

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. X Completed "Application for a Special Permit for Non-Conformities" form.
 - b. X Zoning Determination form from the Zoning Administrator indicating the need for a Special Permit for Non-Conformities.
 - c. X Assessor's Card available from the Assessor's Office or from <http://gis.vgisi.com/newburyportma/>
 - d. X 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. X 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. X 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. X 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

June 8, 2021

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

**RE: Special Permit for Non-Conformities Application
10 Sylvester Street, Newburyport, MA**

Dear Members of the Board,

The undersigned represents Jodi and Stephen Paciulan, owners of the property at 10 Sylvester Street in Newburyport. According to the Assessor's records, the home was constructed in 1930. The Paciulans would like to raze the existing detached garage on the property and construct an addition, onto the existing home including an attached garage, third floor addition and farmers porch. 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 of the Newburyport Zoning Ordinances, and any other permit relief the Zoning Board of Appeals deems necessary to allow the proposed construction.

The existing lot is fully conforming as to size and frontage requirements. The existing structure is pre-existing, non-conforming as to the front yard set back (25' required, 4.9' existing).

The property has been and will continue to be used as a single-family residence; an allowed use in the applicable (R2) zoning district.

The proposed addition would not create any new non-conformities but would extend the pre-existing, non-conforming front yard setback horizontally along the front lot line. Currently the house extends to within 4.9 feet of the front lot line. While the addition will pull the front wall of the home back to 9.5 feet, the Paciulans would like to add a front farmers porch which is proposed along the entirety of the front wall of the home and which will extend to within 4.9 feet of the front lot line. (the current non-conforming 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, the extension horizontally of the pre-existing, non-conforming Front Yard Setback will have little or no impact on the neighborhood as a whole. The proposal is to remove the existing front extension of the home which has a solid wall 4.9' from the front lot line, and replace it with an open farmers porch such that the front door of the house will be pushed back some 5'+, thereby reducing the bulk of the structure facing the front lot line. 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 of the Newburyport Zoning Bylaws, (or any other relief the Zoning Board deems necessary), to allow for the construction of the proposed addition.

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. Photos of Property;
8. Plot Plan;
9. Architectural Plans;
10. 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: Stephen and Jodi Paciulan

Mailing Address: 10 Sylvester Street, Newburyport, MA 01950

Phone: 978-290-0749 Email: sjpac@comcast.net

Property Address: 10 Sylvester Street, Newburyport

Map and Lot(s): Map41, Lot 36 Zoning District: R2

Book and Page(s): Book 35794, Page 126

Owner(s) Name: Stephen and Jodi Paciulan

Mailing Address (if different): Same as above

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 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 checked="" 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 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	10,000'	12,800'	12,800'
Frontage	90'	160'	160'
Height*	35'	18.3' +/-	29'
Max. Lot Coverage (%)**	25%	11.83%	18.31%
Min. Open Space (%)***	40%	80.82%	74.25%
Primary Front Setback	25'	4.9'	4.9'
Side A Setback/Secondary Front Setback	10'	52.2'	16'
Side B Setback	10'	76.9'	76.9'
Rear Setback	25'	36.1	27.9
Parking Spaces	2	2+	2+
FAR****	N/A	N/A	N/A

*Height is measured to median roof line.

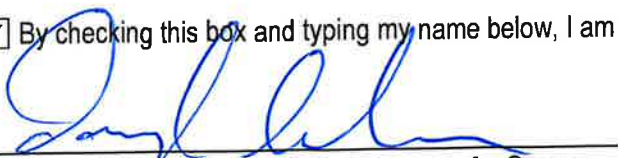
**Total building footprint divided by the lot area expressed as a percentage.

***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: Douglas C. Deschenes, Attorney for Owners

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

Please see Attached Owner's Authorization

Owner (if different)

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# 2021-047

Name: Stephen and Jodi Paciulan

Address: 10 Sylvester Street Zoning District(s): R2

Request: Construct Additions to nonconforming structure that extend upward and extend along the front property line a nonconforming front yard setback. The upward additions cause a roofline change to a structure greater than 75yrs of age. Garage & poolhouse meet setbacks

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

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

Other

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)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

substantial improvement Tree/sidewalk? _____

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

Jennifer T Blanchet

05/24/2021

Newburyport Zoning Administrator

Date

May 27, 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
Conservation Commission
60 Pleasant Street
Newburyport, MA 01950

RE: 10 Sylvester Street, Newburyport

Dear Members of the Board,

Please be advised that the undersigned Stephen and Jodi Paciulan., 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 our property located at 10 Sylvester Street, Newburyport, MA.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Paciulan", written over a horizontal line.

Stephen Paciulan

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DEED

I, **ELEANORA M. PACIULAN, TRUSTEE OF THE PACIULAN FAMILY TRUST U/D/T** dated November 2, 2005, as amended by a First Amendment to the Paciulan Family Trust dated April 3, 2017, whose mailing address is 10 Sylvester Street, Newburyport, MA 01950, a single person, with rights of homestead in the property

For consideration of one dollar (\$1.00) paid

grant to **STEPHEN J. PACIULAN** and **JODI PACIULAN**, husband and wife, as joint tenants with right of survivorship, and whose mailing address is 10 Sylvester Street, Newburyport, MA 01950,

reserving to myself, **ELEANORA M. PACIULAN**, however, a life estate in the above said premises during the remainder of my lifetime, during which time I shall have the exclusive right to occupy the premises, to lease, let or license the same, and I shall be entitled to all rents, fees or profits generated from said life estate, but without the right to partition. During my lifetime, I shall bear the cost of all insurance, maintenance, fees, charges and expenses relating to the premises and I shall pay all taxes assessed or imposed with respect thereto, and all principal and interest on any mortgages thereon.

