

Mead, Talerman & Costa, LLC  
Attorneys at Law

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April 26, 2021

By Hand

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

Re: Special Permit for Non-Conformities  
32 Forrester Street, Newburyport, MA (the "Property")  
Assessor's Map: 66 Lot: 17

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents 14 Fruit St. LLC, the owners of the Property (the "Applicant"). The Applicant is proposing to construct an addition onto the existing structure and renovate the remainder of the home.

The Property is located in the R-2 zoning district and DCOD Overlay District of the Newburyport Zoning Ordinance (the "Ordinance"). It is a single family home. The Property is pre-existing nonconforming for lot area, frontage, front setback, and side setback. The R2 district requires a minimum lot size of 10,000 square feet where the Property measures 6,366 square feet; a front yard setback of 25 feet where it is currently 15.4 feet; 10 foot side yard setbacks where the west side setback is 4.1 feet and the east side is 5.7.

The original Structure is dated at approximately 1850 and is listed as contributory on the District Data Sheets. However, the Applicant is proposing to modify/remove less than the 25% threshold requiring a DCOD Special Permit.

Regarding changes to the existing non-conformities, the Applicant proposes to extend the west side setback but make it no worse. You will see that the structure does not sit square with the street and therefore as the building gets longer to the rear it moves closer to the west side. However, the Applicant is stepping in the addition so as not to exceed the current non-conforming setback. The east side is likewise extended, but because it is opposite the angle of the west side, the structure actually moves away from the sideline to the rear of the lot and therefore the proposed expansion is better than the existing non-conformity. There will be no change to the front yard setback.

Accordingly, the Applicant requires a special permit for non-conformities under Section IX-B(2)(A) of the Ordinance. This section allows the modification of a preexisting nonconforming single-family structure where the Board finds that:

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*Millis Office*

730 Main Street, Suite 1F  
Millis, MA 02054  
Phone 508.376.8400

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.

1. As shown on the plans, there will be no addition of a new non-conformity. Certain existing non-conformities will be extended in a minor fashion, but there are no new non-conformities proposed.

2. The proposed changes will not be substantially more detrimental to the neighborhood than the preexisting nonconforming Structure. As the Board is aware, the term “substantially” means to a great or significant extent. The term “detrimental” means tending to cause harm. As a result, it is not enough for the proposal to be different than that which is around it but that it will to a great or significant extent cause harm to the neighborhood, as compared to the existing structure. See *McAlee v. Board of Appeals of Barnstable*, 361 Mass. 317, 321 (1972).


As shown on the plans, the proposed addition is modest in size. The addition will be completed in the same style and finishes of the original structure. The addition steps in from the original structure and is no taller than the existing structure. The rear setback still far exceeds that which is required under the ordinance.

Regarding the neighborhood generally, the homes on Forrester Street generally sit on longer deeper lots, this Property is not different. Indeed, with the addition, the proposed structure will have a shape very similar to its most immediate Forrester Street abutters. The proposed structure will be in keeping with the general neighborhood and will not be substantially more detrimental than the existing structure. The Applicant has reached out to its neighbors and I attach those letters of support for your consideration.

Based upon the foregoing, the Applicant requests that the Board find the proposed application is not substantially more detrimental to the neighborhood than the existing Structure and approve a Special Permit for Non-Conformities.

Thank you for your consideration.

Respectfully submitted,  
14 Fruit St. LLC  
~~By their Attorney~~

  
Lisa L. Mead

Attachment  
cc: client

Zoning

City of Newburyport ~~Planning~~ Board  
Application for a SPECIAL PERMIT for NON-CONFORMITIES

