

**City of Newburyport
Zoning Board of Appeals
August 24, 2017
Council Chambers**

The meeting was called to order at 7:07 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Richard Goulet
Maureen Pomeroy (Associate Member)

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 07/25/17 meeting

Ms. Pomeroy 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
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve

3. Public Hearings

2017	046
Address: 25 Moseley Avenue	
Dimensional Variance	
<i>Variance for front yard setback</i>	

2017	047
Address: 25 Moseley Avenue	
Special Permit for Non-conformities	
<i>Modify a pre-existing non-conforming structure by constructing an additional living unit and garage</i>	

2017 048
Address: 25 Moseley Avenue
Special Permit
Allow a two-family use (#102)

The applicant requested to withdraw without prejudice.

Motion to withdraw applications 2017-046, 2017-047, 2017-048 without prejudice made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 064
Address: 15 Farrell Street
Special Permit for Non-conformities
Renovate and add living space on second floor of pre-existing non-conforming home to allow in-law unit on first floor

2017 065
Address: 15 Farrell Street
Special Permit
Allow in-law apartment

Attorney Lisa Mead of Mead, Talerman & Costa LLC, 30 Green Street, presented the application. The existing home is a single family cape with a small garage and three existing parking spaces in the R2 district. The applicants would like to add a 98 s.f. ‘connector’ to square off the front of house; this would be the only change to the footprint of house. They would then reconstruct the second floor to accommodate an in-law apartment on the first floor. The in-law would be occupied by the applicant’s parents. Attorney Mead presented elevations, existing conditions, and proposal. There would be 5 total bedrooms; 2 on the first floor, and 3 on the second floor. The in-law apartment would be a total of 854 s.f. The lot is non-conforming with lot area, front and rear setbacks. No new non-conformities would be added. Ms. Mead went through SPNC and SP criteria. They argued that the project would not be substantially more detrimental to the neighborhood. The staff report from the Planning Office thought the project might be out of scale with neighborhood. Ms. Mead presented photos of surrounding properties. There were at least six very familiar to what they are asking for. They also submitted (8) letters of support from neighbors.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy confirmed the three parking space locations.

Deliberations:

Mr. Ciampitti commented on the complete and appropriate use of the in-law ordinance. They are keeping family together in a familiar place. He considered the Planning Office's staff report, but did not find the proposed project substantially more detrimental to the neighborhood. He noted abutter letters in support.

Mr. Goulet agreed.

Ms. Pomeroy initially had concerns of size, but was swayed by photos presented.

Mr. Ramsdell concurred.

Motion to approve application 2017-064 made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-065 made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 066

Address: 10 Ashland Street

Special Permit for Non-conformities

Modify pre-existing non-conforming home to allow in-law unit on first floor

2017 067

Address: 10 Ashland Street

Special Permit

Allow two-family use (#102)

Attorney Lisa Mead of Mead, Talerman & Costa LLC, 30 Green Street, presented the application. She distributed updated plans to the Board. She explained the only change was that the driveway was moved and a deck minimized. The plan is to convert a single family home (reproduction colonial, built in 1987) in the R2 district to a two-family. Ashland Street is a transitional street between the R2 and R3 zones, with businesses at each end of the street, and many housing types. The lot is a corner lot with two front yards, one on Ashland Street and one on Ashland Court. The only existing non-conformity is a front setback of 24.1' where 25' is required. Ms. Mead noted a proposed change in the zoning ordinance that is with City Council currently. Dimensional requirements for a single family in the R2 district would change; lot size from 10,000 s.f. to 8,000 s.f., frontage from 90' to 80', lot coverage from 25% to 30%, open space from 40% to 35%, and front and rear yard setbacks from 25' to 20'. For a two-family in the R2 district requirements would change; lot size from 15,000 s.f. to 12,000 s.f., frontage from 120' to 100', lot coverage from 25% to 30%, open space from 40% to 35%, and front and rear yard setbacks from 25' to 20', and side setbacks from 20' to 10'.

The home is currently a single-family with five bedrooms. The proposed two-family would be six bedrooms, three in each unit. A total of 939 s.f. would be added. The proposed home will have 5214 s.f. of living space and all changes occur within the footprint of the existing home. Elevations and renderings were presented. The facades would essentially not change. It is designed to look like a single-family home from both Ashland Street and Ashland Court. Attorney Mead went through SPNC and SP for use criteria. No new non-conformities would be added and the project would not be substantially more detrimental to the neighborhood. Some neighbors have expressed concerns over size, scale, massing, and parking. Parking is proposed with a driveway and two spaces off Ashland Court and a driveway and two spaces in front of the home on Ashland Street. Some argued that the wetlands on the lot should not be included in the lot size, however it is allowed in Newburyport.

Under the sidewalk and street tree ordinance, it was recommended not to add sidewalks on both Ashland Street and Ashland Court. The applicants did discover a grassed over brick sidewalk on Ashland Street that they would replace. They have also spoken to DPS about a curb cut on Ashland Street and it would not be an issue.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Amy Patterson, 19 Ashland Street

Concerns; Ashland Street is primarily single-family homes, massing, no garage/storage, parking location in front of home.

