

**City of Newburyport
Zoning Board of Appeals
Online Meeting
April 12, 2022
Minutes**

1. Roll Call

Chair Rob Ciampitti called an online meeting of the Newburyport Zoning Board of Appeals to order at 7:00 p.m. In attendance were members Rob Ciampitti, Mark Moore, Bud Chagnon and Ken Swanton and associate member Gregory Benik. Stephen DeLisle was absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and Note Taker Gretchen Joy.

2. Minor Modification Requests

74 Storey Avenue (2005-037)

John Peterson of Metro Sign and Awning said Washville has purchased Clipper Car Wash and is proposing to modify the sign to identify the new business. There would be no change to the posts or lighting. A small sign would be located beneath the upper panel with the words “free vacs.”

Mr. Chagnon asked if the square footage of the sign would change. Mr. Peterson said the new sign would be approximately 41 square feet, which is slightly larger than the existing sign. Mr. Ciampitti said that when the existing sign was approved, a secondary sign was installed beneath the larger panel and has subsequently been removed.

Mr. Moore moved to deem the modification for 74 Storey Avenue to be minor and to approve the request for minor modification. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes).

3. Public Hearings

Jivonne Alley & Noel Ochtman

35 High Street

ZNC-22-3 - Special Permit for Non-Conformities

The applicant requested a continuance. Mr. Moore moved to continue the public hearing for 35 High Street to the May 10 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes).

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

44-46 Beacon Avenue

VAR-22-1 – Variance

Lisa Mead represented the applicant, who is seeking a Variance to construct a pool and pool house on a corner lot in the R-2 district. The property has a curved front yard and three side yards.

The pool would be located in the front-yard setback, which is prohibited under the Ordinance. The pool would be located 8 feet from the front property line, where 25 feet is required. The pool would also be located 5.5 feet from the side property line, where 6 feet is required.

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The size of the pool house has been reduced from 15' x 35' to 15' x 24', smaller than the 22' x 24' allowed under the Ordinance. The pool house would be 21.5 feet from the front property line, where 25 feet is required. A Variance would no longer be needed for the side-yard setback for an accessory structure.

A Variance is also needed for the six-foot fence that would be located within the front-yard setback. Attorney Mead said a six-foot fence is needed for privacy and security. She said the shape of the lot and the presence of mature trees provide the basis for the Variance. The shape of the lot is unique and is not the fault of the applicant. Five letters of support have been received.

The hearing was opened to comments from the public. Frances and Robert Kaplan, South Pond Street, said they would be concerned about the proposal if the mature trees were to be lost. They are not opposed to the pool house or fence. The public comment period was closed.

Mr. Moore asked about the inconsistency in the plans regarding the location of the fence. Attorney Mead said the fence would be located between the street and the trees.

Mr. Benik asked why a four-foot fence could not be installed. Attorney Mead said the pool would be located near the street and it would be easy to climb over a four-foot fence.

Mr. Moore said the shape of the lot is unique. The reduction in the size of the pool house is appreciated. He said it would not be unreasonable to install a six-foot fence around a pool near the street. The pool house would conform to most of the setbacks. The Variance would not constitute the grant of a special privilege.

Mr. Swanton said the plans have been improved and the encroachment on the setbacks is slight. He would support a Variance due to the shape of the lot.

Mr. Benik said the denial of a pool and pool house might not be a substantial hardship but he finds the applicant has met the four criteria of a Variance.

Mr. Ciampitti said he does not like the length of the solid fence but the applicant has met the burden for a Variance.

Mr. Moore moved to approve a Variance for 44-46 Beacon Avenue. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).

Michael and Michelle Ywuc c/o Lisa Mead, Mead, Talerma & Costa LLC

11 Flora Street

ZNC-22-8 – Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to construct an addition to a single-family structure in the Ag/Con district and the PIOD. The property is non-conforming for area, frontage, front-yard setback and rear-yard setback. The existing structure has three stories, where two stories are allowed.

The two-story addition would be constructed within the footprint of an existing first-floor deck. The addition would upwardly extend the rear-yard setback non-conformity. The proposal would add 512 square feet of living space to the structure. A new deck that would meet the setback requirements would be added. The FAR would increase from 15% to 18.5%, where 25%

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is allowed. The lot coverage would increase from 10.3% to 10.6%, where 20% is allowed. The existing structure contains three bedrooms and no bedroom would be added. The second floor of the addition would be used as a living room and the first floor would be a sunroom.

