

**City of Newburyport
Zoning Board of Appeals
April 10, 2018
Council Chambers**

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)
Maureen Pomeroy
Christopher Zaremba (Associate Member)

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 02/27/18 meeting

Mr. Zaremba made a motion to approve the minutes and Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

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

b) Request for minor modification – 19-21 Merrill Street (2017-071 and 2017-072)

Everett Chandler presented on behalf of the applicants. The original permits were granted in October 2017. The applicants wish to add a balcony and small deck on the third floor level. From the street, a short railing at the edge of the deck will be visible.

Chair Ramsdell noted that Planning Office commented that the change is de minimis.

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

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – absent

Maureen Pomeroy – approve
Christopher Zaremba – approve

3. Public Hearings

2018 008
Address: 10 Ashland Street
Special Permit
Permit a two-family (Use #102)

This hearing was continued from the 3/27/18 meeting. Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street, represented her client, Port Valley LLC. She requested a continuance as her client has a right to have a five-member board.

Chair Ramsdell was amenable to grant a continuance to the 5/8/18 meeting, but was unsure that there would be five members present at that time.

Attorney Griffin, representing a neighbor to the project had no objection to the date, but would have appreciated a heads up. The Board noted that they did not know for sure the status of the fifth member.

Attorney Mead noted she was not giving up a right to five members at a future meeting.

Chair Ramsdell would be in contact with City Solicitor on the issue before the next meeting.

Motion to continue application 2018-008 to 5/8/18 made by Mr. Ciampitti, seconded by Mr. Zaremba.
The motion passed unanimously.

Votes Cast:

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

2018 009
Address: 15 Eagle Street
Special Permit for Non-conformities
Construct an addition increasing the pre-existing non-conforming open space and lot coverage

The applicant requested a continuance to 5/8/18 as they must go before Historical Commission on 4/25/18.

Motion to continue application 2018-009 to 05/8/18 made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve

Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – approve

2018 011

Address: 5 New Pasture Road

Dimensional Variance

Relief from side yard setback for the construction of an addition

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street, presented the application. Tom Burke, manager of New Pasture LLC and Micrometal Technologies Inc and Steve Sawyer, engineer, were also present. Micrometal Technologies Inc has been located at 5 New Pasture Road since 1984. They are in need of a building expansion due to increase in market demand. They have adequate area to expand, however wetlands on the property limit where the expansion can happen.

Steve Sawyer explained this is a simple project. There is an existing building and a 25'x66' steel addition with a lower roofline would be added on top of existing pavement, so as not to add more impervious surface. The addition will be used for storage of materials. The building is entirely surrounded by wetlands and this is the best location as it is already disturbed area.

Attorney Mead explained the applicants are requesting relief from the 50' setback, and propose a setback of 25.7'. Hardship argued was soil condition and wetlands on the property. They cannot locate the addition in the back in a conforming area to due to wetlands. Most lots in the area have less wetlands and are larger, making this a unique property. Only 13.4% of the lot would be covered by the building with the addition included. Attorney Mead also argued economic hardship, as there is not a reasonable use other than industrial.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Unknown

A neighbor of the property commented that he was in favor of the addition if only used for storage.

Questions from the Board:

Mr. Zaremba asked if the project had been before the Conservation Commission yet. Attorney Mead explained they have not yet, but will need to appear before them for Order of Conditions.

Deliberations:

Mr. Ciampitti commented on the district in flux. This is an example of a longtime business and use. Hardship was well argued with soil conditions and wetlands. There is no other place to add onto the building. He was in support.

Ms. Pomeroy agreed. Criteria for hardship were clearly met.

Mr. Zaremba agreed.

Mr. Ramsdell agreed. Hardship was well argued. He noted that the project does not trigger the sidewalk and tree ordinance.

Motion to approve application 2018-011 made by Mr. Ciampitti, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

2018 012

Address: 502 Merrimac Street

Special Permit for Non-Conformities

Construct a second floor to a house with pre-existing non-conforming front and side setbacks

Henry Miller, architect presented on behalf of the applicant. The existing house is non-conforming in lot area, side setback and front setback. The applicants wish to add a second story to accommodate a growing family.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell asked if the applicant spoke with neighbors. He had, and they were in favor of the addition. Mr. Ramsdell asked about materials to be used. Vinyl siding, PVC trim and vinyl windows would be used to match the existing structure.

Chair Ramsdell also noted that assuming the project is approved, the sidewalk and tree ordinance would be triggered if the cost of new component of project exceeds 50% of current assessed value. The applicants should submit construction cost estimate to the Planning Office. If triggered DPS recommended no trees be added, but recommended new brick or concrete sidewalk, and they would supply new granite curbing.

