

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2020 MAR 11 AM 8:04



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

**RECORD OF PROCEEDINGS AND
DIMENSIONAL VARIANCE DECISION**

APPLICANT: Peter Carzasty c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

PROPERTY OWNER: Steven Carzasty, Mark MacKay, and Peter Carzasty

FILE NO.: 2020-017

PROPERTY ADDRESS: **35 Temple Street**

DECISION DATE: 02/25/20

MAP/PARCEL(S): 15-60-A

BOOK/PAGE: 38159-88

ZONING DISTRICT: R2

PROCEDURAL HISTORY

An application for a Dimensional Variance pursuant to Section VI.A Dimensional Controls of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on 01/15/20 for the following request: *modify variance to remove existing one-story shed attached to rear of residential structure and construct one-story addition in same location with slightly larger footprint*

Notice of the public hearing was published on 02/10/20 and 02/17/20 in the Newburyport Daily News. A public hearing on the application was held at Newburyport City Hall on 02/25/20.

Upon a motion to approve, made by Maureen Pomeroy and seconded by Mark Moore, the Board voted as follows:

Robert Ciampitti, Chair	<u>Not Voting</u>	Maureen Pomeroy	<u>Yes</u>	Mark Moore	<u>Yes</u>
Edward Cameron	<u>Yes</u>	Stephen DeLisle	<u>Yes</u>	Rachel Webb, Assoc.	<u>Yes</u>
Ken Swanton, Assoc.	<u>Not Voting</u>				

Having received the necessary two-thirds super majority vote of the Zoning Board of Appeals, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore **APPROVED**.

PLANS AND DOCUMENTS

This Dimensional Variance application was accompanied and augmented by the following plans, drawings, documents, and submittals, which are hereby incorporated into this decision:

- “Proposed Plot Plan, 35 Temple Street, Newburyport, Massachusetts” prepared by LeBlanc Survey Associates, Inc. dated December 3, 2019; and
- “Carzasty: Mackay Residence, 35 Temple Street, Newburyport, MA” prepared by Graf Architects on November 27, 2019 consisting of pages EX1, A01 and A02.

Throughout its deliberations, the Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

FINDINGS

In order to grant a Variance, the Board must first determine that the applicant’s project meets specific criteria, as provided in Section X-H(6) of the NZO. These criteria and the Board’s project specific findings for each are enumerated here:

1. **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 seeks to modify an approved Variance to remove existing one-story shed attached to rear of residential structure and construct one-story addition in same location with slightly larger footprint. The lot is an odd shape and unlike any other lot in the general neighborhood.

2. **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.**

Removal of the shed to put on an addition will allow for the applicant to care for a family member to age in place. Given the limitations of the lot, the modification of the prior Variance is will allow reasonable use of the property.

3. **The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.**
4. **Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.**

STANDARD CONDITIONS

In view of the foregoing findings, the Zoning Board of Appeals hereby grants a Dimensional Variance subject to the terms and conditions stated below:

1. **Recording of Decision and Approved Plans:** The applicant shall file this decision with the Southern Essex County Registry of Deeds (or 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 any related Building Permits. To ensure compliance with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.

2. Permit Lapse: This permit will lapse after one year from the date of granting and shall no longer be valid if a substantial use 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, within this period. 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.
3. Provision of Construction Documents: The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Water, Sewer, and Engineering Divisions of the City's Department of Public Services (DPS).
4. Curb Cuts: Any new driveway curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: 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 applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Newburyport Fire Department (NFD).
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading. The applicant shall provide a copy of said permit to the Building Commissioner and Zoning Administrator with the application for any related Building Permits.
7. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and 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 ZBA and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the ZBA (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The ZBA shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the ZBA. Minor changes may be approved in writing by the OPD without further review by the ZBA. The determination as to whether an alteration or change in plans is material and therefore subject to ZBA review shall be made at the discretion of the OPD.
8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.

