

**City of Newburyport
Zoning Board of Appeals
June 26, 2018
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)
Robert Ciampitti (Vice-Chair)
Maureen Pomeroy
Christopher Zaremba (Associate Member)

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 05/22/18 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 plan modification – 42 Merrimac Street (2018-034 and 035)

The applicants were looking to modify a Special Permit for Non-conformities that allowed a roof deck to the structure. The building footprint is not changing. The deck is already in place, but upon inspection of the building permit, the deck was not included. The building permit had to be amended and it was noticed that the Special Permit needed modification as well.

Ms. Pomeroy asked if the plans in the packet are as the building exists now. They were.

Mr. Ciampitti remembered the application and approvals were sensitive to aesthetics. He asked what materials were used. The building is brick with white panel. The deck continues the white wood, with cabling for rails.

The Board did not see a problem with the request.

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

3. Public Hearings

2018 023

Address: 79 Parker Street

Variances

Construct light industrial building and include tap room with food service (Use #501) therein, include entertainment use (Use #407) and meeting space (Use #421) on the property, requires side setback relief for light industrial building, and relief for required parking spaces on site

2018 024

Address: 79 Parker Street

Special Permit

Allow retail accessory use (#614) in light industrial building/brewery

This hearing was continued from 5/22/18. Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street presented the application. David Cowie, owner of Plum Island LLC and Kristen Reilly, property manager were also present. Attorney Mead explained this is a complicated project and new use of the area. The applicant has been working since last Fall meeting with various City committees. They have met with Newburyport Historical Commission (NHC), and have had two site visits. They hope to finish up tomorrow evening. Many of the modifications to the historic structure were a result of meeting with NHC. They have met with the Conservation Committee (ConCom) informally and will have to officially go before that committee. They also have to appear before the Planning Board for site plan review and special permit. They have met with the Mayor, Planning Office, City Councilors, and local business owners. The applicant has worked hard to include comments and input from these meetings.

Attorney Mead gave an overview of the adaptive re-use of the property. The applicant is proposing to construct a light industrial building with associated taproom to include food service, entertainment and retail (14,450 s.f.) as well as meeting/event space in a new barn structure to replace the existing barn (2500 s.f.). The site will also include office space within the existing residential structure that will be renovated and added to as shown in plans. Local microbrewery Newburyport Brewing Company would occupy the light industrial building with taproom. They may even be able to grow hops on property with their Farmer Brewery License. They would occupy space approximately 14,450 s.f. Recently, Riverwalk Brewery moved into a new space over 20,000 s.f.

The project meets all dimensional requirements except for proposed side setback of 23.6' where 50' are required. On-site parking of 77 spaces would be provided, as well as 40 "swing spaces" leased from the property located at 77 Parker Street, meeting the 117 required spaces.

Eric Botterman, Millennium Engineering presented the site. He explained the design and placement of buildings was heavily driven by wetlands and river. He noted restraints of not impacting more than 20% of a wetland buffer zone as well as not impacting more than 10% buffer zone for the River Protection Act. This also led to the need for parking overflow of 40 spaces at 77 Parker Street. He also noted the Mr. Cowie wanted to preserve the farmhouse structure, pushing construction further back on the lot.

Brandon Holben of Winter Holben Architecture and Design presented the design elements. The existing farmhouse would be preserved and renovated with a contemporary addition. A porch and office addition as well as an open connector to the barn would be added. The footprint is approximately 3800 s.f. The barn and function hall would have a 2000 s.f footprint. There would be a courtyard space outdoors shared by the taproom and function hall. The brewery would have 13,200 s.f. footprint. Renderings and floor plans were presented.

Attorney Mead went over the hardship determination for the requested variances. Soil condition, shape and topography of the land were argued. The property is unique and significantly challenged by wetlands and river front area on three sides. It also sits at the intersection of Graf Road and Parker Street. There was also an added challenge of working around a historic structure. A taproom is a natural part of a brewery and Newburyport Brewing Company intends to transfer entertainment and retail use to the new location.

