



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

December 22, 2017

By Hand

Ed Ramsdell, Chair
Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

RECEIVED

JAN 02 2018

Newburyport Planning Dept.

Re: Modification to Special Permit Request For Modification to Pre-existing Non-Conforming Use; 34-36 Hancock, Newburyport, MA (the "Property"); Assessor's Map: 25, Lot: 73.

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, this firm represents the Chestnut Street Realty Trust, George Haseltine, Trustee (the "Petitioner"), relative to the construction of a single-family dwelling on the Property. This is a modification to the Petitioner's application for a special permit for the Property submitted on September 28, 2017. The proposed residential structure which fronts on Chestnut Street meets all of the dimensional setback requirements for a single-family home in the R-2 district, and the use of the structure as a single-family residence is allowed in the R-2 district.¹ The Property currently includes the Neptune Veteran Firemen's Association. The Property fronts on both Hancock and Chestnut Streets. The Property consists of approximately 26,714 square feet of land with 208.70 feet of frontage on Hancock Street and 83.59 feet of frontage on Chestnut Street. The use of the Property by the Neptune Veteran Firemen's Association as a "club" is not allowed in the R-2 zoning district, but the current use is non-conforming as it has existed on the property since approximately 1906.² Given that it is not an allowed use in the district, when analyzing the zoning I have applied the B-2 requirements to the existing structure pursuant to the determination of the Building Inspector that in these instances, the least restrictive dimensional requirements to the pre-existing non-conforming use properties shall apply.³

¹ The front yard setback for the proposed residential structure was determined by averaging the front yard setbacks of the two adjacent principle structures on each side of the subject lot measured from the front building wall of the adjacent structures to the property line along Chestnut Street in accordance with Newburyport Zoning Ordinance Section VI-G.

² Please see attached insurance maps from 1906 and 1914 which show the evolution of the Neptune facility on Hancock Street. You will notice the dwelling structure to the rear of the Neptune Facility on Chestnut Street on the 1914 Map.

³ Please note, when reviewing the planning and building department files for any prior determinations on the Property we were provided with only one record attached. You will note there is there is no indication in 1971 what was "approved." Upon review of the registry of deeds records, again, there are no decisions filed. As a result, this request might also serve as a modification of this prior approval whatever it may be.

Millis Office

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

The proposal is to construct an additional structure on the Property which will be used as a single-family house that fronts on Chestnut Street. This request for relief is for the construction of an additional structure on the Property. The 208.70 feet of frontage on Hancock Street will be unchanged. In all respects the Property conforms to the dimensional requirement of a club use in the B-2 zoning district. In all respects the residential structure conforms to the dimensional setback requirements for the R-2 zoning district.

Under this application there will be a modification to the existing non-conforming use by adding an additional structure, but the use of the additional structure is entirely compliant with the R-2 zoning district in which the Property sits. Therefore, there will be no expansion of the pre-existing non-conforming use.

Section IXB(2)(B) of NZO requires that where there is a change to a pre-existing non-conforming use the Petitioner must show:

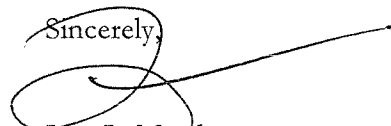
1. That there will be no intensification or extension of an existing nonconformity or the addition of a new nonconformity; and
2. That the proposed change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

Here, there is no change to the use. Additionally, there is no intensification of said use as the dimensional requirements are all fully met. The Petitioner satisfies the first criteria.

As to the second criteria, the Petitioner states that the proposed changes will not be substantially more detrimental to the neighborhood. Here, the proposed change includes the addition of a residential structure fronting on Chestnut street that is entirely consistent with residential uses on Chestnut Street. Additionally, the Chestnut Street frontage will now be in line with all of the other homes on that street. The addition of a house to the existing lot is entirely consistent with zoning as there is no prohibition of more than one principle use on a lot. As you can see from the proposed site plan, careful thought has been given to the design of the structure to make it consistent with and yet distinct from the club use on the Property.

