

**City of Newburyport
Zoning Board of Appeals
April 04, 2016
Auditorium**

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)
Duncan LaBay (Secretary)
Jamie Pennington
Richard Goulet

Absent:

Renee Bourdeau (Associate Member)

2. Business Meeting

a) Approval of Minutes

The minutes of 2/23/16 and 3/22/16 were approved unanimously.

3. Public Hearings

Public Hearing #1:

2016 022

Address: 9 School Street

Dimensional Variance

Modify existing dimensional variance to allow the construction of a 12' x 20' detached garage

Eric Primack, previous owner 9 School Street. Katherine Blackster, new owner. Renovate and resell. Blackster asked to build single car garage. Building inspect said as long as conforming and within setbacks could build garage. Poured slabbed. Didn't realize variance would be applied to this. Complaint from neighbor sparked this. Cease and desist order until see ZBA. Within zoning matrix. Submitted supporting documents to board including other garages in the neighborhood that are non-conforming.

Ramsdell – when lot was split under variance, anything done after that involves the variance. Did anybody talk how to justify hardship? Yes, neighborhood is filled with other non-conforming garages.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Katherine Blackster –

important that she have garage. Living alone and for safety wanted access to garage. Wouldn't have purchased home if this wasn't an option. Garage is attractive, setback, matches home, tasteful. Will hold garbage and cars.

Susan Abruzzi, 19 school St.

lived here for 25 years. In favor because parking on school street is a challenge. Takes another car off street allowing the garage. Small footprint, set back and not offensive to neighborhood.

LaBay -Letter signed by 4 property owners. 14 beck, 12 beck, 5 school, 4 school – in favor of garage.

In Opposition:

BBM&T – 11 school St. representation

Property was subject to variance back in 2015. 1. Applicant DePiero presented as of right design. Lot was split and two houses were built was not preference. More attractive and less impactful design marketed. No garages so smaller footprints. Clients were convinced to support. Survey of property done and easement granted. List of improvements was part of project submitted. Many of these have not been done. Developer sold to applicant. Applicant requested garage – believes this would not have been approved if with the original application. Insisted work continued after cease and desist. best argument for hardship made is small lots and garages by applicant. Argue nothing unique to the property with soil conditions topography etc. request this be denied. Adhere to original conditions presented to the Board.

Kolterjahn, 64 federal St.

22-24 Atwood St. property owned. Mixed on this. Concerned applicant was mislead. Feels like bait and switch. Details are unfinished. Seems a bit much to add garage.

Respond; meeting minutes 5/26. 11 school street spoke in favor. Pg. 22 of ZBA application proposed house design. Has nothing to do with existing house. Shutters, copper downspouts etc. were not. No mention of no garages to be put up at either house. Single car garage is unobtrusive.

Client was not in favor of preferred option but was pressured into it. Pg. 22 – believes it does include existing home in exhibit 4. Unfortunate original app was not clear. Impression that was given restoration.

Questions from the Board:

Pennington – plan showing location of slab? Drawings of garage? Clarification provided. Width of garage? -12'.

LaBay – suggestion made by attorney that slab was not poured when cease and desist was issued. Footings and foundation walls were in, cease and desist. Subcontractors mistake and they proceeded to pour slab. Miscommunication. Foundation walls how deep? 4'.

Ciampitti –

articulation of hardship? Hardship now non-conforming lot. Prior to variance would be by right. How is that not a self inflicted hardship? Circumstances as left by last owner? Not hearing legal arguments. Cant anchor a decision in favor at this point.

Definition of hardship requested by owner. Ramsdell responded. Would applicant want to continue hearing?

LaBay – comments if continued. Encourage looking at certain pages of original submission. Aesthetics of 9 school. Encourage to look at renderings, diagrams clearly showing shutters, etc. what we are seeing is not what we thought.

Pennington – understanding criteria for hardship. Modest and in keeping with the neighborhood. Details of original application.

Goulet – specific criteria.

Deliberations:

xx

Motion to continue application 2016-022 to 5/10/16 made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Public Hearing #2, 3:

2016 023

Address: 15 Howard Street

Special Permit

Demolish existing single family home to allow for construction of a new single family home

2016 030

Address: 15 Howard Street

Special Permit for Non-conformities

Rebuild pre-existing non-conforming home where the construction will exceed 500 sf

Mark griffin. Memos submitted to Board. Mr. Gould, Mr. Lauze owner. Full building demo sought. Replacement structure. Does not intensify or add any non-conformity. SPNC required because more than 200 sf larger on non-conforming lot. Existing home is pre-existing non-conforming. Frontage, area. R3 district. Front and side setbacks non-conforming. Existing home very small – 612sf. Not 672 sf as noted in app. Tired looking home, in good physical condition. Age is unclear 1875-1900. Proposal to remove existing and construct new home. Existing setbacks will be increased. New home 2000sf living area. 15' to 22' new home. Well within 35'. Slope of lot has very steep grade to back. Significant excavation needed to accomplish any addition in rear. Stormwater run off drain will be added (rain

guard). Asphalt drive will be remove to help drainage. Brick would be replacement. 1 bay garage under, parking for one car out front. Living area on 1st and 2nd floor.

Cloent spoke. Dave Lauze. Currently resides 311 Merrimac St. about year and a half ago. Hoping to continue living here for kids and grandkids.

Griffin. Dcod. Historic significance.