10. Permit Compliance Contact Form: No site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning and Development.
11. Trees and Sidewalks: The applicant shall be responsible for compliance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance. If the cost of the project exceeds more than 50% of the physical value of the entire property, the applicant shall obtain the written approval from the Newburyport Tree Warden and Department of Public Services with respect to plans and specifications for (1) the reconstruction, repair, and/or replacement, where appropriate, of all city-owned sidewalks actually adjoining the project Property, in accordance with Sections 12-54 and 12-55 of the Newburyport Code of Ordinances; and (2) the planting, preservation, and/or replacement, where appropriate, of street trees along all public rights-of-ways actually adjoining the project Property, in accordance with article VI of chapter 12 of the Newburyport Code of Ordinances. Said improvements shall be completed prior to project closeout and final signoff from the Zoning Administrator for related building permits.
12. Submission of As-Built Plans: One hard copy and one .pdf copy of foundation as-built plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion. One hard copy and one .pdf copy of as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction.

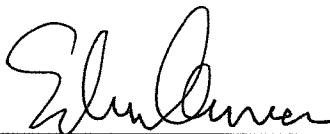
CONCLUSION AND DECISION

For all of the reasons stated herein, the petition for a Dimensional Variance is therefore **APPROVED**.

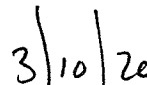
APPEALS

Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

SIGNATURE OF THE BOARD



Edward Cameron, Vice-Chair



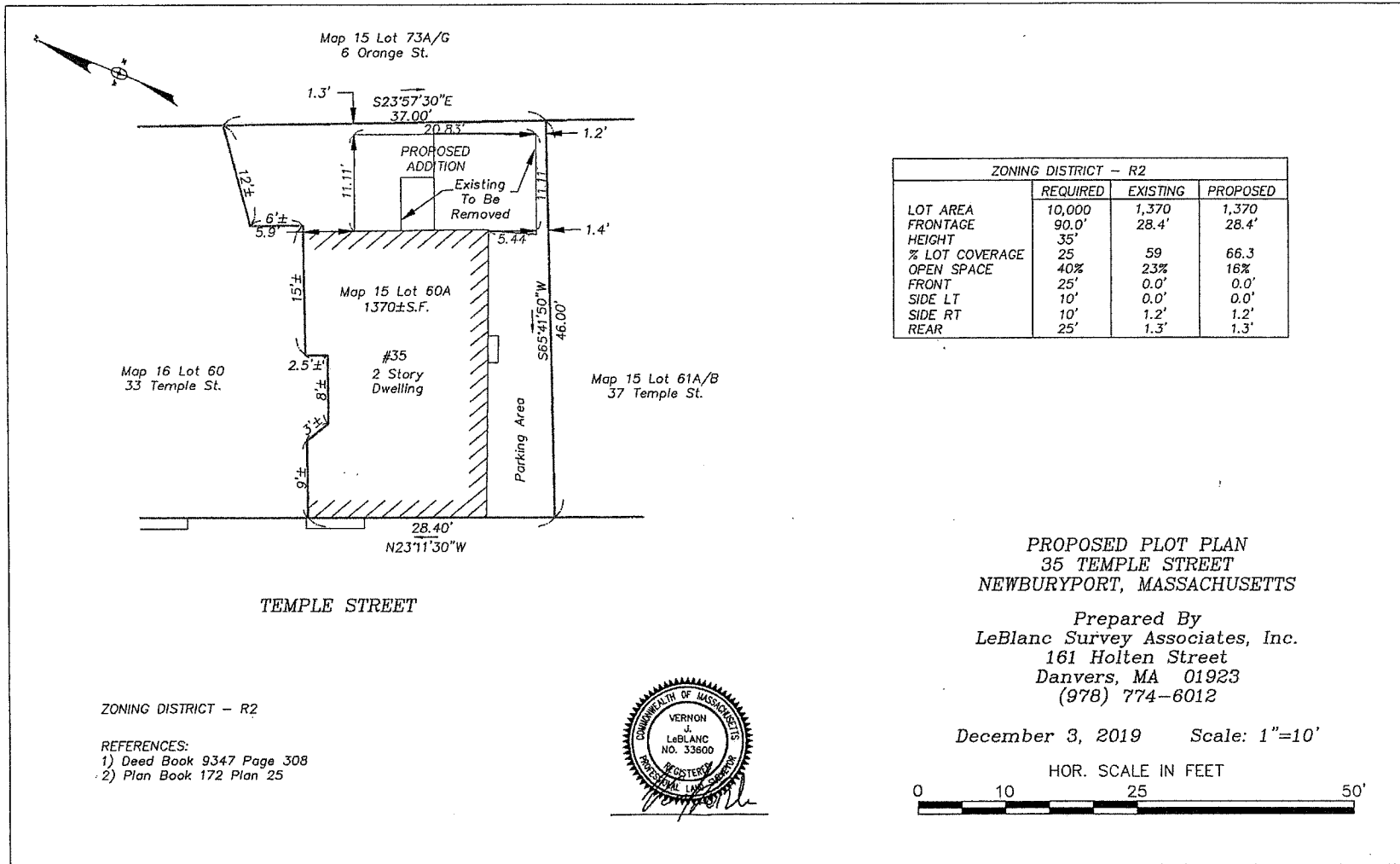
Date

CITY CLERK CERTIFICATION

I, _____, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Dimensional Variance decision for the property known as 35 Temple Street 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.

City Clerk

Date



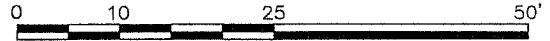
ZONING DISTRICT - R2			
	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000	1,370	1,370
FRONTAGE	90.0'	28.4'	28.4'
HEIGHT	35'		
% LOT COVERAGE	25	59	66.3
OPEN SPACE	40%	23%	16%
FRONT	25'	0.0'	0.0'
SIDE LT	10'	0.0'	0.0'
SIDE RT	10'	1.2'	1.2'
REAR	25'	1.3'	1.3'

PROPOSED PLOT PLAN
 35 TEMPLE STREET
 NEWBURYPORT, MASSACHUSETTS

Prepared By
 LeBlanc Survey Associates, Inc.
 161 Holten Street
 Danvers, MA 01923
 (978) 774-6012

December 3, 2019 Scale: 1"=10'

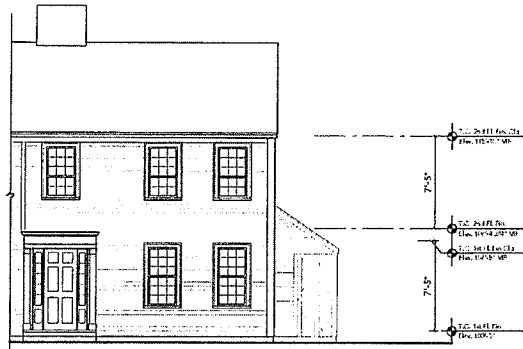
HOR. SCALE IN FEET



ZONING DISTRICT - R2

- REFERENCES:
 1) Deed Book 9347 Page 308
 2) Plan Book 172 Plan 25

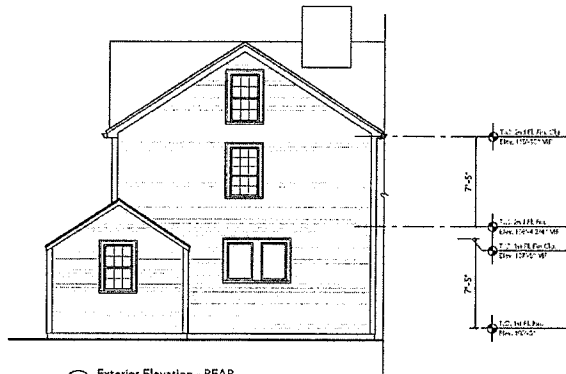




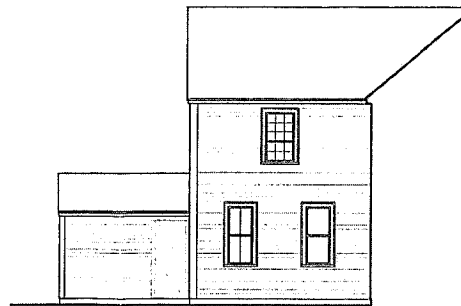
1 Exterior Elevation - FRONT
SCALE: 1/8" = 1'-0"



