

**City of Newburyport  
Zoning Board of Appeals  
July 14, 2015  
Council Chambers**

The meeting was called to order at 7:12 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Robert Ciampitti (Vice-Chair) – *arrived after 1<sup>st</sup> hearing*  
Duncan LaBay (Secretary)  
Jamie Pennington  
Richard Goulet  
Renee Bourdeau (Associate Member)

**Absent:**

Libby McGee (Associate Member)

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the June 09, 2015 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 – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Richard Goulet – approve  
Libby McGee – absent  
Renee Bourdeau - approve

**3. Public Hearings (5 on the agenda)**

<b>2015      032</b> <b>Address: 260, 268, 270, 274, and 276 Merrimac Street</b> <b>Dimensional Variance</b>
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Permit a variance for density bonus unit with modified mitigation; and modify a 1997 parking variance

This meeting was continued from the June 9<sup>th</sup> and 23rd meetings. Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talermin, presented on behalf of applicants, Berkley Investment and First Republic Corp. This application is for what is commonly referred to as the Towle Property. The applicant is requesting a dimensional variance to allow the residential density bonus, but not require the applicant to restore the 1890 barn that was originally proposed to be used as a community boating center. The applicant is seeking a variance to authorize the inclusion of the barn as the fifteenth unit without the relocation of the barn.

The property was last before the Board in 1997 for a Use Variance. After an economic downturn, the project was not going to work financially. Some construction started, but never finished. First Republic Corp. approached Berkley Development to finish up the project. They met with the City to come up with a plan and proposed an adaptive re-use of the barn onsite as a residential unit, rather than a community boating center. This has been tacitly approved by the Planning Board and Historical Commission. New bathroom facilities are to be built near the Cashman Park playground area. Specifications were approved and modified by City Council. They repealed the order and now accept the gift of bathroom facilities. In the ordinance, it says "The board may grant a density bonus of one (1) dwelling unit for a project that proposes to relocate and restore the existing c. 1890 barn structure to a public property for use as a community boating facility if so requested by the City of Newburyport." They now need a variance to allow the adaptive re-use of the barn without moving to public property.

As for hardship, the property is surrounded by pre-existing non-conforming properties and structures. The condition of historic barn would not withstand movement to public property without substantial cost. The preferred location of the barn is on the property that it was historically. There is no substantial detriment to the public good. Topography is also significant and would pose hardship in the move. The City is all on board that this is the preferred plan.

The applicant is also requesting a correction to the record in regard to an existing parking variance. The variance granted in 1997, which allowed for the conversion of the site from industrial use to commercial office use, also allowed for 280 parking spaces on site. Since the TCROD does not address parking requirements for office use, the underlying zoning must be applied. The applicant is proposing a total of 32 spaces for 15 units, meeting the residential parking requirement. The applicant is requesting the Board reaffirm the redesign of the parking layout, which complies with the 2007 variance, showing 284 spaces and modify the existing 1997 variance.

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

**In Favor:**

*Stephanie Niketic, 93 High Street*

Ms. Niketic noted that the barn was moved from behind the 1690 house. To restore this as a residential unit onsite is preferred.

**In Opposition:**

*None*

**Questions from the Board regarding Public Hearing #1:**

Mr. Ramsdell asked if everyone was on board with the new arrangements. Ms. Mead answered that yes, all are on board and last night's vote at City Council solidified that.

Mr. Goulet asked the applicants to describe next steps. Ms. Mead responded that they go to the Planning Board tomorrow. It was left open last meeting for City Council, ZBA, Parks, and drainage signoff. An Order of Conditions was received. All local permitting will be done by the end of the week. The goal is to commence construction in the fall.

Mr. Pennington asked what the net change in parking will be. Ms. Mead responded that there will be an additional four spaces. She noted a significant number of handicap accessible spaces were added along the building.

**Deliberations:**

Mr. Goulet commented that all departments/boards are on board. The project seems to be in the right place.

Mr. Pennington commented that all qualitative things are in place.

Mr. LaBay agreed with his colleagues. This was a clear and well-articulated presentation and it was obvious that they were seeing this pretty much done with approval process. Hardship is supported. He was prepared to support.

Mr. Ramsdell agreed. Everyone is on board. The historic structure is preserved and the City gets restrooms.