Ms. Pomeroy asked about materials for exterior. The applicant would be using PVC trim, vinyl siding, vinyl windows, and asphalt shingle roof to match the existing.

Mr. Ciampitti asked if the applicant would consider changing material choices to keep more in character and continuity with the neighborhood. This is an opportunity to bring into alignment with neighborhood

with more natural materials. Mr. Miller explained that they were comfortable exploring more natural materials, but it becomes budgetary in what they choose.

Deliberations:

Mr. Ciampitti commented on the complete application. Criteria were sensitively met.

Ms. Pomeroy agreed.

Mr. Zaremba agreed. This is a large addition, but criteria met.

Conditions;

-The applicant shall submit a construction cost estimate with the application for a building permit. Should this estimate be equal to or exceeds 50% of the current assessed value for the property, i.e. \$159,450, then the applicant must comply with the following recommendations: install a new concrete or brick sidewalk with granite curbing along the property line. If the applicant's estimated cost of construction be less than this amount, the applicant is not required to comply with the stated recommendations.

-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 if the cost of this project is equal to or exceeds 50% of the current assessed value for the property then the project the requirements of the ordinance relative to sidewalks and trees. In such case the DPS recommends new concrete or brick sidewalk with new granite curbing. The DPS indicated that the city can supply the granite curbing. No tree is recommended for this location. The ZBA adopted the DPS recommendation as a part of this decision. Sidewalk should be coordinated with DPS.

Motion to approve application 2018-012 made by Mr. Ciampitti, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

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

2018 013
Address: 31 Johnson Street
Special Permit
Allow a two-family (Use #102)

2018 014
Address: 31 Johnson Street
Special Permit for Non-conformities
Demolish existing single family and construct two-family resulting in an upward extension of a pre-existing non-conforming side setback

Attorney Mark Griffin, Finneran and Nicolson, 30 Green Street, presented the application. Aileen Graf, architect was also present. The existing single-family is located in the R2 zoning district on the lower end

of Johnson Street and backs up to Fuller Field. The home is a single-family ranch style house with lower level garage built in 1957. There is nothing historic about it, making it eligible for demolition. The applicants propose to remove the existing single-family and build a two-family in its place. The home would be rebuilt within the existing footprint largely. The pre-existing non-conforming front setback would improve slightly from 17.3' to 17.5' where 25' are required. All other requirements are met.

Aileen Graf presented the proposed project, elevations and design elements. The two-family would be 1.5 with intermittent dormers for light and space. The façade along Johnson Street is 70' in length. They are proposing removing some of the existing foundation and get some depth. Materials used would be a combination of shingles and clapboards for visual interest. There is roughly a 7' total increase in height, which is appropriate scale for the neighborhood.

Attorney Griffin went through criteria for the Special Permit for Use;

- The use requested is listed in the table of use regulations or elsewhere as in the ordinances requiring a special permit in the district for which application is made. Use #102 is allowed in the R2 zoning district by Special Permit.
- The requested use is essential and/or desirable to the public convenience or welfare. The City's Master Plan encourages diverse housing including the two-family use.
- The requested use will not create undue traffic congestion, or unduly impair pedestrian safety. The project is compliant in parking. The applicant will be installing new sidewalk per the DPS and the City's sidewalk and tree ordinance.
- The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare. Only one dwelling unit will be added and will not overload the City's systems.
- Any special regulations for the use, set forth in the special permit table are fulfilled. There are no special regulations.
- The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.
- The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. The lower end of Johnson Street is predominantly single family. The upper end has an eclectic mix of single and two-family homes.
- The proposed use is in harmony with the purpose and intent of this ordinance.
- The proposed use shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

Attorney Griffin went on to speak to the Special Permit for non-conformities. The proposed project would not be substantially more detrimental to the neighborhood than the existing structure. It is an aesthetically pleasing proposal, where all but one of the dimensional requirements are met.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Zaremba asked if this section of Johnson Street is predominantly single family. Yes, the lower part of Johnson Street is.

Ms. Pomeroy asked if the replaced sidewalks would be concrete or brick. Attorney Griffin responded that he would imagine they would match what is there, which is concrete. They would be planting street trees per DPS as well.

Chair Ramsdell asked Ms. Graf asked about the long stretch of empty façade on the proposed structure. Ms. Graf noted that they attempted to play with windows and proportion in this area, but it was a challenge with stairs located inside the walls.

Mr. Ciampitti liked the 2nd rendering with added windows. He thought it broke up the massing of clapboarding.

Deliberations:

Ms. Pomeroy liked the design in the changing neighborhood.

Mr. Zaremba commented on the two-family housing and criteria met.

