

**City of Newburyport  
Zoning Board of Appeals  
December 02, 2014  
Council Chambers**

The meeting was called to order at 7:15 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Robert Ciampitti (Vice-Chair) – arrived after approval of minutes  
Duncan LaBay (Secretary)  
Jamie Pennington  
Richard Goulet (Associate Member)  
Libby McGee (Associate Member)

**Absent:**

Howard Snyder

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of November 18, 2014 Meeting**

Mr. LaBay made a motion to approve the minutes and Ms. McGee seconded the motion.

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – absent  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder– absent  
Richard Goulet – approve  
Libby McGee - approve

**3. Public Hearings (10 on the agenda)**

**Public Hearing #1-4:**

<b>2014      042</b> <b>Address: 114-118 Merrimac Street</b> <b>Dimensional Variance</b>
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Variances for height, side yard setback, and rear setback

**2014      043**

**Address: 114-118 Merrimac Street**

**Special Permit for Non-conformities**

Alter pre-existing non-conforming structure to construct a new two-family home on the lot

**2014      044**

**Address: 114-118 Merrimac Street**

**Special Permit**

Demolish existing structure

**2014      045**

**Address: 114-118 Merrimac Street**

**Special Permit**

Allow a two-family (Use #102)

Attorney Lisa Mead appeared on behalf of Robert and Elizabeth MacDonald. The applicants are in the process of reviewing the report from the structural engineer that the ZBA arranged for. They requested to continue to the 1/27/14 meeting.

**Motion to continue applications 2014-042, 2014-043, 2014-044, and 2014-045 to 1/27/14 meeting made by Mr. LaBay, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder – absent  
Richard Goulet – approve  
Libby McGee – approve

**Public Hearing #5 & #6:**

**2014      076**

**Address: 18 Moseley Avenue**

**Dimensional Variance**

Relief for lot area, frontage, lot coverage, side setback, and rear setback

**2014      077**

**Address: 20 Moseley Avenue**

**Dimensional Variance**

## Relief for lot area, lot coverage, front setback, and rear setback

Attorney Lisa Mead of Blatman, Bobrowski and Mead, 30 Green Street, represented Great Woods Post & Beam, applicants. These hearings were continued from the 11/18/14 meeting. The applicant is seeking to split the parcel into two properties and to construct one additional house on one of the proposed parcels while maintaining the existing home on the other proposed parcel. The two lots were in common ownership and merged at one point in time, then broken back up in the early 1900s. There has been some confusion of land ownership on part of the lots for years. The project would clearly separate the lots.

Lot 2 (20 Moseley Avenue) is currently vacant. They propose to build a modest bungalow style, single family similar to one at 330 Merrimac Street. They seek relief for lot area, lot coverage, rear setback, and front setback. The hardship argued is that it is an oddly shaped, corner lot surrounded by non-conforming structures on non-conforming lots. The project would blend with homes in the neighborhood.

Lot 1 (18 Moseley Avenue) currently houses a single-family structure that would be renovated. Currently, no addition on the right is proposed as originally planned. They plan to remove the existing garage and put in new two-car garage meeting all setback requirements. They seek relief for lot area, lot coverage, side setback, and frontage. The hardship argued is that it is an oddly shaped surrounded by non-conforming structures on non-conforming lots.

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

**In Favor:**

*None*

**In Opposition:**

*Daniel Mades, 5 Chase Street*

Mr. Mades questioned why the new purchased the property if they knew they would need dimensional variances. Mr. Ramsdell clarified the definition of hardship based on surrounding properties. Many lots are non-conforming due to zoning law, and approving this would further this issue.

*Nick Lanham, 16 Moseley Avenue*

He is the abutter to the south side. He wanted to express publicly his meeting with the applicants and some agreements they had come to. A row of hedges along the property was to be left undisturbed. The front porch being added would go on piers as opposed to a full foundation. He noted that the project would be a favorable use of the property.

**Questions from the Board regarding Public Hearing #5 & #6:**

Mr. LaBay clarified with Attorney Mead on her letter from 12/1/14 where referenced 35 Moseley, but it should be 35 Moulton. Ms. Mead agreed that it was an error.

Ms. McGee asked for clarification on photos submitted and clarified that the vestibule on the front of the house would be replaced with a porch.

Mr. Goulet asked if there would be changes to Lot 1 in terms of the driveway. Ms. Mead answered that it will remain paved.

**Deliberations:**

Mr. Ciampitti commented that the presentation was complete and reasonable, sensitive to the abutters, and provided sufficient hardship arguments.

Mr. Pennington and Mr. Goulet agreed.

Mr. LaBay commented on the size of the lots. At the time they were carved out, they were sufficient for houses. The smaller of the two is larger than many in neighborhood. Zoning came in after the lot creation. The applicant provided a good hardship argument.