2 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"



3 Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



4 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

project
**CARZASTY:
MACKAY
RESIDENCE**
35 Temple Street
Newburyport, MA
01950

architect:
**GRAF
ARCHITECTS**
2 Liberty Street
Newburyport, MA
01950
T 978 499 9442
www.graf-arch.com

title:
**EXISTING
Exterior Elevations**

SCALE: 1/8" = 1'-0"
27 november 2019

EX1

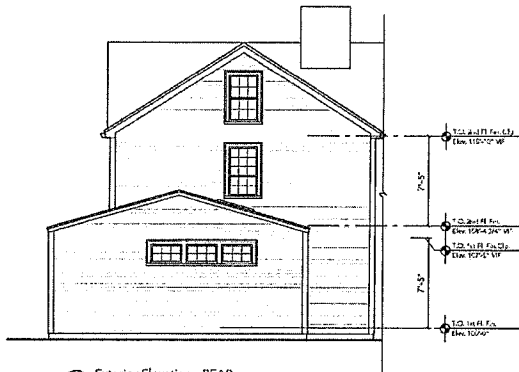
GRAPHIC REPRESENTATION



1 Exterior Elevation - FRONT
SCALE: 1/8" = 1'-0"



2 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"



3 Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



4 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

project
**CARZASTY:
MACKAY
RESIDENCE**

35 Temple Street
Newburyport, MA
01950

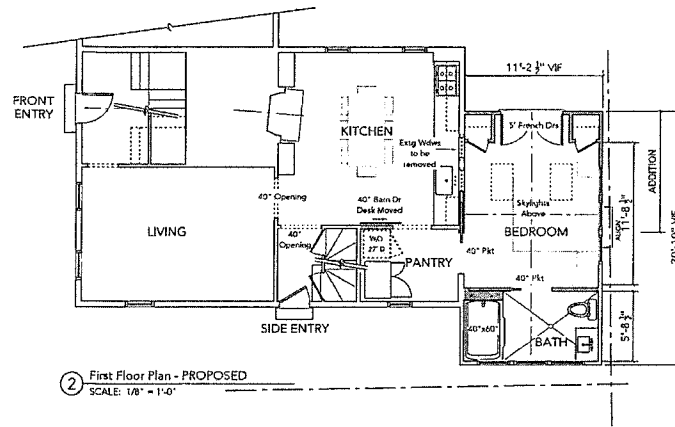
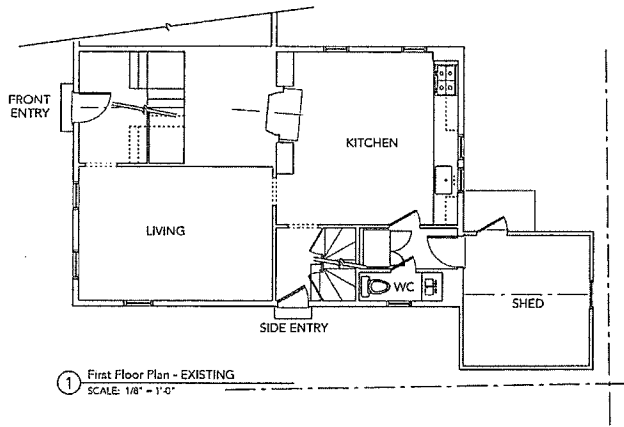
architect:

**GRAF
ARCHITECTS**
2 Liberty Street
Newburyport, MA
01950
T. 978.499.9442
www.grafarch.com

title:
**PROPOSED
Exterior Elevations**

SCALE: 1/8" = 1'-0"
27 november 2019

A02



project
**CARZASTY:
MACKAY
RESIDENCE**
35 Temple Street
Newburyport, MA
01950

architect
**GRAF
ARCHITECTS**
2 Liberty Street
Newburyport, MA
01950
T 978.499.9642
www.graf-arch.com

title:
**EXISTING + PROPOSED
Floor Plans**

SCALE: 1/8" = 1'-0"
27 november 2019

A01