

**City of Newburyport
Zoning Board of Appeals
July 9, 2019
Council Chamber**

The meeting was called to order at 7:09 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Robert Ciampitti (Vice-Chair)
Maureen Pomeroy
Edward Cameron
Mark Moore

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 6/25/19 meeting

Mr. Cameron made a motion to approve the minutes and Ms. Pomeroy seconded the motion.
The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

b) Request for minor modification – 4-6 Bromfield Street (2019-019 and 2019-020)

Grant Lewis, of 6 Bromfield presented the minor modification. The change will go before Historical Commission (NHC) tomorrow. The only change is to the windows; they will be changing to six over six, instead of the approved nine over six.

Mr. Cameron clarified that if the NHC says no, the application would come back to ZBA.

Mr. Ciampitti agreed, and noted that the Board could approve the change subject to NHC approval.

Mr. Cameron made a motion to approve the request for minor modification subject to NHC approval and Mr. Moore seconded the motion.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

3. Public Hearings

2018 064b

Address: 193 High Street

Special Permit for Non-conformities

Remove existing later added shed/garage and construct new attached 3-bay garage

This application was continued from the 6/11/2019 meeting. The applicants requested a continuance to 7/23/2019 to have a full five-member Board.

Motion to continue application 2018-064b to 7/23/2019 made by Mr. Cameron, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – recused

Edward Cameron – approve

Mark Moore – approve

2019 036

Address: 16 Olive Street

Special Permit for Non-conformities

Construction of a second floor addition over existing first floor resulting in an upward extension of a pre-existing non-conforming side setback

This application was continued from the 6/11/2019 meeting. Ben Becker, BLB Custom Building, 6 Chestnut Street, Amesbury presented the application. The side setback is non-conforming by 6". The application is to build a second story addition on top of an existing kitchen. The application went to NHC, and a demolition delay was imposed. Since then, the applicants have worked closely with the Newburyport Preservation Trust to make changes to plans. They will present changes to the NHC at tomorrow's meeting.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

Stephanie Niketic, 93 High Street, Newburyport Preservation Trust

Supported changes to design of addition and will be at NHC tomorrow to voice support for demo delay to be lifted.

In Opposition:

None

Questions from the Board:

Ms. Pomeroy clarified when they will be back before NHC. They are on the agenda for tomorrow's meeting.

Mr. Ciampitti asked if the NHC imposed a demolition delay. Yes, they did on a previous set of plans. They did not like the gable roof carried across and wanted the addition differentiated.

Mr. Cameron asked what the revised square footage was. They originally proposed adding 471 s.f., now it is 250 s.f.

Deliberations:

Ms. Pomeroy would be more comfortable waiting until NHC input tomorrow. Mr. Becker preferred a vote tonight if possible. If it does not pass with NHC, they would have to come back to ZBA.

Mr. Ciampitti noted if findings were made and the Board approved the application, it could be conditioned subject to NHC approval. In event they did not, it would trigger them to come back to ZBA. If continued, it would be to 8/13 or squeezed into the 7/23 meeting if a blessing from NHC is all that is needed.

Mr. Cameron commented that the staff recommendation was to hold off for NHC approval, but he was sympathetic to the applicant.

Mr. Moore did not want to go outside recommendations, but had no issue with the request. He leaned more toward having a condition.

Mr. Ciampitti was inclined to approve subject to NHC approval.

Ms. Pomeroy asked what materials would be used on the addition. Cedar clapboard, custom molding, and matching materials to existing would be used.

Mr. Cameron noted no new non-conformities would be added and the proposed addition was not substantially more detrimental to the neighborhood than what exists.

Motion to continue application 2019-036 to 7/23/19 made by Ms. Pomeroy, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

2019 041

Address: 155 High Street

Special Permit for Non-conformities

Modify previously granted permit to allow the construction of an additional 223 s.f. second floor addition resulting in an upward extension of a pre-existing non-conforming side yard setback

Attorney Lisa Mead of Mead, Talerman and Costa LLC, 30 Green Street requested a continuance to the 7/23/2019 meeting.

Motion to continue application 2019-041 to 7/23/2019 made by Mr. Cameron, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

2019 039

Address: 18 Franklin Street

Dimensional Variance

Addition of second story dormers and a front door portico, and construction of 18'x10' rear addition to a single family home on a lot created by a variance

Joseph Robitaille, owner presented the application. Located in the R2 zoning district, the application is to build a modest 10'x18' single story addition. The lot is long and narrow and the placement of the building would cause the rear setback to be 14.34' where 20' are required. Lot coverage of the current home is 25.5% and would increase 26.7% where 25% is allowed. They intend to remove a non-conforming shed. The house is currently a rental and the intention is to move here full time from Wisconsin for retirement. The addition would house a rear entrance and dining area. Usable space would be created upstairs with two dormers. The addition would not infringe on rear neighbors. The height of the home would not change with the dormers. He noted he did not believe he needed a variance for the dormers.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

Lisa Mead, 13 Purchase Street, was not against the application, but asked to see elevations.

Questions from the Board:

Mr. Cameron asked for clarification on where the addition would be on the elevations.

Mr. Moore asked why this was not a SPNC and was instead a variance. Mr. Ciampitti explained that because the lot is creature of zoning from a 1980 variance, any changes to the lot further trigger a dimensional variance.

