

**City of Newburyport
Zoning Board of Appeals
September 27, 2016
Council Chambers**

The meeting was called to order at 7:18 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Duncan LaBay (Secretary)
Richard Goulet

Absent:

Renee Bourdeau
Maureen Pomeroy (Associate Member)

2. Business Meeting

a) Approval of Minutes

There were not enough members present to vote on minutes.

b) Request for minor modification – 13 Purchase Street (2016-032, 033)

Attorney Lisa Mead is requesting a minor modification of her variance and special permit for non-conformities to allow a small change in the backyard shed. She is seeking to turn the orientation of the shed 90 degrees and slightly reduce its size from 12' x 8' to 11' x 8' while maintaining the previously approved 2' setbacks from all property lines.

Mr. LaBay asked the reason behind the change. Ms. Mead responded that it is for more usable space in the yard.

Mr. LaBay made a motion to approve the request for minor modification on applications 2016-032 and 2016-033 and Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings

2016 069

Address: 14 North Atkinson Street (Lot 1)

Dimensional Variance

Lot split and convert two-family to single-family

2016 070

Address: 14 North Atkinson Street (Lot 2)

Dimensional Variance

Relief for lot area and frontage to construct a single family home

Lisa Mead of Blatman, Bobrowski, Mead and Talerman presented the application. Eileen Graf, architect was also present. The applicants are proposing to split the lot at 14 North Atkinson Street into two parcels, seeking dimensional variances for both. The existing home, currently a two-family, will remain on what is proposed to be Lot 1, and will be converted into a single-family structure. A single family home is proposed for Lot 2. Lot 1 would be non-conforming in frontage and front setback, while Lot 2 would be non-conforming in lot area, frontage and front setback. The lot is unique due to shape and size and is bounded on three sides by City of Newburyport property. Letter of support were submitted from neighbors. As far as the tree and sidewalk ordinance, no new sidewalks are needed and the applicant per recommendation will replace one sick tree. The applicant also requested that Lot 1 continue to be used as a 2 family until occupancy is granted for the new single family.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Letters of support were submitted from neighbors.

In Opposition:

None

Questions from the Board:

Mr. Ciampitti clarified that the applicants were looking to add a condition onto the permit that they do not lose two family use until the single family is ready.

Deliberations:

Mr. LaBay noted neighbors in support of the project and lack of opposition. This is a reasonable request with well-argued hardship.

The rest of the Board agreed.

Condition;

- The two-family status of Lot #1 shall remain in effect until such time as an occupancy permit is issued for the single-family structure to be constructed on Lot #2. At such time Lot #1 will become a single-family use.

Motion to approve application 2016-069 with above condition made by Mr. Ciampitti, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2016-070 made by Mr. Ciampitti, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

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

2016	071
Address: 15-19 Williamson Avenue	
Special Permit	
<i>Construct a two-family home (Use #102)</i>	

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman presented the application.

The applicant is proposing to demolish the existing single-family home at the corner of Williamson and Alberta and construct a two-family home that meets all of the dimensional requirements for two-family structures in the R2 zoning district. The applicant is seeking a Special Permit to allow a two-family use. The Historical Commission voted in August to allow demolition, as it is not historically significant.

Special Permit;

(1) The use requested is listed in the table of use regulations or elsewhere as in the ordinances requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned. In the R2 district, a two-family use is allowed by Special Permit.

(2) The requested use is essential and/or desirable to the public convenience or welfare. The use is included in the ordinance, therefore is desirable. There is a mix of single-family and two-family homes in the neighborhood.

(3) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety. Adding one residence will not.

(4) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare. Adding one residence will not overload systems.

(5) Any special regulations for the use, set forth in the special permit table are fulfilled. There are no special regulations.

(6) The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. There is a nice mix of uses in the neighborhood and this will not overwhelm one use.

(7) The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. Again, there is a mix in the neighborhood and this will not overwhelm one use.

(8) The proposed use is in harmony with the purpose and intent of this ordinance.

(9) The proposed use shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution. After construction, this will be used as a residence.

As far as the tree and sidewalk ordinance, there are currently no sidewalks and it is not recommended they be installed. It was recommended that the applicants plant two street trees.

Ms. Mead addressed an email comment from the Chair of the Planning Board suggesting a lot split and two single-family homes. If Board desires this, other relief is needed.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Dan Wilson Sr., 12 Williamson Avenue

In favor

In Opposition:

Dan Malioneck, 25 Alberta Avenue

Respectfully opposed. Will compromise privacy and sightlines.

Questions from the Board:

Mr. Ramsdell commented on the numbers of proposed bedrooms as surprising and asked what was driving this. TMs. Mead stressed that there are two units here.

