

City of Newburyport Zoning Board of Appeals

Application for a SPECIAL PERMIT FOR NON-CONFORMITIES

Petitioner: Robert MacMillan and Stavey Dicicco c/o Mark Griffin Esq.

Mailing Address: 30 Green Street Newburyport MA 01950

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

Property Address: 16 Highland Avenue

Map and Lot(s): 89; 49 Zoning District: R-2

Book and Page(s): Bk 34887 Pg 481

Owner(s) Name: Same as above

Mailing Address (if different): Same as above

This request for a Special Permit for Non-Conformities is made under section(s):

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

(Refer to the Zoning Review form as supplied by the Zoning Administrator)

Description of request:

Petitioners proposed to construct two additions which will extend preexisting legally nonconforming setbacks in the side and front yards.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

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	Lot s.f.	Open Space %	Lot Coverage %	FAR*	Height	Frontage	Parking Spaces	Front Setback	Side A Setback	Side B Setback	Rear Setback
Existing	10952	49.4	16.3	NA	24.3	60	2	22.9	10.1	6.7	25+
Proposed	10952	52.9	13.3	NA	24.3	60	2	22.9	10.1	6.7	25+
Required	10000	40	25	NA	35	90	2	25	10	10	25

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

Existing Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1270.5	2	2561.5	101
528	1	528	ACC

Proposed Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1354.7	2	2645.7	101
528	1	528	ACC

**Reference Dimensional Code numbers and uses from the Zoning Ordinance. (e.g. - 101 = single family, etc.)

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 Special Permit for Non-Conformities must 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, publication, 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 by the ZBA of this application as incomplete.

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

[Handwritten Signature] 6/27/18
 Attorney for Petitioners/Owners

CITY OF NEWBURYPORT, MA
ZONING REVIEW/BUILDING PERMIT DENIAL

APR# 2018-043

Name: STACEY DICICCO + ROB MACMILLAN

Address: 16 HIGHLAND AVE Zoning District(s): R2

Request: EXTEND NON-CONFORMING SETBACK AT FRONT + SIDE BY

ADDING 2 SMALL ADDITIONS BELOW EXISTING CONSTRUCTION. TO SF

ZONING BOARD REVIEW REQUIRED

TOTAL NEW

Variance

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

Sign Variance

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

Special Permit for Non-Conformities

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

Special Permit

- Special Permit for Use (V.D) Use #: _____
- 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 _____

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Permitted Uses (V-D)
- Marijuana Overlay District (V-G)
- 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
 - Rear Yard
 - Lot Coverage
 - Side Yard
 - Lot Frontage
 - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Site Plan Review (XV)

- Major
- Minor

Smart Growth District (XXIX)

- Plan Approval

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

CITY COUNCIL REVIEW REQUIRED (X.H.9)

Jennifer Blumenthal
Newburyport Zoning Administrator

6/19/2018
Date

CURRENT OWNER
 DICICCO STACEY
 ROBERT MACMILLAN T/E
 16 HIGHLAND AVE
 NEWBURYPOR, MA 01950
 Additional Owners:

TOPO	UTILITIES	STRT/ROAD	LOCATION	DESCRIPTION	Code	Appraised Value	Assessed Value
				RESIDENTL	1010	420,100	420,100
				RES LAND	1010	262,000	262,000
				RESIDENTL	1010	10,800	10,800
				Total		692,900	692,900

RECORD OF OWNERSHIP

Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.
			34887/0481	Q	04/29/2016	1	728,000	00
			24349/0074	Q	05/27/2005	1	620,000	00
			6094/171	Q	08/27/1974	1	0	0
Total: 692,900								

EXEMPTIONS

Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.
Total: 692,900								

OTHER ASSESSMENTS

Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.
Total: 653,600								

ASSESSING NEIGHBORHOOD
 NBHD/ SUB: 6/A
 Street Index Name: NBHD Name
 Tracing: Tracing
 Batch: Batch

