



CITY OF NEWBURYPORT  
PLANNING BOARD

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SPECIAL PERMIT FINDINGS & DECISION

APPLICATION & DECISION SUMMARY

**DECISION DATE:** 02/17/2010

**APPLICATION DATE:** 12/16/2009

**FILE NO:** 2010-SP-02

**APPLICANT/OWNER:** Chart House Development, LLC c/o Mark Griffin, Esq

**APPLICANT ADDRESS:** 6 Harris Street, Newburyport, MA 01950

**PARCEL(S) ADDRESS:** 9 Orange Street

**MAP/LOT:** 16-5

**BK/PAGE:** 28928-283

**ZONING DISTRICT:** R3

**SECTION:** VI.C

**BRIEF DESCRIPTION:** Reduce existing four-unit structure to a two-unit structure and renovate the existing carriage barn to be used as a single unit, resulting in two residential structures on one lot

**NEWSPAPER NOTICE:** 1/6/2010 and 1/13/2010

**PUBLIC HEARING:** A public hearing was held on the above application on 1/20/2010 and continued to 02/03/2010 and 02/17/2010.

**DECISION:** After the close of the public hearing the Planning Board, upon a motion made by member James McCarthy and seconded by Anne Gardner, voted to APPROVE the application for a Special Permit.

The motion having received the necessary two-thirds super majority vote of all the members of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition for the Special Permit was therefore granted.

**RECORD OF VOTE:** The following members of the Planning Board voted as follows with respect to the petition for a special permit subject to the below-stated terms and conditions:

Susan Grolnic	Yes	Bonnie Sontag	Yes	Julia Godtfredsen	Absent
Don Walters	Yes	Henry Coo	Absent	Anne Gardner	Yes
James McCarthy	Yes	Brian Tierney	Absent	Daniel Bowie	Yes

## PLANS AND MATERIALS INCORPORATED INTO DECISION

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1. This special permit application is accompanied and augmented by the following plans, drawings and submittals:
  - Plans titled, “9 Orange Street Renovation – Existing First Floor Plan, Proposed First Floor Plan, and Proposed Elevations (West and Front),” prepared by Bruce S. Taylor, AIA, West Newbury, MA, dated December 2009.
  - *Memorandum in Support of Application for Special Permit by Chart House Development LLC for 9 Orange Street, Newburyport MA.*
  - Correspondence from Architect Bruce S. Taylor, regarding “Condition of existing buildings at 9 Orange Street,” dated December 9, 2009.
  - Draft Preservation Restriction Agreement between Chart House Development, LLC and the City of Newburyport, by and through the Newburyport Historical Commission, as revised through February 17, 2010.
2. The plans and other submission material were reviewed by the Planning Board, its legal counsel and city representatives as follows:
  - Memo to Newburyport Planning Board & Zoning Board of Appeals, from Linda Smiley, Chair of the Newburyport Historical Commission, regarding “9 Orange Street, Craig Pessina, applicant,” dated January 11, 2009.
  - Review of draft deed restriction completed on behalf of the Planning Board by Shirin Everett, Esq., Kopelman and Paige, P.C., Boston, MA, dated February 7, 2010.
  - Department Review from Jon-Eric White, Utility Engineer, dated December 31, 2009.
  - Department Review from Steve Bradbury, Deputy Fire Chief, dated January 11, 2010.
  - Department Review from Richard J. Siemasko, Senior Lieutenant, dated December 29, 2009.
3. Throughout its deliberations the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

## FINDINGS

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### General

The subject property is approximately 6,160 square feet in area and supports two structures: a four unit residential building and a carriage house. The owner, Chart House Development, LLC, plans to convert the main building to a two-family and relocate one unit to the existing carriage house.

### Specific

The Board finds that in addition to the special permit criteria included in Section X-H.7, the application fulfills the additional criteria required by Section VI-C as follows:

1. The applicant could continue the current use of the property by right. The proposal to reduce the overall density from four to three residential units, with one unit in the converted carriage house, is a reasonable alternative to the continued multifamily four dwelling use.



