

**City of Newburyport  
Zoning Board of Appeals  
Senior Community Center  
April 9, 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, Bud Chagnon, Greg Benik and associate members Lynn Schow and Larry Giunta. Rob Ciampitti and Stephen DeLisle were absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and Note Taker Gretchen Joy.

**2. Business Meeting**

**a) Request for Minor Modification**

**40 Parker Street (MM-24-12)**

Mark Richey said the Special Permit issued in 2008 for the wind turbine included a special condition that a report be submitted annually to the City that includes a certificate of compliance with noise regulations. He said the sound study is costly and time-consuming. He requested that the portion of the special condition related to the sound study be waived. He said that if a legitimate noise complaint arose from the operation of the turbine, he would conduct the sound study at that point in time.

Mr. Benik asked when the last test was conducted. Mr. Richey said a sound study was last done in 2021 and sound level was found to be in compliance with City requirements. He said five studies have been conducted since 2008. The sound level has not changed during that time and he has not received any notice of violation. No complaints have been received from neighbors in recent years.

Gretchen Joy, 51 Pond Street, said that the sound produced by the turbine has in fact changed in recent years and she had exchanged multiple emails with Mr. Richey on the subject. No noise was audible on her property until approximately 2021. At that time, the turbine began making a noise that appeared to indicate it was having mechanical issues. Sometime afterward, she became able to continually hear noise from the turbine in her house, even with all of the windows closed. The response from Mr. Richey had been that the turbine had not been functioning in several years and that the noise would have been from sources in the industrial park. She said it was quite obvious that the noise was from the turbine, because the rhythmic pattern of the noise coincided with the spinning of the blades.

Mr. Chagnon pointed out the unit can run at higher speeds than those that are covered by the study. Mr. Richey responded that at higher wind speeds, there is more ambient noise that would cover the noise of the turbine.

Ms. Schow and Mr. Swanton asked how it would be decided if a complaint received is legitimate. Andy Port said a condition could be added that the decision would be made by the Zoning Enforcement Officer.

Mr. Giunta said he does not think the neighbors are aware that the matter is being discussed. If the matter is not considered minor, the abutters would be notified and would have the opportunity to attend a meeting to provide comments. He is concerned about removing the protection that was given to residents through the special condition.

Mr. Swanton said that he thinks the proposed condition would be a good solution, but he would like to give the abutters the opportunity to comment.

City of Newburyport  
Zoning Board of Appeals  
April 9, 2024

Ms. Schow said she could support the minor modification request with the condition that a sound study would be conducted if the Zoning Administrator determines a complaint is legitimate.

Mr. Benik said the annual test has served its purpose and there does not seem to be a need for it to be continued. The applicant has fulfilled its obligation to the neighbors and there have been no complaints.

Mr. Benik moved to consider the request minor and to approve the Request for Minor Modification for 40 Parker Street with the special condition that if a complaint is received, the Zoning Enforcement Officer may request the sound study report portion of the annual compliance report. Mr. Chagnon seconded the motion. The motion was approved by a 4-1 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Giunta, no; Ms. Schow, yes).

### **3) Public Hearings**

#### **a) Jeanne Allen, AIA**

#### **26 Beacon Avenue**

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

The applicant requested a continuance. Mr. Benik moved to continue the public hearing to the May 14 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 4-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Giunta, yes; Ms. Schow, absent).

### **4. Business Meeting**

#### **a) Minutes**

Mr. Benik moved to approve the minutes of the March 26, 2024, meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Giunta, yes; Ms. Schow, yes).

#### **b) Updates from the Chair**

Andy Port said the City Solicitor will provide input on the STRU ordinance at the April 23 meeting. He said the City is considering the areas in which the 40R Smart Growth District could be expanded. It appears that Parker Street would be a logical location to create an overlay to the industrial district. The plan must be in place by December 31.

### **5. Adjournment**

Ms. Schow moved to adjourn the meeting at 8:10 p.m. Mr. Giunta seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Giunta, yes; Ms. Schow, yes).