

**City of Newburyport  
Zoning Board of Appeals  
December 12, 2017  
Council Chambers**

The meeting was called to order at 7:11 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Richard Goulet (Secretary)  
Maureen Pomeroy  
Renee Bourdeau  
Christopher Zaremba (Associate Member)

**Absent:**

Robert Ciampitti (Vice-Chair)

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 11/28/17 meeting**

Ms. Pomeroy made a motion to approve the minutes and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**b) Request for Minor Modification – 146-148 Merrimac Street (2017-010 and 2017-011)**

Aileen Graf of Graf architects presented the request for minor modifications. Ms. Graf presented the Board with original approved drawings versus proposed changes;

- On the front elevation, two windows in stairwells would be removed
- On front and side elevations, the second floor level windows would be a bit shorter in height
- On the front and rear gable ends, faux louvers would be removed, as it felt cramped
- On the side elevation, a spiral staircase would be removed from the project
- On the rear elevation, a door off the rear of the garage would be added as a second means of egress. A doorway would replace a window for each unit
- On the rear elevation, on the unit with the spiral stair, a gable end shed dormer would be added to balance the space.

- On the rear elevation, a center single window was shorter than the rest, and now would be the same as other second floor windows
- On the side elevation, a different door style would be used to match front doors

Ms. Pomeroy asked about the spiral stair and if there would be a second means of egress. Ms. Graf explained that they are proposing to add a door off the garage to replace the second means of egress.

**Ms. Bourdeau made a motion to approve the request for minor modifications and Ms. Pomeroy seconded the motion.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**c) Request for six-month extension – 496 Merrimac Street (2017-005)**

Mark Griffin presented the request for a six-month extension. The application was approved back in January, and the applicants are approaching the one-year mark. They are requesting to extend six months from the expiration of January 19, 2018.

Mr. Ramsdell commented the only one extension is admissible. Mr. Griffin understood.

**Ms. Bourdeau made a motion to approve the request for a six-month extension from the expiration of 1/19/18 and Ms. Pomeroy seconded the motion.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**3. Public Hearings**

**2017 066**

**Address: 10 Ashland Street**

**Special Permit for Non-conformities**

*Modify pre-existing non-conforming structure for a two-family*

**2017 067**

**Address: 10 Ashland Street**

**Special Permit**

*Allow a two-family use (#102)*

The applicant requested a continuance as they work on plan revisions.

**Motion to continue applications 2017-066 and 2017-067 to 01/09/18 made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**2017      082**

**Address: 14-16 Charles Street**

**Special Permit for Non-conformities**

*Construction of an addition in excess of 500 s.f. to a two-family home on a lot with pre-existing non-conforming lot frontage and area*

The applicant requested a continuance as they work on plan revisions.

**Motion to continue application 2017-082 to 01/09/18 made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**2017      088**

**Address: 32 Union Street**

**Dimensional Variance**

*Split lot requiring variances for frontage and lot width*

Nick Cracknell of Keystone Planning and Design presented the application. The applicants are proposing to split the lots into two, each with a single family home. They have taken a collaborative approach with abutters. The 27,000+ s.f. lot is located in the R2 district where 10,000 s.f. and 90' of frontage is needed for a single family home. Perkins Park abuts the property on two sides. The site formerly belonged to National Grid and the DEP has since closed out the cleaned up site. The applicant initially went to the Planning Board for a Definitive Subdivision and Special Permit for Lanes and Courts. There were several technicalities the Planning Board wanted addressed. The main issue was from neighbors regarding the quality and character of the neighborhood. If the Planning Board process were carried through, they would address installation of utilities on the Court and construction. There would be no site plan, landscaping, etc. required for permitting. The advantage of coming before the ZBA is to have review as part of the process to put neighbors at ease. There would be a lighter footprint on the property this way as well. Some neighbors have views of the river and Plum Island, so house location and a view easement is very important among other neighbor concerns.

As of right, a large single-family residence could be built in the center of the site, which would be out of character for the neighborhood. Instead the applicants are asking the Board's permission to split the lot and build two traditional 2.5 story homes that fit along the streetscape (one fronting on Union Street, and one fronting on Beacon Ave. They have agreed to install brick sidewalk on the entire block, have cobble stone aprons at the ends of the driveways, and install fencing chosen by abutters, offered an easement for view corridor, and preserved several trees to appease neighbors. Key changes made since the original application are; a fieldstone or brick finish to the foundation, the height was decreased, and a hinge dormer was added in lowering the ridge. An evergreen hedge was added this morning, and a slight shift to the homes 3' closer to Perkins Park would accommodate saving another tree. All dimensions and materials are clearly stated so no matter who builds this, it will need to be followed. The neighbors will have a predictable outcome. Construction management was also a concern with neighbors and the applicants have added a stipulation that addresses this. A pre-construction meeting with written notice to abutters will be held.

