

**City of Newburyport
Zoning Board of Appeals
Online Meeting
April 11, 2023
Minutes**

1. Roll Call

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

2. Public Hearings

a) Travis and Sarah Sumner

c/o Lisa Mead, Mead, Talerman & Costa LLC

69 High Street

ZNC-23-5 - Special Permit for Non-Conformities

Lisa Mead represented the applicant and requested a continuance. She said the project involves a roofline change, which requires Historical Commission review. Mr. Swanton moved to continue the public hearing to the May 9 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Ms. Schow, yes; Mr. Ciampitti, yes; Ms. Peknik, yes).

b) Erik and Erin Rapp, Trustees of the W. Erik Rapp Living Trust c/o Lisa Mead, Mead, Talerman & Costa LLC

13 Roosevelt Place

ZNC-23-6 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to add a second story above an existing attached garage at the rear of the property. The single-family home was built around 1952 and is in the R2 district. The property is on a corner, with the primary front yard on Ferry Road. It is non-conforming for primary front-yard setback and rear-yard setback.

The second-story addition to the garage would upwardly extend the rear-yard setback non-conformity. The footprint of the structure would not be changed. The height of the existing two story house is 19.75 feet. The height of the proposed addition would be 19.5 feet. Attorney Mead said the proposal would fit with the neighborhood context, where additions have been constructed on many structures. The abutter at 11 Roosevelt Place submitted a letter of non-opposition.

Mr. Swanton said he is not pleased that the plans were submitted late and he would request a continuance if he found the plans to be at all controversial.

Mr. Chagnon asked about the size of the addition and if other direct abutters have commented on the project. Attorney Mead said the existing structure is 1,924 square feet and 529 square feet would be added. The occupant of 38 Ferry Road has been out of town and the occupant of 18 Roosevelt Place did not sign the letter of non-opposition but has not made any negative comments about the proposal.

Mr. Benik asked about the way in which the addition would be integrated into the existing structure in terms of materials. Architect John Sava said the existing structure would

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not be re-clad. Matching cedar shakes would be used for the addition. Awning windows would be installed on the second floor of the addition.

Mr. Swanton said he would support the application. The addition would be set well back from the road. The mass of the structure would increase, but it would not be excessive for the neighborhood. The abutter who would be most impacted is not opposed to the proposal.

Mr. Chagnon said the addition would be modest. No new non-conformities would be created and the addition would not be detrimental to the neighborhood.

Mr. Benik said the building has been previously modified. Ms. Schow and Ms. Peknik were in agreement with the comments of the other Board members.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 13 Roosevelt Place with the special condition that the applicant shall install one street tree in accordance with DPS recommendations. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Ms. Schow, yes; Mr. Ciampitti, yes).

c) Sarah and William Joor
c/o Lisa Mead, Mead, Talerman & Costa LLC
4 Jackson Street

ZNC-23-7 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to construct an addition to a single-family home. The property is in the R2 district and the DCOD. The structure was built in 1875 and has been modified on numerous occasions. The property is non-conforming for lot area, frontage, front-yard setback, left side-yard setback, rear-yard setback and lot coverage.

The existing rear deck would be removed and replaced with a two-story addition on a slightly smaller footprint. The addition would be set back from the house six inches on each side. The existing lot coverage is 31.1%, where 25% is the maximum allowed. It would increase to 42.1%. The existing side-yard and rear-yard setback non-conformities would be extended. The existing left side-yard setback is .1 feet. The addition would be .7 feet from the left property line. The existing rear-yard setback is .1 feet and the addition would be .8 feet from the rear property line.

Attorney Mead said the addition would be minimally visible from the street. The neighbor to the rear would be the most impacted and is not opposed to the proposal. The other direct abutters are also not opposed.

Mr. Chagnon asked about the use of the addition. The existing kitchen on the first floor would be enlarged, as would two second-story bedrooms.

Ms. Peknik commented that the demolition plan was not included in the filing. Attorney Mead said the Zoning Enforcement Officer reviews the demolition plans, but she would be happy to include them in future filings.

Mr. Swanton said no new non-conformities would be created. He is concerned that the lot coverage would be intensified, as would the height of the structure at the rear property line, but the three most-impacted abutters have submitted letters of support and he does not find that the proposal would be more detrimental to the neighborhood than the existing conditions.

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Mr. Chagnon said the increase in lot coverage would be significant, but he places more weight on the letters of support. Mr. Benik said he would not be in support of the application without these letters.

Ms. Peknik said she objects to the process, which did not require Historical Commission review. While the application does not involve a change to the roofline of the existing structure, the roof would be extended. The City has an interest in preserving the form and massing of its neighborhoods.

