

City of Newburyport Zoning Board of Appeals

Application for a VARIANCE

Petitioner: Glen Schneider and Carol Denker c/o Patrick Heffernan, Esq.

Mailing Address: 30 Green Street, Newburyport, MA 01950

Phone: 978-462-1514 Email: patrick@finnic.com

Property Address: 14-16 Charles Street

Map and Lot(s): 22/56 Zoning District: R2/DCOD

Book and Page(s): Book: 36710, Page: 9

Owner(s) Name: Glen Schneider and Carol Denker

Mailing Address (if different): _____

The petitioner is requesting a Variance from section(s):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Dimensional Controls (VI) | <input type="checkbox"/> Parking (VII) |
| <input type="checkbox"/> Lot Area <input type="checkbox"/> Front Yard
<input type="checkbox"/> Open Space <input type="checkbox"/> Side Yard
<input checked="" type="checkbox"/> Lot Coverage <input type="checkbox"/> Rear Yard
<input type="checkbox"/> Height <input type="checkbox"/> Lot Width
<input type="checkbox"/> Frontage | <input type="checkbox"/> PIOD (XXI)
<input type="checkbox"/> FAR
<input type="checkbox"/> 2 ½ stories
<input type="checkbox"/> Footprint expansion |

Other: _____

Request:

Proposed construction of one-car garage at an existing two-unit condominium.

City of Newburyport Zoning Board of Appeals
Application for a VARIANCE

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	7,110 sf	7,110 sf	15,000 sf
Frontage	61.67 ft	61.67 ft	75 ft
Height	31.1 ft	31.1 ft	35 ft
Lot Coverage (%)	23.43 %	29.28 %	25%
Open Space (%)	45.86%	40.23%	40%
Front Setback	4.17 ft	4.17 ft	25 ft
Side A Setback	8.63 ft	8.63 ft	20 ft
Side B Setback	24.5 ft	24.5 ft	20 ft
Rear Setback	33.71	33.71	25 ft
Parking Spaces	4	5	4
FAR*			

*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 Zoning Board of Appeals. Every application for a Variance shall be made on this form, which is the official form of the ZBA. 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, publishing, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal of this application as incomplete.

Petitioner's and Owner's signature(s):



CITY OF NEWBURYPORT, MA
ZONING REVIEW (BUILDING PERMIT DENIAL)

APR# 2018-093

Name: Glen Schneider and Carol Denker/ Finneran & Nicholson P.C. (Patrick Heffernan)

Address: 14-16 Charles Street Zoning District(s): R2/DCOD

Request: Construct dimensionally conforming accessory structure on non conforming property resulting in a new non conforming lot coverage.

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

- Signs (VIII)
 - Type Size
 - Lighting Location

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

CITY COUNCIL REVIEW REQUIRED (X.H.9)

 11/20/2018
Newburyport Zoning Administrator Date

FINNERAN & NICHOLSON, P.C.

ATTORNEYS AND COUNSELORS AT LAW
30 GREEN STREET
NEWBURYPORT, MASSACHUSETTS 01950
(978) 462-1514
FACSIMILE (978) 465-2584
E-MAIL: CASES@FINNIC.COM
WEBSITE: WWW.FINNERANNICHOLSON.COM

December 11, 2018

Newburyport Zoning Board of Appeals
Attn: Edward Ramsdell, Chairman
60 Pleasant Street
Newburyport, MA 01950

Re: 14-16 Charles Street, Unit B; Letter in Support of Dimensional Variance for Increase in Lot Coverage

Dear Mr. Ramsdell:

I represent Glen Schneider and Carol Denker (“Petitioners”) with respect to the proposed construction of a one-car, detached garage at an existing two-family structure. This letter is provided in support of their application for a Dimensional Variance with respect to an increase in lot coverage.

Existing Conditions

The Premises is located in the R-2 Zoning District and within the Demolition Control Overlay District. It contains a two-unit condominium and the Petitioners own Unit B, the unit at the rear of the premises. The lot is pre-existing legally nonconforming for lot area (7,110 sf), frontage (61.67 ft), front setback (4.17 ft) and its left side setback (8.63 ft).

