

2018 APR 18 AM 10:02



CITY OF NEWBURYPORT
ZONING BOARD OF APPEALS
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400

RECORD OF PROCEEDINGS AND DECISION
FOR A SPECIAL PERMIT for IN-LAW APARTMENT

An application for a Special Permit was filed by

Timothy O'Dea
42 Washington Street
Newburyport, MA 01950

for property owned by **Alan J. Green and Paula F. Green** for the following request:

renew special permit for in-law apartment

The application is for the premises at **7 Plant Street** in the **R2** Zoning District, indicated in the Newburyport Assessor's Office as map and parcel **71-33**, and recorded in the Essex South District Registry of Deeds as Book and Page **9201-254**.

The application was filed at the City Clerk's Office on **03/16/18** pursuant to the City of Newburyport Zoning Ordinance Section **XIIA In-Law Apartments**.

The newspaper notices for the public hearing were posted on **03/26/18** and **04/02/18** in the Newburyport Daily News. A public hearing was held for the above application on **04/10/18** and continued to . After the close of the hearing on **04/10/18**, upon motion made by Member **Rob Ciampitti** and duly seconded by Member **Chris Zaremba**, the Board voted to **APPROVE** the petition for the Special Permit.

The following members present and voting, and voting as follows with respect to the petition:

Robert Ciampitti	<u>Yes</u>	Renee Bourdeau	<u>Absent</u>
Maureen Pomeroy	<u>Yes</u>	Christopher Zaremba, Assoc.	<u>Yes</u>
Edward Ramsdell, Chair	<u>Yes</u>		

Having received the necessary two-thirds super majority vote or all the members of the ZBA, in accordance with M.G.L. c.40A, Section 9, as adopted, the petition for the Special Permit was therefore **APPROVED**.

This decision was filed with the Newburyport City Clerk on **04/18/18** and sent registered mail to the applicant and by regular mail to the Parties in Interest and the abutting Municipalities.

FINDINGS

After the public hearing, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance Section X-H-7 Special Permits and Section XIIA In-Law Apartments, the Newburyport Zoning Board of Appeals made the following findings:

1. The applicant is seeking to 'legitimize' the existing in-law apartment that the Board granted in 2002. The owners, who are selling the home, did not certify the in-law apartment every two years as required by the ordinance. The potential buyers of the home want to ensure that they will be able to legally retain the in-law apartment so that their parents may move in to it. There is no new construction proposed.
2. The applicant is requesting relief to allow an in-law apartment within the existing building envelope of the single-family home.
3. The in-law apartment already exists within the footprint of the home and there will be no additional expansion of either the primary unit or the in-law unit, the square footage of the apartment is within the regulations, the potential buyer's parents will occupy the in-law apartment, and there is sufficient on-site parking for both the single-family home and the in-law apartment.
4. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
5. 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.
6. Any special regulations for the use, set forth in the special permit table are fulfilled. The applicant is aware of the special occupancy and reporting requirements as detailed in Section IIA – In-Law Apartments.
7. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.
8. 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.
9. The proposed use is in harmony with the purpose and intent of this ordinance.
10. 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.
11. Evidence was presented and the Board found that the proposed change continues to be in conformity with the neighborhood and will not be substantially more detrimental to the neighborhood than the pre-existing non-conforming structure.

12. In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that this project does not trigger the provision of the ordinance.

CONDITIONS OF APPROVAL

This Zoning Board approval represents a schematic approval for the project. This approval does not represent a final approval of the utility design and details or fire safety measures, as applicable. The applicant, owner, successors or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.

The following conditions do not limit any other rights and remedies the City of Newburyport may have.

1. Permitted Occupants: The in-law apartment shall be occupied by parents, grandparents, children or grandchildren, by blood or by marriage.
2. Conformance with Approved Plans: The construction and/or use of the premises shall conform to any plans and/or information or additional conditions and any revisions of said plans, as approved by the Zoning Board of Appeals, if applicable, as to the use of premises. All approved plans and/or documentation shall bear the signature of a Zoning Board member and the stamp of the City Clerk.
3. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Board for such modifications prior to making any changes 'in the field'. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.
4. Recording of Decision: This Special Permit shall not take effect until the City Clerk certifies on the original or on a certified copy of the decision that twenty (20) days have elapsed without a filing of an appeal or that any appeal filed has been dismissed. This Special Permit granted shall be recorded at the Southern Essex District Registry of Deeds and a copy of the recorded permit shall be provided to the Building Department for issuance of a Certificate of Occupancy.
5. Certification of Occupants: Pursuant to Section XIIA(g) of the Zoning Ordinance, in the eleventh and twenty-third months following the granting of this Special Permit, the homeowner shall certify, under the pains and penalties of perjury, that the in-law apartment is still being occupied by parents, grandparents, children, or grandchildren, by blood or by marriage and shall file this certification with the Building Commissioner and the Zoning Board of Appeals.
6. Permit Expiration: This Special Permit shall expire:
 - a) If the certification is not filed pursuant to condition #4 herein;
 - b) If the in-law apartment ceases to be occupied pursuant to condition #1; or
 - c) At the expiration of three (3) years from its granting unless the Zoning Board of Appeals shall renew it upon application.

7. Removal of Kitchens: Where new kitchens/kitchen appliances have been added, they shall be removed within six (6) months of the expiration of the Special Permit.
8. Inspections: The Zoning Board of Appeals may order an inspection of the premises for compliance at any time upon reasonable written notice to the homeowner.
9. Permit Lapse: This special permit will lapse after two years and shall no longer be valid if the occupants of the in-law apartment have not moved into the designated space, except for good cause or, in the case of a permit for construction of the in-law apartment, if construction has not commenced except for good cause. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.

Undersigned Chair of the Zoning Board of Appeals,



Edward L. Ramsdell

Date: 04/18/18

CERTIFICATION OF CITY CLERK

I, Richard Jones, 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 **7 Plant Street** was filed in the Office of the City Clerk on **04/18/18**.

Pursuant to M.G.L. Chapter 40A, Section 11 this decision was also filed with the Newburyport Planning Board on 04/18/18.

Twenty (20) days have elapsed since the decision was filed and **NO APPEAL** has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing of this decision in the Office of the City Clerk.

Newburyport City Clerk

Date: _____