parking lot impact of neighbors; Noise, lights from vehicles.

Steven Delisle, 195 High Street

Concerns included; his 1792 barn being compromised, business conducted in backyard, 2015 carriage house demo and slowly expanded parking without permits, loitering, drinking, smoking, wandering, headlights, plows, storm water, detracting from residential neighborhood. Business cares about business and not neighbors.

Brin Stevens, 195 High Street

Concerns included; unlawful parking lot that invites loitering, continued parking on High Street, additional driveway increases risks

Joe Devlin, 3 Dexter Lane

Concerns included; expansion of parking, change of the property over the years, light pollution, asking special permission from residents, yet they have already done it, lack of communication so far with residents, safety, close proximity to Broad Street, taking away from the High Street streetscape by adding egress, not appropriate.

Sheryl Blair, 10 Dexter Lane

Concerns included; will see parking lot from front door, water runoff, high water table on Dexter Lane, parking lot with lights will affect neighborhood.

Eric Goodness, 189 High Street Unit 1

Concerns included; creation of 30+ spots, never had a chance to protest parking lot, changing how he enjoys his own property, lights are disruptive, smoke, noise. Does not conform to spirit of HSRB.

Trevor O'Brien, 5 Dexter Lane

Concerns included; lighting

Maria Connor, 1 Dexter Lane

Concerns included; agree with neighbors on lights, cars parking on their street

Reginald Bacon, 21 Strong Street

Concerns included; public safety issue of curb cut, Boardman Street proximity, Safe Routes to School project in progress, adding another driveway is against the logic, open space requirements ignored, not a neighborly plan.

Tom Kolterjahn, 64 Federal Street

Concerns included; Newburyport Preservation Trust strongly opposes, wonderful carriage house barn was neglected and torn down, detrimental impact on historic neighborhood, curb cuts, ugly building out back.

Stephanie Niketic, 93 High Street

Concerns included; additional parking visible from High Street, impact on neighborhood and City.

Patricia Petnik, 4 Dove Street

Concerns included; High Street traffic and speed

Rick Martyn, 11 Dexter Lane

Concerns included; Safety, water runoff on his property

Ian Stewart 198 High Street

Concerns included; 52 parking spaces is more than CVS, Park Lunch and Leary's combined, which is obscene in historic neighborhood

Rita mehalek, 53 Warren Street Unit 219

Concerns included; preservation, preventing more commercialization

Lawrence Twomey, 6 Prince Place

Questions from the Board:

Attorney Mead responded to comments;

High Street has historically had businesses. This has been a funeral home since 1928 and was not primarily a residence before 2008 as neighbors have suggested. It has been a part of the neighborhood. Current owners have maintained the historic structure, did not create the existing parking. Previous owners went through the process and demolition delay for the carriage house demolition. Public officials have said it would be safer to have parking on site. Site Plan Review would deal with storm water. She noted they would not be coming close to the neighboring historic barn with the proposed driveway. They are not trying to endanger children or pedestrians. She also noted that drinking and carousing in the parking lot is a stretch.

Mr. Moore asked if there are lights now in the informal parking area. There are currently lights on the shed that goes into the parking lot.

Ms. Bourdeau clarified when the facility is operated. It is potentially 365 days/year. A wake is typically over by 8pm, most services are at 10am, meetings are held during the day. A higher volume of traffic is typically 3pm-8pm.

Mr. Cameron asked if the existing count was 30 informal spaces. Steve Sawyer, engineer measured and estimated this number. Parking was constructed prior to the Hebbelincks purchasing the property. Mr. Cameron asked if trees would be removed for the second driveway. One tree would be removed for the driveway.

Chair Ramsdell asked if there was a necessity for a three bay garage. Attorney Mead commented it would house personal vehicles and a hearse. He asked if there was any interaction with the neighborhood. There had not been.

Deliberations:

Mr. Moore noted that concerns from the neighborhood indicate that this request would be substantially more detrimental to the neighborhood.

Ms. Bourdeau agreed. She appreciated all abutters coming in and applicant coming in to rectify previous conditions. There seems to be no opposition to the use as funeral home and agree the use will remain. It seems to be a public safety issue. She would have a hard time supporting as proposed.

Mr. Cameron agreed. He did not initially think would be a big deal. He agreed parking on High Street is not optimal, but noted it does help slow vehicular traffic. Biking is very dangerous. Adding an egress potentially taking a left onto High Street is dangerous anywhere on High Street. He appreciates the businesses in residential areas remaining. The proposed garage not an issue for him.

