

**City of Newburyport
Zoning Board of Appeals
July 11, 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)
Robert Ciampitti (Vice-Chair)
Richard Goulet
Renee Bourdeau
Maureen Pomeroy (Associate Member)

Absent:

2. Business Meeting

a) Approval of Minutes

Minutes of the 06/27/17 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

Public Hearing #1:

2017	055
Address: 114-118 Merrimac Street	
Special Permit	
<i>Allow a two-family use (#102)</i>	

This hearing was continued from the 6/27/17 meeting. Attorney Mark Griffin of Finneran and Nicholson, 30 Green Street presented the application. At the last meeting the Board heard the two-family proposal. During deliberations there were suggestions from the Board that they may want to lower the height of the building at least one foot. The amended proposal has a mean height of 25' (24' from the sidewalk). The applicants achieved this with a sunken driveway grade.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Lela Wright, 4C Winter Street

Concerns; public safety, MADOT restructuring of the intersection in the near future.

Questions from the Board:

Ms. Pomeroy asked about the concrete sidewalk replacement. This would be a condition.

Deliberations:

Mr. Goulet viewed this as the most reasonable solution on the site. It is not optimal, but it is the safest plan. He was ok with the view from the rail trail.

Ms. Bourdeau concurred. She understood the neighbor concerns. As far as MADOT and the intersection, it is hard to take this into consideration when there are no plans made available yet. This is the best application that the Boards has seen with the property.

Ms. Pomeroy agreed. Parking was satisfied, this is a better use of the property, and the height issue was addressed.

Mr. Ramsdell concurred. There is no information available with regards to MADOT and the intersection. Per DPS recommendation, the granite curbing and concrete sidewalk should be replaced. The Planning office recommended application with the Board considering the below conditions.

Conditions;

- Prior to obtaining a Building Permit, the applicant/owner shall submit a Landscape Plan to the Office of Planning & Development depicting shrubbery and/or low level landscaping elements along the property's southeastern border, i.e. the area between the new structure and the Route 1 off-ramp.
- Prior to obtaining an Occupancy Permit, the plantings depicted on the Landscape Plan shall be installed.
- Upon recommendation of the DPS, the applicant shall reset all granite curbing and replace the existing concrete sidewalk. No trees were recommended.

Motion to approve application 2017-055 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – recused

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

2017 056**Address: 3 Coffins Court****Special Permit for Non-conformities***Demolish pre-existing non-conforming garage and reconstruct*

Jivonne Alley of Joppa Design presented the application. The applicants wish to take a decrepit garage, demolish and rebuild in a smaller footprint. They would be increasing open space, reducing lot coverage and height. It is just a one story oversized in length single car garage. They have neighbor support from 5 Coffins Court, who are the most impacted neighbors. They have other neighbor support as well. Owner spoke about contacting neighbors. All seemed fine with it.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy clarified that they are not increasing size. No, they would not be and the back part of garage will be used for garden storage.

Deliberations:

Ms. Bourdeau commented on the modest request that improves upon non-conformities.

Ms. Pomeroy agreed. The decrease in size is nice.

Mr. Goulet agreed that it would not be substantially more detrimental to the neighborhood.

Motion to approve application 2017-056 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 057**Address: 8 Ashland Street****Dimensional Variance***Construct single family home within the required front yard setback*

Rob Germinara, 2 Ashland Street presented the application. On 5/25/16 the Board approved for this exact dimensional variance. A year has gone by and the approvals have expired. Mr. Germinara came back with the exact same plan tonight. In 2012, the applicant received an Order of Conditions from the Conservation Commission to construct the home on the parcel. However, the DEP issued a superseding

order requiring the applicant to shift the structure closer to the front of the parcel so that it is further from the wetland. The applicants are requesting a 10' setback.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Jeanette Isabella, 1 Lime Street

The same application was approved a year ago, she felt it should be approved again with no changes.

In Opposition:

None

Questions from the Board:

Mr. Ciampitti remembered the application from one year ago. He clarified that the application mirrored the application of last year. Yes, it is the same, and the time has elapsed.

Deliberations:

Mr. Ramsdell commented that the wetlands and DEP superseding pushed the structure into the front setback.

Mr. Ciampitti commented that he was in favor one year ago it was approved. The hardship based on shape and topography of the lot with wetlands is well justified.

Mr. Goulet agreed.

Ms. Bourdeau commented on the sidewalk and tree ordinance now being in effect.

Condition;

-Upon recommendation of the DPS, the sidewalk shall be replaced while no installation of new trees is required.

Motion to approve application 2017-057 with above condition made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

2017 058

Address: 2 Parker Street

Use Variance

Allow a multi-family (Use #103)

2017 059
Address: 2 Parker Street
Special Permit
Allow a two-family (Use #102)

2017 060
Address: 151-155 State Street
Dimensional Variance
Reconfigure existing lot lines creating a new lot with pre-existing non-conforming front and side setbacks

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street presented the application. Joe Hill and Ed Hill, applicants were present, along with Dan Mills of MDM Transportation. The applicants are proposing a 23 unit residential development on land that is in both the R2 and B1 zoning district. The project requires a Special Permit for Use for the portion of the project that includes three-family structures in the B1 zone, and for the portion of the project that includes two-family structures in the R2 zone. A Use Variance is required for a three-family structure in the R2 zone.

