

City of Newburyport Zoning Board of Appeals

Instructions for an Application for a SPECIAL PERMIT for NON-CONFORMITIES

In order to be scheduled for a public hearing before the Zoning Board of Appeals, the petitioner shall submit the following information. If materials are not included because they are not applicable then the applicant must request a waiver from the Office of Planning and Development in order to consider the application complete.

1. Two (2) hard copies of the following information.
- a. Completed "Application for a Special Permit for Non-Conformities" form.
 - b. Zoning Determination form from the Zoning Administrator indicating the need for a Special Permit for Non-Conformities.
 - c. Assessor's Card available from the Assessor's Office or from <http://gis.vgsi.com/newburyportma/>
 - d. A written memo addressing the following Special Permit for Non-Conformities criteria:
 - 1) Please identify the particular use existing or proposed for the land or structure.
 - 2) Please identify the particular respect or respects in which the existing structure or use does not conform to the requirements of the present zoning.
 - 3) Please identify whether the proposed use, extension, alteration, or addition would intensify the existing non-conformities or result in additional ones.
 - 4) Please identify the facts relied upon to support the Special Permit for Non-Conformities that the proposed use, extension, alteration or addition shall not be more detrimental than the existing.
 - e. Site plans or survey clearly showing existing and proposed conditions. Plans shall include the following:
 - North point;
 - Zoning district(s)
 - Names of streets
 - Wetlands (if applicable);
 - Dimensional control requirements;
 - Property boundaries; locations of buildings on adjacent properties and dimensional setbacks from property lines;
 - Indicate the proposed dimensional setbacks of the proposed structure with the existing structure(s) dimensional controls;
 - Deed restrictions, easements, and other restrictions that may affect the proposal;
 - Proposed features in solid lines; Features that are to be removed in dashed lines;
 - Title block including the Drawing Title, Location Address, and Date of Plan;
 - Graphic scale;
 - Existing and proposed parking spaces
 - f. Elevation plans showing all four sides of the existing building(s) and any proposed work to be highlighted. Plans shall include the following:
 - Title block including the Drawing Title, Location Address, and Date of Plan;
 - Setbacks of any proposed dormers;
 - Height of ridge and median roof lines
 - g. Any other supplemental information such as letters of support, photos, etc.
2. Pdf files of the above information via file transfer or email to planning@cityofnewburyport.com.
3. An administrative fee of \$200.00 per application is required at the time of application, plus a publication/abutters notification fee of \$350 per project. Checks may be combined and made payable to the "City of Newburyport."

FINNERAN & NICHOLSON, P.C.
ATTORNEYS AND COUNSELORS AT LAW

30 GREEN STREET
NEWBURYPORT, MA 01950
Tel. (978)462-1514 * Fax (978)465-2584

515 GROTON ROAD, SUITE 203
WESTFORD, MA 01886
Tel. (978)496-1177 * Fax (978)496-1146

**ATTORNEY WORK PRODUCT/PRIVILEGED
COMMUNICATION/CONFIDENTIAL**

April 27, 2021

Newburyport Zoning Board of Appeals
60 Pleasant Street
Newburyport, MA 01950

**RE: Special Permit for Non-Conformities Application
163 Crow Lane, Newburyport, MA**

Dear Chairman Ciampitti and Members of the Board,

The undersigned represents Patrick Nesius who is currently under contract to purchase the property at 163 Crow Lane Newburyport, MA. Mr. Nesius would like to raze the existing three-bedroom home on the lot, preserving the existing foundation, and reconstruct a new, four-bedroom home with an attached garage, in its place. Please accept this letter and the attached documents to serve as my client's application for a Special Permit pursuant to Sections IX.B.2 and IX.B.3.c. of the Newburyport Zoning Ordinances, and any other permit relief the Zoning Board of Appeals deems necessary to allow the proposed construction. Please note this letter is also being provided as the required memorandum in support of the Application.

The property has been and will continue to be used as a single-family residence; an allowed use in the applicable Residential One (R-1) zoning district.

The existing lot is pre-existing, non-conforming as to Area (20,000 sf req., 16,500 sf provided) and Frontage (125' req., 100' provided). The existing structure is pre-existing, non-conforming as to the Side A Setback (20' req., 11.0' provided).

