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March 19, 2020

By Hand

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

Re: Request for Variance Extension
342 Merrimac Street, Newburyport, MA (the "Property")
Assessor's Map: 65 Lot: 10A/B

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, I represent Dan and Judy Lynch (the "Petitioner") the owners of the Property. On May 29, 2019, the Board granted a variance for the Petitioner's project on the Property, a copy of which is attached hereto.

The Petitioner now respectfully requests a 6-month extension of the variance, said extension to begin on the date the variance is due to expire. As grounds for the extension, the Petitioner submits that the commencement of the project has been delayed due to financing and project design.

As a result of the foregoing, the Petitioner respectfully requests that the Board grant a 6-month extension of the variance to begin on the date the variance is set to expire.

Respectfully submitted
Dan and Judy Lynch
By their attorney,

Lisa L. Mead

cc: Client

Millis Office

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



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:

Daniel and Judy Lynch c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

for property owned by **Daniel and Judy Lynch** for the following request:

construct new dwelling within the required front and side setback

The application was filed at the City Clerk's Office on 3/29/19 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 **342 Merrimac Street** in the WMD Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel 65-10-A/B and recorded in the Essex South District Registry of Deeds as Book and Page 35650-0573 and 25045-0487. The newspaper notices for the public hearing were posted on 04/29/19 and 05/06/19 in the Newburyport Daily News. A public hearing was held for the above application on 05/14/19.

After the close of the public hearing on 05/14/19, 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 convert the existing two-family structure to a single-family home on the same lot with frontage on Merrimac Court. The applicant is also seeking to construct a second single-family structure on the property thus preserving the two-family use. The existing structure is currently non-conforming for lot area, frontage, front setback, and side yard setbacks. The applicant is seeking the following dimensional relief: Lot Area (sq. ft.) 13,315 (unchanged) where 15,000 is required, Frontage 60.23 ft. (unchanged) and 94.25 ft. where 120 ft. is required, and Front Yard Setback of 12.2 ft. (unchanged) and 15 ft. where 25 ft. is required.
2. The applicant is seeking a dimensional variance, for which hardship must be established. The shape of the lot is odd, the topography sloping (towards Merrimac Court) and these are unique to the neighborhood. This odd shape and topography provide reasonable grounds for the finding of a hardship.

3. The initial plans submitted with this application indicated a side yard setback intrusion that would have required relief. On 5/6/19 the applicant submitted modified plans where the footprint now meets the side setback requirements. The only remaining relief that is required is a front yard setback variance.
4. The applicant stated that the barn existing on the property was used only for storage and would remain so.
5. Nothing was presented in the application nor determined through questioning by the Board was found detrimental to the subject properties or the neighborhood.
6. The hardship in this application is based upon lot shape, topography and existing building placement (X-H (6)(C) and literal enforcement (X-H (6)(A) causing substantial hardship, financial or otherwise.
7. It was noted in the hearing discussion that the applicant still needs to seek a special permit from the Planning Board and appear before the Conservation Commission. The proposal is within 100 feet of the wetland buffer. The applicant has met with the Newburyport Historic Commission (NHC) relative to a Preservation Restriction on the existing structure. The applicant was reminded that while this hearing was being closed that any changes to the plans as a result of this additional relief sought from other bodies would necessitate their returning before the ZBA with revised plans.
8. Evidence was presented and the Board found that the proposed change continues to be in conformity with the neighborhood and will not be substantially more detrimental to the neighborhood than the existing conditions.
9. In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that the provisions are not triggered.

Upon a motion made by Member Edward Cameron and duly seconded by Member Robert Ciampitti, 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>Yes</u>	Renee Bourdeau	<u>No</u>
Maureen Pomeroy	<u>Absent</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 or all the members of the ZBA, in accordance with M.G.L. c.40A, as adopted, the petition for the Dimensional Variance was therefore **APPROVED** with the following conditions:

1. Recording of Decision: The applicant shall file this Special Permit approval 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 a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.
2. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns shall adhere to the following plans and/or documents:
 - "Board of Appeals Plan, 342 Merrimac Street, Newburyport, Massachusetts, Assessors Map 65 Parcel 10 A/B" by Waypoint Surveying Services dated June 20, 2018 and revised on October 18, 2018, February 13, 2018 and on March 25, 2019

- "Proposed Exterior Elevations, A New Home at: 342 Rear Merrimac Street, Newburyport, MA 01950" by Kerry Design, LLC dated March 28, 2019

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 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. Schematic Approval: This Zoning Board approval represents a schematic approval for the project. This approval does not represent a final approval of any utility design and details or fire safety measures, as applicable. The applicant, owner, successors or assigns shall be responsible for designing all utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.
5. Hours of Construction: The applicant/owner 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 6 p.m. Monday through Friday and 8 a.m. and 5 p.m. on Saturday, unless a specific waiver is requested. The Zoning Board of Appeals and the City Marshal shall approve such waiver.
6. 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 & Development.
7. The barn currently existing on the property shall continue to only be used for storage – no residential or other use.
8. The resulting residential structures shall only be used as single-family residences.