The applicant proposed to submit to the Planning Office all final changes discussed tonight within 10 days, and allow the Chair a chance to review and approve.

Hardships argued were the shape of the lot; having frontage on two lots, soil conditions and water table high as well as former use by National Grid.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*None*

**In Opposition:**

*Jeff Roelofs, 266 Water Street*

*Mr. Roelofs' concerns included; open space now being built on, two single-family homes instead of one. He did applaud the applicant on communicating with the neighbors. Friendly tensions were worked through. The stipulations list is all very important and need to be attached to decision. He wanted to ensure that the variance decision be recoded against the entire parcel and with both lots when split, and a restrictive covenant prior to issue of building permit restricts use to a) single family b) preserve evergreen trees along Union Street and add a hedge as presented c) prohibit future upward extension of garage structures.*

*Bruce Riedell, 33 Union Street*

*Mr. Riedell's concerns included a proposed hedge and ensuring it stays, whether the homes would be built one after another or at the same time, and if the quality and materials would be checked.*

*John Gorman, Owner*

*Mr. Gorman explained that he hoped construction could be done at the same time, but they may decide one at a time depending on the market.*

*Sharon Riedell, 33 Union Street*

*Ms. Riedell explained the hedge is the reason neutral she is neutral to the project. She would really want this guaranteed that future owners may not remove it.*

**Questions from the Board:**

Mr. Ramsdell was not at all convinced they are in the right forum. Hardship of lot shape and wetlands argued really do not impact the use of the lot. It is, however, a good-looking project. Mr. Cracknell responded that although there is a weak hardship, by going back to Planning Board, there is no design or quality review. The design review process is so important in this case. He argued this is the right pathway to have two houses on the lot.

Mr. Ramsdell commented that City Council has been very clear on zoning changes.

Ms. Bourdeau commented on the weak variance hardship and she would not be in support.

Mr. Goulet agreed. This may be a good project, but he was not comfortable approving this. Storm water, deed restrictions, etc. are not discussed through ZBA.

Mr. Zaremba questioned the Board's authority to approve this.

Ms. Pomeroy agreed.

Mr. Cracknell commented this is not about growth control, but about quality assurance.

Mr. Ramsdell asked if the project is still before Planning Board. Yes, the hearing was continued.

The applicants requested a continuance to the next meeting to look at the hardship for the variance.

**Motion to continue application 2017-088 to 01/09/17 made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – absent

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

Christopher Zaremba – approve

<b>2017</b>	<b>089</b>
<b>Address: 2 Storey Avenue</b>	
<b>Sign Variance</b>	
<i>Allow a free-standing sign</i>	

The owner of Newburyport Signs presented the application. The last time the applicants appeared before the Board for a freestanding sign, they did not have photos and information on lumens. Renderings of the proposed freestanding sign were presented to the Board. For comparison, photos of the old signage were also presented. The new sign would be 150 lumens and could be dimmed further. The location of the sign would be neat the intersection of Storey Avenue and Harnch's Way (12' from either street). It would be low profile, lit from the sides of the letters, approximately 5' wide, 3' high on 27" stone base.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*Linda Lambert, 58 Merrimac Street*

*Ms. Lambert lives on town and commented of the improvement of the property through recent renovations. The proposed sign would be a big improvement over the old one.*

**In Opposition:**

*Bob Solazzo, 7 Ferry Rd, also on behalf of Ray White, 3 Ferry Rd*

*Mr. Solazzo and Mr. White were concerned about excess signage, current signage lighting being on 24 hours per day.*

*Bill Morrill, 1 Ferry Rd*

*Mr. Morrill was concerned with lights on 24 hours per day and too much signage on the property.*

*Stephanie Niketic, 93 High Street*

*Ms. Niketic was concerned with the location being a gateway to the City and High Street. The structure seems well signed and lit already, so she sis not see reason they need another freestanding sign. She was also not clear on the hardship argued for the variance. No freestanding sign would be an improvement.*

*Tom Kolterjahn, 64 Federal Street*

*Mr. Kolterjahn was concerned with excess signage in this primarily residential area.*

*Mark Griffin, who represented the owner in the original project decision, noted that when in front of Board it was contemplated and discussed at that time that this freestanding sign application would be coming along and was part of the overall project.*

**Questions from the Board:**

Ms. Bourdeau has concerns on what audience was not being captured with existing building signage. It was argued that with summer growth, coming from Storey Avenue, you cannot see building signage clearly until it may be too late to turn into the parking lot. Ms. Bourdeau did not agree with the argument.

Mr. Zaremba agreed with Ms. Bourdeau.

