

**City of Newburyport
Zoning Board of Appeals
September 23, 2014
Council Chambers**

The meeting was called to order at 7:11 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Duncan LaBay (Secretary)
Jamie Pennington
Richard Goulet (Associate Member)
Libby McGee (Associate Member)

Absent:

Howard Snyder

2. Business Meeting

a) Approval of Minutes

Minutes of September 16, 2014 Meeting

Mr. Ciampitti 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
Howard Snyder– absent
Richard Goulet – approve
Libby McGee - approve

3. Public Hearings

<p>2014 054 Address: 66 Storey Avenue Sign Variance Replace free-standing sign</p>
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Mr. Pennington recused himself.

The Sign Center's Jay Kahn presented on behalf of Provident Bank. Gary Coltin, Executive VP, The Provident Bank was also there. The Provident Bank is located outside the industrial zone in the B1 zone, on Storey Avenue, at the end of Low Street. Sign relief was granted back in 2002 back when this building became a bank. The current sign is located in a place where it is not greatly visible. The bank has also undergone some re-branding and would like that to reflect in their new sign. A drive up ATM sign would also be removed. Two sign options were presented to the board. Option #1 was a 40 sq. ft. sign, standing 18 ft. tall with steel post and would be LED cast illuminated. Option #2 would be more like the existing sign, but would moved toward the road within the 10 ft. setback to be more visible. This sign would be ground lit.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. McGee asked for clarification on the roof height vs. sign height with the two options.

Mr. LaBay asked for clarification on the height of the current sign. It its currently 10 ft. high.

Mr. Ramsdell asked if option 2 was ground lit. Mr. Kahn answered yes.

Ms. Mcgee asked in option 2 what the posts were made of. Mr. Kahn answered granite.

Mr. Ciampitti asked about materials in both options. He also clarified that option 2 is very similar to the current sign, but updated and moved forward.

Deliberations:

Mr. Ciampitti commented that he leaned toward option 2. It is an adaptation of the existing signage moved. It is more in line with the existing corridor. He credited the applicant for showing two options. The need to update signage is understandable, as the corridor has changed over the years.

Mr. Goulet agreed. Option 2 is keeping with the trend.

Mr. Ramsdell also preferred option 2.

Mr. LaBay agreed with his colleagues. The changes appear to be driven by branding and signs more prominent nearby having been permitted.

Motion to approve application 2014-054 for a Sign 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 – recused
 Howard Snyder– absent
 Richard Goulet – approve
 Libby McGee – approve

2014 055

Address: 75, 79, 79R, 81, 83 Storey Avenue

Dimensional Variance

Allow building within the required front yard setback

2014 056

Address: 75, 79, 79R, 81, 83 Storey Avenue

Special Permit

Allow a service station (Use #411)

Ms. McGee recused herself.

Tropic Star Development, LLC is proposing to construct a new development at the corner of Storey Avenue and Low Street. Currently, there is a mix of business and residential uses. The applicant is proposing to demolish the existing structures, and in their place, construct a pharmacy with associated parking and move the gas station from the corner of Low and Storey Avenue, further away from the intersection.

This project also includes the donation of approximately 19-acres of open space located to the rear of the parcels to the City, which is anticipated to remain undeveloped and used for recreational purposes. The applicant will construct a small parking area and an access trail to the “backlands” as well as donate \$15,000 to be used in connection with the maintenance of the open space. The applicant is currently going through Site Plan Review with the Planning Board, which is expected to be wrapped up in October. The applicant was able to present current plans and renderings to the board.

Since the board received their packets, a few updates had been made including reduced pharmacy building size, loading area moved, architectural changes to the building, and the lighting and landscaping had been updated. There was discussion of the significant off-site traffic improvements that would be done as part of the project. It is unprecedented in the City at this scale. A complete analysis of the intersection, lights, timing and corrections is being done. There would be re-striping and configuring of lanes and turning lane, sidewalks would be replaced, and bike lanes added.

Special Permit for Use

As mentioned above, the applicant is proposing to move the gas station use that currently exists at the corner of Low Street and Storey Avenue further away from the intersection. So the use is

existing, but will be moving. The attorney brought the board through the qualifying criteria for a Special Permit for Use.