The project will also need to obtain approvals from the Planning Board, which include; Subdivision Approval, VI-C Special Permit and Major Site Plan Review. They will also need to obtain a Notice of Intent with the Conservation Commission.

The applicants have met with the City's Tech Review Committee, and has sign-offs from Fire, Water, and Sewer. The project is a mixture of duplex and triplex, 2 and 3 bedroom condominiums. As part of the VI-C approval, the community benefit will be that (3) units (10% of the units) will be deed restricted affordable units.

Ms. Mead went through criteria for the Special permits.

A Fire Department access plan was presented. Daniel Mills of MDM transportation discussed the impact that the development would have on area traffic. Focusing on AM and PM commuting times, trip generation would be 12-15 trips during each prime commuter time. A modest amount of traffic introduced to the area.

Ms. Mead indicated that the applicants are committed to financing the construction of a sidewalk connection to the rail trail - the location of this sidewalk is at present not determined and shall be determined in conjunction with DPS.

Storm water plans will have to meet State policy and will be reviewed at the Planning board.

The shape and topography of the lot were argued as variance hardship. The soil condition and shape are driven by wetlands at the rear of the property.

The project also includes the subdivision of a piece of the property located at 151-155 State Street. The Variance request is for front and side yard setbacks for the existing structure at 151-155 State Street where the rear of the lot is being sold to the developer to facilitate this project. The structure on the property was built in the 1940s. The hardship argued was shape and topography of the lot. Wetlands, a pond, soil condition and an odd shaped lot justify hardship. Front yard setbacks lined up with abutting

properties per the ordinance at the time the structure was built. The only change happening on this lot is the change in the rear lot line.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Ron April, Bentley's Real Estate

Recently has a client close on 4 Hines Way, abutting this property. The condo market is depressing for many and this is the perfect development for the City.

Steve Hines, 54 Ferry Road

Hines way was named after his son. He has known the developers for many year and they accomplish great projects.

Steve Jayne, 2 Melvin Court

This project will be a fitting asset to the community.

Jeanette Isabella, 1 Lime Street

This project looks lovely and will be an asset to the community. She was concerned with the traffic study.

In Opposition:

None

Questions from the Board:

Mr. Goulet asked the traffic engineer to expand on the traffic study and total number of trips anticipated. They would anticipate 180 trips per day. Mr. Ramsdell touched on trip generation and that traffic engineers across the nation submit to a database that is compiled and published as a resource.

Ms. Bourdeau asked about removing unit 6 and whether they would need a variance anymore. Ms. Mead did not think that would help and reiterated that the project has already been scaled down from an original plan of 31 units.

Mr. Ramsdell asked where the applicant was with the Planning Board and Conservation Commission. Ms. Mead explained they started with ZBA for relief before moving on. Ms. Mead suggested a motion that if any changes were made due to other permitting, as long as there was not an increase in unit, they would not have to come back to ZBA.

Mr. Ciampitti thought that was efficient. Should the plan change to exceed 23 units, they must come back.

Ms. Mead commented they are not at capacity with density and have no intentions of going over the amount of units proposed. She submitted letters of support from 11 property owners in the immediate area. The lack of opposition speaks volumes.

The Board discussed briefly whether there would be any advantage to digesting the information until the next meeting. The Board leaned toward coting tonight.

Ms. Bourdeau asked if they were to not seek a use variance and additional Special Permit, how it would change the project. Ms. Mead answered that part of the design is to have control of the open space. Ms.

Bourdeau asked if in the future there ever be connected street through the property at 151-155 State Street. Ms. Mead answered that no, wetlands would prevent this. Though the applicants would be happy to have a restriction to say there could be no extension of the road.

Deliberations:

Ms. Pomeroy thought the plan provides good use of the area. Soil conditions drove the siting and number of units. Affordable housing will be an asset to the community.

Ms. Bourdeau thought the project was well thought out. She would like the condition of no future egress through the 151-155 State Street property.

Mr. Goulet was comfortable with the Variance hardship arguments and Special Permit justification.

Mr. Ciampitti agreed. It is a dynamic configuration of the lot with a lot of public benefit, including affordable units. It is a modest project compared to what it could be. Criteria for Variances and Special Permit met.

Mr. Ramsdell concurred. He addressed concerns about traffic and noted that the site trip generation is the gold standard.

Conditions;

- The variance for use is granted with the condition that the plans may change in accordance with any final determination of the Planning Board and so long as the number of units does not increase the applicant need not seek a modification from the ZBA for other plan or design changes which result from Planning Board decisions and approval.
- Upon recommendation from DPS, the final build shall have a real curb cut opening on the development side of the street with a granite curb and an opening that looks more like a driveway and not a street. In addition the applicant indicated that it is committed to financing the construction of a sidewalk connection to the rail trail - the location of this sidewalk is at present not determined and shall be determined in conjunction with DPS.
- The applicant shall file a deed restriction assuring that no access shall be developed or provided from the project over the property currently remaining as 151-155 State Street.

Motion to approve application 2017-058 and 2017-059 with above conditions made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-060 with above condition relating to 151-155 State Street made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve

The meeting adjourned at 9:05pm

Respectfully submitted, Katie Mahan - Note Taker