

30 Green Street Newburyport, MA 01950 Phone 978.463.7700 Fax 978.463.7747

www.mtclawyers.com

July 8, 2020

By Hand

Jennifer Blanchet
Zoning Administrator
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Request for Zoning Review Denial;
68 Middle Street, Newburyport, MA (the "Property")
Assessor's Map: 16 Lot: 39

Dear Ms. Blanchet:

Reference is made to the above-captioned matter. In that connection, this firm represents Windward Shaw LLC (the "Applicant"), who on behalf of the owner of the Property will be renovating and adding onto this four family building and converting it to a three family use<sup>1</sup>. The Applicant requests a determination of the relief required for the project.

In 1970 the then owner received a dimensional variance ("density"). The variance decision is vague but when one examines the assessor's records along with the decision it appears as though the relief was for lot area because of the use, frontage, lot coverage (maybe) and side yard setback on the rear right hand side. No plan exists in the Planning Office file along with the variance nor are there plans of record. I have attached the variance as Exhibit A.

As you can see on the field card from 1970 the assessor's show removal of an old addition to the rear and added a new larger addition. The new addition encroaches on the side yard and may or may not have moved the property over lot coverage – but likely did given the existing conditions. You can see also that it went from a two family to a two family and studio. The Assessor has advised that this classification is the former method for classifying apartments – and the use of the Property would be a three family use as of 1970.

The Applicant proposes to remove the addition in the back and build an addition which meets all of the setbacks and does not increase the lot coverage rather the new structure would reduce lot coverage. The proposed addition would be inside and smaller than the existing footprint. The use would be a three family use. Please also note there are currently 2 parking spaces and there will be 3 after.

<sup>&</sup>lt;sup>1</sup> Please note while the current use is a four family use, it appears from the record that we can only verify a legal three family use since 1970.

The Property is non-conforming for frontage with 36.60 where 120 are required, westerly side set back with 0.1 where 10 is required and parking with 2 where 6 is required.<sup>2</sup>

Given that the prior variance has no plan and the proposed renovation and addition actually brings the side yard setback into compliance and reduces the lot coverage, it is our opinion that in order to undertake this project the Applicant requires a Special Permit for Nonconformities under section IX-B(2)(B) from the Zoning Board.

The Property is listed as contributory on the Data Sheets the original structure having been constructed in or around 1820 according to the Data Sheets and 1860 according to the Assessor's Records. The Applicant will be will only be removing the 1970 structure and therefore there will be no review required by the Historic Commission nor a demolition delay permit required.

Please do not hesitate to contact me at 978-463-7700 if you have any questions.

Respectfully submitted Windward Shaw LLC By their Attorney

Lisa L. Mead

Attachment cc: client

<sup>&</sup>lt;sup>2</sup> As noted above it appears as though the variance was granted for lot area, lot coverage and westerly side setback of the 1970 addition along with parking. All of those conditions will be improved or made to meet current zoning requirements.