Petitioner: Peter Zanni & Tony Finocchiaro

Mailing Address: 17th 14th Street Newbury, MA 01951

Phone: 603-918-6387 or 781-484-6704 Email: finocchiarotony@gmail.com

Property Address: 32 Forrester Street Newburyport MA 01950

Map and Lot(s): 66/17 Zoning District: R2/DCOD

Book and Page(s): 15656/0487

Owner(s) Name: Peter Zanni

Mailing Address (if different): 17th 14th Street Newbury MA 01951

This request for a Special Permit for Non-Conformities is made under section(s):  
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- |   |   |
|---|---|
| <input type="checkbox"/> Extension or Alteration (IX.B.2) | <input checked="" type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| <input type="checkbox"/> Parking                          | <input type="checkbox"/> Plum Island Overlay District (XXI-G)         |
| <input type="checkbox"/> Upward Extension                 | <input type="checkbox"/> FAR  |
| <input type="checkbox"/> Open Space                       | <input type="checkbox"/> Footprint Expansion                          |
| <input type="checkbox"/> Height                           | <input type="checkbox"/> Height Increase                              |
| <input type="checkbox"/> Lot Area                         |   |
| <input type="checkbox"/> Use                              |   |
| <input type="checkbox"/> Rear Yard                        |   |
| <input type="checkbox"/> Lot Coverage                     |   |
| <input checked="" type="checkbox"/> Side Yard             |   |
| <input type="checkbox"/> Lot Frontage                     |   |
| <input type="checkbox"/> Front Yard                       |   |

Description of request:  
Modification and addition to pre-existing non-conforming structure.

All information contained within this application will become a formal part of the Planning Board's proceedings and decision.

Zoning

City of Newburyport Planning Board  
 Application for a SPECIAL PERMIT for NON-CONFORMITIES

	Required Dimensional Controls from Section VI.A	Existing Dimensional Controls from survey or site plan	Proposed Dimensional Controls from proposed plans
Lot Area	10,000 S.F.	6,366 S.F.	6,366 S.F.
Frontage	90 FT.	49.00 FT.	49.00 FT.
Height*	35 FT.	<35 FT.	<35 FT.
Max. Lot Coverage (%)**	25%	17.5%	23.1%
Min. Open Space (%)***	40%	76.9%	52.1%
Primary Front Setback	25 FT.	15.4 FT.	15.4 FT.
Side A Setback/Secondary Front Setback	10 FT.	4.1 FT.	4.1 FT.
Side B Setback	10 FT.	5.7 FT.	5.7 FT. & 7.1 FT.
Rear Setback	25 FT.	77.7 FT.	62.4 FT
Parking Spaces	2	1	1
FAR****			

\*Height is measured to median roof line.

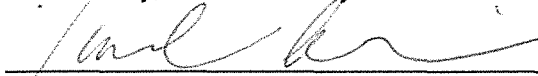
\*\*Total building footprint divided by the lot area expressed as a percentage.

\*\*\*Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

\*\*\*\*FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Planning Board. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Planning Board Rules and Regulations may result in a dismissal this application as incomplete.

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

  
 \_\_\_\_\_  
 Petitioner's Signature

\_\_\_\_\_  
 Owner's Signature (if different)

CITY OF NEWBURYPORT, MA  
ZONING DETERMINATION

APR# 2021-030

Name: 14 Fruit Street, LLC

Address: 32 Forrester Street Zoning District(s): R2/DCOD

Request: Addition greater than 500sf to rear of existing nonconforming single family structure extending non conforming side yard setbacks. Exempt dormers added to historic portion with less than 25% exterior wall demolition therefore DCOD review required.

ZONING BOARD REVIEW REQUIRED

Variance

- Dimensional Controls (VI)
  - Lot Area
  - Lot Frontage
  - Lot Coverage
  - Parking (VII)
  - Modification
- Open Space
- Height
- Lot Width
- Front Yard
- Side Yard
- Rear Yard

Sign Variance

- Signs (VIII)
  - Type
  - Lighting
  - Size
  - Location

Other

\_\_\_\_\_

Special Permit

- Table of Use Regulations (V.D) #: \_\_\_\_\_
- Spacing (VI.D)
- In-Law Apartment (XIIA)
- Bonus for Multifamily Developments (XVI)
- Personal Wireless Communication Services (XX)
- Demolition Control Overlay District (XXVIII)\*
- Wind Energy Conversion Facilities (XXVI)
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)
- Plum Island Overlay District (XXI-G)
  - FAR
  - Lot Coverage
  - Height
  - Setbacks
  - Open Space

