



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

October 14, 2021

By Hand

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

Re: Request for Special Permit for Nonconformities;
4 Plum Street, Newburyport, MA (the "Property")
Assessor's Map: 52 Lot: 53

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Mike Bukhin and Anna Wallack (collectively the "Applicant"), the owners of the Property, relative to proposed additions to the existing single family structure on the Property, namely construction of a dormer on the western side of the structure in addition to the removal and replacement of the existing gable roof system, an upward addition above the existing one story mudroom portion of the structure and into the two and one half story portion of the structure, and addition of a bay window on the eastern side of the structure. The Applicant requests a determination of the relief required for the project.

The Property is located in the R2 and DCOD Zoning Districts under the Newburyport Zoning Ordinance (the "Ordinance") and is a two and one half story timber frame style single-family home. The structure was constructed in 1850 according to the assessor's records and 1800 according to the District Data Sheets where it is listed as Contributory. However, because the Applicant is removing less than 25% of the exterior walls the DCOD Special Permit is not applicable.

To clarify, the Property is a corner lot with Plum Street as its primary front yard on its southern side, and Elm Street as its secondary front yard on its western side. The Property has existing non-conformities for lot size, frontage, both front yard setbacks, rear yard setback, lot coverage and open space. The R2 District requires a minimum lot area of 10,000 square feet where this lot has 1,300 square feet, 90 feet of frontage where this lot has 82 combined feet of frontage, a front yard setback of 25 feet where both the primary and secondary front yard setbacks are 0 feet, a rear yard setback of 25 feet where the rear yard setback is actually encroaching 0.7 feet over the boundary, maximum lot coverage of 25% where it is 57.5%, and a minimum of 40% open space where there is 11% here.

Other than the proposed window, which will decrease the side yard setback from 21.5 feet to 20.6 feet (but create no new nonconformity as 10 feet is the minimum side yard setback), the proposed addition will be entirely within the existing footprint of the structure. Still, the proposed addition will constitute upward intensification of both front

Millis Office

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

yard setbacks and the rear yard setback, as well as intensifying the lot coverage and open space nonconformities from 57.5% to 57.9% Lot Coverage and 11% to 10.5% Open Space respectively. Also, as the Property has nonconforming lot area and the proposed addition is increasing floor area by more than 500 feet, this also triggers a requirement for a Special Permit for nonconformities.

Special Permit for Nonconformities

As previously mentioned, the Applicant requires a Special Permit for nonconformities pursuant to Section IX.B(2)(A) for upward extension of dimensional nonconformities and also Section IX.B(3)(C) of the Ordinance for adding over 500 square feet to a structure that has insufficient lot area and/or frontage. Both sections allow the issuance of a Special Permit where the Board finds that:

- A. there will be no addition of a new non-conformity; and**
- B. the proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure.**

As to the first requirement, no new nonconformity is being created. The existing dimensional nonconformities will be intensified by an upward intensification, but no new nonconformities are being created. The one change to the footprint of the structure will decrease the side yard setback, but will remain conforming.

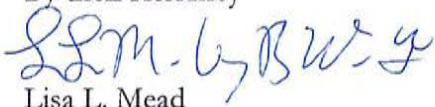
The next finding the Board can make is that the proposed change will not be substantially more detrimental to the neighborhood than the existing structure. Here, the Applicant is proposing an addition that will improve their home by making its third floor attic space more usable. According to the Architect's assessment, the new addition and replacement of the existing roof gable system will bring the structure more into compliance with the current building code and much more structurally sound.

The addition is to the side and rear of the Property and does not move any closer to the abutting properties than what already exists, while extending those non-conformities upward. However, the surrounding neighborhood of Plum Street, Elm Street, and Olive Street has many lots such as the Applicant's lot that are very small lots with buildings that are close together and nonconforming as to the dimensional requirements. Some are even right on the street or encroach over property lines. Additionally, in surveying the surrounding neighborhood it shows that there are many additions similar to the Applicant's proposal carried out to many of the structures of the neighborhood despite the tightly packed nature of the neighborhood. (See attached neighborhood photos) Visually, there are many other examples of bay windows, two story additions and dormers.

The structure will remain neither the largest nor the smallest in the neighborhood. It will also remain a single family use, while there are a number of two-family and multifamily apartment buildings nearby. In light of the foregoing, what is proposed by the Applicant is certainly not substantially more detrimental to the neighborhood than what exists.

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

Respectfully submitted
Mike Bukhin and Anna Wallack
By their Attorney


Lisa L. Mead

Attachment
cc: client

Neighborhood Context Photos



Elm St



19 Elm Street



4 Plum Street

Elm St ←

→ Plum St



TW
1-888-577-9956
1978-518-5896
www.twrealestate.com
Commercial Residential

Elm St



Elm St



Olive St

Olive St



Plum Street



Plum St.

Olive Street