Proposed Construction

Petitioners are proposing to construct a 360 sq. ft. one-car garage in Unit B’s exclusive use area at the rear of the lot. The proposed construction will be an accessory to two-family use. The proposed garage will make the lot nonconforming with respect to lot coverage increasing the lot coverage from 23.43% to 29.28%, which is 4.28% above the 25% lot coverage maximum. The proposed accessory structure will not increase or make more detrimental any other dimensional requirements or existing nonconformities.

Variance Criteria

Pursuant to Section X-H(6) of the Zoning Ordinance, the Board has the power to grant a variance provided that the desired 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.” Here, the grant of a variance by the Board, with respect to lot

coverage is consistent with this standard. As required by the application for a Dimensional Variance, these standards are address as follows:

- A. State the particular use proposed for the land or structure.

The existing use is two family (use #102). The structure will be an accessory to this use.

- B. Explain the conditions and circumstances related to soil conditions, shape, or topography of the land that are unique to the applicant's lot, structure, or building and do not apply to the neighboring lands, structures, or buildings in the same district.

The shape of the lot is unusual to district in that it is one of the few irregularly shaped lots in the surrounding neighborhood. Most lots in the neighborhood are rectangularly shaped. The right lot line on this property has an indent resulting in the lot losing nearly 600 sf of lot area to its abutting neighbor.

- C. Explain how strict application of the ordinance would deprive the applicant of reasonable use of the lot, structure, or building in a manner equivalent to the use permitted by other owners of neighboring properties in the same district.

According to Section X-H(6)(D) of the Zoning Ordinance, a hardship may be found to exist “[w]here by reason of exceptional narrowness, shallowness or unusual shape of a specific site . . . the literal enforcement of the requirements of this chapter pertaining to yards or other space relationships or total land area would result in exceptional practical difficulties or exceptional and undue hardship upon the owner of such property.” The preexisting conditions of the non-conforming lot with respect to lot area satisfies this hardship criteria. The existing lot area is less than half what is required (approximately 47% of what is required). The Petitioner’s proposal being very modest, the lot coverage is only increased to 29.28%, which is 4.28% above the 25% lot coverage maximum. If the Petitioner had compliant lot area, a modest 360 square foot footprint would most certainly be allowed without a required variance for lot coverage as it would be well within the 25% lot coverage maximum.

- D. Explain how the unique conditions are not the result of actions taken by the applicant subsequent to the adoption of the ordinance.

The Petitioner did not choose to create the condition of an undersized preexisting non-conforming lot as the lot existed in this manner prior to the adoption of zoning.

- E. Explain how relief will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

The proposed construction will not create any inconsistencies with surrounding properties. The neighborhood is already accustomed to two-family homes on undersized lots, that have similar existing garage structures on their properties. The Petitioner’s

proposed construction will fit in with the character of the neighborhood. The proposed accessory garage will be aesthetically pleasing and will be situated at the rear of the lot so as to minimize the visual impact on Charles Street and will not affect neighboring properties. The styling and construction are consistent with the character of the existing structure and surrounding neighborhood. The proposed garage will be located in such a manner so that it will not block any views or loom over any neighboring homes impeding light and air.

The relief sought will be desirable and without substantial detriment to the public good. The requested relief may be given without nullifying or substantially derogating from the intent or purpose of the ordinance for all of the same reasons previously indicated. Without the irregular shape of the lot, the Petitioners would have better use of the lot. Additionally, the pre-existing nonconformity with respect to lot area deprives Petitioners of any reasonable expansion to improve their enjoyment of the lot. All of this is consistent with the intent and purpose of the zoning ordinance.

For the foregoing reasons the Petitioner respectfully requests that the ZBA approve the Petitioners application for a variance from the lot coverage requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Heffernan', with a long horizontal line extending to the right.

Patrick Heffernan, Esq.

Enclosures.

