

**City of Newburyport  
Zoning Board of Appeals  
April 26, 2016  
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) – arrived late  
Duncan LaBay (Secretary)  
Jamie Pennington  
Richard Goulet  
Renee Bourdeau (Associate Member)

**Absent:**

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 4/4/16 meeting**

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

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – absent  
Duncan LaBay – approve  
Jamie Pennington – approve  
Richard Goulet – approve  
Renee Bourdeau – approve

**Minutes of the 4/12/16 meeting**

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

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – absent  
Duncan LaBay – approve  
Jamie Pennington – approve  
Richard Goulet – approve  
Renee Bourdeau – approve

### **3. Public Hearings**

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

**2016      012**

**Address: 1 Kent Street**

**Sign Variance**

*Erect a free-standing internally illuminated sign and (2) canopy signs for existing gas station*

Continued from the 1/26/16 meeting. Michael Lowry with Newburyport One Stop presented the application. They are requesting to reface two canopy signs and one freestanding sign – externally illuminated. Signs are not changing location or size at all.

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

#### **In Favor:**

*None*

#### **In Opposition:**

*Rob Germinara, 2 Ashland Street*

*Manager, Caldwell's Corner LLC. The chair once recused himself back in January and he believed they should continue the hearing until the Mayor appointed a new member to the ZBA.*

*Mr. Ramsdell commented that he recused himself in January out of an attempt to be ultra cautious as he lives on Kent Street. It was not a legal requirement.*

*Mr. Germinara continued on to say that he was in a legal dispute with the applicant over a title. He requested that the hearing be continued to September or October or the applicant withdraw tonight.*

*Chair Ramsdell stressed that the Board was discussing signs only this evening and they are not a body that can settle legal disputes.*

#### **Questions from the Board:**

Mr. LaBay clarified that the freestanding sign would only be refaced Mr. Lowry responded that yes, both canopy signs would be refaced and there would be no changes other than text and material.

Mr. Pennington asked if they would be utilizing the same lighting. Yes, they would. Mr. Pennington asked whether the bottled water company advertised on the sign was sponsored. Mr. Lowry answered that they are promoting water. Mr. Pennington asked if the number color could be changed/inverted. Mr. Lowry explained they were using what was there.

Mr. LaBay commented the sign was never approved as stands now. Black letters were supposed to be flipped to white. He asked if they would be willing to flip to white. Mr. Lowry responded they intended to use what was there and that it matched the numbers on the pumps as well.

Mr. Ramsdell asked what materials would be used and whether it was matte or reflective. Mr. Lowry answered that they would be using aluminum with vinyl that would be semi-gloss. The canopy would be illuminated with an existing box.

Mr. LaBay asked how firmly committed they were to the layout of the signs. Mr. Lowry responded that they have paid for the artwork.

**Deliberations:**

Mr. Ramsdell commented that the letters flipped in color did not give him excessive heartburn.

Mr. LaBay commented the numbers are the least of the problems with the sign. Signs are designed to identify a business and a secondary purpose is advertisement. 'Gas' is in such a large font – people will know it's a gas station without that. The name of the business should be most prominent. He also asked if they had permission from the beverage distributor for advertisement.

Mr. Ramsdell agreed. Signs drift into extensive advertising over a business locator.

Mr. Pennington was sympathetic to some advertisement to let people know what they are selling. The signs are a little busy for his taste, but he was not against them.

Ms. Bourdeau agreed the signs stick out, but was sympathetic to using existing sign locations and lighting.

Mr. LaBay encouraged the applicant to continue to work on redesign.

Mr. Ramsdell and Mr. Pennington commented that the Irving and Caldwell's Corner signs were both nice.

Request to continue to 6/14/16.

**Motion to continue application 2016-012 made by Mr. Pennington, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – absent/recused

Duncan LaBay – approve

Jamie Pennington – approve

Richard Goulet – recused

Renee Bourdeau – approve

**Public Hearing #2, 3:**

**2016      018**

**Address: 300-302R Merrimac Street**

**Dimensional Variance**

*Split existing lot and construct three residential buildings requiring variances for lot area, open space, height, frontage, and side yard setbacks*

**2016      019**  
**Address: 300-302R Merrimac Street**  
**Special Permit**  
*Allow multi-family use (#103) for eleven residential units*

Request to continue to 6/14/16.

**Motion to continue application 2016-018 and 2016-019 made by Mr. LaBay, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
 Robert Ciampitti – absent  
 Duncan LaBay – approve  
 Jamie Pennington – approve  
 Richard Goulet – approve  
 Renee Bourdeau – approve

**Public Hearing #4:**

**2016      028**  
**Address: 6-8 Oakland Street**  
**Dimensional Variance**  
*Subdivide lot into two lots and seek variances for lot area and lot width*

Nick Cracknell, 13 Picard Street, Amesbury MA presented the application on behalf of the applicants Brad Kutcher, Bradku Construction. The applicants originally appeared before the Board last March as a conversion to a two family in the R3 district. VI-C with the Planning Board was pursued. In the fall of last year, Mr. Kutcher proceeded with restoration efforts and the first structure sold. The other single family Georgian gambrel is almost completed. During the marketing phase of the project it became clear that they should have asked for a lot split as well as it posed a marketing challenge. Nothing is shared other than the land. Many buyers shy away from this kind of ownership. They would not be changing any of the approved project other than the lot split. A stonewall would delineate the separation of land. There would be a 10% reduction in the size of the garage of the Georgian gambrel to keep lot line relatively straight. They are seeking relief for lot area, front and side setbacks.