Given that the non-conforming use will not be changing, and improvements will be made to the Property to soften the existing use in relationship to the streets, the Board can find that the proposed changes are not substantially more detrimental to the neighborhood than the existing use.

Kindly confirm the above at your earliest convenience. Should you have any questions or concerns, please contact me at (978) 463-7700.

Sincerely,

Lisa L. Mead

Attachment
cc: Client

AMENDED

City of Newburyport Zoning Board of Appeals Application for a SPECIAL PERMIT FOR NON-CONFORMITIES

Petitioner: George Haseltine, Trustee, c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street, Newburyport MA 01950

Phone: 9784637700 Email: Lisa@MTClawyers.com

Property Address: 34-36 Hancock Street

Map and Lot(s): 25/73 Zoning District: R-2

Book and Page(s): 3375/587

Owner(s) Name: Neptune Veterans Firemens Association

Mailing Address (if different): 34-36 Hancock Street, Newburyport MA 01950

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) |
| ___ Parking | <input type="checkbox"/> Plum Island Overlay District (XXI-G-3) |
| ___ Upward Extension | ___ FAR |
| ___ Open Space | ___ Footprint Expansion |
| ___ Height | ___ Height Increase |
| ___ Lot Area | |
| ___ Rear Yard | |
| ___ Lot Coverage | |
| ___ Side Yard | |
| ___ Lot Frontage | |
| ___ Front Yard | |

(Refer to the Building Permit Denial as supplied by the Building Commissioner/Zoning Codes Administrator)

Description of request:

Modification to application for special permit for modification to preexisting non-conforming use -- building a residential structure on the same lot that conforms with all use and dimensional requirements.

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

City of Newburyport Zoning Board of Appeals
Application for a SPECIAL PERMIT FOR NON-CONFORMITIES

	Lot s.f.	Open Space %	Lot Coverage %	FAR*	Height	Frontage	Parking Spaces	Front Setback	Side A Setback	Side B Setback	Rear Setback
Existing	26,714	32	16		32	208.70		12	10.2	59	2.4
Proposed	26,714	27	23		32	208.70		12	10.2	10.5	2.4
Required	B2/R2 10,000	B2- N/A R2- 40	B2- 100 R2- 25		B2- 40 R2- 35	B2- 60 R2- 90		B2- 0 R2- 25	B2- 0 R2- 10	B2- 0 R2- 10	B2- 0 R2- 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**
2792	2	4492	407
_____	_____	_____	_____
_____	_____	_____	_____

Proposed Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
2792	2	4492	407
_____	_____	_____	_____
1178	2	2150	101
_____	_____	_____	_____