Dimensional Variance

Based on extensive discussions with the Planning Board, the applicant has proposed locating the pharmacy at the corner of the intersection, which will better define the area and create a much more visually-pleasant corner at this very heavily-trafficked intersection. Since the time this application was submitted to the Board, the applicant has revised the site plan to reflect a smaller building that does not protrude as far into the front yard setback. The only portions of the structure that encroach into the setback is the gutter on the pharmacy's roof and important architectural features. The footprint of the structure does not extend into the setback. If this variance is not approved, the will have to return to the undesirable original plan or make changes that are not consistent with the goals of the City. The applicant can argue a hardship in that it has an unusual shape and topography and is a corner lot.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Elaine Lewis, 65 Clipper Way

Ms. Lewis commented that the buildings are lovely. She was concerned about traffic issues. She was told the planning board would be the place to hear about traffic issues.

In Opposition:

Attorney Dennis Crimmins, represented Mr. Kaplan, Port Plaza Realty Trust

Mr. Crimmins urged the board to take into account that traffic issues are not yet completed. They believe it will have a significant impact further down Storey Avenue and lights need to coordinate. The proposed exit onto Low Street will increase cut-through traffic in Port Plaza. Port Plaza has put significant work into lights and traffic and hoping it is not all wasted. They urged the board to take no action until traffic and planning are resolved.

Questions from the Board:

Mr. Pennington asked about the development agreement. It was explained that the agreement is in place, but obligations are triggered at closing and are bound by certain conditions. He also asked about curb cuts and pre-approvals. It was answered that the applicants are confident that the proposed cuts would be approved given how comprehensive the traffic plan is.

Mr. LaBay asked about new curb cuts. The new cut would be at approximately 81 Storey Avenue, further away from the intersection. He asked whether the number of pumps at the service station would be the same. Yes, there would be an equal number. He asked if there would be a convenience store. Yes, and the maintenance shop would be dropped. He asked if it were reasonable to believe that traffic would be the same. With a convenience store they anticipate higher traffic. He was concerned with only two entrances/exits. Residents have also had that concern and analysts have honed in on this as well. Without a light at the Storey Avenue exit, there would be difficulty turning left. Applicants argued that the wide center turning lane and narrow lanes to try to reduce speeds would help.

Deliberations:

Mr. Pennington commented that there are multiple approvals working in parallel. He appreciated the “well-cooked” plans. Although know there are potential changes. The board has to focus in on the gas station use and variance. The variance is ok. The special permit meets the substantially not more detrimental criteria. He would have no problem approving.

Mr. LaBay agreed.

Mr. Goulet agreed.

Mr. Ciampitti commented that the traffic discussion and disputes are better suited for the planning board. This was a wonderfully documented and meticulous presentation.

Mr. Ramsdell agreed. The traffic study is important overall, but is not directly on point for what the ZBA is approving.

Mr. Ciampitti also commented on the variance. He wondered whether embellishments are part of the core structure. The board can find shape, topography, size, and corner lot as hardships.

Motion to approve application 2014-055 for a Dimensional Variance made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – approve
Libby McGee – recused

Motion to approve application 2014-056 for a Special Permit made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – approve
Libby McGee – recused

2014 057

Address: 4 Wallace Bashaw Jr. Way

Sign Variance

Allow a free-standing sign

Avita Newburyport LLC was represented by Steve Sawyer of Design Consultants Inc. The Avita project is moving along rapidly and they plan to open the facility in December. They are proposing a free standing sign at the entry. It would be 8.72 sq. ft., 40 in. diameter round, 6 ft. 9 in. high. It will be painted aluminum posts/lattice to look like wood. It will be ground lit with LED lights. They need this signage because of the set back building. Mr. Sawyer showed a rendering of the sign.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Goulet asked about plantings around the sign. Mr. Sawyer answered that there would be low growing shrubbery around the sign.

Deliberations:

Ms. McGee commented that the details were appreciated.

Mr. LaBay complimented the applicants on a full packet and design specifications. It is a nice looking sign, both sensitive and appropriate.

Motion to approve application 2014-057 for a Sign Variance made by Mr. Pennington, seconded by Ms. McGee.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder– absent

Richard Goulet – non-voting

Libby McGee – approve

2014 058

Address: 331 High Street

Sign Variance

Replace existing free-standing sign on High Street and install a new free-standing sign at the North Atkinson Street entrance.

The City, through the School Department, is applying for a variance for two new freestanding signs for the new Bresnahan School and the Senior Community Center to be placed at the North Atkinson entrance and 331 High Street respectively. The signs are virtually identical with one featuring the name of the school and other, the name of the senior center. They will both feature granite posts and external illumination. The City is proposing to install a programmable LED message board on each sign. They envision this would be used for school, community center, and city events as well as in emergency situations.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Jim McCarthy 17 Russia Street

He was concerned with LED sign and suggested conditions limiting the motion of lights. He also asked that the cleanup of old signs currently standing happen soon.

