

**City of Newburyport
Zoning Board of Appeals
June 13, 2017
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)
Richard Goulet
Renee Bourdeau
Maureen Pomeroy (Associate Member)

Absent:

Robert Ciampitti (Vice-Chair)

2. Business Meeting

a) Approval of Minutes

Minutes of the 05/30/17 meeting

Ms. Pomeroy made a motion to approve the minutes and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

3. Public Hearings

2017 010

Address: 146-148 Merrimac Street

Dimensional Variance

Construct a four-unit residential building on a lot with an existing office building requiring variances for open space, height, and front and rear-yard setbacks

2017 011

Address: 146-148 Merrimac Street

Special Permit

Allow a four-unit residential building (Use #103)

This application was continued from the 1/24/17, 2/28/17 and 5/2/17 meetings. Attorney Mark Griffin of Finneran & Nicholson, 30 Green Street presented the application. At these meetings, a four-unit condominium was presented. The issues raised by the Board and neighbors included storm water management, drainage, pervious surfaces, traffic, parking, massing, density, and building profile. The new plan addresses these concerns. First, the structure has been reduced from four units to three units, reducing square footage, density, and building profile which now meets height requirements. Mr. Griffin noted that there was incorrect height listed in the staff report, it should be 24.5'.

Scott Brown, architect presented the changes. Mr. Brown explained they took a fresh look. The major change was in reducing the number of units. Parking is provided on site for all three units. He noted in the original submission, the building was 14' longer. With proposed plans, there is only one other building shorter in the immediate vicinity, which is an abutting ranch. The structure was taken down from three stories to two, eliminating the need for a height variance.

Mr. Griffin explained that the proposed plans now exceed open space in the WMD as well eliminating the need for a variance. They have improved front and rear yard setbacks, but variances still needed. The reduction in square footage would be approximately 2300 sf. They also reduced paved surface area of the driveways. A drainage plan was presented at the last hearing that would remain the same. With a smaller project, the plan would be even more effective. He noted the applicants are committed to installing a walkway along Pop Crowley Way.

Hardship argued was the shape and topography of the lot. It is a long and narrow lot, with unique concerns with soil and drainage. Mr. Griffin also reiterated that the property is surrounded by other non-conforming properties in the immediate vicinity. He also went through Special Permit criteria.

The staff report contained suggested conditions that the applicants agreed to at the last meeting and they are still willing to add them to the decision. One additional condition suggestion was added concerning pervious surfaces to the proposed driveways. The applicants do not want to add this condition with other changes made to the project.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Bourdeau asked if the drainage would be submitted to DPS with the reduction in the project is that still. Mr. Griffin responded that yes, they still must comply with the ordinance.

Mr. Goulet asked if the applicant could elaborate on why they do not want to add a permeable driveway. Mr. Griffin explained that at the last meeting it was asked that the walkways be pervious, which was accommodated, and now an additional condition is being suggested. The applicants felt significant reductions were made.

Mr. Ramsdell commented that the staff did not demand permeable surface conditioned. They suggested if were conditioned on one permit, it be on the other as well.

Ms. Pomeroy asked for clarification on the square footage from the original submission to now. Mr. Griffin answered that the project began at 4700 sf and was now 4100 sf.

Deliberations:

Mr. Goulet thought the changes were positive and the project was in better scale. There would be less impact with storm water. Hardship and Special Permit criteria were supported.

Ms. Pomeroy appreciated the applicant's changes and efforts to mitigate potential water issues.

Ms. Bourdeau had struggled with four variances and was happy to see two removed. She agreed with the hardship argued. She appreciated reducing the project by a unit.

Mr. Ramsdell agreed. The applicant reworked the project, hardship supported with shape and topography, and special permit criteria met.

Conditions;

Prior to Issuance of Building Permit:

-The applicant shall submit for review and approval to the Office of Planning & Development a landscaping plan that includes vegetative plantings located throughout the residential portion of the site. These plantings shall be separate and in addition to the plantings incorporated into the three rain gardens. The landscaping on this property shall conform to this submitted plan.