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Use Regulations (V-D) # \_\_\_\_\_
- One residential structure per lot (VI.C)
- Open Space Residential Development (XIV)
- Water Resource Protection District (XIX)
- Federal Street Overlay District (XXII)
- Courts and Lanes (XXIII)
- Waterfront West Overlay District (XXIV)
- Towle Complex Redev. Overlay District (XXV)
- Downtown Overlay District (XXVII)\*
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- \*Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

review for substantial improvement

The name typed below represents the intent to sign the foregoing document:

Jennifer T Blanchet

3/25/2021

Newburyport Zoning Administrator

Date

# 32 FORRESTER ST

**Location** 32 FORRESTER ST

**MBLU** 66/17/11

**Owner** CONNELLY PATRICIA D

**Assessment** \$544,100

**PID** 4340

**Building Count** 1

## Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$286,300	\$257,800	\$544,100

## Owner of Record

**Owner** CONNELLY PATRICIA D

**Sale Price** \$170,000

**Co-Owner**

**Certificate**

**Address** 32 FORRESTER ST

**Book & Page** 15656/0487

NEWBURYPORT, MA 01950

**Sale Date** 05/06/1999

**Instrument** 1H

## Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CONNELLY PATRICIA D	\$170,000		15656/0487	1H	05/06/1999
CONNELLY VINCENT J	\$0		3694/0250		

## Building Information

### Building 1 : Section 1

**Year Built:** 1854

**Living Area:** 1,596

Building Attributes	
Field	Description
Style:	Antique
Model	Residential
Grade:	Average
Stories:	1.75
Occupancy	1

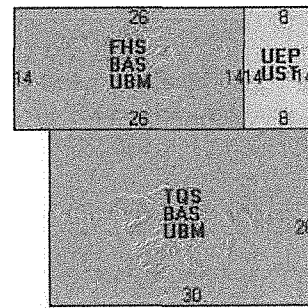
Exterior Wall 1	Clapboard
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Flr 1	Carpet
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	7 Rooms
Bath Style:	Average
Kitchen Style:	Average
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Kitchen Grd	
Fndtn Cndtn	
Basement	

### Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos/A00\00\04\191.jpg>)

### Building Layout



([http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/4340\\_45](http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/4340_45))

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	964	964	
TQS	Three Quarter Story	600	450	
FHS	Half Story, Finished	364	182	
UBM	Basement, Unfinished	964	0	
UEP	Porch, Enclosed, Unfinished	112	0	
UST	Utility, Storage, Unfinished	112	0	
		3,116	1,596	

### Extra Features

Extra Features	Legend
No Data for Extra Features	

**Land**

**Land Use**

Use Code 1010  
Description SINGLE FAM

**Land Line Valuation**

Size (Acres) 0.15  
Depth 0  
Assessed Value \$257,800

**Outbuildings**

Outbuildings	<u>Legend</u>
No Data for Outbuildings	

**Valuation History**

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$286,300	\$257,800	\$544,100

