

**City of Newburyport  
Zoning Board of Appeals  
February 12, 2013  
Minutes**

The meeting was called to order at 7:05 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:** Ed Ramsdell (Chair), Robert Ciampitti (Vice-Chair), Jamie Pennington, Howard Snyder, Jared Eigerman (Associate Member), Richard Goulet (Associate Member)

**Absent:** Duncan LaBay (Secretary)

Mr. Eigerman will be voting on all the Public Hearings with the exception of the Use Variance for the Institution for Savings.

Mr. Goulet will be a voting member on the Use Variance for the Institution for Savings.

Mr. Pennington will be acting secretary in Mr. LaBay's absence.

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of January 22, 2013 Meeting**

Mr. Snyder made a motion to approve the minutes as submitted and Mr. Goulet seconded the motion.

The motion passed unanimously.

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

Richard Goulet – approve

**b) Request for minor plan change for 12 Neptune Street**

The owners of the property are Gail and Walter Gillespie. William Barrett, 42 Southern Boulevard, Newbury, MA is the contractor for this project and represented the owners at this meeting. The applicants received a Special Permit for Non-Conformities on November 13, 2012 to construct an addition to their home. The Board voted unanimously to approve the special permit. The applicants have subsequently determined that a larger addition which will accommodate a full bathroom, in addition to a bedroom will better meet their needs as recent

medical challenges have necessitated first-floor living. They are seeking to expand their approved addition from 13' x 14' to 13' x 18'. The proposed deck on the rear of the property will remain the same size (14' x 12.2') as originally proposed.

Mr. Goulet requested that a note be made that the applicant submitted plans (Exhibit 1). Mr. Eigerman asked if the elevations have changed. The applicant said that the elevations had not changed, just stretched out.

Mr. Goulet said that it seems like a very modest change of plan and the rationale has been explained.

Mr. Eigerman agrees that it is a de minimis change, his only hesitation is with the abutter.

Mr. Goulet indicated it is a minor change.

Mr. Snyder said it was a 52 sf increase – a diminimous change.

Chair Ramsdell concurred with his colleagues.

Mr. Ciampitti made a motion that the proposed change, as presented by the applicant, is de minimis and not substantial, Mr. Eigerman seconded.

The motion passed unanimously.

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

### **c) Request for minor plan change for 88 High Street**

Ruth Berberman (Unit A, 88 High Street, Newburyport MA) and Kathryn Harris (Unit B, 88 High Street, Newburyport, MA) are owners of this property. They represented themselves at the meeting. The applicants received a Special Permit for Non-Conformities on December 11, 2012 to remove the rear decks and construct two, two-car garages attached to the house. The Board voted unanimously to approve this application with a special condition to use pervious material of the applicant's choosing on the driveway to allow for proper drainage. The applicants are requesting a plan change to remove one of the entry points off of Tremont Street. Due to topographical constraints, the garage that was proposed to face Tremont Street must be changed so that the doors will face the rear of the property, as the other garage unit on site does. With this change, access to both garages will be shared and only one entry point from the street will be required.

Mr. Ciampitti indicated that there was a couple at the last meeting who were in favor, but said that if there was a change, they may be concerned. Ms. Harris replied that this abutter was concerned about a different issue. Ms. Berberman indicated that this change results in only one curb cut.

Mr. Snyder asked about the location of the stairs with the change in the garage openings. Ms. Harris indicated that Unit B will have the staircase on the side.

The Board members reviewed the original drawings and the new ones.

Mr. Snyder indicated that the stairs have storage so side yard set-backs will be changing.

Mr. Eigerman expressed concern. He would like to hear from the abutters. It is radically different than what the Board heard before.

Chair Ramsdell was also uncomfortable that someone came in and specifically said that if there were changes, they would be concerned. Other than that, he would agree that this is a small change. He is in favor of a continuation. If the neighbors have a problem, then they will have to come back for a full-blown hearing.

Mr. Snyder asked if the abutters might be concerned about car headlights.

Mr. Pennington said he sees the new proposal as an improvement.

Discussion about 88 High Street ended. The application remains as it has been; no new decisions were made.

Chairman Ramsdell indicated that he is recording the hearings in case any have to be continued and then Mr. LaBay can be qualified to vote.

### **3. Public Hearings (5 on the agenda)**

#### **Public Hearing #1:**

**2012 041**

**Address: 4 New Pasture Road**

**Use Variance**

Expand accessory industrial retail use to permit Use #407, Entertainment/Clubs

This hearing was continued from the November 27, 2012 and January 22, 2013 meetings. William Fisher, 14 Bourbeau Terrace, Newburyport, MA is the owner of the business and was present at the meeting. Christopher Webb, 40 Bayberry Road, Newburyport, MA is Mr. Fisher's business partner and he was also present at the meeting. Craig Douglas, AIA, Douglas Architects, 2 Moseley Avenue, Newburyport, was also present at the meeting. The property is located at 4 New Pasture Road in the I-1 Industrial District.