Mr. Gould – presented setting. Report put together by nhc. Concerned with 2nd floor interior. Basement stone foundation and floor joists. Stairway 4 ft wide. 6” wide, 9.5” rise historic staircase. Stair config rises in center of building forcing chimney behind ridge. Awkward setup and assumes building official wouldn’t let room be used due to limited egress. No closets. Presented current conditions, including Historical pieces. Exterior altered. Not visually architecturally significant. Neighboring homes have evolved as well. Report states may be able to addition instead of demolishing. Would be difficult due to land and access with setbacks. Presented scenarios. 1. Use abutters land, excavate, addition, skylights for daylight. 2. Excavate to property lines on both sides and create level yard. Fence for neighbors. Both impractical due to access. Building has very limited use for next occupant as far as todays standards. Looking at other trends/changes in neighborhood, this project could be compatible. Could have removed and relocated in one piece to be preserved. Cost to purchase and move it. Scenario 1 \$50k more to get sq footage vs scenario 2 \$70k more than demolishing and rebuilding. Not cost effective.

Griffin – summarize historical. 1. Aren’t many features from original building to be significant and worth preserving. Most are interior, no public value. 2. Significance of district within district, more historical significance in that district. These homes were examples of homes built by shipbuilders. Owned by evan francis stone, notable historic figure. Investment property which he rented.

Criteria. Reasonable condition, not falling down, but not reasonable living space. Reasonable use articulated before. SP DCOD.

SPNC – proposed structure not more detrimental to the neighborhood. What is there now vs proposed will not add any new non-conformities or intensify. Will improve some. Design borrow features from other homes on street and will fit in with neighborhood. Parking taken off street.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Tom Kolterjahn, 64 federal

Nbpt preservation trust strongly opposes. NHC report says there is something special about the property. Is contributing structure. Urge board to read report and responses from NHC. Building deserves a fair chance. No market value or reasonable use – DCOD. What would it take to make it livable. Applicant has not proven case. Applicants consultant cannot be considered impartial. ZBA has power to hire appraiser, conditions report. Independent evaluation. Refer them back to NHC to come up with plan. Deny demo.

Jerry Mullins, 7 parsons

Surrounded by big and small houses. Small homes make NBPT wonderful. Limited income, starting out. Preserve the character of Newburyport. Contributing, means its part of entire spirit of the City. Have applicant reconsider.

Sarah White, chair of Newburyport Historical Commission

Here to answer ZBA questions. NHC report is extensive. Response to applicants comments. Provide information and historical background and advice.

Questions from the Board:

Clear need time to digest information.

Ramsdell – DCOD really doesn't talk about maximize value of land, making larger home. Employ consultants – within 7 days of opening of hearing. Will need to vote tonight to employ if this may be an option.

Goulet – peer review.

Pennington – have a lot of evidence. Don't think necessary to hire consultants.

Ciampitti – need additional time. Agree with Pennington not necessary for peer review.

LaBay – last minute info that's critical. Vote now whether or not they actually employ.

Griffin – advisory report from NHC. Rebuttal to applicants comments. Penalizing applicant when DCOD says only advisory report.

Ramsdell – late pieces in this case seem critical.

Board did not want to ask questions until digest information.

As the applicant, Mr. Griffin waived the 7 days to employ consultant to 8 days so they can vote at next meeting on 4/12/16.

Continue to 4/12/16 to only discuss whether to hire consultant for peer review.

Motion to potentially employ a consultant for peer review made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Richard Goulet – approve

Renee Bourdeau – absent

Public Hearing #4:

2016	024
Address: 231 High Street	
Special Permit	
<i>Allow an in-law apartment</i>	

Sharon and Simon Wainwright, owners. Bernard Christopher. Request to allow in-law apartment. Corner of summit and high. Existing space in front of garage. Not increasing space at all, just reconfiguring into a living area for in-law apartment. Other renovations to existing home, but have nothing to do with in-law apartment. Apartment is specifically for overseas visitors. No undue traffic congestion - At most one vehicle added. Not overload public utilities. Not detrimental or impair integrity of district. No changes outside. Will not cause excess of in-law apartments. In harmony with purpose and intent of ordinance. Use wont be dangerous, hazardous, etc.

Chair Ramsdell opened the hearing to public comment.

In Favor:

*Simon Wainwright, 231 High Street
Parents older and this will be a great help.*

In Opposition:

None

Questions from the Board:

None

Deliberations:

Ramsdell – in-law apartment occupation. City infers in-laws living there most of the time, but this strays from that. His interpretation.

Mr. Christopher – elder parents live in England and Ireland. His parents may be coming shortly full-time. Unusual circumstance.

Motion to approve application 2016-024 made by Mr. Pennington, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Public Hearing #5:

2015	025
Address: 15 Turkey Hill Road	
Special Permit for Non-conformities	
<i>Construct a second story addition to a property with pre-existing non-conforming frontage</i>	

Joe and Christi Maglio, owners. Joe. Lived 10 years. Had one child and now have 3. Love neighborhood, town and yard and wish to stay in house. Nothing outside existing footprint.

Dave Keery - Only non-conformity is frontage. Adding more than 500 sf. Adding about 1000sf. Single family and will remain. No intensifications or new non-conformities. Will not be more detrimental. R1 zone. Keeping in scale with other houses in neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

LaBay – neighbors? Maglio – no concerns, all seemed in favor.

Deliberations:

Ciampitti – credible case for SPNC. Creative way to retain ownership, going up. Aesthetically appropriate and reasonable.

Goulet – comfortable with criteria. Modest and fits in with neighborhood.

Pennington – clever design.

Motion to approve application 2016-025 made by Mr. Ciampitti, seconded by Mr. Pennington.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Richard Goulet – approve

Renee Bourdeau – absent

The meeting adjourned at approximately 10:00pm

Respectfully submitted, Katie Mahan - Note Taker