Mr. Goulet asked if during the design process they thought about setting back the garages. Ms. Graf responded that they thought about it, but wanted to preserve backyard space.

Mr. LaBay asked the width of the unit left to right. The total would be about 100'.

Deliberations:

Mr. Goulet was bothered by length and massing. He was intrigued by talk of separate structures.

Mr. LaBay understood questions and concerns of neighbors. Two buildings may be less intrusive to neighbors.

Mr. Ciampitti had the same inclination. The application may be more palatable with two structures.

Ms. Mead requested a continuance.

Motion to continue application 2016-071 to 11/15/16 made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

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

2016 072

Address: 2-6 Elmira Avenue

Dimensional Variance

Applicant is seeking dimensional variances to split lot to support two single-family developments

Mr. LaBay disclosed he had business discussions in the past with Mr. Kutcher and Mr. Cracknell, but no financial dealings.

Nick Cracknell of Keystone Planning and Development presented on behalf of the applicants. Brad Kutcher, developer was also present. The applicant is proposing to split the lot and construct a single-family structure on the newly created parcel in the R2 Zoning District. Currently, the two parcels are separate, but since they are under common ownership and undersized, they have merged, thereby necessitating the need to formally subdivide the land. Mr. Cracknell stressed a local design team and sensitivity to scale, massing, density, landscape fabric, historic nature of the existing home on a relatively new street. Mr. Cracknell communicated with the surrounding neighborhood and incorporated many suggestions; creating a list of stipulations to add to the project. Site plans were presented. The new structure would be modest with cedar roof, brick chimney, granite, brick, and natural materials. Lot would be non-conforming in lot area, front and rear setbacks. Lot 2 would be non-conforming in lot area, frontage, front, side and rear yard setbacks. Hardship is that this is an odd shape lot as well as a non-conforming corner lot.

As far as the sidewalk and tree ordinance there are currently not sidewalks and no additional trees were recommended.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Alastair Lee, 2-6 Elmira Ave

Property owner. Currently the lot is unkempt and with this sensitive and collaborative effort, they have created a good fit for the neighborhood.

Robert Quintal, 75 Moseley Avenue

Direct abutter. Well thought out quality and design.

Steven Lewis, 78 Moseley Avenue

Advocated the single family. The design and construction team have a good reputation.

Julie, 12 Chain Bridge Drive

Will lose tree view, but looking forward to the quality of construction. Advocated maintaining edge trees and fencing.

In Opposition:

Stacy McDonald, 5 Elmira Avenue

Concerned about dangerous precedence, density of the neighborhood, and losing trees.

Renee Heath, 12 Cushing Avenue

Concerned with loss of green space and setting precedence

Christopher Heath, 12 Cushing Avenue

Concerned with predatory builders.

Mardi Kidwell, 1 Elmira Avenue

Concerned with views, loss of trees, encroaching of building, front setback of new house.

Jennifer Sweet, 10 Chain Bridge Drive

Concerned with density of neighborhood, but feels this is well designed and fitting to the neighborhood.

Mr. Cracknell addressed some of the comments on precedence and zoning.

Questions from the Board:

Mr. LaBay asked about public benefit components/improvements. Mr. Cracknell explained that building the highest quality home, maintaining some trees on Moseley Avenue and working with abutters on enhanced screening were all benefits.

Deliberations:

Mr. Goulet commented that the team presented a very thorough project and presentation. Hardship criteria was met. He respected comments of opposition, but felt outreach to the neighborhood has been good. Stipulations are a positive part of the project. He supported not using the XI-C approach.

Mr. LaBay concurred. The hardship was well argued. He stressed the Zoning Board must adhere to zoning code. He noted that this was not “predatory building,” but pressures of basic economics.

The rest of the Board agreed.

Conditions as offered by the applicants and adopted by the Board;

1. A restrictive covenant shall be recorded at the Registry of Deeds that restricts the use of the principal structure on both lot 1 (the corner lot) and lot 2 (the Lee House) to a single-family use. Any subsequent addition, alternation or extension to either principal structure, greater than 500 SF in footprint regardless of conformity to the Zoning Ordinance, shall require review and approval from the ZBA
2. The final construction drawings associated with a Building Permit Application for the proposed Cape-Style House on lot 1 shall fully conform to the elevations and details listed below:
 - A brick veneer chimney shall be installed as shown in proposal;
 - A commercial grade, cedar wood shingle roof shall be used on both the principal and accessory structure;
 - The gable dormers shall be installed as dimensioned on the elevations;