Mr. Fisher spoke indicating that this was a continuation of the discussion regarding the tasting room portion of the project that will serve as an area to queue up tours and pour samples of products. He provided a background to the board indicating that this project has been in process for 1.5 years. He provided a description of how they were going to use the tasting room which will be 1060 sf. They have not really made changes to the space as it exists today – it is a nice open space. They are tying Newburyport into the product. They are going to have specific tasting room hours. Their license indicates they can pour samples but there will be no wine and no liquor. The tasting room will be open from 5 to 9 pm on Wednesday, Thursday, and Friday and noon to 9pm on Saturday; everyone employed will be TIP-certified. They understand the responsibility and are prepared for it.

Questions that came up previously were 1) parking and traffic: they have added a couple of overflow spots on the property and they have arranged to have additional overflow parking contingency plan with a neighbor, Randy Currie, who provided a letter indicating that his parking lot could be used for overflow parking. They conducted a survey of the parking spots and provided data indicating that after hours traffic will be minimal 2) how to use the entertainment area: they are no longer going to have a raised stage, but have a right to have live

music during tasting hours. They are musicians. In every 6 pack there will be a guitar pic. There is a maximum occupancy of 81.

Chairman Ramsdell asked if the hours of operation for the tasting room were a condition of the License from the Licensing Commission. He referenced the draft notes from the Licensing Commission. He asked if the music would be acoustic only. The applicant said the music could be amplified as well. He also indicated that they will NOT compete with local bars and restaurants.

Chairman Ramsdell said that a 6 month review was built into the Licensing Commission grant and that they will touch bases with the Police. The applicant said that that was correct. The applicant said that all abutters on the street have indicated that they are in support of the project. **Chairman Ramsdell opened the hearing to public comment.**

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board regarding Public Hearing #1:**

Mr. Ciampitti asked if, with respect to the farmer brewer's license, you are restricted to 2 ounce pours. The applicant said they can provide 4 ounce samples. With the farmer brewing license, you still have to go through the local licensing commission to allow you to fill other vessels. A growler can be taken from the premises as long as it is capped. The applicant continued to say that 99% of their products will be sold through distribution channels

Mr. Douglas talked about the growler idea: the growler is 1/2 gallon. You can get it filled up and then bring it home.

Mr. Eigerman thanked the applicant for bringing all the information to this meeting that had been asked for. He is satisfied with what they have provided.

Mr. Goulet had a question even though he is not voting on this. He wanted to understand how visitors would arrive. The applicant said 95-97% will be in cars; there will be no reason to stay for a long periods of time. It is not their intention to keep people. They expect that people will be picking up growlers and taking them home with them.

Chairman Ramsdell asked if there would be signage associated with the parking. The applicant said that there would be signs clearly marking parking and overflow areas.

Mr. Ciampitti asked when is the earliest that they would be in operation? The applicant indicated they anticipate having a grand opening in mid-April.

**Deliberations:**

Mr. Ciampitti said the presentation was polished and that his concerns have been addressed. He thought the applicant has gotten better and sharper about speaking about their new business – they did a nice job. He liked the presentation; his concerns with respect to the use variance are answered. He can support the application.

Mr. Pennington indicated that his big concern at the last meeting was how their use fit into zoning use. He would like to see ratcheting of night club use and conditions put into approval. Conditions such as not allowing a commercial kitchen and reciting the tasting room hours that have been discussed.

Chairman Ramsdell indicated that the conditions Mr. Pennington mentioned were in the Licensing Commission grant. If the board wanted to, they could pick up the conditions that the Licensing Commission imposed.

Mr. Pennington said he would like to see something like that because of the open-endedness of night clubs.

Mr. Snyder agrees with Mr. Pennington. He felt the parking issues had been cleared up. He would feel comfortable by referencing the hours in the decision.

Mr. Pennington said that if the applicant wants to change down the road, they can come back.

Mr. Eigerman agreed with everyone else. He has only one question – how many conditions and what are they?

- The hours: 5-9pm Wednesday, Thursday, Friday; noon – 9 pm on Saturday
- No food or catering
- Maintaining right to 36 parking spaces
- He asked if they limit the pour.

Chairman Ramsdell said the pour was out of their jurisdiction.

From the Licensing Commission it was indicated that there can be catering associated with events.

Chairman Ramsdell mentioned verbal comments he had received from members of the Licensing Commission indicating the entertainment license indicated that only acoustic music could be played on-site. He told the applicants they may want to check with the licensing board on that.

