

**City of Newburyport
Zoning Board of Appeals
Senior Community Center
March 12, 2024
Minutes**

1. Roll Call

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

2. Business Meeting

Request for Minor Modification – 87 High Street (2007-027)

The request was discussed at the public hearing for 87 High Street.

3) Public Hearings

a) Jeanne Allen, AIA

26 Beacon Ave

ZNC-24-2 - Special Permit for Non-Conformities

Doug Deschenes represented the applicant and requested a continuance to the April 9 meeting. He said he will be out of town for the March 26 meeting. The abutters at 17 Oak Street, Richard and Susan Comeau, submitted a letter stating they would not be able to attend the April 9 meeting and requesting that the public hearing be continued to April 23. Attorney Deschenes said his client wishes to have the matter heard by a full board. He requested a continuance at this meeting and the prior meeting for this reason. Ms. Schow said the abutters should have the opportunity to be heard at a meeting. She said the number of Board members is sufficient to hear the application at this meeting and the applicant is the party not able to attend the March 26 meeting. Attorney Deschenes agreed to meet with the abutters to discuss their concerns before the April 9 meeting.

Mr. Chagnon moved to continue the public hearing for 26 Beacon Avenue to the April 9 meeting. Mr. DeLisle seconded the motion. The motion was approved by a 3-1 vote (Mr. Swanton, yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Ms. Schow, no).

b) Matt Healey

87 High St

ZSP-23-7 - Special Permit

Lisa Mead represented the applicant, who is requesting to modify the Special Permit that was issued in 2007. The house and carriage barn were constructed in 1799. The property is located in the SHR-A district and the DCOD.

Attorney Mead said the carriage barn has been used for storage. Its condition has deteriorated due to rot, insect damage and inadequate repairs. In 2007, prior owners received a Special Permit for Non-Conformities to move the carriage barn, construct an addition to it, and use it as a guest house. The carriage barn was rotated to its existing location and the foundation was poured for the addition, but the project was not otherwise completed. The current property owner intends to complete the two-story addition to the structure and would use the carriage barn as a game and exercise room.

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Attorney Mead said that according to Mink Hill Timber Frames and Latady Design, the structure must be dismantled and rebuilt in order to be saved. The Board's peer reviewer, Aaron Sturgis, submitted a report in which he agreed that the best way to save the carriage barn would be to dismantle it and redesign it for adaptive reuse. The condition of the original materials would be assessed when the structure has been disassembled. The frame would be rebuilt based on historical construction techniques and the historical style of the carriage barn would be matched. As much existing material as possible would be reused.

The applicant is seeking to modify the 2007 Special Permit and has submitted a new set of plans from Latady Design and a new 3D plan of the timber frame from Mink Hill Timber Frames that provides details on the proposed method of restoring the carriage barn. The 2007 plans included design elements and window and door locations that were suitable for its intended use as a secondary residence. The pergola, awnings and chimney that were previously proposed have now been omitted from the plans. The layout of the windows and doors have been changed to better reflect the original design of the building. The windows currently being proposed would be of a simpler style than had originally been proposed. The new configuration of windows and doors would allow more of the original material to be retained. The wall facing 83-85 High Street would have fewer windows for the sake of privacy. The barn-style garage door from the previously approved plans would be shifted to the right. Wood clapboard siding would be used for the walls and corner boards would be added.

Attorney Mead said no new non-conformities would be created and the existing non-conformities would not be intensified. The setback from the left property line is 10.5 feet at the front corner of the structure and 10.4 feet at its back corner, which would not change. Structural insulated panels would be installed between the interior and exterior walls to protect the historic timber frame and sheathing from moisture, which would thicken the walls by 4.5 inches on all sides. In order to maintain the existing side-yard setback, the structure would be shifted towards the residence to compensate for the additional width of the structure. The location of the foundation would not be changed, but a concrete wall would be added to expand it both towards the residence and High Street.

Attorney Mead said the applicant has proposed two special conditions. First, the applicant shall reuse, restore, and replace all timbers, sheathing, and historically accurate building materials that presently exist in the carriage barn, except for those materials that are hidden and whose conditions is undetermined, which upon uncovering the conditions in the field, shall be reused, restored, or replaced according to the best judgment of the applicant's expert or Arron Sturgis. Second, an arborist shall be engaged to trim and preserve the cedar hedge row between the property and 83-85 High Street.