F:\Cases\18-325\Memo in Support of Variance.docx

CURRENT OWNER		UTILITIES		STRT./ROAD		LOCATION		CURRENT ASSESSMENT	
Code	Description	Code	Appraised Value	Code	Assessed Value	Code	Assessed Value	Code	Assessed Value
14-16	CHARLES STREET LLC						234,200		234,200
C/O	BLAKE WILCOX						249,600		249,600
33	MARKET ST #2						3,900		3,900
NEWBURYPORT, MA 01950 Additional Owners:									

VISION

Code	Description	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
1040	RESIDENTL	2018	1040	198,800	2016	1040	189,500
1040	RES LAND	2018	1040	237,700	2016	1040	216,500
1040	RESIDENTL	2018	1040	3,900	2016	1040	3,400
Total				487,700		487,700	

RECORD OF OWNERSHIP

BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	V.C.
36148/0196	08/31/2017	Q	I	400,000	00
29039/0254	11/02/2009	U	I		
11580/0349	11/06/1992	U	I		
06762/0726	11/14/1980				

EXEMPTIONS

Year	Type	Description	Code	Amount	Number	Comm. Int.
Total:						

OTHER ASSESSMENTS

Year	Type	Description	Code	Amount	Number	Comm. Int.
Total:						

ASSESSING NEIGHBORHOOD

NBHD/SUB	NBHD Name	Street Index Name	Tracing	Batch
6/A				

NOTES

WHITE

APPRaised VALUE SUMMARY

Appraised Bldg. Value (Card) 234,200
 Appraised XF (B) Value (Bldg) 0
 Appraised OB (L) Value (Bldg) 3,900
 Appraised Land Value (Bldg) 249,600
 Special Land Value 0
 Total Appraised Parcel Value 487,700
 Valuation Method: C
 Adjustment: 0
 Net Total Appraised Parcel Value 487,700

BUILDING PERMIT RECORD

Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments
A2017-0556	10/18/2017	RE	Remodel	35,000		0		COMPLETE INTERIOR

VISIT/CHANGE HISTORY

Date	Type	IS	ID	Cd.	Purpose/Result
12/04/2015			DAR	02	Measur+2Visits
12/19/2006			RL	00	Measur+Listed
06/08/1998			NR	02	Measur+2Visits
07/19/1988			DS	00	Measur+Listed

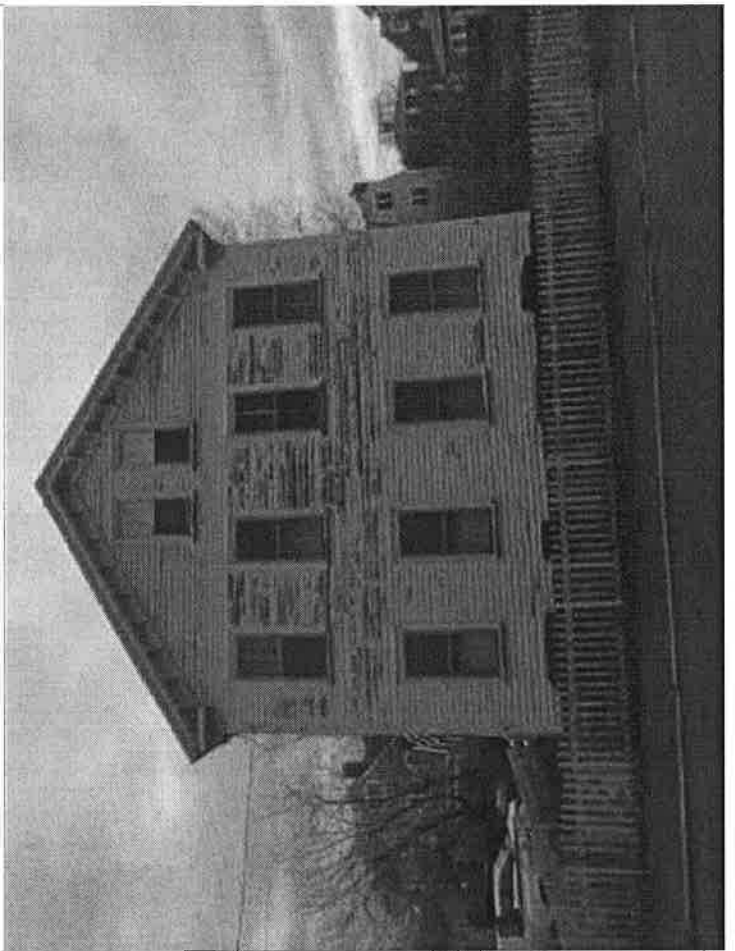
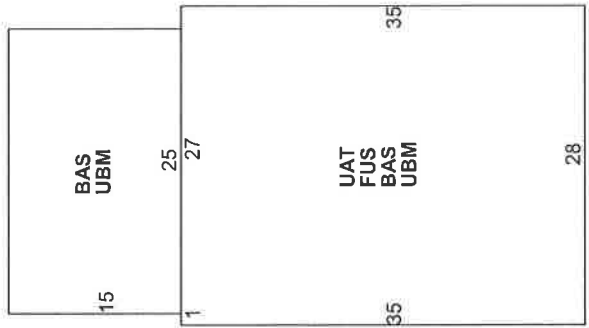
LAND LINE VALUATION SECTION

