



CITY OF NEWBURYPORT
 PLANNING BOARD
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**RECORD OF PROCEEDINGS AND
 SPECIAL PERMIT DECISION**

APPLICANT: Institution for Savings in Newburyport
 c/o Lisa Mead, Mead, Talerman & Costa, LLC
 30 Green Street
 Newburyport, MA 01950

PROPERTY OWNER: Institution for Savings in Newburyport

FILE NO.: 2020-SP-09

PROPERTY ADDRESS: **93 State Street and 12 Prospect Street**

DECISION DATE: 03/17/21

MAP/PARCEL(S): 14-39 and 14-40

BOOK/PAGE: 764-51

ZONING DISTRICT: B2/DOD

PROCEDURAL HISTORY:

An application for a Special Permit pursuant to Section XXVII of the City of Newburyport's Zoning Ordinance (NZO) was made by the above-referenced owner and filed with the Planning Board on 02/24/20 for the following request: *construction of an addition within the Downtown Overlay District (DOD).*

Notice of the public hearing was published on 04/21/20 and 04/28/20 in the Newburyport Daily News. The public hearing was held on 05/06/20 and continued to 5/20/20, 6/3/20, 7/1/20, 8/5/20, 9/16/20, 10/21/20, 11/4/20, 12/2/20, 1/6/21, 2/17/21, and 3/17/21.

At the close of the public hearing, upon a motion to approve made by Don Walters and seconded by Rick Taintor, the Planning Board voted as follows:

| | | | | | |
|----------------------|-----------|-------------------|------------|----------------|----------------|
| Bonnie Sontag, Chair | <u>no</u> | Don Walters | <u>yes</u> | Leah McGavern | <u>yes</u> |
| Anne Gardner | <u>no</u> | MJ Verde | <u>no</u> | Tania Hartford | <u>yes</u> |
| Rick Taintor | <u>no</u> | Elisabeth DeLisle | <u>no</u> | Alden Clark | <u>recused</u> |

Having not received the necessary two-thirds super majority vote of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore **DENIED**.

PLANS AND DOCUMENTS:

- Site Plan Set entitled “Permit Site Development Plans, 93 State Street, Newburyport, Massachusetts” prepared by Meridian Associates dated January 8, 2020 and most recently revised on March 10, 2021; and
- Plan Views entitled “Institution for Savings Office Addition, 93 State Street, Newburyport, Massachusetts, 01950” prepared by Architectural Resources Cambridge and dated March 10, 2021; and
- Building Elevations entitled “Institution for Savings Office Addition, 93 State Street, Newburyport, Massachusetts, 01950” prepared by Architectural Resources Cambridge and dated March 10, 2021; and
- The above plans and submission materials were supplemented by memos and expert opinions provided by the applicant and reviewed by the Planning Board; and
- Historical Reports prepared by the Newburyport Historical Commission from 2/13/20, 6/25/20, 11/12/20 and 1/28/21; and
- A peer review of engineering and stormwater design was conducted by Christiansen & Sergi, Inc., on behalf of the Planning Board. Additional City Department comments were received on the draft plans which were subsequently revised to address outstanding issues. A full copy of this documentation is on file with the City of Newburyport Office of Planning & Development, 60 Pleasant Street, Newburyport, Ma 01950; and
- 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, as made at the public hearing.

EXISTING CONDITIONS AND CONTEXT:

The property consists of two parcels in the downtown area: 93 State Street (Map 14 Lot 40) and 12 Prospect Street (Map 14 Lot 39). The combined property is bounded by State Street on the northwest, Prospect Street on the northeast, Otis Place on the southeast, and five lots on the southwest. The property is served by three driveways: one on State Street and two on Prospect Street.

Existing structures on the 93 State Street lot consist of an historic 1870s structure which is the original Institution for Savings building, a 1903 addition to that structure, and a 1980s addition attached to the rear of the historic building. The 12 Prospect Street lot contains two surface parking lots separated by a circular driveway providing access to a drive-up window, and a 2010 fountain and clock tower at the corner of State and Prospect Streets.

The property is located in the Downtown Business District (B2) and the Downtown Overlay District (DOD). The property abuts the R3 multifamily residential district for about 125 feet of its Prospect Street frontage and along the entirety of its Otis Place frontage.

The property is within Newburyport’s National Register Historic District, listed in 1984. The original 1870s bank building is significant both for its architecture and for its place in the history of the City. With the exception of another bank building across Prospect Street at 81 State Street, all buildings on the abutting parcels were designated as “contributing” structures to the National Register district. In addition, in 1980 the entire length of Prospect Street was documented in a “Form G” as a historically significant streetscape.

The applicant, the Institution for Savings (IFS), is proposing the construction of a two-story addition to be attached to the 1980s portion of the existing building. The proposed addition would be located in the portion of the two parcels at the corner of Prospect Street and Otis Place, and would contain a parking garage on the ground floor with office space on the second floor.