## **BUILDING PERMIT** OCCUPANCY RANCH CAPE CONTEMPORARY GAMBREL SINGLE FAMILY HOTEL SPLIT LEVEL GARRISON DESCRIPTION of OBSOLESCENCE CONVENTIONAL TWO FAMILY ROOMING HOUSE APARTMENTS GAS STATION STRUCTURAL STORES WAREHOUSE OFFICES INDUSTRIAL SURPLUS CAP COMM. GARAGE FARM OVERBUILT CONSTRUCTION FOUNDATION FLOORS COMMERCIAL LOC CONCRETE CONCRETE BLOCK CEMENT ECONOMIC BRICK OR STONE EARTH PIERS POSTS PINE BUGHTED AREA HARDWOOD ASPH. THE COMPUTATIONS BASEMENT INL. - LIN. AREA FULL W/W CARPET NO BASEMENT ATTIC STRS. & FLOOR UNIT AMOUNT HEAD ROOM SF INTERIOR FINISH ADD. & PCHS PINE WALLS HARDWOOD BSMT AREA BEYEL SIDING PLASTER WIDE SIDING DRY WALL FIN. BSMT. DROP SIDING UNFINISHED WOOD SHINGLES ATTIC FIN. BSMT. AREA / NOUNCE. ASPHALT SHINGLES FIN. ATTIC AREA B'MT GAR ASBESTOS SHINGLES FIREPLACE TO BLOCKED. STUCCO ON FRAME MODERN KITCHEN STUCCO ON MASONRY BAKED ENAMEL STEEL HEATING WALL HT. BRICK VENEER HOT WATER OR VAPOR BRICK ON MASONRY FORCED AIR FURNACE INSULLATION CONC. or CIND. BLOCK STEAM ALUMINUM RADIANT HEATING FIREPLACES ARTIFICIAL STONE HOT AIR FURNACE HEATING STONE ON MASONRY PIPELESS FURNACE VERTICAL BDS. SIDES AIR CONDITIONING PLUMBING ROOF INSULLATION UNIT HEATERS NOTES: BLANKET INSUL AUTO BURNER M. F. ELECTRIC HEAT Y STOCCO FRONT ONLY ROOFING TOTAL NO HEATING ASPHALT SHINGLES 3RD FLE. UN FIAL USED AS ATTIO FACTOR PLUMBING WOOD SHINGLES ASBESTOS SHINGLES BATHROOM REPL VALUE TOILET RM. (2 Fix SLATE - SUMMARY OF BUILDINGS -WATER CLOSET TILE METAL LAVATORY OCCUPANCY TYPE GRADE YR BUILT REMOD. COND. REPL VAL PHYS. DEP. PHYS. VAL. KITCHEN SINK FUNC. DEP COMPOSITION SOUND VAL DWELLING STALL SHOWER ROLL ROOFING TYPE OF ROOF URINAL GARAGE NONE. SLOP SINK SPRINKLERS FRAMING NO PLUMBING WOOD JOIST MIS COMMERCIAL MODERN FIXTURES IMBER, BMS. & COLS. THE BATH FLR. & Wact. TEEL BMS. & COIS TILE TOILET FLR. & Wact. VOOD RAFTERS

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## City of Newburyport, Mass.

## BOARD OF APPEALS CITY HALL

70-004

May 4, 1970

On Tuesday evening, April 28, 1970, the City of Newburyports Board of Appeals held a Public Hearing in City Hall on the application of Milton A. Leavitt, 68 Middle Street, Newburyport, Massachusetts.

The applicant requested a Variance under Section IV-B (Density) of the Zoning Ordinance to remove present addition and add a new building on land owned by the the applicant and located at 68 Middle Street, Newburyport, Massachusetts, as per plan on file with the Board of Appeals.

Mr. John F. Stokes of 4th Street, Plum Island, Newbury, Massachusetts appeared in favor. No one appeared in opposition.

The Board finds that the granting of this Variance would in no way change the existing character of the neighborhood. The Board feels that the construction of the new addition would, in fact, improve the neighborhood, and would not be a detriment to the neighborhood. The Board also feels that to approve this Variance will result in a more stable structure being erected than that presently in existence.

With all members voting YES, the Board of Appeals hereby grants to Milton A. Leavitt this Variance to remove present addition and add a new building on said property.