Mr. Ramsdell commented that they could leave the windows on the façade as long as they submit the plans to the Planning Office for approval.

Conditions;

-The applicant will submit to the Planning Office the redesign for adding windows to the façade. The Planning Office will confirm that the changes meet the intent of the ZBA and file the changes with the plans. It will be unnecessary for the applicant to return before the Board regarding these changes unless some disagreement occurs during the Planning Office review that requires ZBA attention. The submitting of these changes and Planning Office concurrence shall occur before the issuance of a building permit.

-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 as this application includes the addition of a residential unit, the City's 'sidewalk and street tree' ordinance is triggered. DPS recommend new concrete or brick sidewalk with new granite curbing. DPS indicated that the city can supply granite curbing. Due to the narrowness of the existing sidewalk recommend two small street trees be installed in front of house, ½ on private property and ½ at back of sidewalk on public property. Sidewalk and trees should be coordinated with DPS and the Tree Commission.

Motion to approve application 2018-013 made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell— approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

Motion to approve application 2018-013 with above conditions made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

2018 015

Address: 13 Sylvester Street

Special Permit for Non-conformities

Remove and reconstruct single family home on pre-existing non-conforming lot

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street, presented the application. The applicant proposes to remove an existing single family and detached garage and replace with new single family with attached garage at the corner of Sylvester Street and McClintock Avenue in the R2 zoning district. The lot is non-conforming with regards to lot area and front yard setback on Sylvester Street. The proposed structure will meet all setback requirements, except for front yard setback, which will improve slightly on Sylvester Street from 4.9' to 5.2' where 25' are required. No new non-conformities will be added. The project will not be substantially more detrimental to the neighborhood than the existing structure. Elevations were presented. The footprint is similar in size and will fit in with the neighborhood. The applicants have letters of support from 7, 9, and 11 Sylvester Street. DPS commented on the sidewalk and tree ordinance; there is no sidewalk no room for new street trees.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Stephanie Barraclough, 11 Sylvester Street

Clarified that Mr. Haseltine spoke to tenant. She asked for clarification of square footage of existing versus new. Mr. Haseltine responded that the existing is 972 s.f. and the proposed would be 1944 s.f.

Patty Myers

Lives diagonally across from the proposed project. She asked how far back from the street the porch would be. It would be about 20'.

Douglas Mahar – 12 Margerie Street

Asked for clarification on how much closer to back lot line the proposed house would be. It would be over 25' from the rear lot line.

Questions from the Board:

Chair Ramsdell ask for clarification on the existing structure and how it compares to the new structure. Mr. Haseltine explained that the footprint is similar and everything is more compact. It will be two stories instead of the existing 1.5 stories. Height will increase from 17’ to 24’.

Mr. Zaremba asked about materials. Mr. Haseltine responded that there would be shingle on gables, clapboard style siding, composite front porch, decking and rail.

Deliberations:

Mr. Zaremba commented on well thought out project.

The rest of the Board agreed.

Motion to approve application 2018-015 made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

2018	016
Address: 3 Perkins Way	
Variance	
<i>Construct two additions within the required side and rear setback; and allow 100 parking spaces where 807 are required</i>	

Attorney Mark Griffin of Finneran and Nicholson, 30 Green Street presented the application on behalf of Bradford & Bigelow, a printing and publishing company. The existing structure sits on a 386,000 s.f. lot in the I1B zoning district, where 50,000 s.f. are required. The zoning ordinance is somewhat outdated, requiring 807 parking spaces for this use. The lot is similar to the earlier application where significant wetlands exist, restricting expansion within setbacks. The corner lot on Preble Road and Perkins Way currently meets all zoning requirements, except for parking. There are 100 parking spaces. The company is now expanding operations and needs space to house a large printing press as well as added storage space.

John Galligan, President of Bradford & Bigelow

Mr. Galligan explained that clients are looking for printing, warehousing and distribution. They currently print and ship to storage, which is environmentally and economically wasteful. Having storage space on site will increase efficiency. They are also asking for relief to house a smaller addition for new highly automated press. The company is pleased to be part of the business park. Over the years they have fixed up the building and addressed environmental issues on the lot. There is little empty space left in the business park if they wished to relocate.

Andrew Sidford, Andrew Sidford Architects

Mr. Sidford presented the two additions. The majority of added space would be used as warehouse space. The reasoning for location of the addition was driven by wetlands on the site. Elevations were presented. He noted that offices occupy just a small section of the building.

As far as the Conservation Commission, the applicants have been once on 4/3/18 seeking a variance and order of conditions. While there, they got the sense that it is unlikely they would alter the footprint. They are hoping to approve this Variance before finishing up with the Conservation Commission. They had major site plan review on 4/8/18. A letter from the Conservation Admin was presented explaining that the project will likely stay the same.