The proposed structure would not create any new non-conformities. However, the proposed structural increase does exceed 500 sf. and will result in an upward extension of the pre-existing, non-conforming Side A Setback.

The proposed structure will not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The proposed structure is certainly in keeping with many of the surrounding homes, especially those recently redeveloped or improved upon. Construction of the structure will be done in conformance with the state and local building codes and will conform to all applicable state and local Conservation regulations as applicable and so will not have adverse effects on the environment.

Moreover, it is proposed to construct the structure with top quality, energy efficient materials and methodology, again minimizing environmental impacts. Aesthetically, the proposed structure has been professionally designed and, although beauty is in the eye of the beholder, is arguably architecturally an improvement on the existing structure, which will certainly enhance the value of the home and thus the value of the neighboring homes. This improvement will also generate additional tax revenues for the City through increase property values which equates to a benefit for other City residents, including those in the surrounding neighborhood. Lastly, upward extension of the pre-existing, non-conforming Side A Setback will have little or no impact on the neighborhood as a whole. While this extension will likely only impact the neighbor adjacent to Side A, the impact will be de minimis and the Applicant has been working with said neighbor to insure any concerns they have will be addressed. In summary, the proposed addition will not have a substantial adverse impact on the surrounding neighborhood and in fact will, in some ways, provide beneficial impacts.

Having obtained a Zoning Determination letter from the Newburyport Zoning Administrator (attached), please allow this letter, along with the attached documents to serve as the Applicant's formal application for a Special Permit under Sections IX.B.2 and IX.B.3.c. of the Newburyport Zoning Ordinances Bylaws, and any other permit relief the Zoning Board of Appeals deems necessary to allow the proposed construction.

Enclosed please find the following:

1. Special Permit Application;
2. Zoning Determination Letter;
3. Owner Authorization Letter;
4. Owner's Deed;
5. Assessor Card and GIS MAP;
6. Written Memo (this Cover Letter);
7. Site Plan;
8. Architectural Plans;
9. Filing Fee.

Please note, that electronic copies of all materials will be forwarded to the Board by e-mail, under separate cover. Additionally, copies are being filed with the Town of Newburyport's Clerk's office.

Thank you very much for your time and consideration. Please contact me if you should have any questions or need any additional information regarding this application.

Sincerely
Finneran & Nicholson, P.C.



Douglas C. Deschenes

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

Petitioner: Patrick Nesius

Mailing Address: 23 Moseley Avenue, Newburyport, MA 01950

Phone: 857-417-9779 Email: nesiusmasonry@gmail.com

Property Address: 163 Crow Lane, Newburyport

Map and Lot(s): Map 93, Lot 14 Zoning District: R1

Book and Page(s): Book 36230, Page 549

Owner(s) Name: Cathie L. Baines, Trustee of the Cathie L. Baines Revocable Trustq

Mailing Address (if different): 163 Crow Lane, Newburyport, MA 01950

This request for a Special Permit for Non-Conformities is made under section(s):
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

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

Description of request:
Please see attached cover letter.

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

** and any other permit relief as may be required under the City of Newburyport's Zoning Ordinances to allow the proposed use/project.

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

	Required Dimensional Controls from Section VI.A	Existing Dimensional Controls from survey or site plan	Proposed Dimensional Controls from proposed plans
Lot Area	20,000'	16,500'	16,500'
Frontage	125'	100'	100'
Height*	30'	<20'	29' 1"
Max. Lot Coverage (%)**	20%	6%	12.2%
Min. Open Space (%)***	50%	87%	79.8%
Primary Front Setback	30'	36.4'	30.4'
Side A Setback/Secondary Front Setback	20'	11'	11'
Side B Setback	20'	45'	20.2'
Rear Setback	30'	110'	98.0'
Parking Spaces	2	2	4
FAR****	N/A	N/A	N/A

*Height is measured to median roof line.