These conditions do not limit any other rights and remedies the City of Newburyport may have. Copies of this decision and approved plans have been filed with the Newburyport Planning Board and Office of the City Clerk.

Undersigned Chair of the Zoning Board of Appeals,


Edward Ramsdell

Date: 5/29/19

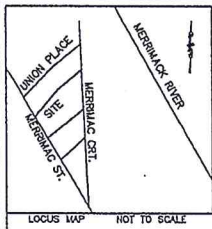
CERTIFICATION OF CITY CLERK

I, Richard Jones, 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 **342 Merrimac Street** was filed in the Office of the City Clerk on May 29, 2019. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

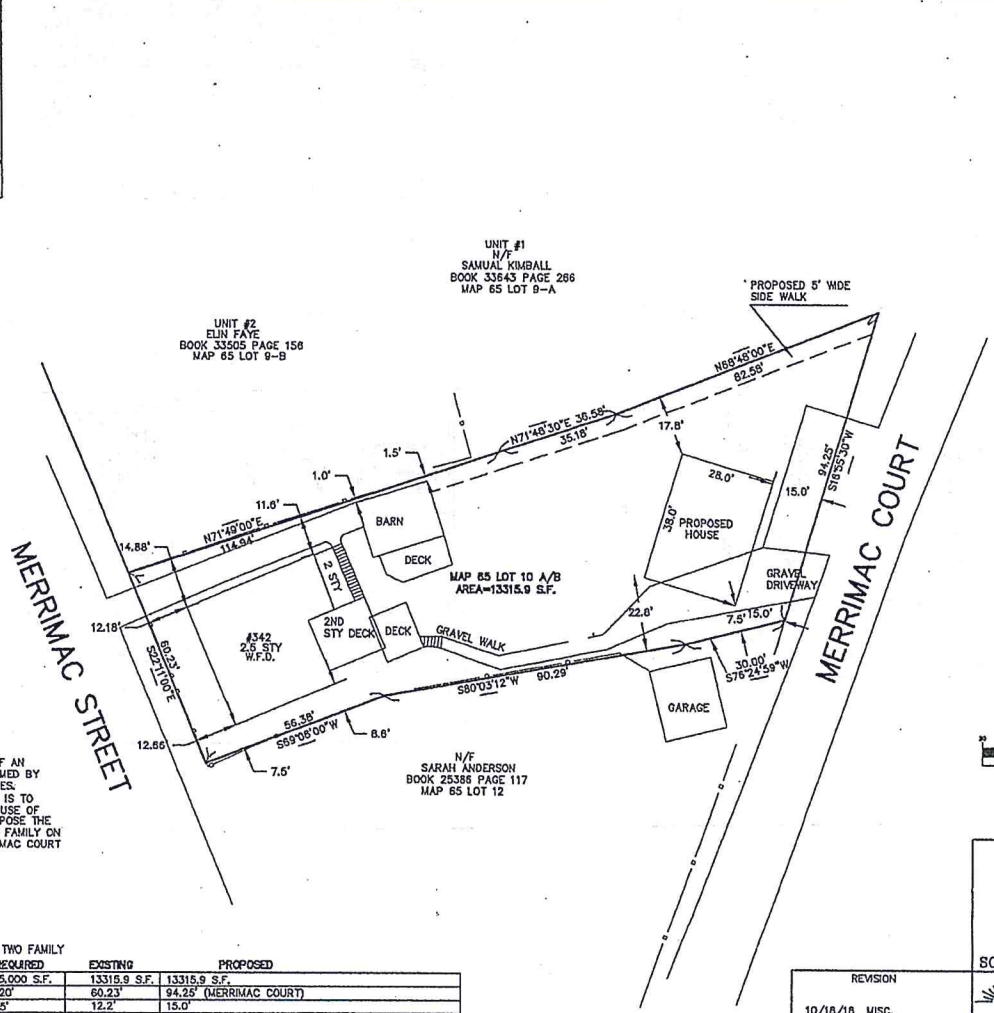
Richard P. Jones

Newburyport City Clerk

Date: 6/18/19



LOCUS MAP NOT TO SCALE



UNIT #1
N/F
SAMUAL KIMBALL
BOOK 33643 PAGE 286
MAP 65 LOT 9-A

UNIT #2
ELIN FAYE
BOOK 33505 PAGE 158
MAP 65 LOT 9-B

MAP 65 LOT 10 A/B
AREA=13315.9 S.F.