Attorney Mead said the proposal would be complaint for lot coverage and FAR. The addition would have a minimal impact on the neighborhood. It would be on the opposite side of the structure from the nearest neighbor.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked about the changes to FAR and lot coverage. Attorney Mead said the open deck would be enclosed. This would create more living space, which would increase the FAR. The construction of a new deck would increase the lot coverage.

Mr. Swanton asked if the house is entirely or partially in Ag/Con district, as both sets of figures are included on the zoning table. Attorney Mead said she believes the house is entirely in the AG/Con district, the requirements of which supersede those of the PIOD.

Mr. Moore said the proposal is modest and would not greatly impact the FAR. The lot is large for the PIOD. The addition would not be within ten feet of the lot line, over two stories or more than 35 feet in height. Mr. Swanton said the modest increase in the FAR would not be detrimental to the PIOD. Mr. Ciampitti pointed out that no abutters expressed their opposition to the proposal, which is rare for Plum Island.

Mr. Moore moved to approve a Special Permit for Non-Conformities for 11 Flora Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).

James Hannon

17 Goldsmith Drive

ZNC-22-9 – Special Permit for Non-Conformities

The applicant is proposing to modify a one-story single-family home in the R-1 district. The property is non-conforming for area, frontage, front-yard setback and right side-yard setback.

An open farmers porch would be constructed on the front of the structure, which would extend the non-conforming front-yard setback from 25.7 feet to 20.7 feet, where 30 feet is required. A garage with a master suite above it would be constructed to the left of the structure. The seasonal porch at the rear of the structure would be demolished. A larger four-season room would be added in its place. These alterations would add 826.5 square feet to the structure. The garage and rear family room would be within the required setbacks. An existing shed would be removed to bring the lot coverage to 19.9%, below the 20% required.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked about the materials. Mr. Hannon said new vinyl siding would be used on the house to match the addition. New windows would be added and new asphalt shingles would be used for the roof.

Mr. Chagnon asked about the change to the size of the structure. The existing structure is slightly smaller than 1,100 square feet. The three-season porch to be demolished is 128 square feet and the proposed family room would be 185 square feet. The garage would add 538 square feet for a net increase of 700 square feet.

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Mr. Benik asked about the extension of the non-conformity. Mr. Hannon said the porch would be five feet closer to the front property line. The 25.4-foot long porch would have four columns and an arched roof would be added above the front door.

Mr. Moore said the addition would be large in comparison to the size of the existing structure, which is modest. However, the proposal is well thought out and would be aesthetically pleasing. It would not be more detrimental to the neighborhood than the existing conditions.

Mr. Swanton said other houses in the neighborhood have been expanded and the proposed changes would fit in. Mr. Chagnon said that while the house would be subordinate to the garage, the square footage would fit in with the neighborhood. Mr. Benik said the changes would improve the structure and the neighborhood.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 17 Goldsmith Drive. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).

Steven Martin

7 Sylvester Street

ZNC-22-10 – Special Permit for Non-Conformities

Ron Laffely represented the applicant, who is proposing to construct a two-story addition that would be greater than 500 square feet at the rear of a single-family home. The property is non-conforming for area, frontage and front-yard setback.

Mr. Laffely said the front stairs would be rebuilt and reoriented towards the driveway. A deck would be added to the left side of the property. The addition would be 385 square feet on the first floor and 484 square feet on the second floor. The existing structure is 999 square feet and the proposed structure would be 1,868 square feet. The addition would be clad in cedar shingles.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked for clarification on the height of the addition. Mr. Laffely said the ridge of the addition would be two inches below the existing ridge.

Mr. Chagnon asked about the change to the front entry. Mr. Laffely said the roof over the platform would be wider than the existing but would not be closer to the street.

Mr. Moore said the addition has been thoughtfully planned. It would not be detrimental to the neighborhood. The change would be a large one, but it would be made in the right part of the property.

Mr. Swanton said the change would be significant, but similar additions have been made to other houses in the neighborhood. Mr. Chagnon said the house is a modest one. The addition has been tastefully designed.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 7 Sylvester Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).

4. Business Meeting

a) Minutes

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Mr. Moore moved to approve the minutes of the March 22, 2022, meeting. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).

b) Updates from the Chair and Planning Director

Andy Port said the Planning Office has posted example plan sheets to ensure submitted materials are complete.

5. Adjournment

Mr. Swanton moved to adjourn the meeting at 8:36 p.m. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Ciampitti, yes; Mr. Chagnon, yes; Mr. Benik, yes).