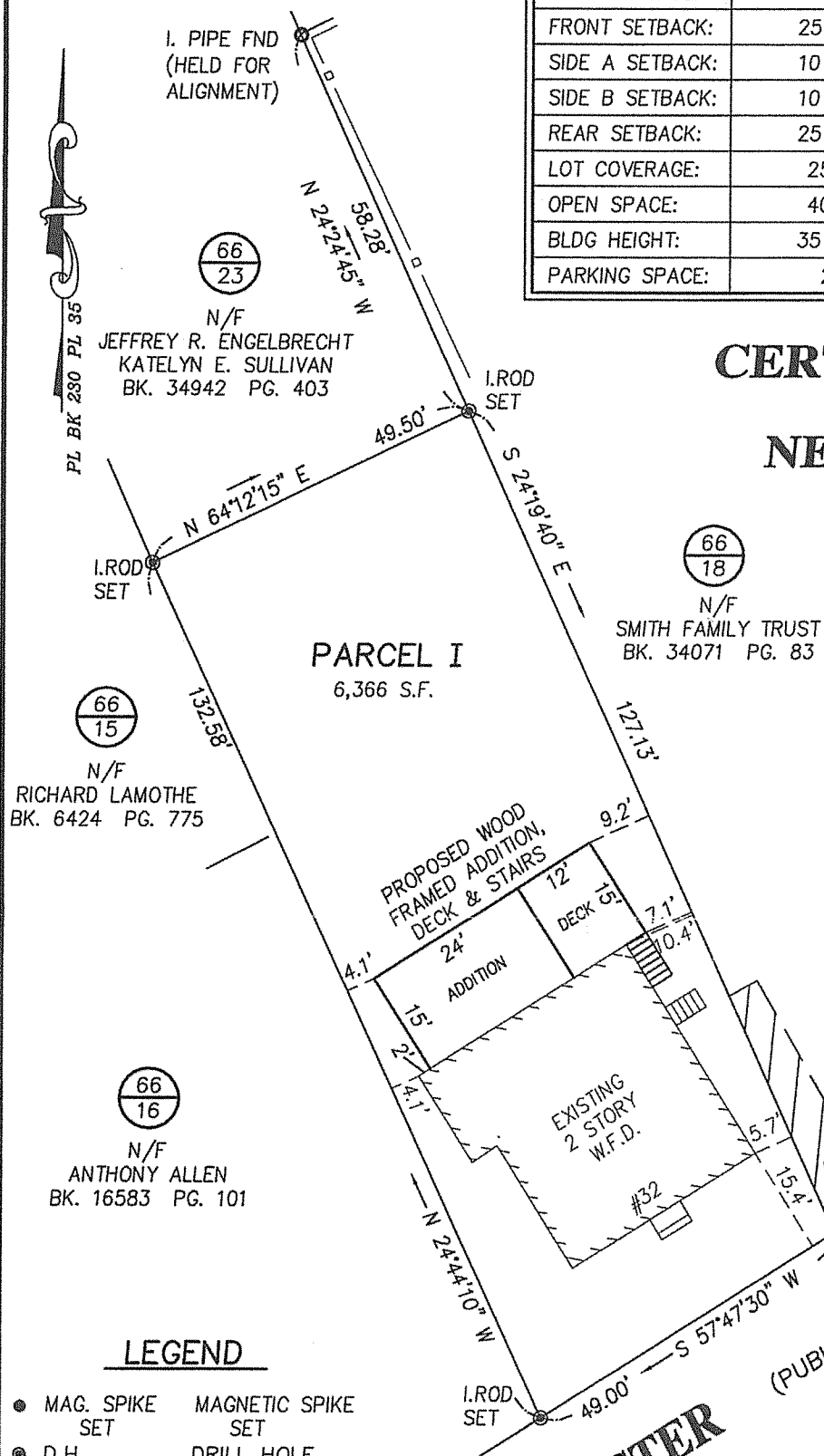


**ZONING TABLE**

32 FORRESTER STREET - ASSESSORS MAP 66 LOT 17 ZONING DISTRICT R-2 / DCOD OVERLAY			
	REQUIRED	EXISTING	PROPOSED
LOT AREA:	10,000 S.F.	6,366 S.F.	6,366 S.F.
LOT FRONTAGE:	90 FT	49.00 FT	49.00 FT
FRONT SETBACK:	25 FT	15.4 FT	15.4 FT
SIDE A SETBACK:	10 FT	4.1 FT	4.1 FT
SIDE B SETBACK:	10 FT	5.7 FT	5.7 FT & 7.1 FT
REAR SETBACK:	25 FT	77.7 FT	62.4 FT
LOT COVERAGE:	25%	17.5%	23.1%
OPEN SPACE:	40%	76.9%	52.1%
BLDG HEIGHT:	35 FT	< 35 FT	< 35 FT
PARKING SPACE:	2	1	1