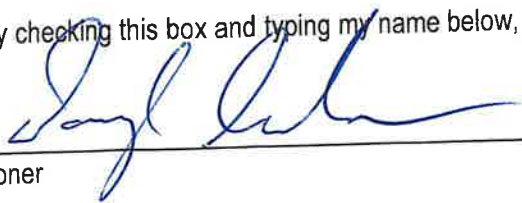
**Total building footprint divided by the lot area expressed as a percentage.

***Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

****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. 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.

By checking this box and typing my name below, I am electronically signing this application.



Petitioner

By checking this box and typing my name below, I am electronically signing this application.

Please see attached Authorization Letter
 Owner (if different)

ZONING DETERMINATION

Name: Patrick Nesius c/o Finneran & Nicholson, P.C.

Address: 163 Crow Lane Zoning District(s): R1

Request: Addition of >500sf to exiting nonconforming single family home by an upward extension of the main house and a garage addition that conforms to setbacks.

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

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

Other

Blank line for other sign variance details

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

Review for Tree and Sidewalk

The name typed below represents the intent to sign the foregoing document:

Jennifer T Blanchet

05/25/2021

Newburyport Zoning Administrator

Date

May 13, 2021

City of Newburyport
Zoning Board of Appeals
60 Pleasant Street
Newburyport, MA 01950

City of Newburyport
Planning Board
60 Pleasant Street
Newburyport, MA 01950

City of Newburyport
Historical Commission
60 Pleasant Street
Newburyport, MA 01950

RE: 163 Crow Lane, Newburyport

Dear Members of the Board,

Please be advised that the undersigned Cathie L. Baines, Trustee of The Cathie L. Baines Revocable Trust, does hereby authorize Attorneys Douglas C. Deschenes and/or related associates of the law firm of Finneran & Nicholson, P.C., with locations at 515 Groton Road, Suite 203, Westford, MA 01886 and 30 Green Street, Newburyport, MA 01950, to act (including but not limited to signing, filing and permitting) in regards to any filing, permit application, or other documents relating to proposed reconstruction and/or alteration of my property located at 163 Crow Lane, Newburyport.

Thank you for your time and attention to this matter.

Sincerely,

Cathie L. Baines

5/14/2021

Cathie L. Baines, Trustee



SO.ESSEX #82 Bk:36230 Pg:549
10/05/2017 09:37 AM DEED Pg 1/2
eRecorded

UPON RECORDING, PLEASE RETURN TO:

Forman, Clark, Pockell & Associates, P.A.
P.O. Box 1330
Londonderry, New Hampshire 03053

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that I, Cathie L. Baines, an unmarried person, presently having an address of 163 Crow Lane, Newburyport, Massachusetts 01950, for consideration paid of \$1.00, **GRANT TO** Cathie L. Baines, as Trustee of The Cathie L. Baines Revocable Trust, a Massachusetts revocable trust established pursuant to a revocable trust agreement dated August 14, 2017, by and between Cathie L. Baines as Grantor and Cathie L. Baines as Trustee, and presently having an address of 163 Crow Lane, Newburyport, Massachusetts 01950, all of my right, title and interest in and to the following, with Quitclaim Covenants:

The land with the buildings thereon, situate in Newburyport, Essex County, Massachusettes and being shown on Lot No.4 on a plan entitled "Plan of Division of Land of Nicholas Natale, Crow Lane, Newburyport, Mass." H.F. MacWilliams, Reg. Professional Eng., Scale 1" = 100', October 19, 1964, recorded in Essex South District Registry of Deeds, Plan Book 103, Plan 23, bounded and described as follows:

- Beginning at the easterly corner of Lot No. 3, as shown on said Plan; thence running
- EASTERLY along Crow Lane, one hundred (100) feet, to Lot No. 5, as shown on said Plan; thence running
- SOUTHERLY along said Lot No. 5, as shown on said Plan, about one hundred sixty-five (165) feet, thence running
- WESTERLY along land now or formerly of William Colton to Lot No. 3, as shown on said Plan, one hundred (100) feet; and thence running
- NORTHERLY along said Lot No. 3, as shown on said Plan, about one hundred sixty-five (165) feet, to the point of beginning.

Containing about 16,500 square feet.