A Special Permit for Use; Accessory Retail Use (250 s.f.) in the new industrial building (Use #604) is requested. The following general conditions were filled according to Attorney Mead;

1. 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 or is similar in character to permitted uses in a particular district but is not specifically mentioned.
2. The requested use is essential and/or desirable to the public convenience or welfare. The use is allowed in the I-1-B district by Special Permit. It is convenient, desirable to have retail space. Dianne's Desserts and Fastenal are among others in the business park with accessory retail uses
3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
4. 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.
5. Any special regulations for the use, set forth in the special permit table are fulfilled. There are no special regulations for use in this case.
6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. This use is permitted utilized in the business park currently.
7. 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.
8. The proposed use is in harmony with the purpose and intent of this ordinance.
9. 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 Mead wanted to be clear that this is not a stand-alone restaurant. The applicant is proposing the following conditions;

1. Rehabilitation of the existing farmhouse and renovation of its addition shall comply with design recommendations of the Newburyport Historic Commission.
2. Industrial building; retail use shall not exceed 250 s.f., the accessory taproom shall be accessory solely to production, and no other use, and shall not exceed 3463 s.f., only alcoholic beverages produced by the tenant shall be served at the accessory taproom, live entertainment may be performed solely as an incidental part of the accessory taproom and adjacent outdoor space, and not as a separate accessory entertainment/club use, taproom shall be limited to 88 indoor and 80 outdoor seats and serving hours shall not extend beyond 10:30pm, the entertainment use variance shall be limited only to live entertainment and shall specifically not include membership clubs, lodges, or video game arcades.
3. Meeting Space/Barn/Function Facility; principal meeting space shall be limited to occupancy in accordance with state building and fire code, principal meeting space shall be limited to the hours of 8:00am to 12:00am with last service at 10:30pm regardless of the day, the uses granted in the barn and incorporated support facilities are limited to special occasions and/or corporate business events, food and service operations shall not include daily restaurant use nor table service typical of a sit-down restaurant, live entertainment may be performed solely as an incidental part of the principal meeting space use and are allowed in adjacent outdoor spaces, the entertainment use variance shall be limited only to live entertainment and shall specifically not include membership clubs, lodges or video game arcades.
4. Entire site; shared parking shall be no fewer than 77 spaces, petitioner shall provide overflow parking on 77 Parker Street as evidenced by a lease agreement which shall be provided to the Building Commissioner prior to the issuance of occupancy for the buildings on property.
5. Post permit changes from the Planning Board or Conservation Commission that do not cause variance, will not have to return to ZBA.

Newburyport Brewing Company was the first microbrewery to can in the state. They are a top 10 brewery in MA and top 250 in the United States. They need room to grow and would like to stay in Newburyport. The City has stayed above the industrial curve. Clipper ships, shoes, and fabric were industries lost by the City. In the 1960s, the industrial park began to diversify the City and stay ahead of the curve, keeping Newburyport competitive. We need to continue to adapt and make the City competitive.

Chris Webb, owner of Newburyport Brewing Company spoke briefly. The brewery has been in business for 5 years now, and they have outgrown their current space. They have started outsourcing production as a result. They have a Farmer Brewers License and could potentially grow hops on site. Moving into a bigger space and adding some food options like Riverwalk Brewery will help them continue to grow here in Newburyport.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Brian Callahan, 29 Warren Street

In favor because of; parking, close to rail trail, festivals

Casey Jones, 48 High Street

In favor because of; farmhouse restoration, great gateway to the City

Josh Baumfeld, 75 High Street

In favor because of; Newburyport Brewing Company is so supportive of our community, the brewery has grown tremendously

Frank Cousins, President of Greater Newburyport Chamber of Commerce

In favor because of; appreciate history of the business park, keeping historic building, we do not want to lose the brewery

John Magnifico, 44 Plummer Avenue

In favor because of; fan of the brewery, economically good for the City, opportunity to stay competitive

Eric Gootkind, 118 State Street

In favor because of; branding for city, great location near rail trail

Jared Eigerman, Ward 2 City Councilor

Councilor Eigerman and two other councilors met with Mr. Cowie and Newburyport Brewing Company. He was initially skeptical and generally in favor, but the project is not quite there. It does not substantially derogate from the Master Plan. This is an important intersection that needs great attention. The 250 s.f. retail use was not controversial. He noted that Riverwalk Brewing has more parking and do not have the entertainment component. He wanted to be open minded with the event barn, but was concerned with parking. He also noted as Ward 2 Councilor, he wants to protect downtown.