FINDINGS:

In order to grant this Special Permit, the Board must determine that the proposed new construction, alteration, or demolition meets all the requirements of Section XXVII of the Newburyport Zoning Ordinance (Downtown Overlay District) and, in addition, complies with the special permit criteria of subsection X-H.7 of the Ordinance (per Section XXVII-F).

DOD-Specific Special Permit Criteria and Findings

Section XXVII-F.5.a of the Zoning Ordinance establishes the following criteria for new construction and alterations in the Downtown Overlay District:

New construction and alterations must be compatible with existing historic buildings and structures within the DOD: New construction and alteration within the DOD shall not disrupt the essential form and integrity of (i) the subject historic building, structure or exterior architectural features, (ii) the lot where it is located, or (iii) its setting within the DOD. Moreover, new construction and alteration within the DOD shall be compatible with the size, scale, height, color (excepting paint color), material, and character of the subject (x) historic building, structure or exterior architectural feature, (y) the lot where it is located, and (z) its setting within the DOD, as the case may be.

In reviewing an application in the DOD, Section XXVII-F.3.a of the Ordinance requires the Planning Board, acting as Special Permit Granting Authority (SPGA), to “adhere to any relevant provisions of the United States Secretary of the Interior’s ‘Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings,’ ... including all related guidelines, bulletins and other official guidance promulgated by the National Park Service” (Secretary’s Standards).

To assist the Board in determining whether an application complies with these criteria, the ordinance requires the submission of an Historical Report submitted by the Newburyport Historical Commission.

Based on its review of the application and on the Historical Reports submitted by the Newburyport Historical Commission, the Planning Board was unable to find that the proposed project complies with the aforementioned standards and criteria. Specifically, the Board found that the scale of the proposed addition would not be subordinate to the existing historic structure on the site, would disrupt the essential form and integrity of its setting within the DOD, and would be incompatible with the size, scale and character of its setting within the DOD, and therefore that the Special Permit could not be granted.

In making these findings, the Board evaluated the proposed project against relevant provisions of the Secretary’s Standards and related official guidance as follows:

1. New Additions to Historic Buildings – size, scale, and massing of the new addition all pertain to the addition’s overall volume and three-dimensional qualities.

Approximate size calculations based on figures provided by the applicant fix the volumetric size of the proposed addition at approximately twice the size of the historic structure.

2. Depending on its location, it may be possible that an addition slightly taller or slightly larger than the historic building may be acceptable, as long as it is visually subordinate to the historic building.

The proposed addition is not only significantly larger than the historic structure but is located on a corner of the lot abutting other less massive historic structures. The fact of excessive mass remains: both the volume and the footprint of the proposed building are much larger than those of the historic building. In addition, the eave height of the proposed building—the characteristic with the most influence on the impression of height—remained unchanged after Planning Board and NHC requests for a reduction.

3. New additions in densely-built environments ... height and setback from the street should generally be consistent with those of the historic building and other surrounding buildings in the district.

While the façade for the proposed addition is broken into elements that attempt to give the impression of separate buildings, the scale of each element is not consistent with that of the adjacent buildings.

4. New Exterior Additions (Brief 14) ... the historic building's existing proportions, site and setting help define the general parameters for enlargement...assess relationship between actual size and relative scale.

The proposed addition would be constructed along Prospect Street and Otis Place, facing historic residential buildings. The project's setting is thus characterized by domestic scaled buildings. In contrast to these established streetscapes, the street-view along the two abutting streets presents a continuous façade with proportions that do not reflect the abutting structures.

5. Rehabilitation SOI Standard #9 – New additions, exterior alterations, or related new construction ... new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

Dimensional discrepancies between the proposed addition and historic residential structures in the neighborhood detract from compatibility with said neighborhood, specifically eave height and overall massing overwhelm abutting structures. Situated in a densely built neighborhood, an addition of the size and scale proposed does not fit within the context of said built environment.

6. New Construction within the Boundaries of Historic Properties (NPS Technical Preservation Service) – Protecting the historic setting and context of a property, including the degree of open space and building density, must always be considered when planning new construction on an historic site.

Filling in the rear of the parcel with the proposed addition does not recognize or protect the historic setting and the context of its abutting neighborhood. As an NHC member stated, the Historical Commission considers the neighborhood as a valued collection of historic houses, and the overall volume of the new construction must sit harmoniously within the context of a densely-settled historic neighborhood. The Planning Board concurs that the proposed addition does not respect the context into which it will be set.

7. New Additions in Densely-Built Environments (Brief) – the least impact on the historic building and the district.

The visibility of the proposed addition from public rights of way on all sides reinforces the impact of its size and massing that are out of scale with the neighborhood. It produces a negative impact on other historic structures in the neighborhood.