N/F
SARAH ANDERSON
BOOK 23386 PAGE 117
MAP 65 LOT 12



3-25-19

NEWBURYPORT ZONING BOARD OF APPEALS

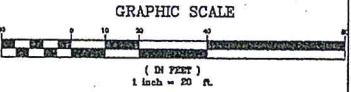
DATE

NOTES

- 1.) THIS PLAN IS THE RESULT OF AN ON GROUND SURVEY PERFORMED BY WAYPOINT SURVEYING SERVICES.
- 2.) THE PURPOSE OF THIS PLAN IS TO PRESERVE THE TWO FAMILY USE OF THE PROPERTY AND TO PROPOSE THE CONSTRUCTION OF A SINGLE FAMILY ON THE SAID LOT USING MERRIMAC COURT AS FRONTAGE.

ZONING TABLE

	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	15,000 S.F.	13315.9 S.F.	13315.9 S.F.
MIN. FRONTAGE	120'	60.23'	94.25' (MERRIMAC COURT)
MIN. FRONT YD.	25'	12.2'	15.0'
MIN. SIDE YD.	20'	7.5'	7.5'
MIN. REAR YD.	25'	N/A	N/A
MAX. LOT COVERAGE	25%	13%	21% (PROPOSED AND EXISTING TOTAL)
OPEN SPACE	40%	83%	75%



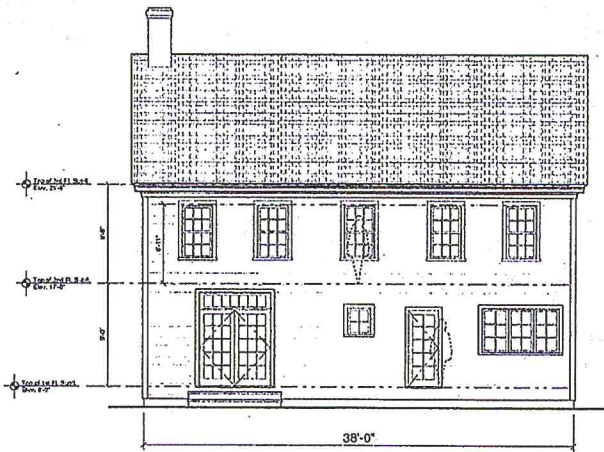
BOARD OF APPEALS PLAN
342 MERRIMAC STREET
NEWBURYPORT, MASSACHUSETTS
ASSESSORS MAP 65 PARCEL 10 A/B
PREPARED FOR
DAN LYNCH

SCALE: 1" = 20' JUNE 20, 2018

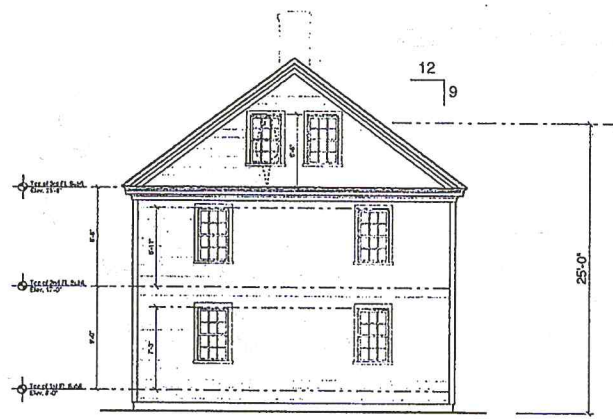
REVISION	DATE	BY
10/18/18	MISC.	
2/13/19	MISC.	
3/25/19	MISC.	

WAYPOINT SURVEYING SERVICES
141 BRIDGE ROAD, SUITE 202-5
SALISBURY, MASSACHUSETTS 01952
(978) 505-5281

DRAWN BY: D.A.	SHEET #: 1 of 1	CHECKED BY: D.A.
3580		DESIGN BY: D.A.



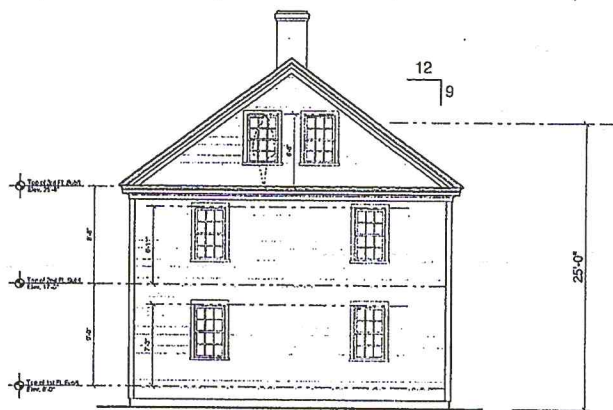
Proposed West Elevation
Scale: 1/4" = 1'-0"



Proposed South Elevation
Scale: 1/4" = 1'-0"



Proposed East Elevation
Scale: 1/4" = 1'-0"



Proposed North Elevation
Scale: 1/4" = 1'-0"

KEERY CONSTRUCTION 422 High Street Northampton, MA 01060 (413) 253-2211	
DESIGN DEVELOPMENT	
Project No.: 1005	
Scale: 1/4" = 1'-0"	
Date: March 23, 2019	
Client: 342 Rear Merrimac Street Northampton, MA 01060	
A2	