Mark Griffin, Represent Brooks & Amy Patterson, 19 Ashland Street

Concerns; Not much has changed on plans hearing neighbor concerns; the driveway moved, deck shrunk, taking into account 'due regard to nature and condition of adjacent structures and uses,' neighborhood radius and impact on neighboring properties, Ashland Street façade, driveway in front of house on Ashland Street, a two-family not fitting in, many neighbors against the project, wetlands on the lot affecting the buildable area, no drainage plan presented, large massing. Neighbors would like see alternative, such as the VI-C or lot split; an additional single family may be more palatable than a two-family.

Charlie Tontar, 29 Jefferson Street, Ward 4 Councilor

A co-sponsor of the zoning change Attorney Mead spoke about. City Council has not come anywhere close to approving this; there is much work to be done. Concerns; transitional neighborhood and streetscape, a critical area, driveway in front of house not consistent with the neighborhood, not sensitive to character of the neighborhood.

Andy Simonds, 25 Ashland Street

Concerns; infill, would like to see the home kept a single-family

Bob Groskin, 22 Ashland Street

Concerns; two-family in the neighborhood, driveways not adjacent to the house

Frank and Jenna, 18 Ashland Street

Moved here one year ago. Concerns; stipulations on his home were comforting and it would be nice to have that with this project, increasing density, views changing. There was concern on driveway location because of a newly designed master bedroom facing Ashland Court.

Stephanie Niketic, 93 High Street & on behalf of Newburyport Preservation Trust

Concerns; On the Historic Ashland Streetscape, although the house is not historic itself, infill, massing, height out of scale, streetscape, integrity and character of the district.

Rob Germinara, 2 & 8 Ashland Street

*Concerns; sidewalk and curbing replacement, traffic in neighborhood, excess of use, parking
Mentioned the neighbor at 13 Ashland Street was unable to be here, but was against the project.*

Brooks Patterson, 19 Ashland Street

Also mentioned the neighbor, Mrs. Tierney at 13 Ashland Street was against the project and had driveway concerns

Concerns; Parking, massing, disregards character of neighborhood, scale.

Questions from the Board:

Mr. Goulet asked about surfaces of driveway. The materials will be pervious.

Attorney Mead addressed comments on parking location, scale of house, zoning requirements that exist. She did say the applicants were willing to change location of the Ashland Street driveway.

Mr. Goulet asked about a comment on 'significant change in materials.' Ms. Mead responded that a week ago an updated plan was submitted to the Planning Office and there was reduction in deck size, window change, driveway location change. More explanatory plans were submitted.

Mr. Patterson noted that moving the driveway westerly toward Mrs. Tierney would not be favorable.

Mr. Ciampitti commented on the perception of the impact from neighbors and that the Board can consider this. He noted that the rendering shown was with nobody home, no cars in the driveway. He suggested alternatives to parking in front of the house on Ashland Street. Perhaps move the driveway off of Ashland Court. In Newburyport there are no standards on driveway location.

Mr. Ramsdell commented that neighbors seem to have a significant problem with a driveway off Ashland Street in front of the house. The applicants spoke about wetlands and topographical slope affecting the driveway location.

Everett Chandler, engineer spoke about parking and the driveway location. Moving the driveway to Ashland Court could be an option. They could soften the look of the driveway from Ashland Street.

Mr. Goulet commented on changing the use of the property and the garage going away.

Mr. Horan commented he would gladly restore the brick sidewalk that was located. Mr. Ramsdell commented to ensure they speak with DPS on granite curbing and sidewalk restoration on Ashland Street. Ashland Court has no sidewalk and no trees and they were not recommended.

Ms. Pomeroy wanted clarification on the criteria that the application would 'not cause an excess of use' in said neighborhood. Ms. Mead noted this is at the discretion and determination of the Board.

The Board was at a place where they would like to see a new layout based on comments.

Ms. Pomeroy commented that looking at decreasing height of the new addition might help.

The applicants requested a continuance.

Motion to continue applications 2017-066 and 2017-067 to September 7, 2017 made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

2017 068

Address: 55 Washington Street

Variance

Construct an in-law apartment not connected to the main residential structure and greater than 15' tall

2017 069

Address: 55 Washington Street

Special Permit for Non-conformities

Reconstruct pre-existing non-conforming accessory structure for new use and improve setbacks

2017 070

Address: 55 Washington Street

Special Permit

<i>Allow an in-law apartment (#109)</i>
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Attorney Lisa Mead of Mead, Talerma, and Costa LLC, 30 Green Street, presented the application. The applicants would like to reconstruct an accessory unit on the lot for an in-law apartment use. They will reposition the unit, keeping the same square footage. The in-law would be 600 s.f. The plan is for the applicant's parents to live on property with them. The existing out building is up against lot line, and the reconstructed unit will improve setbacks. Attorney Mead went through the SPNC and SP criteria. No new nonconformity would be added the project would not be substantially more detrimental to the neighborhood. The applicants presented letters of support from neighbors. A variance to separate the unit is required. The hardship argued was the lot shape and outbuilding in the existing location. This is the only lot in the neighborhood of that shape. Attorney Mead also argued a financial hardship if they were to put an in-law addition on the back of a historic home with its current configuration.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Stephanie Niketic, 93 High Street

Question; originally came up at NHC for a VI-C Preservation Restriction; she was curious why this changed to an in-law. The applicants decided they truly wanted an in-law for the parents of only 600 s.f.