2. A clear public benefit will be realized through the restoration and preservation of both historic structures on the property. The applicant will place a long term deed restriction on the property, which will be held and enforced by the Newburyport Historical Commission.
3. The second residential structure will be located entirely within the envelope of an existing accessory structure. The accessory building is also subordinate to the primary residential structure, with a lower height and smaller footprint.
4. The plan provides adequate access to each building site.
5. Each residential structure will comply with all other applicable regulations:
  - a. The Zoning Board voted to grant a special permit for nonconformities and dimensional variance on Jan. 12, 2010.
  - b. The Historical Commission reviewed a demolition application and released the project on October 15. Members also visited the property and developed a list of features that should be preserved. The NHC has agreed to hold a 30-year restriction preservation restriction on the property.
  - c. The City Utility Engineer stated that the proposed improvements will not adversely impact the capacities of the City's utility systems as less density is proposed than currently exists.
  - d. The Fire Department expressed no concerns with the application as long as a sprinkler system is installed in the converted carriage house.
  - e. The Police Department similarly expressed no concerns related to traffic or parking.

## DECISION

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In view of the foregoing, the Planning Board hereby decides to grant a Section VI.C Special Permit in accordance with the terms and conditions stated below:

### General Conditions

1. The applicant shall file this Decision with the Southern Essex County Registry of Deeds or registry of the Land Court if registered land and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.
2. Prior to the granting of a Building Permit, the applicant shall submit the written certification of a registered Architect or Civil Engineer to the Building Commissioner that the project will be constructed in accordance with the approved plans and conditions.
3. No building permit shall be issued unless all public utilities have been reviewed and approved by the respective utility departments and that the proposed utilities will be installed in accordance with plans submitted with the application.
4. Record plans stamped by a professional engineer showing new construction, renovation or expansion shall be submitted to the Building Commissioner and the Planning Board. Said plans shall contain a certification, made by a registered architect or civil engineer, that what was constructed is consistent with approved plans and conditions set forth by the Planning Board as part of this Special Permit.
5. The Planning Board requires the developer to submit all drawings and plans in computer aided drafting (CAD) formats. Specific file format shall be .DXF unless otherwise determined by the Planning Office.

6. All design and construction of all water utilities must meet Federal, State and local standards and the latest version of Newburyport Water Works Construction Guidelines and Construction Policies, which are available at the Water Works office in City Hall. Contractors are prohibited from operating or connecting to any part of the existing water system without written authorization and field oversight by the Water Works Department.
7. All design and construction of all sewer utilities must meet Federal, State and Local standards and the latest version of Newburyport Sewer Department Construction Guidelines and Construction Policies, which are available at the Sewer Plant located on Water St. Contractors are prohibited from operating or connecting to any part of the existing sewer system without written authorization and field oversight by the Sewer Department.

**Specific Conditions**

1. The applicant shall record the fully executed preservation restriction at the Southern Essex County Registry of Deeds. A copy of the deed restriction stamped with the recording information (Book/Page) shall be included with the application for a Building Permit.
2. The converted carriage house shall include a sprinkler system to NFPA 13R standards as per the Newburyport Fire Department.


**DATE OF FILING OF DECISION**

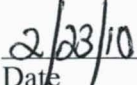
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Filed with the Newburyport City Clerk on \_\_\_\_\_ and sent registered mail to the applicant. Notice of decision is also sent by regular mail to the Parties in Interest and the abutting municipalities.

**SIGNATURE OF THE BOARD**

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\_\_\_\_\_  
Daniel Bowie, Chair  
Newburyport Planning Board

  
\_\_\_\_\_  
Date

**NOTICE OF APPELLATE RIGHTS**

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Appeals shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed within twenty (20) days after the date of filing this decision in the Office of City Clerk.

**CITY CLERK CERTIFICATION OF APPEAL PERIOD EXPIRATION**

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Certification of the City Clerk: I, \_\_\_\_\_, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the decision for the property known as: 9 Orange Street was filed in the Office of the City Clerk on

Pursuant to M.G.L. Chapter 40A Section 11, this decision was also filed in the Office of Planning and Development on \_\_\_\_\_ and twenty days have elapsed after the decision was filed and NO APPEAL has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A Section 17 and made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk.

\_\_\_\_\_  
Newburyport City Clerk

\_\_\_\_\_  
Date