**Motion to approve application 2015-032 for a Dimensional Variance made by Mr. Pennington, 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  
Libby McGee – absent  
Renee Bourdeau – approve

**Public Hearing #2:**

<b>2015      033</b> <b>Address: 9 Woodland Street</b> <b>Special Permit for Non-conformities</b>
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## Demolish and reconstruct pre-existing non-conforming garage

Anthony and Kallie Rossi, owners, presented the application. There is an existing non-conforming garage on the property that they want to demolish and rebuild. The existing garage is in poor structural condition. The new garage will be 22' x 22'. The existing non-conforming setback would remain and the garage would continue into their property. The height is slightly non-conforming, at 18'11", where 15' are allowed. Existing height is 14'. The existing garage is one-stall and the new one would be two-stall.

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

**In Favor:**

*None*

**In Opposition:**

*Katrina Selig, 273 Merrimac Street, Unit 1*

Ms. Selig was interested in the size of the garage, but was not against the rebuild. She mentioned a fence that was once between the neighboring properties. The owners responded that they intend to replace fencing along the property line.

**Questions from the Board regarding Public Hearing #2:**

Mr. Pennington asked about the dimensions in plans, specifically the proposed height. Mr. Rossi explained the 18'11" would accommodate a storage rooms above.

**Deliberations:**

Mr. Goulet brought up the variance issue. The height increase is creating a new non-conformity.

Mr. Ramsdell commented that the height increase is creating a new non-conformity. This is reasonably minor, but still there. The public is on notice on the extension to 18'11" with the SPNC.

Mr. Ciampitti agreed that the public has been notified. A variance would be the correct relief so a hardship should be discussed.

Mr. Ramsdell mentioned the notice to and signed by neighbors from the applicant was very general. The board would not have any issues proving hardship with surrounding non-conforming properties.

Mr. LaBay commented that the abutters in support signed off on increase of height.

Mr. Pennington thought this was reasonable.

Mr. Goulet thanked his colleagues for clarifying.

**Motion to approve application 2015-033 for a Variance 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  
Libby McGee – absent  
Renee Bourdeau – non-voting

**Public Hearing #3:**

**2015      034**

**Address: 15 Tremont Street**

**Special Permit for Non-conformities**

Modify previously granted Special Permit for Non-conformities to allow the reconfiguration of an addition to a pre-existing non-conforming two-family structure

Ciampitti recused himself.

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman, represented the applicant, 15 Tremont Street Development, LLC. Chris Horan, Manager was also in attendance. The applicants appeared in February for an SPNC that the board approved. At this time, the applicant is seeking to modify the plan. They have started construction on the front unit and began working with neighbors on the prior permit. The new proposed modifications have moved much further away from the northern property line. The front elevation is not changed. The approved pitched roof is going back to a flat roof. The addition on the rear has been reconfigured and the garage will change from double to single-stall. The garage will now be 1.5 stories, with a single story connection, and a two-story living quarters. The whole addition will be smaller in height and scale, and non-conformities are improved. Ms. Mead noted that on June 1st, City Council filed a two-family definition. This application existed prior to reading and is not subject. The modifications are not substantially more detrimental to the neighborhood. Ms. Mead went over elevations and changes with the board.

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

**In Favor:**

*None*

**In Opposition:**

*Pam Kipp, 11 Tremont Street*

Ms. Kipp was not in opposition and is thrilled to see improvements. She wanted to state that the neighborhood has gone through a lot with this project. There is a problematic loophole with allowing two connected residential units on one property. She wished the ZBA had listened more carefully and thought about their original decision in February where many in the neighborhood

signed an opposition letter. She hopes that more consideration of neighborhood input could be heard in the future.

*Stephanie Niketic, 93 High Street*

Ms. Niketic unfortunately missed the February meeting. This was not the first case of having two buildings on one lot connected by a breezeway. The ZBA has the power to say no. She is not in opposition of modifications.

*Richard Drouin, 82 High Street*

Mr. Drouin is an abutter who re-iterated what was said. When he purchased his home next door there was a two family home with a barn. A 2<sup>nd</sup> house now being built has a big impact. He mentioned a privately owned way in between his property and 15 Tremont Street. His property owns part of the way that will be used to access the 2<sup>nd</sup> structure. He would like it be respected only as right of way with no storage, parking, etc.

**Questions from the Board regarding Public Hearing #3:**

Mr. Ramsdell commented that per the City Solicitor, this application falls under the old ordinance.

Mr. Pennington asked about the settlement agreement in process with neighbors and whether these plans are part of it. Ms. Mead answered yes.