Questions from the Board:

Mr. Ramsdell brought up this would be perfectly clear before ordinance changed. He struggled looking at the lot and the authority. There is no question it's an oddly shaped lot and there is the financial hardship as well. He asked how the shape of the lot impacts the use of the building. The applicants will be improving an existing structure. Other locations on the lot do not work would not meet setbacks.

Mr. Goulet asked if the existing accessory unit has utilities. It does not, they would need to connect.

Ms. Pomeroy also struggled with hardship. She was coming around to the financial hardship of putting the addition on the existing home.

Deliberations:

Mr. Ciampitti was not troubled. He thought it modest to adapt an existing structure.

Mr. Goulet asked for clarification on the financial hardship argued. Ms. Mead explained the only place to connect an in-law is on the rear the existing home, where there is a kitchen and bath. They would need to reconfigure. It is a financial hardship they did not create. Mr. Goulet commented that it is a modest proposal and the case for financial hardship was made.

Ms. Pomeroy commented she understood the financial hardship and SP criteria were met.

Mr. Ramsdell commented it is perfectly rational, but he had trouble finding some authority. Tacking on financial hardship and altering a historic house made this is the better option.

Motion to approve application 2017-068 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-069 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-070 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

2017 071

Address: 19-21 Merrill Street

Dimensional Variance

Construct an addition exceeding allowable lot coverage

2017 072

Address: 19-21 Merrill Street

Special Permit for Non-conformities

Construct a three-story addition extending the pre-existing non-conforming side setback and exceeding 500 sf

Attorney Mark Griffin of Finneran and Nicholson, 30 Green Street, presented the application. The applicants would like to construct a 2.5 story addition on an existing single-family in the R3 and DCOD district on an oddly shaped lot. The structure was determined historic and contributing. The street is dense and the lot is non-conforming with lot area, frontage, lot coverage, front and side setback. They would be moving less than one building wall in the rear and not changing the roofline, so they would not need a DCOD special permit. The Newburyport Preservation Trust reviewed the project and comments were taken into consideration. The existing structure is in somewhat disrepair. They would like to restore the building to fit the streetscape and add living space for family in the rear through the proposed addition. The proposal is to construct a 2.5 story structure in the rear and a one story, one car garage. A new non-conformity would be added for lot coverage creating the need for a variance. They

are over by just 2%. Attorney Griffin went through designs by Aileen Graf, who was not present. Lot shape and topography was argued for hardship. Where the existing structure is sited, the applicant will run into problems adding on just about anywhere. They propose to add the garage for compliant parking that would accommodate two vehicles, which in turn helps the streetscape. The 2% over lot coverage is just 70 s.f. This is a minimal amount to be over. Open space is still approximately 50%. The project would not be substantially more detrimental to the neighborhood. It will be aesthetically pleasing and integrate with the neighborhood. Neighbors are in favor and have submitted letters of support.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Jim Gillespie, Owner

Excited to move and renovate. The design and increased space will allow for caring for a parent in the future.

In Opposition:

Stephanie Niketic, 93 High St & Newburyport Preservation Trust

Concerns; contributing structure built in 1800. Though they have improved windows and rooflines, there are still issues. Scale; the addition is larger than the whole existing house. The shed dormers look odd. She questioned why they purchased a home that was too small for their needs. It would be preferable to preserve modest size housing. She suggested use of basement space and decrease the size of the addition. She did not think the lot was a unique shape.

Attorney Griffin responded to comments on size.

Questions from the Board:

Mr. Goulet asked if proposed exterior materials were reviewed by the Newburyport Preservation Trust. No, they had not been reviewed. Materials would be modern construction, hardy plank or clapboards, two over two windows.

Mr. Ramsdell opened discussion on the variance and being 2% over the lot requirements. There was really no way to justify the hardship for variance. He also commented shed dormers were not attractive on a building.

Attorney Griffin brought up financial hardship; the functionality of an addition versus the utility of it. Functionality of adding that 70 s.f. is what motivated the applicant to apply for a variance.

Mr. Ciampitti understood the argument Mr. Griffin made for cost versus functionality. The 2% over lot coverage requirements was hard to justify and he could not get there.

The applicants requested a continuance.

Motion to continue applications 2017-071 and 2017-072 to September 12, 2017 made by Ms. Pomeroy, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell— approve

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

The meeting adjourned at 10:50pm

Respectfully submitted, Katie Mahan - Note Taker