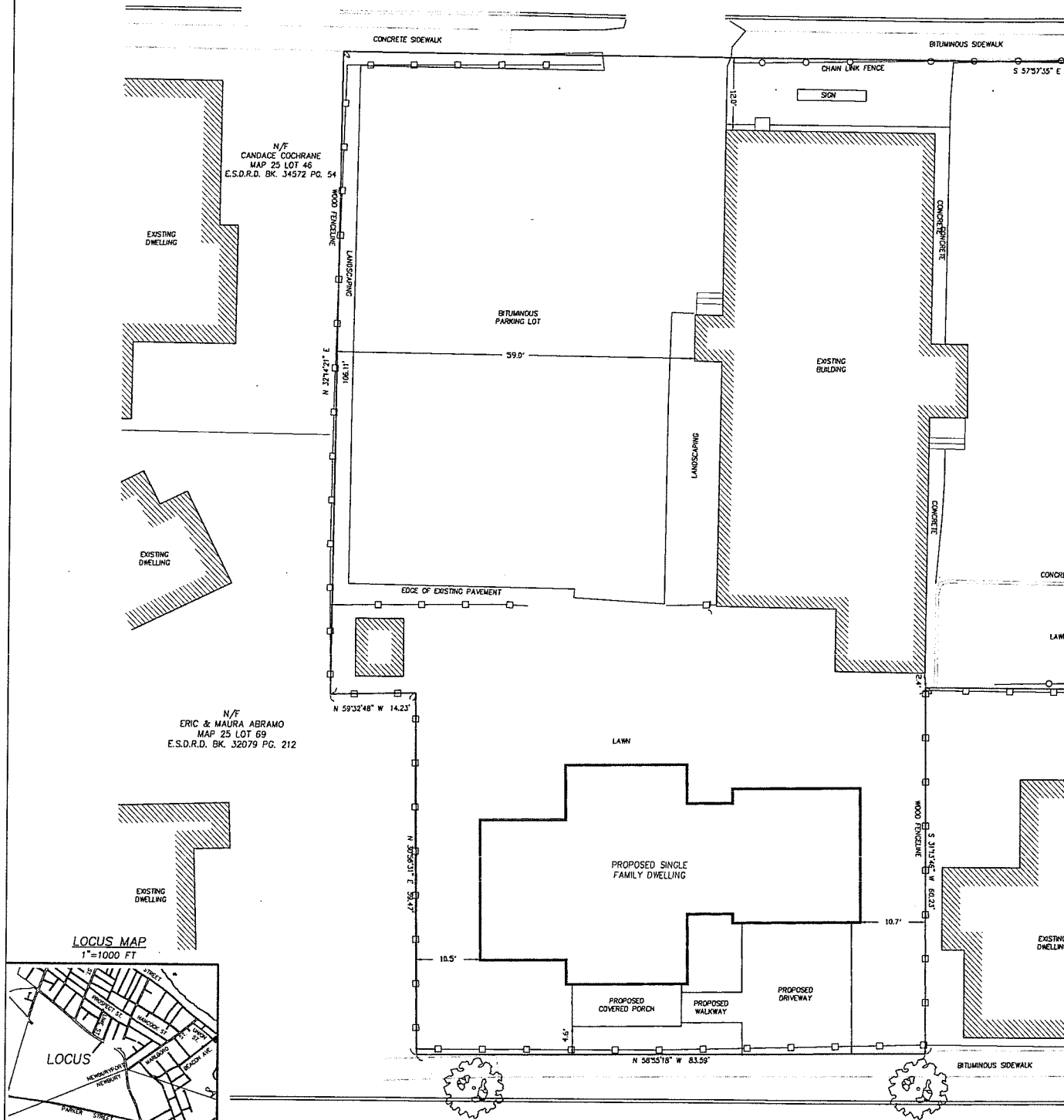
**Reference Dimensional Code numbers and uses from the Zoning Ordinance. (e.g. – 101 = single family, etc.)

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.

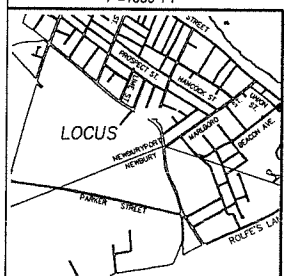
Petitioner's and Owner's signature(s):



HANCOCK STREET
(PUBLIC WAY ~ VARIABLE WIDTH)
(PAVEMENT WIDTH ~ 21 FT)



LOCUS MAP
1"=1000 FT



N/F
ERIC & MAURA ABRAMO
MAP 25 LOT 59
E.S.D.R.D. BK. 32079 PG. 212

N/F
CANDACE COCHRANE
MAP 25 LOT 46
E.S.D.R.D. BK. 34972 PG. 54

CHESTNUT STREET
(PUBLIC WAY ~ VARIABLE WIDTH)
(PAVEMENT WIDTH ~ 22 FT)

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Winter GEC, LLC

34 WINTER STREET
NEWBURYPORT, MA 01950
978-270-8626

SCALE:
HORIZ: 1"= 20'
VERT: N.A.

NO.	DATE	BY	REVISIONS
2	12/15/17	EJC	REMOVED DIVISION LINE / UPDATED ZONING CHART
1	8/21/17	EJC	UPDATED NEW R2 ZONING