**OWNER OF RECORD**

14 FRUIT ST, LLC  
17 14TH STREET  
NEWBURY, MA 01951  
BOOK 39517 PAGE 436



**CERTIFIED PLOT PLAN**

IN  
**NEWBURYPORT, MA**

SHOWING

**PROPOSED ADDITION**

AT

**32 FORRESTER STREET**  
(MAP 66, LOT 17)

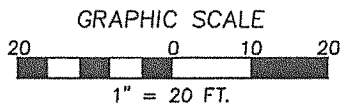
FOR

**14 FRUIT ST, LLC**

17 14th STREET  
NEWBURY, MA 01951

**LEGEND**

- MAG. SPIKE SET      MAGNETIC SPIKE SET
- ⊙ D.H.                  DRILL HOLE
- ⊙ I.ROD                IRON ROD
- ⊙ I. PIPE              IRON PIPE
- FND.                  FOUND
- W.F.D.                WOOD FRAME DWELLING
- ⊙/⊙                  ASSESSORS MAP#  
                          PARCEL#



**BASIS OF BEARINGS**

PLAN BOOK 230 PLAN 35

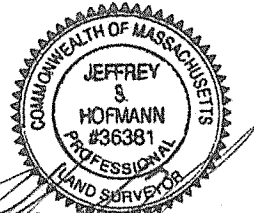
**PLAN REFERENCES**

PLAN 606 OF 1960  
PLAN BOOK 230 PLAN 35

I CERTIFY:  
THAT THIS ACTUAL SURVEY WAS MADE ON  
THE GROUND BETWEEN OCT. 9, 2020, AND  
DECEMBER 1, 2020, AND THAT THE  
STRUCTURES AND PHYSICAL FEATURES  
ARE LOCATED AS SHOWN TO THE BEST OF  
MY ABILITY AND BELIEF.

**MILLENNIUM ENGINEERING, INC.**

ENGINEERS AND LAND SURVEYORS  
62 ELM ST. SALISBURY, MA 01952 (978) 463-8980  
13 HAMPTON RD. EXETER, NH 03833 (603) 778-0528



PROFESSIONAL LAND SURVEYOR


4/19/21  
DATE

SCALE: 1"=20'	CALC. BY: P.D.B.	PROJECT: M203848
DATE: APRIL 19, 2021	CHKD. BY: J.S.H.	SHEET: 1 OF 1



EXISTING FRONT ELEVATION

1/4"=1'-0"

 ARCHITECTURAL DRAWINGS	32 FORRESTER ST NEWBURYPORT MA	
	DESIGNER RONALD WORDEN	
4/21/2021	PROPOSED ADDITION	1 OF 6





EXISTING LEFT ELEVATION

1/4"=1'-0"



EXISTING REAR ELEVATION

1/4"=1'-0"

32 Forrester Street  
Newburyport MA



Summary of modifications within historical designated areas.