**Mr. Pennington made a motion to approve the application for a Use Variance with the following 3 conditions: 1) the hours of operation of the tasting room are limited to 5 pm to 9 pm (Weds, Thurs., Fri) noon to 9 pm (Sat.); 2) no preparation of or on-going food operation (with the exception of requirements from the Board of Health); 3) maintaining the right to 36 parking places during the hours of operation, Mr. Ciampitti seconded the motion.**

The motion passed unanimously.

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

## **Public Hearing #2:**

**2013 003**

**Address: 68 Storey Ave**

**Use Variance**

Permit a second sign on the façade of the building

This application was continued from the January 8, 2013 meeting. Charles Nutter, Woodman Associates Architects, 20 Inn Street, Newburyport, MA spoke on behalf of the Institute for Savings. Michael Jones, President and Chief Executive Officer and Kimberley Rock, Executive Vice President and Chief Operating Officer, Institute for Savings was also in attendance.

At the last hearing, the applicant offered to install a mock sign on the building so that members could drive by and see how the sign would look. Mr. Nutter indicated they were not able to provide the mock-up on the building. They did a photo shop version of the sign to provide the Board with a better idea of how it would look. It will match the color and material of the main sign on the building. They consider it a directional sign.

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

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board regarding Public Hearing #2:**

Mr. Snyder indicated he was less concerned about the proposed sign after driving by the Rowley location. His issues have been resolved.

Mr. Goulet asked if the color of the proposed sign will be the same as the color of the main sign. The applicant indicated that both would be gold leaf. Mr. Goulet said he had no objections.

**Deliberations:**

Mr. Eigerman is a non-voting member for this application but said he was okay with it last time and he is okay with it now.

Mr. Goulet and Mr. Pennington were okay with what is being proposed.

Chairman Ramsdell said he thinks it is advertising – the board has been very strict about this in the past. If it is truly directional, then you could put brass plates on the door. He is concerned with setting a precedent.

**Motion to approve the Use Variance made by Mr. Pennington, seconded by Mr. Goulet.**

The motion passed with 4 “yes” votes and 1 “no” vote.

Ed Ramsdell – no

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

**Public Hearing #3:**

**2013      005**

**Address: 155 State Street**

**Use Variance**

Replace face of free-standing sign

Edson Spinney, Vice President, SignArt, 60 Sharon St, Malden, MA 02148 represented the applicant at the meeting. First Ipswich Bank, located near the rotary at 155 State Street, is applying to replace their double-sided sign panel located at the top of the existing freestanding directory sign. The panels will be constructed of Lexan with a dark blue opaque background and

lighter blue and white lettering. It is internally illuminated and since the background is opaque, only the text will shine through. The dimensions of the sign will remain the same since it is a replacement of what currently exists.

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

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board regarding Public Hearing #3:**

Mr. Ciampitti asked if the current signage is backlit. The applicant said yes, it is. The applicant indicated they are not lighting the entire background as was previously done, just the letters.

Mr. Ciampitti asked about the hours of illumination. The applicant said he assumed it was 2 hours after all the buildings in the plaza had closed. The applicant said the proposed sign is “lower key” and “classier” than the existing one.

Chairman Ramsdell said the signs at Shaw’s are similar.

Mr. Eigerman knows the existing sign well. He too asked about when the illumination would be turned off. The applicant responded 1 to 2 hours after all the businesses close.

**Deliberations:**

Mr. Snyder said the sign was sharper than the previous one and represented less of a visual impact – he was in favor.

Chairman Ramsdell said the sign is certainly better. To be cruel, the whole sign thing at this plaza is not the cutest thing in town. Maybe this new sign will be an incentive for others.

Mr. Pennington said he thought the impact of this new sign was modest.

Mr. Eigerman said he would be supportive but wanted a condition on when it was lit.

**Motion to approve the Use Variance made by Mr. Ciampitti, with the condition that the illumination of the signage be limited to 2 hours after the close of the last business in the plaza, seconded by Mr. Snyder.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

**Public Hearing #4:**



**2013      009**

**Address: 35 High Street**

**Special Permit for Non-Conformities**

Construct a 2 ½ story addition to home (approximately 14' x 19')

Noel Ochtman and Jivonne Alley, 35 High Street, Newburyport, MA are the applicants and were at the meeting to present their application. They are proposing an addition to their single family house that will consist of adding one room on each floor of the existing house. It is a two bedroom house, and will remain so. There is no intention to change the use from a single family house. The existing house is non-conforming with respect to lot area, frontage, front setback, and side setback. The proposed addition will be located off the east side of the house towards a public open space area (March's Hill), and will get as close as 6' to the east lot line. The allowable side setback is 10'. The existing house currently sits 2' from the west side lot line, which is shared with their neighbor's improved lot. The west side will be unaffected by the addition. The existing house is 1.3' from the front line at its closest point. The proposed addition will be 16.9' from the front lot line, using an existing engineered retaining wall as the front foundation wall. The allowable front setback is 25'. Care and attention was done during design to allow for an added form that was consistent with the Greek Revival style of the house, provides the most functionality within the house, works best with topographic slope of the property, provides consistent-sized rooms in the house, and only encroaches on the open public space side of the house. The addition is in scale with the neighboring homes. The Historical Commission gave praise and approval to the plan.