- A half-round, top-hung metal or wood gutter and downspout that are wood or pre-finished aluminum bronze colored shall be used;
 - Cedar clapboard siding shall be used with a 3-4 inch exposure;
 - The new construction windows shall be a high-quality, Marvin (or equal), SDL (with a spacer bar), double-hung, 6/6, wood- or aluminum clad window (vinyl windows are not permitted);
 - Solid wood exterior doors shall be used;
 - Authentic exterior trim details shall be used;
 - Granite steps and landings shall be used; and
 - A brick-sheaf shall be used for all exposed foundations on the principal structure.
3. The on-site improvements shall include, but may not be limited to, the following:
- Prior to construction on the single-family house located on Lot 1, a 5-6 foot cedar fence or privet hedge shall be installed, maintained or planted along the rear property line of 6 Elmira Ave. between 6 Elmira and 10-12 Chain Bridge Drive. If authorization is granted from the owner of 12 Chain Bridge Drive, the fence or hedge shall extend approximately 60 feet along the easterly property line;
 - A cedar wood fence shall be erected between 75 Moseley Ave. and 2-6 Elmira Ave. Such fence shall be 5-6 feet tall for a distance of approximately 90 feet from the southwest corner of the lot and any fence along the front yard of 75 Moseley Ave.
- shall be decorative and not greater than 42 inches in height.
- If authorization is granted from the owner of 10 Chain Bridge Drive, 5-6 deciduous trees (or equal), at least 10 feet in height when planted, shall be planted along the rear lot line directly adjacent the existing cedar fence located on 6 Elmira Ave.
 - The mature pine trees within 10 feet of the rear lot line along 10-12 Chain Bridge Drive shall be preserved with a restrictive covenant that protects against premature removal. The covenant shall only permit removal in instances where the owner of Lot 2 obtains, at their sole expense, a written determination from a MA certified Arborist that the pine trees are hazardous and require immediate removal. Such determination will require at least 72 hours' advance notice to the owners of record at 10-12 Chain Bridge Drive. Upon review, such owners may, at their sole discretion and expense, request and file a civil action to a court of competent jurisdiction seeking a court order or injunction preventing removal of the trees. The city has no obligation or jurisdiction for monitoring or enforcement of this private covenant:
 - The mature pine trees within 10 feet of the side lot line along Moseley Ave, shall be preserved;
 - The front walkways to all entryways within the front yard shall be constructed of full-depth brick; and
 - Foundation planting will be added as needed to soften the base of the building.
4. The off site improvements shall include, but not be limited to, the following:
- Subject to approval from the Department of Public Works, two street trees shall be planted along the frontage on Elmira Ave.; and
 - Subject to approval from the Department of Public Works, a granite apron (at least 5 feet in width) shall be placed within the city right of way for both driveway aprons (Lot 1 and lot 2 as shown on the submitted site plan) and used to provide an edge and delineate the driveway from the roadway.
 - The existing driveway on lot 2 shall be widened and paved to support the parking of two vehicles side by side directly in front of the accessory structure.
 - Both driveways shall be installed prior to construction commencing on the new single-family house on Lot 1.

5. Any alterations to the architectural style, exterior materials, design details, footprint, height, or the projections on the proposed principal structure shall require subsequent approval by the Zoning Board of Appeals; and
6. Prior to construction, a Construction Management Plan shall be provided to the City it shall be used to coordinate contractors, provide a primary point-of-contact, address on-street parking management, and ensure the hours of operations for construction adhere to all applicable city ordinances.

Motion to approve application 2016-072 with above conditions made by Mr. Ciampitti, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

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

2016 073

Address: 6 Moulton Street

Special Permit for Non-conformities

Petitioner seeks to construct an addition to an existing single-family house and relocate existing garage

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman presented the application.

The applicants are proposing to construct a single story addition on the existing single-family house and relocate the existing detached garage closer to the front lot line (to allow room for the proposed addition) and attach it to the home. In addition to seeking a SPNC for an increase in living area that exceeds 500 square feet, the applicants are seeking relief for lot area, frontage and front setback. There would be no new non-conformities and the project is not substantially more detrimental to the neighborhood. The addition will consist of master bed/bath, den, and garage with mudroom connector. It is modest and consistent with adjacent homes.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Dale LeBlanc, 5 Moulton St
In support.

Chris Janson, 6 Moulton St
Will improve character of neighborhood.

In Opposition:

Renee Heath, 12 Cushing Avenue
Concerned with home becoming more than single family.

Questions from the Board:

None

Deliberations:

Mr. Ciampitti thought the application was thorough, complete, rational, and modest. It met criteria and there was no opposition.

The rest of the Board agreed.

Motion to approve application 2016-073 made by Mr. Ciampitti, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Richard Goulet – approve

Renee Bourdeau – absent

Maureen Pomeroy - absent

The meeting adjourned at 9:35pm

Respectfully submitted, Katie Mahan - Note Taker