Heather Shand, Ward 3 City Councilor

Councilor Shand thought the project was a great idea. She had concerns with parking and safety.

Craig Martin, Amesbury

In favor because of; business diversity.

Steven Sullivan, 30 Turkey Hill Road

In favor because of; business grown, thoughtful and creative approach

Douglas Hemlepp, 48 Prospect Street

In favor because of; the brewery made life better for the City, draws people from outside the City

David Vye, 7 Purchase Street

In favor because of; the brewery owners and lifestyles incorporated into their business, music and entertainment lifestyle, brewery is supportive of the community and represents Newburyport

Jeff Sarra, 4 Finnegan Way

In favor because of; reiterate those before him, terrific adaptation of the site

Marc Masone, 14 Finnegan Way

In favor because of; respect for the brewery, their growth is good for the community

Kilian Connolly, 10 Brooks Court

In favor because of; the brewery is an ambassador to Newburyport as a city; they have signs in the Detroit airport, addition of tax revenue

Jeanette Isabella, 1 Lime Street

In favor because of; thoughtful design. She was concerned with the contemporary design addition to the farmhouse.

In Opposition:

Nancy Caswell, 37 Ashland Street, owner of Ceia and Brine, also on behalf of 23 downtown area restaurant owners

Not in favor because; the unclear restaurant component will impact downtown restaurants greatly. The draw isn't here to add another 200-seat restaurant on top of two recent restaurant closures downtown. There are also challenges in limited workforce and lack of hotels in the area. She was concerned with what is approved versus what ends up happening when they open.

Ralph Castagna, Castagna Construction

Not in favor because; concerned with entertainment and food service components as well as inadequate parking.

Rob Germinara, 2 Ashland Street

Not in favor because; Applicants going before Historical Commission tear down the barn, applicants cut 2.5 acres of wetlands and trees, changing wildlife habitats, Founders of industrial park would not be in favor, flooding on property, shortage of parking, regulating alcohol hours, main drainage swale of industrial park on property, too ambitious of a project for this site, and an ongoing 77 Parker Street legal battle.

Attorney Mead clarified number of seats. The taproom would have 88 indoor seat and no more than 80 outdoor seats. The barn and function room would have no more than 88 seats. For liquor license, the applicants will have to get permission from licensing commission with a public hearing. Food service in the taproom would be more like pizzas and appetizers, not a full menu. The barn would be a function facility, not a restaurant.

Attorney Mead also had letters of support from Jay Caswell, Bixby International, Hawtan Leathers.

Questions from the Board:

Ms. Pomeroy wanted to be clear on the number of seats proposed; 88 in taproom, 80 outdoor, 88 function room.

Mr. Ciampitti asked if the office would be leased out or if those were also for brewery use. They would be leased.

Mr. Zaremba clarified the number of parking spaces. There would be 117 total; 77 on site and 40 leased. There was discussion of how the lease agreement for the additional 40 spaces would work. If the parking situation were to change, they would need to come back to the ZBA and perhaps change operating hours.

Chair Ramsdell asked about a connection between the 77 spaces and 40 spaces. Attorney Mead noted that the applicants have met informally with ConCom and they hope to connect the parking with pathways or a sidewalk as a public benefit as they need a variance from the wetlands ordinance. If variances are not approved this will not happen.

Mr. Zaremba asked if the event space would be for the brewery or rented. Attorney Mead explained they may rent it from time to time, but it is not the intention for the brewery to use daily.