Zone D	Front	Depth	Units	Unit Price	Acres	Factor S.A.	Disc	C.	ST. Factor	Idx	Adj.
R3			7,100	30,57	1.1500	6	1.0000	1.00	1.00		0.00

Special Pricing

Spec Use	Spec Catg	S Adj Fact	Adj.	Unit Price	Land Value
		1.00		35.15	249,600

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd. Ch.	Element	Ch.
Style	10		
Model	01		
Grade	03		
Stories	2		
Occupancy	2		
Exterior Wall 1	11		
Exterior Wall 2			
Roof Structure	03		
Roof Cover	03		
Interior Wall 1	03		
Interior Wall 2			
Interior Flr 1	09		
Interior Flr 2			
Heat Fuel	03		
Heat Type	03		
AC Type	01		
Total Bedrooms	04		
Total Bthrms	2		
Total Half Baths	0		
Total Xtra Fixtrs			
Total Rooms	10		
Bath Style	02		
Kitchen Style	02		



OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)																																																																	
Code	Description	Sub	Sub Description	L/B	Units	Unit Price	Yr	Gde	Dp	Rt	Cnd	%Cnd	Apr Value																																																				
FGRI	GARAGE-AVE			L	280	28.00	1998		0			50	3,900																																																				
<table border="1"> <thead> <tr> <th colspan="10">BUILDING SUB-AREA SUMMARY SECTION</th> </tr> <tr> <th>Code</th> <th>Description</th> <th>Living Area</th> <th>Gross Area</th> <th>Eff. Area</th> <th>Unit Cost</th> <th>Undeprac. Value</th> </tr> </thead> <tbody> <tr> <td>BAS</td> <td>First Floor</td> <td>1,355</td> <td>1,355</td> <td>1,355</td> <td>123.73</td> <td>167,652</td> </tr> <tr> <td>FUS</td> <td>Upper Story, Finished</td> <td>980</td> <td>980</td> <td>980</td> <td>123.73</td> <td>121,254</td> </tr> <tr> <td>UAT</td> <td>Attic</td> <td>0</td> <td>0</td> <td>98</td> <td>12.37</td> <td>12,125</td> </tr> <tr> <td>UBM</td> <td>Basement, Unfinished</td> <td>0</td> <td>1,355</td> <td>271</td> <td>24.75</td> <td>33,530</td> </tr> <tr> <td colspan="2">Ttl. Gross Liv/Lease Area:</td> <td>2,335</td> <td>4,670</td> <td>2,704</td> <td></td> <td>334,561</td> </tr> </tbody> </table>														BUILDING SUB-AREA SUMMARY SECTION										Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprac. Value	BAS	First Floor	1,355	1,355	1,355	123.73	167,652	FUS	Upper Story, Finished	980	980	980	123.73	121,254	UAT	Attic	0	0	98	12.37	12,125	UBM	Basement, Unfinished	0	1,355	271	24.75	33,530	Ttl. Gross Liv/Lease Area:		2,335	4,670	2,704		334,561
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City of Newburyport



1:860



- Legend**
- Municipal Boundary
 - Roads
 - Interstate
 - Major Road
 - Local Road
 - Railroad
 - Parables (on aerial)

Notes

Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Amesbury & MassGIS. The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition or regulatory interpretation. THE CITY OF AMESBURY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF AMESBURY DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

143 Feet

72

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Projection: NAD 1983 StatePlane, Massachusetts, Meters, FIPS 2001