With **QUITCLAIM COVENANTS** the following described premises:

Four lots of land, together with the buildings thereon in Prospect Park, so-called on Sylvester Street, in said Newburyport, consisting of Lots #63, 64-65 and 66, on a Plan of Land of Prospect Park, Newburyport, Massachusetts, made by John N. McClintock, C.E. dated April 4, 1903, recorded with Essex South District Deeds, Book of Plans 13, Plan 38, to which reference may be made, bounded and described as follows: Running

- Northeasterly** by Lot #67, land now or formerly of Buck; thence running
- Northwesterly** by lots 47-48-49 and 50 on said Plan, land now or formerly of Coolen; thence running
- Southwesterly** by Lot #62, land of Coolen; and thence running
- Southeasterly** by Sylvester Street to point of beginning:

Property Address: 10 Sylvester Street, Newburyport, MA

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Containing in all 12,800 square feet more or less.

Being the same premises conveyed to me and Alexander P. Paciulan as Trustees of the Paciulan Family Trust by deed of Alexander P. Paciulan and Eleanora M. Paciulan dated November 2, 2005 and recorded at the South Essex District Registry of Deeds in Book 25051, Page 349. Alexander P. Paciulan died on January 17, 2016. See his death certificate recorded immediately prior hereto.

WITNESS my hand and seal on April 3, 2017.

Eleanora M. Paciulan Trustee
ELEANORA M. PACIULAN
TRUSTEE OF THE PACIULAN
FAMILY TRUST

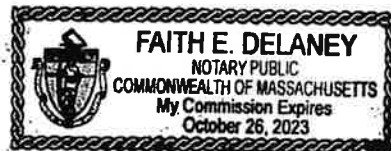
COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

April 3, 2017

Then personally appeared the above-named ELEANORA M. PACIULAN proved to me through satisfactory evidence of identification, being (check whichever applies): [] driver's license or other state or federal governmental document bearing a photographic image, [] oath or affirmation of a credible witness known to me who knows the above signatory, or [X] personally known to me, to be the person whose name is signed above, and acknowledged the foregoing instrument to be signed by her as her free act and deed, in her capacity as Trustee, voluntarily for its stated purpose.

Faith E. Delaney
Faith E. Delaney, Notary Public
My commission expires: October 26, 2023
Qualified in the Commonwealth of Massachusetts



10 SYLVESTER ST

Location 10 SYLVESTER ST

MBLU 41/36//

Owner PACIULAN ELEANORA M L/I

Assessment \$488,900

PID 2610

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$211,600	\$277,300	\$488,900

Owner of Record

Owner PACIULAN ELEANORA M L/I

Sale Price \$0

Co-Owner STEPHEN J & JODI PACIULAN J/T

Certificate

Address 10 SYLVESTER ST

Book & Page 35794/0126

NEWBURYPORT, MA 01950

Sale Date 04/13/2017

Instrument 1A

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
PACIULAN ELEANORA M L/I	\$0		35794/0126	1A	04/13/2017
PACIULAN ALEXANDER P & ELEANORA M TRS	\$0		25051/0349	1F	11/08/2005
PACIULAN ALEXANDER P	\$0		5044/0349		

Building Information

Building 1 : Section 1

Year Built: 1930

Living Area: 1,712

Building Attributes	
Field	Description
Style:	Cape Cod
Model	Residential
Grade:	Average
Stories:	2 Stories

Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Vinyl/Asphalt
Interior Flr 2	Hardwood
Heat Fuel	Oil
Heat Type:	Steam
AC Type:	None
Total Bedrooms:	4 Bedrooms
Total Bthrms:	1
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	6 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/NewburyportMAPPhotos/\00\00\31\19.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPPhotos//Sketches/2610_27)

Building Sub-Areas (sq ft)			<u>Legend</u>	
Code	Description	Gross Area	Living Area	
BAS	First Floor	872	872	
FUS	Upper Story, Finished	840	840	
FEP	Porch, Enclosed	90	0	
UBM	Basement, Unfinished	840	0	
WDK	Deck, Wood	304	0	
		2,946	1,712	

Extra Features

Extra Features		<u>Legend</u>
No Data for Extra Features		

Land

Land Use

Use Code 1010
Description SINGLE FAM

Land Line Valuation

Size (Acres) 0.29
Depth 0
Assessed Value \$277,300

Outbuildings

Outbuildings						<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR1	GARAGE-AVE			486.00 S.F.	\$6,800	1
SPL2	POOL-INGR VN/P			800.00 S.F.	\$12,800	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$199,300	\$277,300	\$476,600

10 Sylvester Street

5/18/2021



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	Major Road	Local Road	Railroad	Parcels (on aerial)
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Google

© Google

Google Maps 10 Sylvester St



Image capture: Sep 2012 © 2021 Google

Newburyport, Massachusetts



Street View

Google Maps 7 Sylvester St



Image capture: Sep 2012 © 2021 Google

Newburyport, Massachusetts



Street View