Prior to obtaining an Occupancy Permit:

-The applicant shall install permeable pavers along the three walkways leading from Pop Crowley Way to the porches and the main entries to the units.

-The applicant shall install a brick walkway from Merrimac Street eastward along the property's entire frontage on Pop Crowley Way. This walkway shall be installed according to specifications and/or instruction provided by the Newburyport Department of Public Services.

Upon recommendation of the DPS, the sidewalk along Merrimac Street is in good condition and no replacement sidewalk or installation of new trees are required. The applicant is proposing to coordinate with the City on the installation of a brick walkway along Pop Crowley Way for public use. There is currently no sidewalk in this location.

Motion to approve application 2017-010 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – absent

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

Motion to approve application 2017-011 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

2017 038

Address: 21 Basin Street

Special Permit for Non-conformities

Allow increase in floor area ratio for construction of a third bedroom

Request to continue to 6/27/17.

Motion to continue application 2017-038 to 6/27/17 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

2017 046

Address: 25 Moseley Avenue

Dimensional Variance

Variance for front yard setback

2017 047

Address: 25 Moseley Avenue

Special Permit for Non-conformities

Modify a pre-existing non-conforming structure by constructing an additional living unit and garage

2017 048

Address: 25 Moseley Avenue

Dimensional Variance

Allow a two-family use (#102)

Attorney Lisa Mead of Mead, Talerman & Costa, 30 Green Street presented the application. Doris Allen, owner was also present. Ms. Allen has lived in the home since 1972. The goal is to sell and move elsewhere in Newburyport. The lot at 25 Moseley Avenue is one of the most uniquely shaped properties in Newburyport is 23,080 sf. The property is currently non-conforming with front and side yard setback.

The proposal is to modify the existing structure from single-family into a two-family. Ms. Mead noted that the building inspector said the applicant only needed a Special Permit for front yard setback, but they have applied for variance as it is a new non-conformity to one of the two front yard setbacks. Garage plans have changed after discussion with neighbors. The height was reduced by 7'9", also reducing massing. They changed to dormers instead of full second floor. There will be no construction on rear side of lot, referred to as 'parcel b'. It has been an oasis for the neighborhood and they have agreed to put a deed restriction so there would be no future building. There will be ample parking provided for two units.

Ms. Mead went through Special Permit Criteria. Special Permit for Non-conformities criteria was presented. Variance hardship argued was the unique shape of the lot. Although, they did not rely on it, the property is surrounded by other non-conforming properties.

The applicants were willing to add conditions that 'Parcel b' not be subdivided, would be non-buildable, maintain a 10' buffer, and not contain any storage, pools, recreation equipment. They would agree to a deed restriction.

Ms. Mead noted that per DPS, sidewalks are in good condition and no new trees are needed. Letters of support from neighbors were submitted.

Chair Ramsdell opened the hearing to public comment.

In Favor:

*Phyllis Minehan, 57 Boardman Street #3
In support of her friend.*

*Nancy Bodwell, 32 Hardy Street
Questioned how neighbors will know when the deed restriction is completed. Ms. Mead explained it would be required before issuance of any building permit. She also asked for clarification on the two front yard setbacks. Ms. Mead explained that on this corner lot, there are two front yards for dimensional purposes.*

*Marc Vallieres, 38 Mosely Avenue #3
Concerned with the builders keeping neighbors involved.*

*Ashley Waddell, 2 Truman Way
Not overly inclined to support two-family. 'Parcel b' was a concern and she was happy to have collaboration and conditions. The deed restriction is critical to her support.*

*Ruth Donovan, 44A Kent Street
Commented that the builder is very reputable.*

In Opposition:

*Kasey and Kevin Oreal, 27 Moseley Avenue
Direct abutters concerned with the additional living unit and garage more being substantially more detrimental to their family, losing privacy, sunlight loss, potential decrease property value, changing character of the neighborhood. Also, asked for clarification of shared wall calculation.*

Ms. Mead addressed comments. She noted the shared wall did not come up with the building inspector.