Ms. Pomeroy commented that hardship must be found with conditions or circumstances unique to the lot. The applicant added that the lot is long and narrow.

Mr. Ciampitti noted the high standard for variance approval and asked if the applicant could provide more hardship justification.

Lisa Mead, 13 Purchase Street added a comment as a neighbor. The southern property line has a unique angle. The home is unique to the neighborhood built in 1980, and very plain. The proposal would make it more in keeping with the architecture in the neighborhood. The applicant thanked Attorney Mead for her input.

Deliberations:

Mr. Moore also pointed out that the application is unique as they are before the Board for a variance due to variance being created. They would not need a variance otherwise.

Mr. Ciampitti commented that practically speaking, this would be modest and not substantially more detrimental to the neighborhood. He was comfortable with the findings and circumstances.

Mr. Moore was also comfortable.

Ms. Pomeroy asked when the applicant purchased the property. He purchased it from his mother in 1997.

Ms. Pomeroy was comfortable with the hardship criteria and neighbor input on circumstances. This is a small, minor addition.

Motion to approve application 2019-039 made by Mr. Moore, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

2019 040

Address: 231 High Street

Special Permit

Renew special permit for existing in-law apartment

Zachary and Stephanie Lemnios presented the application. They are new residents as of May 17th, and this will be their forever home. When they purchased the property, there were two items that needed to be taken care of. The first was the safe routes to school project, and a land purchase as part of the project. The City's payment of \$2700 was donated back. The second item was the in-law apartment permit. The previous owner had a permit approved in 2016 unanimously. The new owners were looking for renewal. There would be no changes to the structure or use. They want their children to visit and have a place to stay periodically.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy asked if someone would be living there permanently. Mr. Lemnios responded that it would be used occasionally for when their children visit from out of town.

Mr. Ciampitti commented that an in-law apartment is really for continuous occupancy of a family member and not occasional occupants. He felt the Board did not have jurisdiction in this scenario.

There was discussion with the applicant on interaction with the City and direction to renew the Special Permit for the in-law. He was trying to do the right thing.

Ms. Pomeroy asked if it was possible for the Board to vote on refunding the filing fee. Mr. Ciampitti thought this would be agreeable.

Mr. Cameron though before any action tonight, perhaps the Board should find out why they were directed to renew the special permit.

The applicant requested to withdraw the application without prejudice and requested a refund of the filing fee if possible.

Motion to withdraw application 2019-040 without prejudice with recommendation to refund any application fee made by Ms. Pomeroy, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

2019 042

Address: 193 High Street

Appeal

Appeal of Notice of Violation from Zoning Enforcement Officer dated 5/6/19

Attorney Lisa Mead of Mead, Talerman and Costa LLC, 30 Green Street requested a continuance to the 7/23/2019 meeting due to lack of a full five-member Board.

Motion to continue application 2019-042 to 7/23/2019 made by Mr. Cameron, seconded by Mr. Moore.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – recused
Edward Cameron – approve
Mark Moore – approve

2019 043**Address: 21 Olive Street****Special Permit for Non-conformities***Partial removal and rebuild later added rear addition with small addition on pre-existing non-conforming structure*

Attorney Lisa Mead of Mead, Talermin and Costa LLC, 30 Green Street presented the application. The property is located in the R2 zoning district. The application has been before the NHC for preliminary review and seems to be amenable. Tomorrow night is the full public hearing. The home was built in 1790 or 1810. The request is to remove an older addition and replace with a new addition, adding 369 s.f. Elevations were presented to the board. The application does not trigger the DCOD. The addition would be more in line with the roofline and is smaller and more petite than the existing structure. A change in rooflines triggered a demolition delay hearing with NHC. There is clear separation between the original structure and the addition. Rear yard setback would be extended, and lot coverage slightly intensified. No new non-conformities would be added. The addition is not substantially more detrimental to the neighborhood than the existing addition. It is a modest request to allow space to be used effectively for a kitchen. A shed in the rear is to be removed. Height would remain the same.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

A letter from Michael Gagne, 16 Boardman Street was submitted.

Ms. Pomeroy asked if this was a single-family home. Yes, it is.

Attorney Mead also noted that matching materials to the original structure would be used on the addition.

Mr. Moore asked for clarification on which skylights were being removed.

Mr. Moore asked about the neighbor letter and the issues with second floor addition and privacy. The owner commented that there are no sightlines to his property, as he is a few houses away and on Boardman Street. One window is actually being removed from the northern exposure.

Deliberations:

Ms. Pomeroy had no problem subject to NHC approval tomorrow.

Mr. Ciampitti was ok with a condition and was comfortable with the application as presented.

Mr. Moore commented that no new non-conformities would be added and it would not be substantially more detrimental to the neighborhood than existing conditions.

Motion to approve application 2019-043 subject to NHC approval made by Ms. Pomeroy, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve
Mark Moore – approve

3. Executive Session:

- Pursuant to M.G.L. C. 30A Section 21, to discuss strategy with respect to litigation in the matter of Hebbelinck Real Estate LLC v. City of Newburyport Zoning Board of Appeals (193 High Street), as an open meeting may have a detrimental effect on the litigating position of the public body.
- 6/25/19 Executive Session Minutes

Executive session minutes have been filed with the Planning Office as a separate document.

The meeting adjourned at approximately 8:53pm

Respectfully submitted, Katie Mahan - Note Taker