Mr. Ramsdell concurred.

**Motion to approve application 2014-076 for a Dimensional Variance, with 2 conditions; 1. Row of hedges to remain undisturbed 2. Front porch to be placed on pier pilings vs. a foundation made by Mr. Ciampitti, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

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

**Motion to approve application 2014-077 for a Dimensional Variance made by Mr. Ciampitti, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

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

**Public Hearing #7, #8 & #9:**

**2014      079**

**Address: 2 Storey Avenue**

**Dimensional Variance**

Decrease a 19.1' setback to a 9.8' setback where the structure and use are non-conforming

**2014      080**

**Address: 2 Storey Avenue**

**Special Permit for Non-conformities**

Upward extension of a pre-existing non-conforming rear setback

**2014      081**

**Address: 2 Storey Avenue**

**Appeal**

Appeal of the Building Commissioner's decision that Major Site Plan Review is required for a proposed addition

Mr. LaBay recused himself from this application, as an abutter of the property. Sotirios Asprogiannis, Trustee of S&D Realty Trust was represented by Attorney Mark Griffin. The applicants requested a continuance to the next available meeting. They are working on an encroachment issue to Harnch's Way. They have been working with the planning office to abandon that section of Harnch's Way. A hearing is set for Monday 12/8/14. There is also an abutter to the rear in which they are working with on an encroachment issue.

**Motion to continue applications 2014-079, 2014-080, and 2014-081 to the 1/27/14 meeting made by Mr. Goulet, seconded by Mr. Ciampitti.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – recused

Jamie Pennington – approve

Howard Snyder– absent

Richard Goulet – approve

Libby McGee – approve

**Public Hearing #10:**

**2014      082**

**Address: 231 Northern Boulevard**

**Special Permit for Non-conformities**

Demolish and rebuild a pre-existing non-conforming single family home where the existing side setback non-conformity will be intensified and the height will exceed the existing

Attorney Mark Griffin, 11 Market Sq. Ste 8 represented Henry C. Becker, applicant and Janet Mitchell, Mitchell Realty Trust. The applicants seek to demolish and rebuild a single-family home. There is currently an 1880 camp style home on this Plum Island property. Both the home and the lot are non-conforming.

The existing lot area is 4050 sq. ft. where 12000 sq. ft. is required. Frontage is 45 ft. where 120 ft. is required. Side A existing setback is 12.2 ft. where 20 ft. is required. They plan to intensify this to 10.5 ft. Side B setback is 5.8 ft. where 20 ft. is required. They plan to improve this by bringing it to 10.5 ft. Lot coverage would decrease from 22.6 to 14.3. The FAR requirement will improve from .29 to .25. Open space will increase from 63% to 73%. The rear yard setback will also improve from 24.1 ft. to 29 ft.

The applicant received an Order of Conditions from the Conservation Commission at their October 21<sup>st</sup> meeting. The Historical Commission released the building for demolition at their November 6<sup>th</sup> meeting.

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

**In Favor:**

*Janet Mitchell, 229 Northern Blvd*

Ms. Mitchell appeared in favor.

**In Opposition:**

*Karen Friel, 238 Northern Boulevard*

Ms. Friel asked for clarification on the height, FAR, and lot coverage requirements.

**Questions from the Board regarding Public Hearing #10:**

Mr. LaBay clarified that the height increase is partially due to the structure being built on pilings. From the sand to the bottom of the 1<sup>st</sup> floor is about 10 ft. Mr. Griffin agreed. The pilings are included in the height. The structure is taller because of wetlands requirements.

Mr. Ciampitti asked whether the 1880 build date was correct. Mr. Griffin clarified that yes, it has survived that long.

Mr. Pennington asked whether this was a larger structure at one time based on looking at the assessor card. Mr. Griffin was unsure and said the measurements they used in plans were from a surveyor on existing conditions.

**Deliberations:**

Mr. Goulet was prepared to support. Conservation Commission and Historic Commission were on board.

Mr. Ciampitti noted that the height is still conforming. The only intensification is slight. It does not create issues for abutters and is not substantially more detrimental to the neighborhood. It will be an immense aesthetic improvement and looks like a nice project.

Mr. LaBay noted the applicant is improving the situation as far as lot coverage and FAR. The trade off is the height goes up, but is required in that environment.

Mr. Pennington & Mr. Ramsdell agreed.

**Motion to approve application 2014-082 for a Special Permit for Non-conformities made by Mr. Ciampitti, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

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

**Adjournment**

**Motion to adjourn made by Mr. LaBay, seconded by Mr. Pennington at 8:12 PM.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder– absent  
Richard Goulet – approve  
Libby McGee – approve

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