Chair Ramsdell asked Councilor Eigerman if he would be more in favor if the event center was not there. Councilor Eigerman noted that he did not pick up that the outdoor space was a shared 80 seats with the brewery. He was concerned with the entertainment. Is the entertainment incidental to the meeting? Details need to be narrowed. He also commented that variances are not specific to an applicant. We have to approve imagining that the applicants go away.

The Board heard a lot of material this evening and needed more time to digest. The Board expressed their concerns on the event barn/function piece, parking and overflow parking, and restaurant use.

The applicant requested a continuance.

Motion to continue applications 2018-023 and 2018-024 to 7/24/18 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 026

Address: 20 Walnut Street

Special Permit for Non-conformities

Construct a two-story addition over 500 s.f. to a pre-existing non-conforming structure

This hearing was continued from 5/22/18. Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street presented the application. Rick and Seiko Morse, owners and John Connolly, contractor were also present. The property is in the R2 district and is pre-existing non-conforming with regard to lot area, frontage, front yard setback and parking. The applicant, who has advanced Parkinson's Disease, lives in the home with his wife and two daughters. They are attempting to make their current home more livable with his living space on the first floor. The applicants propose to add a two-story addition, over 500 s.f. to the rear of the home. They would not be exacerbating or adding new non-conformities. Side and back setbacks are met. Existing conditions versus proposed were presented. Height would be the same mean as existing house. The addition would not be substantially more detrimental to the neighborhood. It is proposed in the rear, would not be as wide as the existing structure, and cannot be seen from Walnut Street, except for dormers. The applicants revised their original proposal due to neighbor requests. The architectural style is keeping with the existing home. The modest size house remains modest.

Attorney Mead submitted a letter of support from a neighbor across the street.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Bronson Destadler, 19 Walnut Street

Concerns included; Addition does substantially alter the architectural integrity of this Victorian cottage, dormers are wide, infill. No issue with an addition, not not like this.

Donna George, 18.5 Walnut Street

Concerns included; a three story addition, undermines landscaping and work of 15 years, shadows, grade change makes addition appear larger to abutters, tree at 20 Walnut Street may be compromised, no need for top floor bedroom.

Alison Lawless, 18 Walnut Street

Concerns included; Three story true addition, not working with neighbors, height of the addition, some suggestions changed in haste, windows, privacy, shadow, sunlight, potential removal of tree. Do not object to two story addition.

David Tesser, 18.5 Walnut Street

Concerns included; character of neighborhood, light and air, property value, basement is a story, scale and massing, visually overwhelming, detrimental to the neighborhood, dormers visible from Walnut Street, deceptive renderings.

Stephanie Niketic, 93 High Street, Newburyport Preservation Trust

Concerns included; an altered streetscape, scale of the addition, not architecturally in keeping with the neighborhood, dormers, and massing.

Questions from the Board:

Chair Ramsdell responded to dormer comments. He asked the applicant if they could they be changed. Attorney Mead responded that they have been changed already, and they need the headroom.

Deliberations:

Mr. Zaremba appreciated changes from applicant. After listening to abutters and seeing changes, the addition feels large and does not fit. It appears substantially more detrimental to the neighborhood.

Ms. Pomeroy struggled with the same issue. Dormers can be seen from the street view. If it were more in line with the current roofline, it might be more appealing.

Mr. Ciampitti was sensitive to private property rights. It feels like texture, windows, and angles and looks haphazard to artisanship of design. It is not cohesive with the existing home. Neighbors are passionate against the proposal as it is, and the Board always takes that into consideration.

Chair Ramsdell was concerned with dormers. The application as a whole was not an issue.

The applicant requested a continuance.

Motion to continue application 2018-026 to 7/24/18 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 034

Address: 6 Butler Street

Special Permit for Non-conformities

Relocate garage and attach to house with new screened in porch

Attorney Lisa Mead presented the application. An existing on the property out back has decks on it. The applicant proposes to remove the decks and the barn to the house as well as add a screened in porch. Side and rear yard setbacks would be brought more into conformance. Lot coverage would increase from 26.8% to 28.8%. No new non-conformities would be added. The project would not be substantially more detrimental to the neighborhood. They will make a more compact building area on the lot and remove of decks. They have worked closely with neighbors and have 10 letters of support.

