

**City of Newburyport
Zoning Board of Appeals
Online Meeting
January 24, 2023
Minutes**

1. Roll Call

Chair Robert Ciampitti called a hybrid meeting of the Newburyport Zoning Board of Appeals to order at 7:00 p.m. In attendance were members Stephen DeLisle, Robert Ciampitti, Bud Chagnon, Ken Swanton (participated remotely) and Gregory Benik and associate member Patricia Peknik. Associate member Lynn Schow was absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and Note Taker Gretchen Joy.

2. Public Hearings

**a) Newburyport Renovations LLC c/o Lisa Mead, Mead, Talerman & Costa LLC
5 Oak Street**

ZNC-22-32 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to construct an addition greater than 500 square feet at the rear of a single-family structure in the R2 district and the DCOD. The property is non-conforming for lot area, frontage, front-yard setback and right side-yard setback. The existing garage is 5.8 feet from the property line, where 6 feet is required. The right side-yard setback is 4.4 feet, where 10 feet is required. The structure dates from 1846 and is listed as contributory on the district data sheets. Historical Commission approval is not required, as less than 25% of the exterior walls would be removed.

The applicant is proposing to remove the garage and the existing one-story bump out at the rear of the structure. A one and two-story addition would be constructed, which would extend but not intensify the right side-yard setback non-conformity. The addition would be stepped in 12 inches from the right side of the main structure. A new garage would be constructed at the rear of the property. The proposed garage would be 7 feet from the rear and left-side property line. The lot coverage would increase from 13.5% to 24.2%, where 25% is allowed.

Architect Samia Torma said the house is plain in comparison to others in the neighborhood and more details would be added. Clapboards would be used for both the main structure and the addition. The details, windows and shutters on the house would be repeated on the garage.

Attorney Mead said no new non-conformities would be created. The existing non-conformity created by the garage would be removed. The dimensional requirements would be met with the exception of the extension of the side-yard setback non-conformity. The addition would be subordinate to the existing structure. The proposal would make use of the large back yard. It would not be detrimental to the neighborhood, which is in transition. Many homes have been renovated and additions constructed. Six letters of non-opposition were submitted.

Mr. DeLisle asked about the proposed windows. The existing windows are six-over-six and the proposed windows for both the main structure and the addition would be six-over-one. All of the existing windows would be replaced.

Mr. Benik asked about the size of the structure in comparison to the other homes in the neighborhood. Attorney Mead said the existing structure is 1,358. The net increase in the size of the structure would be 851 square feet, for a total of 2,200 square feet. She said the houses on

City of Newburyport
Zoning Board of Appeals
January 24, 2023

Marlboro Street are large. The structures at 10 Oak Street and 12 Oak Street are 3,600 and 4,100 square feet.

Mr. Chagnon asked if the portico over the front door would be extended towards the street. Attorney Mead said there would be no change from the existing conditions.

Mr. DeLisle said no new non-conformities would be created and the proposal would not be substantially more detrimental to the neighborhood than the existing conditions. He said he does not like the proposed windows, as they would appear more modern than the house. He said he likes the placement of the garage at the rear of the property, which would open up the views of the backyard.

Mr. Benik said the addition would contribute to the neighborhood and its architecture would be faithful to that of the existing structure. Mr. Chagnon said the proposal is in keeping with the scale of the neighborhood. The existing structure is in need of care and upgrading.

Mr. Swanton said he likes that the addition would be stepped in from the existing structure. Ms. Peknik said she agrees with Mr. DeLisle about the windows. Mr. Ciampitti said the proposal is faithful to the style of the neighborhood.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 5 Oak Street. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Benik, yes; Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

**b) Diane Hanley and Michael Dowe c/o Lisa Mead, Mead, Talerman & Costa LLC
34 Tyng Street**

ZNC-22-33 - Special Permit for Non-Conformities

The applicant requested a continuance. Mr. Benik moved to continue the public hearing to the February 14 meeting. Mr. DeLisle seconded the motion. The motion was approved by a 6-0 vote (Mr. Benik, yes; Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Ms. Peknik, yes).

**c) Peter Brant and Leah Hayes c/o Lisa Mead, Mead, Talerman & Costa
5 Gloria Street**

ZNC-22-35 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to construct a two-story addition on the rear and side of a single-family structure in the R3 district and the PIOD. The property is non-conforming for lot area, frontage, front-yard setback, left side-yard setback and FAR. The FAR is 28%, where 25% is the maximum allowed.

Attorney Mead said the structure was constructed in 1900 and underwent a major renovation in 1996. There is little remaining of the original cottage. The addition would be constructed on pilings above the existing elevated deck, which would be expanded. The addition would be within the existing setbacks, but the expansion of the deck would extend the left side-yard setback non-conformity. The existing outbuilding would be removed. The lot coverage would increase from 14.4% to 15.1%, where 20% is required. The existing open space is 73.4%, which would decrease to 72.8%, where 35% is required. The non-conforming FAR would increase to 33.8%

City of Newburyport
Zoning Board of Appeals
January 24, 2023

One bedroom would be added to the structure, for a total of two. The Assessor's records indicated there are currently two bedrooms in the structure. One of these is on the ground floor and has a door leading to the exterior. Attorney Mead said this is not used as a bedroom now and would not be in the future. No bathrooms would be added.