The Planning Board found that since the addition will be on a site with an existing historic structure, the addition should contribute to preserving the image of that historic structure and not detract from it. The Planning Board found that the new addition was significantly larger than the historic structure, and its proposed location at the rear of the site does not mitigate its size in relation to the historic structure. Furthermore, its proposed location places it within an abutting neighborhood of historic residential structures where it overwhelms those structures, individually and collectively.

The Planning Board has relied on the expertise of the Newburyport Historical Commission in review of this application and concurs with this finding of the NHC:

In determining whether the proposed addition satisfies the Secretary's Standards for subordination to the historic building and is compatible with neighboring historic and protected houses, the NHC made calculations of the proposed volume above grade of the addition and in relation to the volume above grade of the historic 1871 IFS structure. Because the ratio of the new proposed to existing volume above grade is $235,600 \text{ cubic feet} / 109,260 \text{ cubic feet} = 2.1$, and the proposed addition is therefore over twice the existing volume (mass) of the historic building, the proposed addition's height and massing will put it out of scale, proportion, and harmony with both the subject historic building and the neighboring context buildings. Although the NHC fully acknowledges that a building "slightly larger" has been contemplated by the Standards, the Commission deemed the proposed addition substantially and significantly larger, at 2.1, not "slightly larger."

The Planning Board found that the proposed project does not meet the Downtown Overlay District (DOD) standards for new construction and alteration as the proposed project is not compatible with the size, scale, height and character of the original Institution for Savings historic structure, the lot where it was to be located and its setting within the DOD.

General Special Permit Findings

In addition to the specific criteria and findings for the DOD Special Permit, the Planning Board must also determine that the proposed project meets the criteria for all special permits as provided in Section X-H(7) of the Zoning Ordinance.

For the purposes of the DOD Special Permit, the requested "use" is the construction of an addition to the existing building, rather than any of the specific uses that are listed in Section V-D and described in Section V-E. (It is important to note that the existing and proposed uses as an office or retail bank, which are allowed by right in the B2 zoning district, are not the subject of this application.)

The general special permit criteria in Section X-H(7) of the NZO and the Board's project specific findings for each are as follows:

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.

The requested use is the construction of an addition to an existing building in the Downtown Overlay District. Section XXVII-D of the Ordinance defines the term "alteration" to include "[a]ny addition" and Section XXVII-F states that "all new construction, alteration, or demolition within the DOD shall require the owner of the relevant property to submit an application for a DOD-SP." Thus, the requested use is specifically listed in the Ordinance as requiring a special permit.

2. The requested use is essential and/or desirable to the public convenience or welfare.

The requested use—construction of an addition to an existing commercial building—would be desirable to the public convenience by allowing for an expansion of business use in the downtown business district.

3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The applicant submitted a report by a professional traffic engineer (5/13/2020) which projected that the proposed project would generate 80 additional trips on a typical weekday, including 13 new trips in the morning peak hour and 12 in the afternoon peak hours. The report concluded, “These increases are negligible and well within the daily fluctuation in traffic and are therefore not expected to have an operational impact on area streets.”

The proposed project would provide the number of parking spaces required by the NZO on the site. No offsite parking impacts are anticipated.

4. The requested use will not overload any public water, drainage, 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.

The requested use would not overload any public water, drainage or sewer system or any other municipal system.

5. Any special regulations for the use, set forth in the special permit table are fulfilled.

There are no special regulations for the proposed use.

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.

The Planning Board found that the proposed project would impair the integrity and character of the Downtown Overlay District due to its lack of compatibility with adjacent properties in the immediate historic neighborhood in terms of size, scale, height and overall massing. Height and massing of the addition are greater than existing historic structures in the neighborhood and visually overwhelm them. The proposed addition presents a non-active façade which is not appropriate for a residential neighborhood.

The Planning Board also found that the addition was not compatible with the historic Institution for Savings building on the site. More specifically, the proposed addition is not subordinate to the existing historic structure in that the overall volume, which speaks to massing and impact on the viewer, is approximately twice that of the historic structure.

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.

The proposed new use will not cause an excess of that particular use that could be detrimental to the character of said neighborhood.

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

The proposed use—construction of the proposed addition in the Downtown Overlay District—is not in harmony with the purpose of the ordinance as expressed in Sections XXVII-B, XXVII-F.3 and XXVII-F.5.

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

The proposed use would permit the banking use of the existing buildings to be extended and therefore would not generate 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.

CONCLUSION AND DECISION:

For all of the reasons stated herein, the petition for a Special Permit is therefore **DENIED**.

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:

Electronic signatures appearing on this decision are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

Bonnie Sontag
Bonnie Sontag, Chair

April 8, 2021
Date

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit decision for the property known as 93 State Street and 12 Prospect 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