The hardship argued is the surrounding neighborhood. Just about every lot was deficient on frontage and setbacks, as well as lot area. The shape of the lot is also unique.

Points to consider are;

- Nothing shared between the owners and homes
- No reason for a homeowners association other than financing and land
- Enforceability and owner of new structure dealing with historic issues of the older house
- Increased value of property
- No new non-conformities. Lot was substandard to begin with.
- Consistent with neighborhood character

If the board supports, they plan to carry forward all IV-C approval stipulations in exhibit 1.

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

**In Favor:**

*12 Walnut Street*

*Has lived there for 24 years. Construction has been respectful. There has not been much disruption to the neighborhood. Does not seem like a problem. One of houses has historic value. If VI-C stays, the new house and Historic home issues can get confusing. If he were buying a home, he would be weary of this.*

*Mr. Cracknell commented he met with an abutter on Walnut Street who is in full support. He also pointed out other projects on Ashland Street, Boardman Street and High Street where lot splits made sense. He was not sure why they didn't do this sooner.*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. Ciampitti commented that no opposition present was telling. A variance is a high bar of relief. A corner lot sharing nothing, with two separate living structures was enough to step to the greater bar of relief. From the ZBA standpoint all looks successful as is, but the argument was made otherwise.

Mr. Cracknell commented they were not upturning anything. They are making a really good project better. It was not about money, it was about making more sense. Very few VI-C's in city look like this. This project shares nothing.

Mr. LaBay commented that the corner lot basis for hardship finding was sufficient. Looking at the map clarified lot non-conformities.

Mr. Ramsdell commented that the project was fully vetted having been before ZBA, Planning Board, Historical Commission and Preservation Trust.

**Deliberations:**

Mr. Ciampitti commented that this was among the highest levels of relief to grant. Legal criteria and human criteria were well articulated. Credibility in the vetting process was mentioned. If it behaves a certain way, call it what it is. It does not work as a VI-C as well. He was able to support.

Mr. Ramsdell agreed.

Mr. Goulet agreed. There is value in seeing the Historic property standing alone over time.

Mr. LaBay agreed. The hardship argument was adequate.

Mr. Pennington agreed.

**Motion to approve application 2016-028 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  
Richard Goulet – approve  
Renee Bourdeau – non-voting

**Public Hearing #5:**

**2015      029**

**Address: 25 High Street**

**Special Permit for Non-conformities**

*Upward extension of a pre-existing non-conforming side yard setback*

William and Vicki Lincoln, owners presented the application. They have a non-conforming single-family home in the R2 district. They would be converting an existing sunroom into a mudroom and breakfast nook and construct a second story addition over the existing kitchen. They would also be adding a screened in porch. The pie shapes lot would impact the side setback, taking it to 7'. A driveway and garage on the other side prohibit any addition on that side. The applicants submitted letters from neighbors in support.

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

**In Favor:**

*Kim Turner, 27 High Street*  
*As a direct abutter and most impacted, she had no issues.*

**In Opposition:**

*None*

**Questions from the Board:**

*None*

**Deliberations:**

Mr. Ciampitti commented this more than met criteria. It was very clear.

Mr. LaBay agreed. The architectural plans submitted were helpful. An abutter appeared in support. A private street impacts the irregular lot.

Mr. Pennington and Mr. Goulet also supported.

Mr. Ramsdell was happy with the nice, detailed application.

**Motion to approve application 2016-029 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  
Richard Goulet – approve  
Renee Bourdeau – non-voting

**Public Hearing #6:**

**2016 031**

**Address: 22 Charter Street**

**Special Permit for Non-conformities**

*Construct a two-story addition resulting in an extension of pre-existing non-conforming side yard and rear yard setbacks*

Michael Young, owner and Greg Green, contractor appeared before the Board. Mr. Young is retired and likes living in his home, but needs a little more space. The whole neighborhood is non-conforming. They have an existing deck/porch in the back that they want to close in and move up two floors. This will allow him to add closet space and master bedroom. The house is 1' from the property line. Neighbors are in support. The house style will remain same. They would add approximately 100 sq. ft. on the first and 100 sq. ft. on second floor. The same windows are to be used.

Greg Green, 17 Orange Street of Green Construction would be the contractor on the project. He explained they would not getting closer to the property line and are going over existing deck space. Charter Street homes are very close together.

Mr. Ramsdell commented the deck is not a structure, so they are extending side and rear yard setbacks.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. LaBay asked about the rear setback. Would the back of building be closer to rear setback? Mr. Green responded that no, they would be covering the deck and extending upward.

Ms. Bourdeau had a correction to square footage on the application that would increase by 200 ft. Non-livable area is changing to livable area.

**Deliberations:**

Mr. Pennington commented this was a reasonable request and not substantially more detrimental. It was modest.

Ms. Bourdeau and Mr. Goulet agreed.

Mr. LaBay commented that they were working within tight quarters and noted no abutter opposition.

Mr. Ciampitti agreed.

**Motion to approve application 2016-031 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

Richard Goulet – approve

Renee Bourdeau – non-voting

**Public Hearing #7, 8:**

**2016      032**

**Address: 13 Purchase Street**

**Dimensional Variance**

*Modification to previously issued variance for change in size of shed and roof line reduction*

**2016      033**

**Address: 13 Purchase Street**

**Special Permit for Non-conformities**

*Modification to previously issued special permit to allow reduction in roof line*

Request to continue to 5/24/16.

**Motion to continue applications 2016-032 and 2016-033 made by Mr. LaBay, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – absent

Duncan LaBay – approve

Jamie Pennington – approve

Richard Goulet – approve

Renee Bourdeau – approve

**The meeting adjourned at 8:45pm**

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