Mr. Goulet asked about the traffic and pedestrian safety with the proposed location of the signage. Ms. Bourdeau commented on what seemed to be a vision obstruction with the sidewalk. The applicants argued that the sign was far back enough to not impair sight lines. Mr. Goulet suggested if anything, perhaps move the sign back to the corner of the building.

Mr. Ramsdell commented that it is eastbound traffic only it seems the applicant is trying to capture. He questioned the amount traffic coming from that direction that has never been there before. The applicants argued that in the summer especially they get a lot of new business.

Mr. Zaremba asked if the site plan showed a second freestanding sign. No, just Storey Avenue side sign was proposed.

**Deliberations:**

Ms. Bourdeau thought there was sufficient signage on the building and did not agree that they are missing an audience without a freestanding sign.

Mr. Ramsdell commented that the sign that was removed never had a proper permit.

Mr. Goulet commented on the abutters not supporting. The safety aspect was also real. He felt there was sufficient signage on building.

Ms. Pomeroy felt safety, lack of hardship argument, and the purpose and intent of the sign ordinance not being supported was reason to not support.

Mr. Zaremba agreed.

Mr. Ramsdell understood some sort of sign to indicate the driveway perhaps, but not this 5'x5' sign. Hardship needs to be better argued.

The applicant requested a continuance to discuss changing the sign with the building inspector and planning office.

**Motion to continue application 2017-089 to 01/23/18 made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – absent

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

Christopher Zaremba – approve

**2017      090**

**Address: 6 Everette Drive**

**Special Permit for Non-conformities**

*Construct an addition over 500 s.f. to a home with non-conforming lot area and frontage, extending the pre-existing non-conforming front setback*

Attorney Mark Griffin presented the application on behalf of the applicants. He noted an amendment was filed one week ago with a new design on the front elevation. This would not change the footprint or floor area of the project. The roof now meshes better, a small dormer was added and detail was added to garage doors for more character. The structure is located in the R1 district in the west end of Newburyport. Here, lot area requirements are 20,000 s.f. and 125' of frontage. This lot is 10,365 s.f with 100' of frontage and which make it pre-existing non-conforming. It is also non-conforming with front, side and rear yard setbacks. It is a unique shaped lot, along the rear lot line especially. The applicant is proposing to remove an existing 300 s.f. single-story addition and replace with 2-story addition, housing a garage on the first floor and living space on the second floor. Much of the addition would be in same footprint. The addition would be 808 s.f. (508 s.f. net new floor area). In this part of Newburyport, lots are spacious and setbacks prevent overly dense development. This project would not conflict with these goals in this neighborhood and would not be substantially more detrimental. It would be a visual

improvement not affecting neighbors. Once constructed, the massing and overall size would be comparable to surrounding homes.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board:**

Ms. Bourdeau asked what has changed in front elevations. Mr. Griffin explained the an added dormer, roof change, and front façade changed from the original proposal.

Mr. Ramsdell commented he was not fond of elevations showing just proposed and not existing.

Ms. Bourdeau asked if there would be additional windows because of the dormer. Mr. Griffin explained that window locations would remain the same. She suggested that the applicants submit updated elevations of all sides to the Planning Office, and also confirmation of footprint and dimensions remaining the same.

Mr. Griffin suggested a letter confirming dimensions have not changed, only the footprint and slightly different design. Kate Newhall-Smith confirmed this would be ok along with missing elevations.

**Deliberations:**

Ms. Bourdeau was ok with the application with the proposed conditions.

The rest of the Board agreed.

Mr. Ramsdell commented that the tree and sidewalk ordinance would not be triggered here.

Conditions;

-Prior to the issuance of a building permit, revised elevations including the proposed dormer and complete front and rear elevations will be submitted to the Planning Office for their review and inclusion in the file.

-Prior to the issuance of a building permit, a written confirmation of the originally submitted dimensions being unchanged (see 3. above) will be submitted to the Planning Office for their review and inclusion in the file.

**Motion to approve application 2017-090 made by Ms. Bourdeau, seconded by Mr. Zaremba.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – absent

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve



Christopher Zaremba – approve

**2017      084**

**Address: 34-36 Hancock Street**

**Special Permit for Non-conformities**

*Modify pre-existing non-conforming use by changing the lot size and dimensions*

**2017      091**

**Address: 34-36 Hancock Street**

**Dimensional Variance**

*Variance for lot area and frontage for new single family home*

Attorney Lisa Mead presented the application. Attorney Mead explained that the applicants started back in early October working with neighbors in designing and determining the layout of the property. The property is the current site of the Neptune Veteran Fireman Association Club with frontage on both Chestnut Street and Union Street. The proposal is to split the lot and house a single-family home on Union Street and keep the existing club use and structure on Hancock Street. At the time the applicant started the project, the property was located in the R3 district and plans were laid out with those dimensional controls in mind. City Council has passed a zoning change that changed the property to the R2 district with R2 dimensional requirements. The project now needs a variance with the new dimensional controls. The applicants are requesting a lot split because a single-family home is appropriate here historically. In records dating back to 1906 there was a structure in the rear of the Neptune lot. Having a single-family home here is consistent with the neighborhood. They could take this route and create a single-family home lot consistent with Chestnut Street or they could have a commercial condo/residential condominium use.