The hearing was opened to comments from the public. Jared Eigerman, 83 High Street, said the changes have made the project a better one. The resulting structure would be more attractive. The proposed conditions make sense, and the Board should consider adding one that would place limitations on the use of the structure. It would be beneficial to have the peer reviewer involved throughout the process.

Rita Mihalek, 53 Warren Street, commended the Board for engaging a peer reviewer. She said the Special Permit should include three documents: 1) the report from Aaron Sturgis, 2)

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the new plans and 3) the new 3D plan, as this would make the current plans enforceable. The public comment period was closed.

Mr. Swanton asked about the proposed special condition regarding the hedge row, which indicates the cedars would be preserved throughout the construction process. He said the minutes should reflect that the hedge row would be preserved after the completion of the reconstruction process.

The Board reviewed the nine general Special Permit criteria:

- 1) The proposed project requires a Special Permit for Non-Conformities and DCOD Special Permit from the Zoning Board of Appeals.
- 2) The proposed use is essential and or desirable to the public convenience or welfare.
- 3) The requested use is expected to have negligible impacts on existing traffic.
- 4) The requested use is compatible with the surrounding area. It will not overload any public water, drainage or sewer system or any other municipal system.
- 5) Any special regulations for the use, as set forth in the special permit table, shall be fulfilled.
- 6) The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.
- 7) The proposed new use will not cause an excess of that particular use that could be detrimental to the character of said neighborhood.
- 8) The proposed use is consistent with the purposes and intent of the NZO.
- 9) The proposed use is not expected to be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

The Board reviewed the DCOC Special Permit Findings:

- 1) As the carriage barn is listed as a contributing structure on the District Data Sheets and the proposed demolition exceeds 25% of the structure's exterior, the project is subject to the regulations of the Demolition Control Overlay District (DCOD) and requires a Special Permit.
- 2) The applicant appeared before the Newburyport Historical Commission on December 14, 2023 and the Chair of that Commission provided a historical report.
- 3) The ZBA finds there is sufficient evidence to determine that the structure to be demolished in its current form and condition retains no substantial remaining market value or reasonable use.
- 4) The ZBA finds that the requested relief will not result in the demolition of an historic structure as prohibited in Section XXVIII of the Zoning Ordinance. The DCOD Special Permit is granted based upon evidence that the historic structure retains no substantial remaining market value or reasonable use, taking into account the cost of rehabilitation to meet the requirements of the State Building Code as it applies to historic buildings or structures, or of other applicable laws.

Mr. DeLisle moved to consider the request minor and to approve the Request for Minor Modification for 87 High Street. Mr. Chagnon seconded the motion. The motion was approved by a 4-0 vote (Mr. Swanton, yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Ms. Schow, yes).

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Mr. DeLisle moved to issue a Special Permit for Non-Conformities for 87 High Street with the special conditions that: 1) The accessory structure may serve only as accessory living space to the primary dwelling unit and shall not be used as a separate dwelling unit, unless otherwise approved as provided for under the Newburyport Zoning Ordinance, despite any annotations on the drawings regarding a kitchen; 2) The applicant shall reuse, restore, and replace all timbers, sheathing, and historically accurate building materials that presently exist in the carriage house, except for those materials that are hidden and whose conditions is undetermined. These elements shall be reviewed in the field as part of the disassembly and a recommendation for reuse, restoration or replacement made by the applicant's expert, Preservation Timber Framing and if unavailable, another preservation expert as approved by the ZBA; and 3) The applicant shall hire an arborist to trim, prune and preserve the cedar hedge row between the property and 83-85 High Street throughout the reconstruction process. Ms. Schow seconded the motion. The motion was approved by a 4-0 vote (Mr. Swanton, yes; Mr. DeLisle, yes; Mr. Chagnon, yes; Ms. Schow, yes).

4. Business Meeting

a) Minutes

Mr. DeLisle moved to approve the minutes of the February 27, 2024, meeting. Mr. Chagnon seconded the motion. The motion was approved.

5. Adjournment

Ms. Schow moved to adjourn the meeting at 8:10 p.m. Mr. Chagnon seconded the motion. The motion was approved.