APPRAISED VALUE SUMMARY

Appraised Bldg. Value (Card)	416,100
Appraised XF (B) Value (Bldg)	4,000
Appraised OB (L) Value (Bldg)	10,800
Appraised Land Value (Bldg)	262,000
Special Land Value	0
Total Appraised Parcel Value	692,900
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	692,900

BUILDING PERMIT RECORD

Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments
AR12-180	05/07/2012	RS	Residential	42,250		100	07/01/2012	REMODEL MASTER B09/07/2012
WS4	07/10/2007	RS	Residential	2,000		0		INSTALL WOODSTOV 08/13/2007
B/P6-4/07	04/25/2007	RS	Residential	44,655	08/13/2007	100		CONST DETACHED 2 411/29/2006
228-6/02	06/12/2002	RS	Residential	4,548		0		ADD FARMERS PORC 06/20/2002
AR202-8/91	08/13/1991	RS	Residential	11,000		0		ADD 2ND S 11/07/1997

LAND LINE VALUATION SECTION

Use #	Code	Description	Zone	D	Front	Depth	Units	Unit Price	I	Factor	S.A.	Disc	Factor	C	ST	Adj.	Notes- Adj	Special Pricing	S Adj	Fact	Adj.	Unit Price	Land Value
1	1010	SINGLE FAM	R2				10,952	SF	20.81	1.1500	6	1.0000	1.00			0.00			1.00			23.93	262,000
Total Card Land Units: 0.25 AC. Parcel Total Land Area: 0.25 AC																							
Total Land Value: 262,000																							



CONSTRUCTION DETAILS

CONSTRUCTION DETAIL (CONTINUED)

Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	3A		Old Style Colonial				
Model	01		Residential				
Grade	04		Average +10				
Stories	2		2 Stories				
Occupancy	1		Wood Shingle				
Exterior Wall 1	14		Gable/Hip				
Exterior Wall 2	03		Asph/F GlsComp				
Roof Structure	03		Plastered				
Roof Cover	03		Hardwood				
Interior Wall 1	03		Carpet				
Interior Wall 2	12		Oil				
Interior Flr 1	14		Hot Water				
Interior Flr 2	02		None				
Heat Fuel	02		4 Bedrooms				
Heat Type	05						
AC Type	01						
Total Bedrooms	04						
Total Baths	2						
Total Half Baths	1						
Total Extra Fixrs	1						
Total Rooms	9		9 Rooms				
Bath Style	02		Average				
Kitchen Style	02		Average				

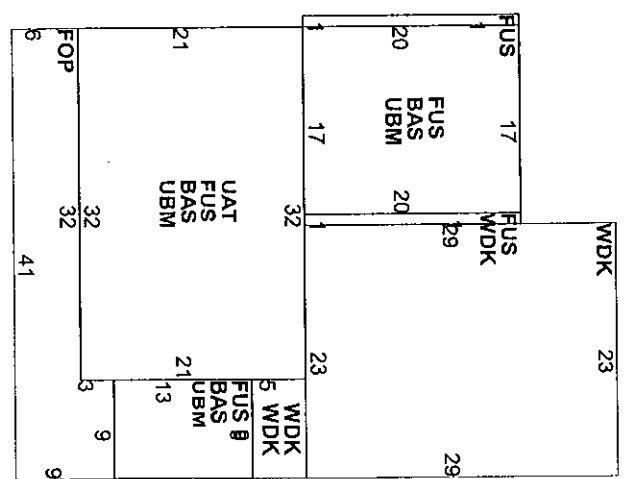
Code	Description	Sub	Sub Descrip	L/B Units	Unit Price	Yr	Gde	Dp	Rt	Chd	%Chd	Abr Value
FGR4	GAR W/LFT A			L	528	34.00	2007	0			60	10,800
FPL3	FIREPLACE 2			B	1	4,400.00	1999	1			100	4,000