Total area = 2132 sqft

Front of house = 432 sqft

Right side = 568.5 sqft

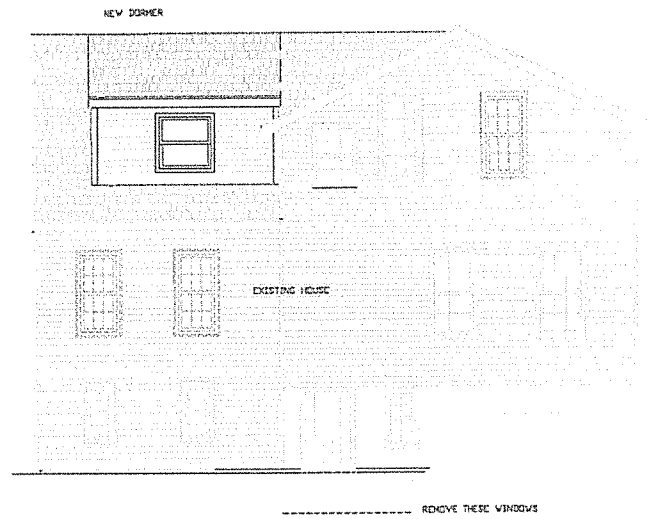
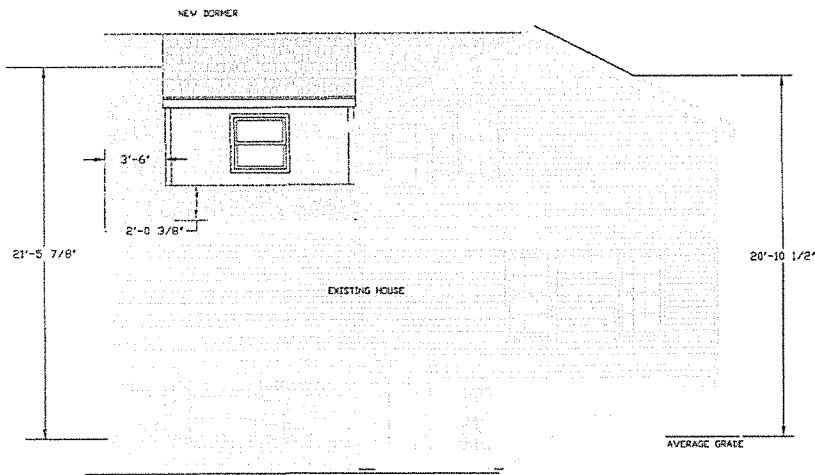
Left side = 572 sqft total modifying 30 sqft removing 3 windows

Rear of house = Existing gable 555 sqft with 413 sqft of effected area  
allowing for integration for new addition.

Total percentage of change 20.7%



Proposed left side elevations  
Total sqft = 572 sqft modifying 30 sqft  
removing 3 windows.





# City of Newburyport

04/26/2021



1:960

Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassGIS. MVPC AND THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.



Legend	
Municipal Boundary	Roads
Parcels (on aerial)	Interstate
	Major Road
	Local Road
	Railroad

Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport, Massachusetts 01950

Dear Chairman and Members of the Zoning Board;

I have been notified about plans to add an addition to the rear location of 32 Forrester Street. I understand that the intention is to do the following:

- Add 15x24 2 story addition with a walk out and dormers.
- Rebuild existing right side porch keeping existing foot print.
- Adding dormers on the left and right rear of existing home following historical guidelines.

The proposed changes in the property will be in keeping with the neighborhood and historical guidelines. I have no objection to the proposed project and believe the proposal will not be detrimental to the neighborhood.

Sincerely,

Signature \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

*[Handwritten Signature]*  
*12 Stanley St*  
*April 3 2021*

Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport, Massachusetts 01950

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Sincerely,

Signature



Address

28 Forrester St

Date

Apr 3, 21.

Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport, Massachusetts 01950

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Sincerely,

Signature  Andrea O'Toole

Address 90 Forrester Street, Newburyport MA 01950

Date 4/5/21

Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport, Massachusetts 01950

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The proposed changes in the property will be in keeping with the neighborhood and historical guidelines. I have no objection to the proposed project and believe the proposal will not be detrimental to the neighborhood.

Sincerely,

Signature Mary Edwards

Address 25 Forrester St

Date 3/30/2021

Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport, Massachusetts 01950

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I have been notified about plans to add an addition to the rear location of 32 Forrester Street. I understand that the intention is to do the following:

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The proposed changes in the property will be in keeping with the neighborhood and historical guidelines. I have no objection to the proposed project and believe the proposal will not be detrimental to the neighborhood.

Sincerely,

Signature



Address

6 Butler Street, NBPT

Date

3.30.21