Tom Hughes, Hughes Environmental Consulting

Mr. Hughes explained the unique situation in business park, particularly on this lot with wetlands on all four sides, and one side with restrictions and environmental issue. They are working around buffer zones, no disturb zones, and a stream/riverfront. The location of the expansion is very restricted. A green roof will be added to the smaller addition, which will be the first of its kind in the business park. They will be adding a swale system storage, plantings, and working with the Conservation Commission to better the site in many ways.

Steve Sawyer, Design Consultants Inc

Mr. Sawyer spoke to storm water on the site. The application will go through plan review and they have received comments from consultants. They do not foresee changes to the storm water. They will be adding a large impervious area. The roof will be piped to a retention area to be treated, controlled and released. The parking area will have planted islands with shrubs to pond water and percolate back into the ground. Drainage improvements will be evident. A three bay loading dock will be added, but the parking area remains the same. There is ample parking for a mid-day maximum shift.

Attorney Griffin spoke about parking. The daytime maximum shift will normally have only 60 cars. There are multiple shifts at the facility. The 100 existing spaces is adequate. The required 807 spaces are due to a gross area requirement, under use 605 in the zoning ordinance. A business like this does not need that much parking. Maintaining the existing parking is best for the wetlands and storm water drainage.

Attorney Griffin reiterated variance hardship. As heard from Mr. Hughes, the lot is challenged by wetlands on where the applicants can build. He also argued that a hardship can be financial. In order to maintain business in the industrial park, the business would need to move or not expand. It would be a loss for the City if the company moved. The master plan land use goal points in the direction of making dimensional requirements in the business park looser, allowing more density. This is concurrent with that goal.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Frank Cousins, President of Greater Newburyport Chamber of Commerce
Bradford & Bigelow is a quality leader, invests in employee training, and is a diverse workplace, and environmental leader. The Conservation Commission has been working with them to move along project. We are fortunate to have this company here and to allow them to grow here in Newburyport.

In Opposition:

None

Questions from the Board:

Mr. Ciampitti asked if it was singular variance application. Yes, with 3 required variances.

Ms. Pomeroy asked if with this size addition, the number of employees would be increased. The number of employees may increase slowly, but technology is so efficient, they did not foresee adding many. Parking will be adequate for shifts spread out.

Mr. Zaremba asked if any spaces are removed for the loading docks. The applicant explained that there are 92 striped spaces now, and after re-striping there are 100 spaces proposed.

Chair Ramsdell noted that the Fire Department might ask for more doors on the building for egress during Planning Board's review. The Board could condition adding doors if necessary required by Fire Department.

Deliberations:

Mr. Ciampitti commented on the application. This is a unique lot and unique park. It is very understandable and fortunate to have business growth. Competing interest with wetland and land specific details for hardship for variance was well argued. As far as parking, adding impervious surface would be a step backwards. The project is subject to further review with the Conservation Commission and Planning Board. He thanked the professionals for their presentations this evening to educate the Board.

Ms. Pomeroy wanted to make sure exponential employees would not be added with the expansion and limited parking. She concurred with Mr. Ciampitti and appreciated the environmental and conservation steps taken with such a large addition.

Mr. Zaremba agreed. This is a positive for the City and business alike.

Chair Ramsdell agreed. All parking requirements out there need to be revisited. He also noted that the tree and sidewalk ordinance would not be triggered.

Conditions;

- During the discussion the possibility was raised that in the subsequent technical review by additional boards and commissions there may be a requirement for the addition of additional exit doors per fire regulations. If such is the case the applicant need not return to the ZBA for approval of doors for such purpose. Such revision should be submitted to the Planning Office for inclusion in the file.

Motion to approve application 2018-016 with above condition made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

2018 017

Address: 7 Plant Street

Special Permit

Renew special permit for in-law apartment

Attorney Michael McCarthy, 10 State Street presented the application on behalf of Tim and Meredith O'Dea. The applicants are purchasing 7 Plant Street. There is an existing in-law apartment that was originally permitted in 2002. Their purchase of the property is contingent on approval of renewing the special permit. The home is located in the R2 district. The existing in-law apartment is 790 s.f. and there would be no changes to it. The applicants are both full time working parents and the intention is to house Mr. O'Dea's parents so they can help with the children.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell commented in-law apartment fell through cracks along the way and are not tracked well.

Deliberations:

The Board agreed this was an easy request to support.

Motion to approve application 2018-017 made by Mr. Zaremba, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

The meeting adjourned at 9:20pm

Respectfully submitted, Katie Mahan - Note Taker