Acting Chairman

FRANK F. KANE

Acting Secretary

VINCENT J. CONNOLL

Member

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Property Location: 68 MIDDLE ST MAP ID: 16/39/1/ Bldg Name: State Use: 1110 Vision ID: 612 Account # Bldg #: I of 1 Sec #: 1 Card 1 Print Date: 06/29/2020 08:18 CONSTRUCTION DETAIL CONSTRUCTION DETAIL (CONTINUED) Element Cd Ch Description Element Cd. Ch. Description Style 11 Family Conver. BAS Model 01 Residential Grade Average Stories 3 Stories Kitchen Grd Occupancy MIXED USE 27 Exterior Wall 1 Brick/Masonry Code Description Percentage Exterior Wall 2 1110 APT 4-8 UN 100 Roof Structure Gable/Hip 20 Roof Cover Asph/F Gls/Cmp FOP Interior Wall 1 Plastered 76 Interior Wall 2 COST/MARKET VALUATION Interior Flr 1 Pine/Soft Wood Adj. Base Rate: 147.78 Interior Flr 2 12 Hardwood Heat Fuel Electric Heat Type Replace Cost 582,975 Forced Air-Duc UUS AYB AC Type 1869 None FUS BAS UBM EYB 1989 Total Bedrooms 03 3 Bedrooms Dep Code Total Bthrms Remodel Rating Total Half Baths 0 Year Remodeled Total Xtra Fixtrs Dep % Total Rooms 8 Rooms Functional Obslnc Bath Style External Obsine Average Kitchen Style Cost Trend Factor 02 Average Condition 21 % Complete Overall % Cond Apprais Val 408,100 Dep % Ovr Dep Ovr Comment Misc Imp Ovr Misc Imp Ovr Comment Cost to Cure Ovr Cost to Cure Ovr Comment OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B) Description Sub Sub Descript | UB Units Unit Price | Fr | Gde | Dp Rt | Cnd | %Cnd | Code BUILDING SUB-AREA SUMMARY SECTION Code Description Living Area Gross Area Eff. Area Unit Cost Undeprec. Value BAS First Floor 1.758 1,758 147.78 259,790 FOP Porch, Open 28.15 1.182 FUS Upper Story, Finished 1,218 1.218 1,218 147.78 179,991 UBM Basement, Unfinished 1.758 352 29.59 UUS 52,017 Upper Story, Unfinished 1,218 609 73.89 89,995 Til. Gross Liv/Lease Area: 5,994 3,945 582,975



LOCUS TITLE INFORMATION

68 MIDDLE STREET

OWNER:

THAYER F. PHIPPS

DEED REFERENCE: BOOK 21236 PAGE 120

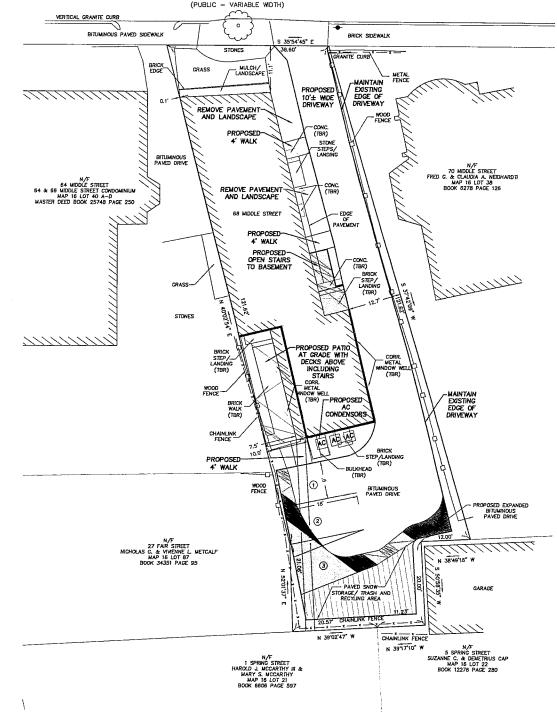
ASSESSORS:

MAP 16 PARCEL 39

ZONING RESIDENTIAL (R-2) MULTI-FAMILY (103)