The Neptune property has existed with this use since the early 1900s. In 1978, clubs were allowed by right, however they are no longer allowed and is a preexisting non-conforming use. The existing 26,714 s.f. lot has 208' of frontage on Hancock Street. The proposed single-family home lot (Lot 1) would be 8,000 s.f. with 83.5' of frontage. The proposed Neptune lot (Lot 2) would be 18,000 s.f. and not intensifying or adding any new non-conformity. The project would not be substantially more detrimental to the neighborhood and would provide a level of separation. The single-family home fronting on Chestnut Street is more consistent with the neighborhood. The applicants are proposing cedar wood fencing, new brick sidewalks on Chestnut and Hancock Streets. There would be an easement granted back to the Neptunes for parking so they do not lose parking.

Scott brown, architect went over the proposed single-family home. The home would be well detailed and appropriately scaled for Chestnut Street. It is similar to a project about ½ mile away that Mr. Haseltine did. The home would have an oversized single garage, different fenestration, smaller dormer, and an added front porch.

The hardship argued was the oddly shaped lot with frontage on two streets. Jog in land. Research has shown that a structure existed here in the past. There are primarily single-family homes on Chestnut Street and the existing gap is inconsistent with the streetscape. The lot is larger than most in the area. The proposed project is consistent with the purpose and intent of the ordinance.

As far as the sidewalk and tree ordinance, DPS recommended that large trees on either side of the property be removed and replaced with smaller trees working with DPS/Tree Warden. After neighbor

input, DPS recommended keeping said trees, and work with the Tree warden on pruning/cutting back, installing sidewalk with adequate space around trees. The concrete sidewalks should be replaced on Chestnut and Hancock Street. Per Attorney Mead there would also be a fence installed with 8-10' evergreen planted along the fence.

Letters of support from neighbors were submitted.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*None*

**In Opposition:**

*Stephanie Niketic, 93 High Street*

*Ms. Niketic's concerns included; the applicant creating an odd shaped lot, future changes to the lot, and dimensional controls on the Neptune lot. Attorney Mead clarified that B2 dimensional controls were applied for the club use.*

*Mr. Ramsdell commented that the applicant is creating the odd shape, so it could never be used as an argument.*

**Questions from the Board:**

Ms. Bourdeau asked about the parking easement. She was concerned with the usable square footage of the newly formed parcel. About 5500 s.f. would not include the easement. Attorney Mead noted when the lot was originally proposed, the required lot size was 8,000 s.f. Ms. Bourdeau commented that it seemed deceiving and odd to present the split this way. Attorney Mead argued that the applicants tried to make the lot as conforming as possible, but would be happy to make the change of the proposed lot size and not have an easement for parking.

Mr. Goulet questioned whether the lot shape was really a hardship.

Attorney Mead argued that they could add a pre-existing non-conforming use to the pre-existing non-conforming use and add a single family on the lot, but the neighbors preferred a separate single-family lot.

Mr. Ramsdell commented that the hardship was not strong. VI-D would have been sufficient, but the Board no longer has that to rely on.

Ms. Mead argued that the Board has discretion on a case-by-case basis. This is a unique case that goes along with the purpose and intents of the ordinance.

Mr. Ramsdell commented that to make the odd shape with easement for parking s odd.

Ms. Bourdeau commented that whether the proposed lot is considered as is or as a smaller lot without the easement, it does not change the criteria for dimensional variance.

The Board asked Ms. Newhall-Smith the opinion of the Planning Office. She noted that comments were submitted on the staff report. Having a house there makes sense for continuity, but they also struggle

with the odd shape lot hardship argument. It is a viable use now as the Neptune Veteran Fireman Association. It is a good project and makes sense, but the hardship is lacking.

Mr. Zaremba asked if granted, if the Neptune property could then add another home as a condo. Mr. Haseltine responded that they wouldn't be able to unless the club use went away because of parking.

Ms. Bourdeau commented that this is a viable use of the lot and it seems they are proposing the project for financial gain. The lot shape hardship argument does not hold muster.

The rest Board agreed that although the project was a good project for the neighborhood, the hardship argument was weak.

Attorney Mead requested to withdraw the variance application without prejudice and asked for a continuance on the SPNC in order to modify.

**Motion to continue application 2017-084 to 01/09/18 made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**Motion to withdraw application 2017-091 without prejudice made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – absent  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**The meeting adjourned at 10:30pm**

**Respectfully submitted, Katie Mahan - Note Taker**