A letter of opposition from Lisa Brodeur, 3 Roosevelt Place was submitted.

Questions from the Board:

Ms. Bourdeau asked if the abutters were provided conditions in writing. Ms. Mead responded that no they were not as the re-draw happened just days ago. She also asked if based on comments from 27 Moseley, if they would they be willing to work with the abutter. Ms. Bourdeau was concerned with the scale of the project. Concerns were not unreasonable. She would like to see something not so massive. She was happy to see ‘parcel b’ open space proposed.

Mr. Ramsdell agreed. The structure is a bit much. There are other options that may not have the applicants in for a variance.

Ms. Pomeroy’s comments echoed. Massing is a concern. She also wanted clarification on the 50% of the shared wall ordinance.

Mr. Goulet commented on the compromise of ‘parcel b.’ He agreed with colleagues on massing.

Ms. Bourdeau suggested reducing the size of the garage to not need the variance.

Ms. Mead requested a continuance to the next meeting.

Motion to continue applications 2017-046, 2017-047, and 2017-048 to the 6/27/17 meeting made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

2017 049
Address: 50-58 Middle Street
Dimensional Variance (Lot A)
Split lot and construct new residential structure

2017 050
Address: 50-58 Middle Street
Dimensional Variance (Lot B)
Split lot and renovate existing structure

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street presented the application. George Haseltine, owner was also in attendance. The applicant is seeking a lot split at 50-58 Middle Street. The lot once had multiple structures on it. Today, the lot is a “missing tooth” in the streetscape of Middle Street. Other options for the property include putting an addition by SPNC on the existing structure. The

developer felt it would be appropriate to put a structure on the property toward the front of the lot to match the street scape. The existing lot is 6234 sf and is nonconforming as to side and rear yard setbacks, lot area and frontage. The applicants would create two lots and build a new, modest single family on the empty lot; Lot A (currently vacant) would be 2379 sf and non-conforming as to lot area, frontage, front and side setback. Lot B (existing single family) would be 3495 sf and non-conforming as to lot area, frontage, side and rear yard setback. The proposed new dwelling would be 1304 sf, modest, and keeping with the neighborhood. This project would maintain the street scape of the historic neighborhood. By the addition to the lot it is consistent and with the intent of the zoning ordinance.

The hardship argued in this case was the unusual shaped lot and the unique placement of the house on the lot.

Scott Brown, architect presented elevations and plans. He noted this is the smallest and narrowest house he has ever designed. He thought it beneficial to see an alternate plan of what could be done with the lot.

Letters of support from neighbors were submitted.

Chair Ramsdell opened the hearing to public comment.

In Favor:

*Tom Kolterjahn, 64 Federal Street, Co-President of the Newburyport Preservation Trust
The developer and Trust worked successfully on an Independent Street project. After working together on the current project, they are at a point of support. It is modest. A large addition on the current house would not be favorable. After researching the property, it was found that there was always a house on the lot. The trust and developer worked on a number of elements including restoration of the existing home.*

*Katherine Fedorsk, Middle Street
Her home faces the 50-58 Middle Street property. She asked for clarification on height and parking. Parking would be provided onsite. No new curb cut is needed. The proposed height is 25'5.*

*Stephanie Niketic, 93 High Street
Ms. Niketic was concerned with what else could have been done on the site. This is much more aesthetically pleasing. The project is modest.*

*Kevin Bannigan, Spinnaker Realty Trust, Middle Street
Met with developer twice. This is a tasteful project. He was concerned with parking, which was addressed.*

In Opposition:

None

Questions from the Board:

Mr. Goulet asked about a parking easement which was shown on the rendering. Ms. Mead explained that there would be two parking spaces for each house.

Mr. Ramsdell clarified that parking spots were not calculated in open space. Ms. Mead answered they were calculated per the ordinance. Mr. Ramsdell commented that they were taking a fairly small lot and splitting it, and asked if they thought about VI-C process? Ms. Mead responded that no, they had not. The proposed lots are not unusual size lots for the neighborhood.