Chair Ramsdell opened the hearing to public comment.

In Favor:

*Melinda Young, 7 Butler Street
In support*

In Opposition:

None

Questions from the Board:

Mr. Ciampitti asked if they were moving the existing garage. Yes, they would be. He commented on the innovative re-use.

Deliberations:

Mr. Zaremba commented that the application did not appear to be substantially more detrimental to the neighborhood.

Mr. Ciampitti commented on the level of support from neighbors.

The rest of the Board agreed.

Motion to approve application 2018-034 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 035

Address: 11 61st Street

Special Permit for Non-conformities

Allow a Rebuild single family home on pre-existing non-conforming lot resulting in a height increase

Kevin and Kim Conway, owners along with Henry Miller, architect was present. Conservation Commission and Newburyport Historical Commission have approved the project. The applicant was before the Board due to the lot size being non-conforming. The existing structure is a little bigger than the proposed structure. The proposed structure will comply with all setbacks. The proposed height increase is driven by pilings and being above sea level. Height is still below the 35' limit.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy asked what materials would be used on the exterior. Cedar clapboards would be used.

Deliberations:

Mr. Zaremba appreciated improving all setbacks to meet requirements. The project did not seem substantially more detrimental to the neighborhood.

Ms. Pomeroy noted the reduction in size of the structure

The rest of the Board agreed.

Chair Ramsdell noted the sidewalk and tree ordinance was triggered, but DPS recommended no changes.

Motion to approve application 2018-035 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 036

Address: 155 High Street

Special Permit for Non-conformities

Construct an addition off rear extending pre-existing non-conforming setback and create a new master bedroom in attic with dormer addition

Jeremy Healey, owner presented the application. The project is being proposed to meet the needs of a growing family. They hope to expand an unfinished attic while maintaining the structure and integrity of the home. They would also construct an addition to the rear of the house next to the driveway. The side setback of 7.6' would be decreased to 6.9'. The project would have minimal impact on neighbors. The applicant has spoken with neighbors and they appear to be in favor.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Stephanie Niketic, 93 High Street

Ms. Niketic made a suggestion to look again at the dormer style. A colonial doghouse dormer would be more appropriate. She welcomed the applicant to contact the Newburyport Preservation Trust.

In Opposition:

None

Questions from the Board:

Ms. Pomeroy asked if they were planning to maintain existing clapboards. They were planning on cedar shakes and want to bring them back to the remaining house when money allows.

Deliberations:

Mr. Ciampitti thought it met criteria. It did not appear to be substantially more detrimental to the neighborhood and it was appropriate and sensitive.

The rest of the Board agreed.

Chair Ramsdell agreed the doghouse style dormer would be more appropriate, but was not a "make or break" on the approval of the application for him.

Motion to approve application 2018-036 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 037

Address: 5 Milk Street

Special Permit for Non-conformities

Construct a second story over pre-existing non-conforming first story

Edward Cameron, owner presented the application. He handed out revisions dated 6/18/18 after Newburyport Historical Commission (NHC) input. He purchased the property on 4/30/18. They are seeking permission to add a second story over an existing single story addition, likely built in 1924. The existing space holds part of the kitchen and the only bathroom. The 166 s.f. addition would contain a second story bathroom. NHC approved a change in the roofline on 6/13/18. The 22' rear setback would not change. Abutter letters were submitted in favor of the application. One letter of opposition was also submitted from 2 Atwood Street. Mr. Cameron addressed the sunlight and air concerns of an abutter, presenting photos showing the light and air would not affect the property more than a neighboring second story addition at 9 Milk Street.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Stephanie Niketic, 93 High Street

Concerned and disappointed with a large shed dormer on side of house by right, but appears part of the renovation project. Chair Ramsdell noted this appeared to be a zoning code issue.

Questions from the Board:

None

Deliberations:

Mr. Zaremba commented on the minor change that did not seem substantially more detrimental to the neighborhood.

Motion to approve application 2018-037 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 10:45pm

Respectfully submitted, Katie Mahan - Note Taker