Chair Ramsdell had a number of concerns. After tonight, none have changed. He did not understand the proposed egress. With the expansion of the parking lot, people will park on High Street first. He was not sure adding more spaces out back does much for High Street. He agreed with Mr. Cameron that the proposed garage was not as troubling.

Attorney Mead requested a continuance.

Ms. Bourdeau suggested working with abutters on what intensity is appropriate.

Mr. Cameron added that fencing and screening should be a part of the conversation.

Motion to continue application 2018-064 to 02/12/19 made by Mr. Cameron, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

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

Public Hearings #3:

2018 065

Address: 13 Boardman Street

Special Permit for Non-Conformities

Modify a pre-existing non-conforming structure by demolishing a small rear addition and reconstructing it within the required setbacks

Andrew Sidford, architect presented the application. The applicants are proposing to rear down an existing addition and build a slightly larger (by 220 s.f.) addition. The proposal has already been before the Historical Commission. The proposal is not substantially more detrimental to the neighborhood and the applicants have letters of support from neighbors.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Heather Shand, City Councilor

In support.

Tom Kolterjahn, 64 Federal Street

Commented on the modest addition and was in support.

In Opposition:

None

Questions from the Board:

Ms. Bourdeau commented on the windows being 6 over 6 on the existing house and 4 over 4 in the proposed addition. Mr. Sidford commented this was done on purpose.

Ms. Pomeroy asked what materials were proposed in the addition. The addition would match the original house with wood clapboards and trim.

Deliberations:

Ms. Bourdeau agreed that this was a modest addition and noted no opposition.

Ms. Pomeroy commented on the small addition that did not appear substantially more detrimental to the neighborhood, and the letters of support from neighbors.

The rest of the Board agreed.

Motion to approve application 2018-065 made by Ms. Bourdeau, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – absent

Renee Bourdeau – approve

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

Public Hearings #4:

2018 066

Address: 26 Jefferson Street

Special Permit for Non-conformities

Construct a single story 71 s.f. kitchen addition over existing deck resulting in an extension of a pre-existing non-conforming side yard setback

Joann Clemens, owner presented the application. She owns the two condos in this building and her unit has a small kitchen. She is proposing to demolish the back wall and extend the existing kitchen 5.5' out where the existing wood deck stands. This would be 71 s.f. of added space. The existing house was built in 1860.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Moore asked what would be in the new space. The kitchen would be extended, but no plumbing affected. It would also allow for a small space to act as a mudroom/closet.

Chair Ramsdell asked about materials. Cedar or pine clapboards would be used to match existing.

Deliberations:

Ms. Bourdeau commented on the modest request. There would be no new non-conformities and there was no opposition.

The rest of the Board agreed.

Motion to approve application 2018-066 made by Ms. Bourdeau, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

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

Public Hearings #5:

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|---|------------|
| 2018 | 067 |
| Address: 1 Donahue Court | |
| Special Permit | |
| <i>Allow an in-law apartment (Use #109)</i> | |

Attorney Lisa Mead of Mead, Talerman and Costa LLC, 30 Green Street presented the application. Letters of support were submitted to the Board. The home at 4A Donahue Court, off Toppans Lane is requesting an in-law apartment be allowed. The applicants currently live on Summit Place and would like the in-laws to be able to live with them. This lot was created by a Special Permit for Courts and Lanes. They are also in front of Planning Board to revise the footprint, as it is a little larger. The Planning Office suggested continuing the application because of this. ZBA approval would affect the design or whether they go forward with the purchase and they hope for a decision. The proposed in-law apartment would be 679 s.f. and within requirements of less than 700 s.f. Parents would occupy the apartment. Dimensional requirements are otherwise met. There is sufficient parking on the lot.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Michael Santos, homeowner

Explained there are not a lot of options in Newburyport for this configuration.

In Opposition:

None

Questions from the Board:

Ms. Bourdeau clarified red lines on site plan. Attorney Mead explained this was part of the Planning Board change of footprint.

Deliberations:

Chair Ramsdell had no problem with the in-law apartment. It did bother him slightly to permit the in-law use in a structure that is not yet permitted. He also noted that they usually want to see all four elevations. Attorney Mead explained they are not that far along in the process yet.

Ms. Pomeroy had no problem with the in-law apartment and was in favor.

The rest of the Board agreed.

Chair Ramsdell noted if the Planning board somehow changes something, they would need to come back.

Motion to approve application 2018-067 made by Ms. Bourdeau, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – absent

Renee Bourdeau – approve

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

The meeting adjourned at approximately 9:27pm

Respectfully submitted, Katie Mahan - Note Taker