	REQUIRED	EXISTING	PROPOSED
	(MULTI-FAMILY - 103)	(MULTI-FAMILY - 103)	(MULTI-FAMILY - 1
MINIMUM LOT AREA	20,000 SQUARE FEET	5,487 SQUARE FEET	5,487 SQUARE FEE
MINIMIUM LOT FRONTAGE	120 FEET	38.60 FEET	38.60 FEET
FRONT SETBACK	20 FEET	11.1 FEET	11.1 FEET
SIDE SETBACK (R)	10 FEET	0.1 FEET	0.1 FEET
SIDE SETBACK (L)	10 FEET	12.7 FEET	12.7 FEET
REAR SETBACK	20 FEET	45.8 FEET	46.1 FEET
MAXIMIUM LOT COVERAGE(%)	25.0%	31.3%	30.0%
MAXIMIUM HEIGHT	35 FEET	32 FEET	32 FEET
MINIMIUM OPEN SPACE	40.0%	31.3%	31.3%
MINIMIUM PARKING REQUIRED	6	2	3

## MIDDLE STREET (PUBLIC - VARIABLE WIDTH)

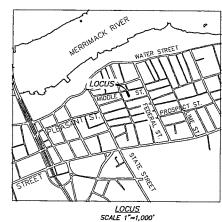


FIELD: CO

CALCS: <u>EC</u>

CHECKED: EJC

APPROVED: \_\_EJC\_\_



**NOTES** 

THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON THE LOT AND IS THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED APRIL 7, 2020.

DESIGN INFORMATION IS AS PROVIDED BY THE PROJECT ARCHITECT AND PROJECT COORDINATED WITH THE PROJECT TEAM.

OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE CITY OF NEWBURYPORT ASSESSOR'S OFFICES.

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

P.I.S. EVERETT D. CHASSIER, P.L.S. HASS. RESISTRATION NO. 41745

SCALE in FEET 1"=10"

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Winter GEC, LLC

44 MERRIMAC STREET NEWBURYPORT, MA 01950 978-270-8626

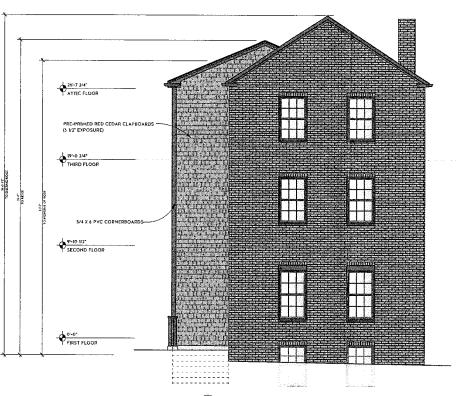
SCALE: HORIZ: \_\_\_1"= 10" VERT: \_\_\_\_\_ REVISIONS ZONING BOARD OF APPEALS PLAN 68 MIDDLE STREET

PLAN OF LAND IN NEWBURYPORT, MASSACHUSETTS SURVEYED FOR THAYER F. PHIPPS

PROJECT NO. 2020-68MIDDLE DATE: <u>JUN 17, 2020</u> SHEET NO.

1 OF 1





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	ADDITION/RENOVATION 68 MIDDLE STREET, NEWBURYPORT, MA	
REVI	SION & REISSUE N	OTES
No. Date	Notes	
Project # 2020-18	Project Manager M.L.	Date 6/29/20
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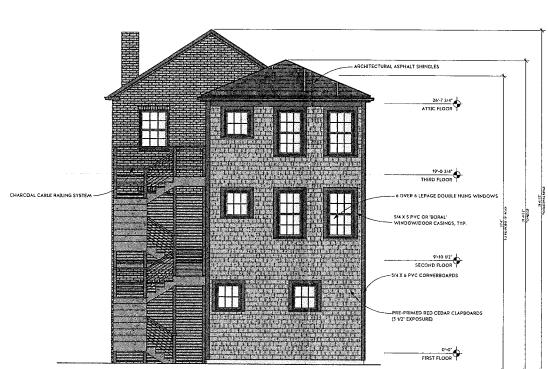
PROPOSED FRONT ELEVATION
A2.0 Scale: 1/4" = 1".0"

ATTIC FLOOR

19'-0 3/4" THIRD FLOOR

9°-10 U2° SECOND FLOOR





PROPOSED RIGHT ELEVATION
Scale: 1/4" = 1"-0"

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ELEVATIONS