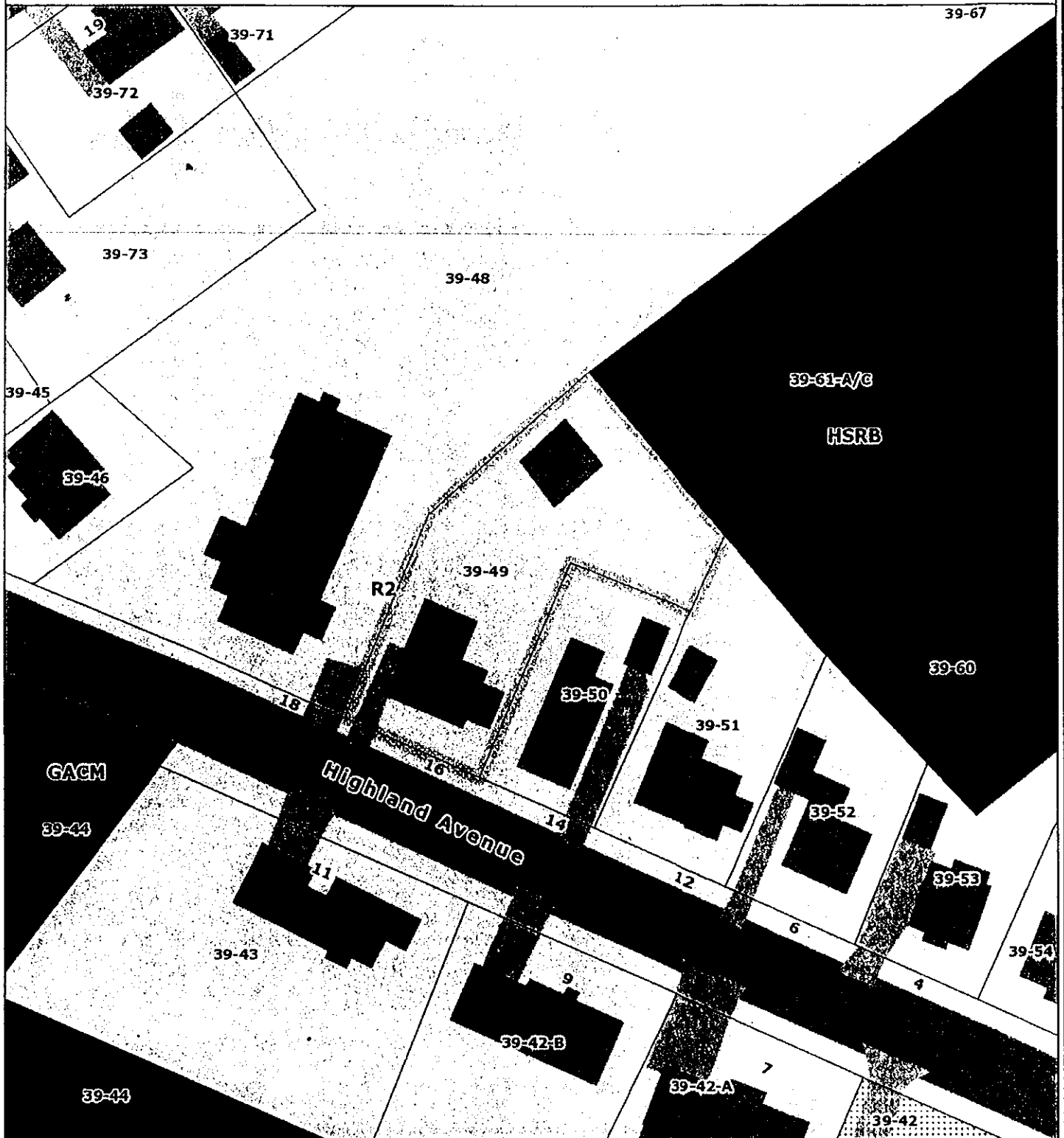
OB-OUTBUILDING & YARD ITEMS(C) / XE-BUILDING EXTRA FEATURES(B)