Mr. Ciampitti said the footprint of the structure of the small and the approach taken to modify it to accommodate the needs of a growing family was thoughtful.

Mr. Swanton moved to approve a Special Permit for Non-Conformities for 4 Jackson Street with the special condition the applicant shall install one street tree from the list of recommended street trees in accordance with DPS recommendations. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Ms. Schow, yes; Mr. Ciampitti, yes).

**d) Tucker and Haley McCarthy, the owners of the Property as managers of Overlook Holdings LLC c/o Lisa Mead, Mead, Talerman & Costa LLC
31 Overlook Street**

ZNC-23-8 - Special Permit for Non-Conformities

Ben Taylor represented the applicant, who is proposing to demolish and replace a single-family home that was built in 1945. The property is in the R3 district and the PIOD. It is assessed as having four bedrooms. The Historical Commission determined that the structure is not historically significant. The property is non-conforming for lot area, frontage, front-yard setback, right side-yard setback and rear-yard setback. The existing lot coverage is 19.9%, where 20% is the maximum allowed and the existing FAR is 23.9%, where 25% is the maximum allowed.

Attorney Mead said the existing building does not meet the building code. It lacks siding and has been exposed to the elements for over a year. A new two-story would be constructed on pilings and its footprint would be 110 square feet smaller than the footprint of the existing structure. The living area would increase 913 square feet, from 1,053 square feet to 1,246 square feet. The number of bedrooms would be reduced from four to three. The side-yard and rear-yard setback non-conformities would be improved. The lot coverage would be reduced from 19.9% to 17.2% and the open space would increase from 67% to 69.7%. The FAR would become non-conforming. It would increase from 23.9% to 28.3%, where 25% is the maximum allowed. Because the structure is located in the PIOD, a Special Permit is required rather than a Variance.

Attorney Mead said it would not be feasible to rehabilitate the existing structure and place it on pilings, as FEMA standards would require. She said there are larger structures on Basin Street, some of which are three stories.

The hearing was opened to comments from the public. Jordan Brown said the structure will be detrimental to the neighborhood. It would overshadow the adjacent houses and would be the only one on pilings. The photographs of larger structures shown by the applicant are not the norm for the neighborhood.

Alexis Clough, 32 Basin Street, said the houses next to the property are not large. The height of the structure would almost double and it would tower over the adjacent structures. The

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roof deck would reduce the privacy of the abutters. She is concerned about short-term rentals and gatherings on the decks.

Hailey Pratt, 36 Basin Street, agreed with the comments made by the other abutters and said the structure would be intrusive on the neighborhood, where the houses are close together. The public comment period was closed.

Mr. Swanton said the scale of the new house is much larger than that of the adjacent structures and it would be much taller. He asked if the applicant had considered an alternative that would not increase the FAR.

Mr. Chagnon said he is concerned with the height of the proposed structure and the FAR. The new structure would be 12 feet taller than the existing one. It would stand out in a neighborhood of small homes.

Mr. Benik Commented that the height of the proposed structure would be 29 feet, where 35 feet is allowed.

Ms. Schow asked about the history of the property. Attorney Taylor said a smaller-scale renovation had been started by a prior owner that had no relationship to the current owner.

The applicant requested an extension. Mr. Benik moved to continue the public hearing to the May 9 meeting. Mr. Swanton seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Ms. Schow, yes; Mr. Ciampitti, yes; Ms. Peknik, yes).

3. Business Meeting

a) Minutes

Mr. Swanton moved to approve the minutes of the March 28, 2023, meeting. Mr. Chagnon seconded the motion. The motion was approved.

b) Other Business

A discussion took place on a proposed zoning amendment for short-term rental units. The ZBA would be the permit-granting authority. A joint meeting of the City Council Planning and Development Subcommittee and the Planning Board will take place on April 19.

Mr. Ciampitti said he owns two cottages that he operates as short term rentals and he has contacted the Ethics Commission about his participation in the matter.

.Mr. Swanton said the ZBA does not have the criteria for granting the permits. The abutters would find the use substantially more detrimental. The Zoning Board members would be put in a difficult position. Ms. Schow said the Board has no standards for the evaluation of the applications. The Ordinance does not provide other criteria. Mr. Benik said he likes flexibility in the decision-making process. Mr. Ciampitti said the matter is subjective and would be determined on a case-by-case basis.

The Board members discussed sending a letter in advance of the meeting, but their opinions were not cohesive enough to make this possible.

4. Adjournment

Mr. Benik moved to adjourn the meeting at 9:12 p.m. Mr. Swanton seconded the motion. The motion was approved.