CMB

163 CROW LANE, NEWBURYPORT, MA

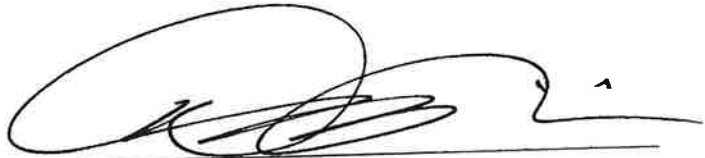
This conveyance is made subject to any and all easements, restrictions, covenants, conditions or reservations of record, if any.

Meaning and intending to convey the same premises as conveyed to the within Grantor by Quitclaim Deed of Donald J. Brock and Nancy B. Brock, said deed dated June 1, 2011 and recorded with the Essex South District Registry of Deeds at Book 30454, Page 403.

The preparer of this deed makes no representation as to the status of the title to the property described herein. This deed was prepared from the information furnished by the Grantors. A title search was neither requested nor performed.


WITNESS my hand and seal this 14th day of August, 2017.


Cathie L. Baines

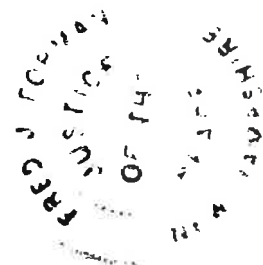

Witness

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared the above named Cathie L. Baines, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the foregoing instrument to be her free act and deed. Before me this 14th day of August, 2017.


Justice of the Peace/Notary Public
My commission expires:

FRED J. FORMAN, Justice of the Peace
State of New Hampshire
My Commission Expires June 7, 2022



163 CROW LN

Location 163 CROW LN

MBLU 93/ 14/ / /

Owner BAINES CATHIE L TRS

Assessment \$374,200

PID 6062

Building Count 1

Current Value

Valuation Year	Assessment		Total
	Improvements	Land	
2021	\$129,100	\$245,100	\$374,200

Owner of Record

Owner BAINES CATHIE L TRS
Co-Owner CATHIE L BAINES REVOCABLE TRUST
Address 163 CROW LN
 NEWBURYPORT, MA 01950

Sale Price \$0
Certificate
Book & Page 36230/0549
Sale Date 10/05/2017
Instrument 1F

Ownership History

Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BAINES CATHIE L TRS	\$0		36230/0549	1F	10/05/2017
BAINES CATHIE L	\$256,250		30454/0403	00	06/08/2011
BROCK DONALD J	\$255,000		17887/0512	00	11/14/2001
WALLACE LEONARD B IV	\$155,000		09269/0256	00	11/05/1987
MALONE DAVID L	\$112,500		08022/0337	00	12/02/1985

Building Information

Building 1 : Section 1

Year Built: 1965
Living Area: 1,032

Building Attributes

Field	Description
Style:	Ranch
Model	Residential

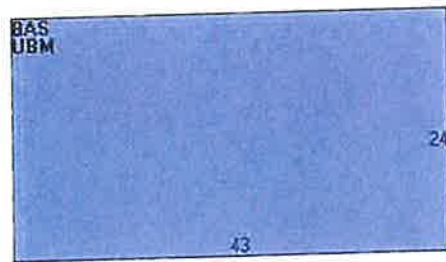
Grade:	Average
Stories:	1 Story
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	5 Rooms
Bath Style:	Average
Kitchen Style:	Average
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Kitchen Grd	
Fndtn Cndtn	
Basement	

Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos/\01\00\78\41.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/6062_62)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,032	1,032	
UBM	Basement, Unfinished	1,032	0	
		2,064	1,032	

Extra Features

Extra Features

No Data for Extra Features

Legend

Land

Land Use

Use Code	1010
Description	SINGLE FAM

Land Line Valuation

Size (Acres)	0.38
Depth	0

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			200.00 S.F.	\$1,800	1
SPL5	POOL AGR OVAL			24.00 LENGTH	\$3,200	1

Valuation History

Valuation Year	Assessment		
	Improvements	Land	Total
2020	\$118,000	\$245,100	\$363,100

163 Crow Lane, Newburyport

4/28/2021



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassGIS. MVPC AND THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

Municipal Boundary	Roads	Interstate	Legend	Local Road	Railroad	Parcels (on aerial)
			Major Road			

1:1,200