Ms. Bourdeau struggled with the variance and lot shape hardship. She felt the average areas of neighboring lots presented, there were some larger lots omitted, leaving the numbers slightly skewed. The size of the current lot is unique, and they would be making it more consistent with other lots. She also noted 4' topographical change on the lot.

Mr. Haseltine commented that the project will be modes and fits with the street scape.

Ms. Bourdeau commented that the applicants are asking for a number of variances, but she was not against project.

Deliberations:

Mr. Goulet commented that the variance criteria were met. The lots are small, but it is appropriate, modest infill.

Ms. Bourdeau concurred. There was no opposition. Variance hardship was a little weak, but the project is modest.

Ms. Pomeroy agreed. She did suggest a project manager be in communication with neighbors. Mr. Haseltine commented that all abutters have his number.

Mr. Ramsdell agreed. Splitting lots only makes sense. All in all he could support.

Conditions;

Existing Structure (Lot B)

- Vinyl siding to be replaced by cedar clapboards with 4 inch reveal,
- Bay window in front to be replaced by two windows to match above on second floor
- All windows in house to be replaced with aluminum clad, wood interior units with 2/2 muntin pattern, simulated divided light.
- On or before the issuance of an Occupancy Permit for the structure on Lot B, the Petitioner to record Preservation Restriction as approved by the Historical Commission.

As to Lot A-

- the Petitioner will replace the existing privet hedge with a new one to provide ongoing privacy for the lots.
- Asphalt used as driveway for Lot B will be removed and replaced with Boston City Brick
- Pavers per the proposed site plan.
 - Boston City Brick Pavers will also be used for the driveway for Lot A.
- Existing asphalt walkways around existing house on Lot B will be removed and replaced with natural stone.
- The proposed chimney on the new structure at Lot A will be constructed of real masonry.

Upon recommendation of the DPS, a new brick sidewalk should be installed to replace the damaged bituminous concrete sidewalk. No trees are recommended at this location due to the narrow sidewalk

Motion to approve application 2017-049 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

Motion to approve application 2017-050 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

2017 051

Address: 8 Longfellow Drive

Dimensional Variance

Construct a 24'x30' garage within the required side yard setback

John Caldwell, owner presented the application. He is requesting to build a 24x30 attached garage. He is self-employed and would like to keep tools and equipment safe. He has lived at the property for 10 years. The lot shape and topography is unusual and the house is centered on the lot, making attaching a garage within setbacks challenging. The garage will be single story and will be 3.28' from the property line. No other setbacks are affected. The project is simple and modest.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy asked if they had spoken to neighbors. Mr. Caldwell had spoken to his neighbors and they have been in full support.

Ms. Bourdeau asked about 30' length of the garage. Mr. Caldwell explained that if it was shorter there wouldn't be a means of entrance into the house the way it is set up.

Mr. Ramsdell asked if there was a slope to the lot. Mr. Caldwell explained that there was. He noted that his home is about 2.5' higher than other houses in the neighborhood and neighbors have told him there used to be a pond where the house now sits. Mr. Ramsdell asked if they considered putting the garage behind the house. Mr. Caldwell explained with the current addition on the back of the house, they would be driven to the back lot line.

Mr. Goulet asked if the garage was in back of the house, there would be a setback issue. Mr. Caldwell answered that yes, there would be.

Mr. Ramsdell clarified that because the garage is proposed attached it becomes part of the house setbacks. If it was detached would need to be 6' from the property line.

Deliberations:

Ms. Bourdeau commented that based on the square footage, there is no way to get it to work without a variance. The applicant is not asking for living space. There was also no opposition, including the direct abutter most affected.

Mr. Goulet tried to justify the hardship with uniqueness of the lot.

Mr. Ramsdell commented that the shape of lot and where the structure is, along with potential groundwater issue could justify hardship.

The rest of the Board agreed.

Motion to approve application 2017-051 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – absent
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

The meeting adjourned at 9:45pm

Respectfully submitted, Katie Mahan - Note Taker