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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 DIMENSIONAL VARIANCE

An application for a Dimensional Variance was filed by:

Charles and Gillian Griffin
3 Vernon Street
Newburyport, MA 01950

for property owned by **Charles Griffin Trust** for the following request:

adjust lot lines requiring relief for lot area, side and rear setbacks, and parking

The application was filed at the City Clerk's Office on 3/07/19 under the Zoning Ordinance Section X-H.3 Powers of the Board and Section VI.A Dimensional Controls. The application is for the premises at **10 Auburn Street (Lot A)** in the R3 Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel 35-150-A and recorded in the Essex South District Registry of Deeds as Book and Page 31450-0505. The newspaper notices for the public hearing were posted on 03/25/19 and 04/01/19 in the Newburyport Daily News. A public hearing was held for the above application on 04/09/19 and continued to 5/28/19, 6/25/19.

After the close of the public hearing on 06/25/19, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance VI.A Dimensional Controls, the Newburyport Zoning Board of Appeals made the following findings:

1. The applicant is seeking dimensional relief to provide long-term protection of the historic Essex County Gaol and to modify lot lines to correspond with existing and historic conditions. New construction proposed includes the potential addition to the Gaol building and the enclosed porch. The applicant is seeking dimensional relief for the existing and proposed reconfiguration of property lines for "Lot 3" as indicated and detailed on the "Zoning" table included on the applicant's plan entitled "Approval Not Required Plan of Land: 1 & 3 Vernon Street & 10 & 12 Auburn Street", prepared by Winter GEC, LLC, dated August 22, 2018
2. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district. The applicant has presented evidence of steep slopes along the perimeter walls of the former Gaol yard, irregular lot shape and unique historic structures and landscaping on the property which cannot be demolished and/or

relocated.

3. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same district. The applicant has presented evidence that there would be no viable reuse of the subject lot and associated former Gaol building without the requested zoning relief to modify the lot lines allowing logical division, sale, ownership and financing of each distinct lot.
4. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter as the historic structures and topography of the lots were established in 1825.
5. Relief will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district. The applicant has presented evidence of other historic buildings and properties within the district that have been repurposed with similar zoning relief.

Upon a motion made by Member Maureen Pomeroy and duly seconded by Member Edward Cameron, the Board voted to **APPROVE** the petition for the Dimensional Variance.

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

Robert Ciampitti	<u>Not Voting</u>	Renee Bourdeau	<u>Absent</u>
Maureen Pomeroy	<u>Yes</u>	Edward Cameron	<u>Yes</u>
Mark Moore, Associate	<u>Yes</u>	Edward Ramsdell, Chair	<u>Yes</u>

Having received the necessary two-thirds super majority vote of all the members of the ZBA, in accordance with M.G.L. c.40A, as amended, the petition for the Dimensional Variance is hereby **APPROVED** with the following conditions:

1. Recording of Decision: The applicant shall record this Variance decision with the Southern Essex County Registry of Deeds 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 any Building Permits for the subject property.
2. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns shall adhere to the following plans and/or documents:
 - "Variance Application: Project Narrative, A Historic Preservation Project: The Essex County Gaol Complex (c. 1825), Newburyport, MA" dated February 28, 2018; and
 - "Plan of Land in Newburyport, MA- 1 & 3 Vernon Street and 10 & 12 Auburn Street" by Winter GEC, LLC dated August 22, 2018; and
 - "Proposed Subdivision Site Plan -Newburyport Gaol Preservation Project" dated April 11, 2019; and
 - "Design Limitations and Material Selections showing Porch Additions for Lots 4 and 5, Addition to the Gaol for Lot 3, Northwest and Southeast Elevations for Gaol Addition" dated May 12, 2019; and
 - "Preservation Restriction Agreement between Charles and Gillian Griffin Owners of Essex County Gaol (c. 1825) 10 and 10A Auburn Street, 1 and 3 Vernon Street and the City of Newburyport, Massachusetts by and through the Newburyport Historical Commission"

Should the applicant and/or property owner determine that the plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Zoning Board of Appeals 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.

3. Permit Lapse: This Dimensional Variance will lapse after one year if a substantial use or exercise of the permit (which may include recording of a corresponding Approval Not Required [ANR] Plan endorsed by the Planning Board) has not commenced except for good cause or, in the case of a permit for construction, 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.

4. The applicant shall enter into a perpetual Preservation Restriction (PR) Agreement, pursuant to G.L. c. 184 s. 31-33, with the Newburyport Historical Commission (NHC) to preserve the existing structure and landscaping. Massachusetts Historical Commission (MHC) approval of the restriction, substantially in the same form as the draft restriction incorporated by reference herein, shall be obtained and the final preservation restriction recorded prior to issuance of any new or associated building permits for the subject property.

Copies of this decision and approved plans are on file with the Newburyport Zoning Board of Appeals and Office of the City Clerk.

Any appeal of this decision shall be made pursuant to M.G.L.A. c. 40A, § 17 and shall be filed within twenty (20) days after the date the notice of decision was filed with the city clerk.

Undersigned (Acting) Chair of the Zoning Board of Appeals,



Robert Ciampitti, Jr.

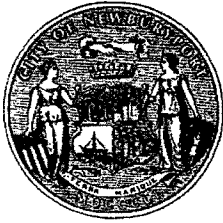
Date: 7/25/19

CERTIFICATION OF 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 **10 Auburn Street (Lot A)** was filed in the Office of the City Clerk on _____. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

Newburyport City Clerk

Date: _____

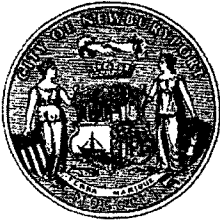


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NOTIFICATION OF A DECISION

As required by MGL Ch. 40A, as an abutter to the property located at **10 Auburn Street (Lot A)**, you are being notified of the Zoning Board of Appeals' decision to APPROVE the petition for a Dimensional Variance filed by **Charles and Gillian Griffin** for the following request: *adjust lot lines requiring relief for lot area, side and rear setbacks, and parking*

In accordance with the above, this letter will serve as a formal notification of the foregoing action of the Zoning Board of Appeals for this property. A copy of this letter, the record of the proceedings, findings, conditions, and documents submitted with the application are on file at the Office of Planning and Development and the City Clerk's Office. Appeals of the Zoning Board of Appeals' decision shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing with the City Clerk.



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Dear applicant,

Enclosed is the original decision from your recent Zoning Board application, which is subject to a twenty (20) day appeal period. Once twenty (20) days have elapsed from the date it was filed with the City Clerk, please bring this decision to the City Clerk's Office in City Hall. They will certify that the appeal period has expired and that no appeals have been filed.

Once the decision is signed by the City Clerk, it must be recorded at the Essex South Registry of Deeds in Salem. Registry information is included below. As the applicant, recording fees are your responsibility. Decisions are not effective until they are properly recorded. A copy of this recorded decision must be included with your building permit application.

Essex South Registry of Deeds
Shetland Park
45 Congress St., Suite 4100
Salem, MA 01970
Phone: 978-542-1700
www.salemdeeds.com