Attorney Mead said no new non-conformities would be created. The proposal would not be detrimental to the PIOD or the neighborhood. The property is located on the basin, on one of the highest points of the island. The basin is less dense than other parts of the island and is not subject to wave action. The addition would be constructed on pilings above base flood elevation.

Mr. Benik asked about the increase in square footage. The size of the structure would increase slightly less than 500 square feet, from 1,202 square feet to 1,566 square feet.

Mr. Chagnon asked if the existing structure has a basement. Attorney Mead said that it does and it is included in the FAR.

Mr. Swanton asked if the outbuilding is included in the FAR. Attorney Mead said the outbuilding is large enough to be included in the FAR. Mr. Swanton pointed out that FAR of the building itself is 24.5%. The property would be conforming if the outbuilding were removed. The proposal would increase the FAR of the structure to 33.8%.

Mr. DeLisle said no new non-conformities would be created and the addition would not be detrimental to the PIOD.

Mr. Benik said the addition would improve the structure. Mr. Chagnon said he is concerned about the increase to the FAR, but the design of the addition is modest. Ms. Peknik said she has no objections to the proposal. Mr. Ciampitti said the request is modest.

Mr. Swanton said he is concerned about the cumulative impact to the PIOD if all property owners were granted permission to increase the FAR.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 5 Gloria Street that includes the restriction that there shall be no bedroom on the ground floor. Mr. Benik seconded the motion. The motion was approved by a 4-1 vote (Mr. Benik, yes; Mr. Swanton; no; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

The Basin Apparel

19 Water Street

VAR-22-8 - Variance

Kathy Brown represented the applicant, who is requesting a Variance to install two exterior wall signs. Each sign would exceed the maximum size of 12 square feet that is allowed. An 8 square-foot projection sign has been installed at the corner of the building.

The proposed signs would be 22.43 square feet each and would be non-illuminated. Ms. Brown said the signs would not clutter the facades of the building. Other businesses in the downtown have multiple signs.

The hearing was opened to comments from the public. Stephanie Niketic, 93 High Street, said the signs would be nearly double that which is allowed. She said the Ordinance was adopted to protect and enhance the visual environment of the city. The building is located next to the Custom House. She said the Variance would undermine the Zoning Ordinance and she is concerned other businesses would claim a similar hardship.

City of Newburyport
Zoning Board of Appeals
January 24, 2023

The applicant said the hardship is that a 12 square-foot sign would not be visible on a building of this size, especially to vehicular traffic. The business could suffer if members of the public are not able to locate the store. Other businesses in the downtown have signs that are larger than would be permitted under the Ordinance.

Mr. DeLisle asked about the size of the sign in comparison to others in the downtown. The proposed signs would be 13 feet by 3 feet. The applicant said other signs in the downtown appear to be larger than the size allowed. Mr. Benik questioned if Variances have been granted for other signs in Market Square. Mr. Chagnon agreed that the building is large and a small sign would be difficult to read.

Ms. Peknik asked about the materials, which would be aluminum and vinyl. She said the purpose of the Ordinance is to protect and enhance the downtown. Color contributes to the cohesiveness of the building. The color and materials of other signs that the applicant displayed as examples are compatible with the architecture of their structures.

Mr. Swanton asked about the nature of the hardship. He said the Board has approved Variances for signs on Storey Avenue and in the industrial park, where they are appropriate for their context, but during his tenure the Board has not granted a Variance for a sign in the downtown. He said the structure is very similar to the other brick buildings in downtown.

Mr. Ciampitti said the topography of the site could provide the basis for a hardship. The shape of the building and its location on a corner lot could be considered. He pointed out the building is not parallel to the street, which would make the signage less visible. He also said the materials are not irrelevant and the proposed materials have not been approved in the past.

The applicant requested a continuance to explore other design alternatives. Mr. Benik moved to continue the public hearing to the February 28 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Benik, yes; Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

3. Business Meeting

a) Request for Minor Modification

1 Kent Street (MM-22-27)

Mr. DeLisle moved to continue the request to the March 28 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Benik, yes; Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

b) Minutes

Mr. DeLisle moved to approve the minutes of the January 11, 2023, meeting. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. Benik, yes; Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Ms. Peknik, yes).

c) Updates from the Chair and Planning Director

None

4. Adjournment

City of Newburyport
Zoning Board of Appeals
January 24, 2023

Mr. Chagnon moved to adjourn the meeting at 9:10 p.m. Mr. Ciampitti seconded the motion. The motion was approved.