In Opposition:

None

Questions from the Board:

Mr. LaBay asked if there were two identical signs proposed except for the wording and whether both had LED lights. Yes, this is true. He also asked about the ship design and its materials. The ship is aluminum and the signs are double-sided on High Street and single-sided on North Atkinson Street.

Mr. Ciampitti asked for the applicants to go over materials used. They would be using granite posts, poly carbonate with raised letters and the inner ship is cut aluminum. It would be ground lit with a matte finish. They anticipate having flood lighting during specified hours. The LED lights would be white against black with black metal around the LED.

There was more discussion amongst the board and applicants over the LED sign and how it would function.

Deliberations:

Mr. Ramsdell commented that he could not comprehend how the board could approve an LED sign. He liked the rest of sign but not the LED.

Ms. McGee was not fond of the LED screen or the sign design.

Mr. Ciampitti commented that this may invite motorists to lose attention and create a danger.

LaBay was pleased to hear the thoughts of his colleagues. He does not support an LED sign on High Street.

There was discussion of continuing the application to give the applicants time to revise the signage. Andy Port, Planning Director commented that the applicants would rather have the sign approved with conditions tonight than have it continued because school is now in session.

The board wanted to see a better rendering, explanation of the sign and tie in to new school design, and alternatives to the LED sign.

Motion to continue application 2014-058 for a Sign Variance to the 10/28/14 meeting made by Mr. LaBay, seconded by Mr. Pennington.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – non-voting
Libby McGee – approve

2014 059

Address: 182 High Street

Dimensional Variance

Allow the connection and conversion of the carriage barn to an apartment with garage with insufficient frontage and side yard setback

2014 060

Address: 182 High Street

Special Permit for Non-conformities

Attach the pre-existing, non-conforming carriage barn to the existing house

2014 061

Address: 182 High Street

Special Permit

Allow two-family use (#102)

Jeanne Petrillo, owner was represented by John Sheridan, Integrity Restoration, Essex, MA. Mr. Sheridan restores timber frame, historic structures. The applicant is seeking relief to repair and restore the existing 200-year-old carriage house and attach it to the existing single-family home, making it a two-family structure. The property is located in an R3 zone where Special Permit allows two-family structures; additionally, the carriage house, when connected to the single-family home, will not meet the dimensional requirements for a two-family structure in the R3 zone. This home was a six-family when the owner purchased and she meticulously restored it back into a single family. Mrs. Petrillo originally planned to tear down the carriage house, but after waiting the one-year demolition delay and working with Mr. Sheridan, it was decided that

they would renovate the existing structure. Mr. Sheridan took the board through criteria for each application.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Robert Cronin, 126 Merrimac Street, City Council

This home had been chopped and was a rooming house. It has been totally restored and is stunning. He was very comfortable with the kind of work that will be put into the carriage house. Mr. Petrillo has suffered the one year demo delay. This was at one point a tear down and in the end she decided to save the carriage house at a cost.

Mrs. Petrillo read a letter from her neighbors at 184 High Street in support of the project.

In Opposition:

William Caruth, 40 Winter Street

In essence he supports the project. He stated various nuisance issues, but Mr. Ramsdell explained that these were not zoning issues. Mr. Caruth was concerned that this will set precedent. He commended the owner on restorations except for the connection breezeway.

Mrs. Sheila Caruth, 40 Winter Street

She asked for more detail on the connecting breezeway. It was explained it would be rustic in nature with barn board and multi-pane windows.

Questions from the Board regarding Public Hearing #6, #7, & #8:

None

Deliberations:

Mr. Pennington brought up that this type of application is seen quite a bit to avoid the 6C process. He appreciates the labor of love.

Mr. LaBay commended the applicants for attempting to save a historic structure. He commented that nothing we do establishes a precedent and everything is considered on its own. This is a straightforward request.

Mr. Ramsdell commented on the well-presented application.

Mr. Ciampitti commented on the dimensional variance application and pointed out that the property runs along side the rail trail. This creates a limitation on movement of structures. Slope and drainage were other issues. He commented on the wonderfully done renovations so far.

Motion to approve application 2014-059 for a Dimensional Variance made by Mr. Pennington, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – non-voting
Libby McGee – approve

Motion to approve application 2014-060 for a Special Permit for Non-conformities made by Mr. Pennington, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – non-voting
Libby McGee – approve

Motion to approve application 2014-060 for a Special Permit made by Mr. Pennington, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – non-voting
Libby McGee – approve

Adjournment

Motion to adjourn made by Mr. LaBay, seconded by Mr. Ciampitti at 10:30 PM.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– absent
Richard Goulet – approve
Libby McGee – approve

Respectfully submitted, Katie Mahan - Note Taker