**Deliberations:**

Mr. Pennington commented that as a previously approved project seeking minor modifications, this seems less detrimental than the old other plan. He was prepared to support.

Mr. Goulet agreed.

Mr. LaBay commented that in February he was against the project. He appreciates the concerns of the neighborhood. He was prepared to vote in favor, as the plans tonight are less detrimental than those approved in February.

Mr. Ramsdell commented that neighbor comments were not totally on point with tonight's application, but were needed.

Ms. Bourdeau was not present in at the February meeting, but the matter at hand seems less detrimental.

**Motion to approve application 2015-034 for a Special Permit for Non-conformities made by Mr. LaBay, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – recused  
Duncan LaBay – approve  
Jamie Pennington – approve

Richard Goulet – approve  
Libby McGee – absent  
Renee Bourdeau – approve

**Public Hearing #4:**

**2015      035**  
**Address: 10 Collins Street**  
**Special Permit for Non-conformities**  
Construct an addition resulting in an extension of a pre-existing non-conforming side setback

Richard Schneider, owner, presented the application. He plans to extend his kitchen out 8', in order to bring a washer and dryer upstairs and a bathroom downstairs. The addition will be single story. The applicant is less mobile now and wished to stay in the home he has been in since 1978.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board regarding Public Hearing #4:**

*None*

**Deliberations:**

Mr. LaBay commented that this was a very modest request. He noted no opposition.

The rest of the board agreed.

**Motion to approve application 2015-035 for a Special Permit for Non-conformities 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  
Libby McGee – absent  
Renee Bourdeau – non-voting

**Public Hearing #5:**

**2015      036**  
**Address: 75, 79, and 79R Storey Avenue**  
**Sign Variance**  
 Allow a free-standing sign

Jeff Roelofs represented Tropic Star Development, applicant. Tropic Star's project at the corner of Story Avenue and Low Street was recently approved by the ZBA. The existing Shell Service Station and large sign are to be demolished and moved. A pharmacy will take its place. One free-standing sign on Story Avenue was approved by the ZBA already. Tonight they propose a sign at the access drive on Low Street servicing both the pharmacy and gas station. Another application is to come in August. The exact location of this proposed sign will not be known until MADOT approval of the entrance. Sign plans/mockups were presented to the board. The proposed sign is very similar to the approved sign on Story Avenue. The planning board has approved this sign as part of their site plan review. This sign will have similar dimensions, but will be slightly wider, an 18" stone base, and the same lighting.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board regarding Public Hearing #5:**

Mr. Pennington asked who the entity is that will determine final site plan. Mr. Roelof answered that the traffic consultant is working with MADOT on design details. Site lines are to be determined.

Mr. LaBay asked how many freestanding signs there will be for the project. Mr. Roelofs answered there will be three signs total; one is approved, one before the board tonight, and one to come in August. He briefly went over plans of the CVS sign to come.

Mr. Ramsdell asked the reason this one is before the board tonight. Mr. Roelofs explained this sign was time driven by the Shell Service Station transaction.

Mr. LaBay asked if the Low Street sign would be the same materials approved on the Shell sign on Story Avenue. Yes, signs would be the same materials. Mr. LaBay commented that Story Avenue had has a higher traffic count, yet this is the largest of three signs.

Mr. Ramsdell noted that the Planning Board approved. A shared sign is the reason why it is larger.

**Deliberations:**



Mr. LaBay commented that the signage is of the same materials we approved on the previous sign. Though he did believe there is slower, less traffic on Low Street and they could have proposed a smaller sign.

Mr. Ciampitti commented on the character and aesthetics. He appreciated the materials. He thought the size was justified by marking two separate entities.

Mr. Goulet thought this sign to be tasteful.

Mr. Ramsdell was prepared to support.

Mr. Pennington approved the prior sign and liked this sign even better.

**Motion to approve application 2015-036 for a Sign Variance made by Mr. Goulet, 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  
Libby McGee – absent  
Renee Bourdeau – non-voting

**Mr. Ramsdell noted a meeting with the Historical Commission on 7/21 at 7:30pm in the Mayors Conference Room. This will be a working session and meet and greet. He hopes the board can make it.**

**Adjournment**

**Motion to adjourn made by Mr. LaBay, seconded by Mr. Pennington at 9:04 PM.**

The motion passed unanimously.

**Votes Cast:**

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

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