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

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board regarding Public Hearing #4:**

Mr. Eigerman wanted to see an elevation from High Street and the applicant provided one. He felt the applicant was maintaining the Greek Revival character in the addition.

Mr. Goulet asked about the materials on the exterior, The applicant said they will use the same materials as are on the rest of the house except for the small bump-out where they will use something else. It is still a 2 bedroom house; they are creating a 2<sup>nd</sup> bath upstairs as well as improved access to the attic

Mr. Eigerman asked who had done the drawings. The applicant had done them.

**Deliberations:**

Mr. Pennington said he feels very comfortable, it is a tasteful and fine addition.

Mr. Eigerman agreed it is an intelligent and sensitive way to stay in the house.

**Motion to approve the Special Permit for Non-Conformities made by Mr. Snyder, seconded by Mr. Pennington.**



The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

**Public Hearing #5:**

**2013 010**

**Address: 5 Strong Street**

**Special Permit for Non-Conformities**

Permit the reconstruction of a pre-existing, non-conforming single family home, intensifying the already non-conforming lot coverage and increasing the floor area by over 500 s.f.

Catherine Cantwell and Michael Young, 23 Pleasant Street, #508, Newburyport, MA are the applicants and were present at the meeting. They were represented at the meeting by Adam Costa, Attorney, Blatman, Bobrowski, and Mead, LLC, 30 Green Street, Newburyport, MA 01950. Attorney Costa, described in detail what was provided in a letter sent to the board on January 18, 2013. The applicant is proposing to raze the existing, non-conforming single-family home and reconstruct a new non-conforming, single-family home. The applicant went before the Historical Commission in May 2011 where a delay of demolition was invoked. This delay expired one year later in May 2012. Attorney Costa brought in copies of a sketch with the properties highlighted from which they have received letters of support.

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

**In favor:**

**Bernie Casey, 6 Strong Street, Newburyport, MA.** Mr. Casey has owned an abutting property for 35 years and for 35 years the property at 5 Strong Street has been an eyesore. He expects that this project will improve the value of his property.

**Reginald Bacon, 21 Strong Street, Newburyport, MA.** Mr. Bacon is in favor of the application. He feels that the applicants have played by the rules. Even though the house has been an eyesore, the applicants have kept the property as neat as a pin. He has spoken vehemently against demolition in the past. He believes that in 50 to 100 years, shed dormers will be used to date property to the current time. He is in favor of the project and wishes the applicant the best of luck. He continues to believe that Newburyport's citizen curators must work to preserve our material cultural assets in the future.

**In Opposition:**

**None**

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

Mr. Eigerman asked about the soundness of the existing building. Is it vacant? The applicant said it was vacant. Mr. Young added that they had had an architect look at the structure with the intent of preserving it, and there were numerous problem areas in terms of support; the architect was surprised the building had not collapsed.

Chairman Ramsdell said that, to some extent, the question of condition of the structure goes away when the demolition delay runs out. The question is – is the new structure really more detrimental than the alternative?

Mr. Eigerman said that opponents to the Local Historic District had argued that the ZBA already handles demolition of historic structures, and yet it appears that the ZBA does not.

### **Deliberations:**

Mr. Eigerman said, for the record, that the ZBA is supposed to take into consideration the existing building. We can't ignore the testimony of the neighbors. Our system for preserving historic structures is broken. Small working class homes are very important to the character of this town. That said, if a significant historic building can't be saved, we go with something new. This particular project did follow the rules, and I defer to my colleagues on whether it is substantially more detrimental.

Mr. Goulet asked if the exterior was clapboards – the applicant said yes.

Mr. Pennington said he respected what Mr. Eigerman says but he thinks one of the most compelling pieces of testimony was from a neighbor who sees both sides. He said that shed/dormers are architecture of our time, but he thinks that is ok. The plan is fairly tasteful and not substantially more detrimental – he is going to support.

Mr. Ciampitti agrees with Mr. Pennington

Chairman Ramsdell hates shed dormers but this is a new structure. His feelings about shed dormers do not make this proposal substantially more detrimental than what exists.

### **Motion to approve the Special Permit for Non-Conformities made by Chair Ramsdell, seconded by Mr. Pennington.**

The motion passed unanimously.

### **Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

### **Adjournment**

### **Motion to adjourn made at 9:00 p.m. by Mr. Goulet seconded by Mr. Eigerman.**

The motion passed unanimously.

Ed Ramsdell – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

Jared Eigerman - approve

**Respectfully submitted, Jennifer Lamarre - Note Taker**