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By Hand

May 27, 2021

Rob Ciampitti, Chair
Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950
Newburyport, Massachusetts 01950

Re: Request for Special Permit and Variance;
20 Atwood Street, Newburyport, MA (the "Property")
Assessor's Map: 19 Lot: 12

Dear Chair and Member of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Alexander and Mary Bruce Rae-Grant the owner of the Property (the "Applicant"), who are proposing to renovate and add onto this single family home.

The Property is located in the R2 zoning district and the Demolition Control Overlay District ("DCOD"). The structure was built in or around 1810 and is listed as contributory on the District Data Sheets. The Property is non-conforming for square footage, 5,064 square feet where 10,000 square feet is required; frontage, 65.34 feet where 90 feet is required; rear set back, 16.9 feet where 25 feet is required; and front setback, 2.8 feet where 25 feet is required. For the existing shed, the existing shed is non-conforming due to the 1.9 foot side setback where 6 feet is required.

The Applicant proposes to remove the existing shed and in its place construct a new 8 foot by 14 foot shed which will intensify the non-conforming setback for the shed. The Applicant proposes to add a small addition, 14' x 8.5 to the bump out on the west side of the structure and a similar size addition on the rear of the bump out. The lot coverage will be increased from conforming at 24.3% to in excess of the requirement at 30.2%.

The Applicant will be removing 13.3% of the existing exterior walls and therefore a DCOD Special Permit is not required. Further, no roof line changes will occur.

As a result, the Applicant will require a variance for lot coverage and a special permit to modify a pre-existing non-conforming structure with less than 500 square feet and intensify the extension of the shed wall along the property line.

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SPECIAL PERMIT FOR NON-CONFORMITIES

The Applicant will require a Special Permit for non-conformities under section IX-B-2.A of the Ordinance for the proposed addition. Section IX-B-2.A allows the modification of a preexisting nonconforming single-family structure where the Board finds that:

1. **There will be no addition of a new non-conformity; and**
2. **The proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure.**

The Property is non-conforming for frontage, 5,064 square feet where 10,000 square feet is required; frontage, 65.34 feet where 90 feet is required; rear set back, 16.9 feet where 25 feet is required; and front setback, 2.8 feet where 25 feet is required.

As to the first criteria, the Applicant will not be adding any new non-conformities, but for that which the Applicant is applying for a variance. The Applicant will be intensifying the rear setback non conformity along the same plane. However, since the rear yard line moves in at an angle there is a further intensification toward the rear to a setback of 15.3' from the 16.9' that currently exists. Similarly, the Applicant will be extending the non-conformity along the property line where the shed is located. This lot shape issue contributes to the need for a side setback non-conformity because the structures have rear walls that attempt to stay square to the sidelines.

As to the second criteria, the Applicant is adding these two small additions to provide a slightly larger living area on the first floor. The Applicant has gone to great lengths to keep the size and scale of the proposed additions in keeping with the historic nature and scale of the homes on Atwood Street, while still providing for more living space. Given the proposed design and limited encroachment on any other of the surrounding homes while keeping in mind the design and scale of the home, the Board can find that the proposed alteration is not substantially more detrimental to the neighborhood.

The proposed shed while larger than the existing sheds, will remove two structures from the property and replace them with a more uniform structure. This addition will provide a barrier to the rear yard as well as the neighbors yard and will not be substantially more detrimental than the existing condition and location of the sheds.

VARIANCE

The Applicant has no outdoor storage space and is working to provide sufficient practical space while not constructing a garage, so to speak. There are currently two very small sheds which are not functional nor practical. The Applicant proposes to remove those sheds and replace them with one functional yet modest shed of 8' x 14' in size. Given the new foot print of the home as well as the shed, the Applicant has exceeded the lot coverage. The current lot coverage is 24.3%. With the proposed addition and the shed, the new lot coverage will be 30.2%. This exceedance requires a variance.

Pursuant to Section X-H(6) of the Zoning Ordinance, “[t]he [Z]oning [B]oard of [A]ppeals shall have the power. . . to grant. . . a variance. . . from the terms of this zoning ordinance. . .” Here, the grant of a variance by the Board is consistent with the standards of G.L. c. 40A, § 10 and said Section X-H(6).

The structure is the hardship related to the lot coverage variance request. But for the historic nature of the structure, the Applicant might attempt to add the additional living space on two floors. Doing so would certainly reduce the amount of lot coverage. However, the Applicant do not want to diminish from the historic nature of the later added saltbox addition to this structure. By being sensitive to the original structure and historic addition they have intensified the lot coverage.

According to the Zoning Ordinance itself, a hardship may be found to exist "...where the zoning board of appeals finds that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance." See Zoning Ordinance, § X-H(6)(D)(1). Here, the Property as noted has both an odd shape and the structure is of such a unique nature that both pose exceptional practical difficulties and undue hardship.

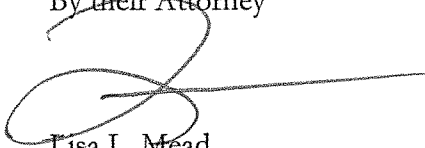
The proposal does not derogate from the intent of the ordinance as the additional lot coverage, given the nature of the addition and shed will help maintain property values. The ability to provide functional living space while maintaining the historic integrity of the structure is in line with the purpose and intent of the Ordinance.

Further, the proposed change will not be detrimental to the neighborhood as there will be no negative impacts on any neighbors as a result of the granting of the variance. The closest structure to the shed, is similarly close to the lot lines. The proposal is entirely consistent with the densely built south end. Both the neighbor and the Applicant will continue to be able to access the sides of their buildings.

Finally, no special privilege will be granted to the Applicants as the proposal is entirely consistent with the surrounding properties which are all similarly densely situated on their lots.

As a result the Applicant respectfully requests the Board grant a variance for lot coverage as presented.

Respectfully submitted
Alexander and Mary Bruce Rae-Grant
By their Attorney



Lisa L. Mead

Attachment
cc: client