Code	Description	Sub	Sub Descrip	L/B Units	Unit Price	Yr	Gde	Dp	Rt	Chd	%Chd	Abr Value
Code	Description											

BUILDING SUB AREA SUMMARY SECTION


Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Unit Cost	Undeprc. Value
BAS	First Floor	1,129	1,129	1,129	167.84	189,496	189,496
FOP	Porch, Open	0	273	55	33.81	9,231	9,231
FUS	Upper Story, Finished	1,169	1,169	1,169	167.84	196,210	196,210
UAT	Attic	0	672	67	16.73	11,246	11,246
UBM	Basement, Unfinished	0	1,129	226	33.60	37,933	37,933
WDK	Deck, Wood	0	777	78	16.85	13,092	13,092





<ul style="list-style-type: none"> □ MVPC Bo □ Newburyport Boundary □ Parcels Zoning Overlays □ Demolition Control Overlay □ Downtown Overlay District □ Federal Street Overlay District □ IB Industrial Overlay District □ Medical Marijuana Overlay District □ Plum Island Overlay District □ Smart Growth Overlay District □ Towle Complex Redevelopment □ Waterfront West Overlay --- Trails ■ Building Footprints --- Driveways □ Easements 	<ul style="list-style-type: none"> Road Right of Way ■ Paved □ Unpaved ■ Hydrographic Features Streams --- Stream --- Intermittent Stream □ Exempt Lands 	<ul style="list-style-type: none"> Zoning ■ A/C ■ B1 ■ B2 ■ B3 ■ GACM ■ HSRA ■ HSRB ■ I1 ■ I2 ■ R1 ■ R2 ■ R3 ■ WMD ■ WMU
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1" = 60 ft




Horizontal Datum: MA Stateplane Coordinate System, Datum NAD83, Meters
 Data Sources: The data for this map was produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport. Additional data provided by the Executive Office of Environmental Affairs/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 NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION

MEMORANDUM IN SUPPORT OF AN
APPLICATION FOR A SPECIAL PERMIT FOR NONCONFORMITIES
FOR STACEY DICICCO AND ROBERT MACMILLAN
FOR THE PROPERTY LOCATED AT
16 Highland Avenue, Newburyport, MA

EXISTING CONDITIONS

The existing single family home is located on a compliant lot (10,952sf of area) with nonconforming frontage (60 feet). It is in the R-2 Zoning District where 10,000sf of lot area and 90 feet of frontage are required for single family use. The structure is legally nonconforming with respect to front and side setbacks (12.9' & 6',7', respectively). It complies with current zoning in all other respects.

PROPOSAL

The Petitioner proposes to construct two small first floor additions totaling approximately 84.2 square feet. The building footprint will be increased slightly and the square footage of the home living space will be substantially increased from 2561.5 to 22645.7 square feet. These additions will slightly extend the nonconforming front and side setbacks along the existing building lines. No other dimensional requirements will be impacted. Indeed the existing open space and lot area percentages will be improved (49.4 to 52.9 and 16.3 to 13.3) due to the removal of the rear deck and its replacement with a smaller deck. The extension of the nonconforming setbacks caused the Building Commissioner to determine that this project requires a special permit for nonconformities pursuant to Section IXB2 of the NZO.

SPECIAL PERMIT CRITERIA

The structure as proposed is not substantially more detrimental than the existing structure. In fact, it will be an improvement over what is currently on the site with respect to dimensional requirements such as lot area and open space. The small size of the addition make for no discernible increase in massing or density.

CONCLUSION

The ZBA must find that the new home is not *substantially more detrimental* to the neighborhood than the existing one. For all of the foregoing reasons the Petitioner requests the Board of Appeals find that the new home is not substantially more detrimental to the neighborhood than the existing structure and grant the special permit for nonconformities.