

**City of Newburyport
Zoning Board of Appeals
Online Meeting
April 28, 2020
Minutes**

1. Roll Call

Chair Robert Ciampitti called an online meeting of the Newburyport Zoning Board of Appeals to order at 7:02 p.m. In attendance were members Robert Ciampitti, Stephen DeLisle and Mark Moore and associate members Ken Swanton and Bud Chagnon. Rachel Webb and Ed Cameron were absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan, and note taker Gretchen Joy.

2. Business Meeting

a) Minutes

Mr. Swanton moved to approve the minutes of the March 10 and March 24 meetings as submitted. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

b) Request for Variance Extension

342 Merrimack Street (2019-033)

Lisa Mead represented the permit holders, Daniel and Judy Lynch, and requested a six-month extension for a variance. The extension would begin on May 29, the date the variance is set to expire. The project has been delayed due to financing and design issues. It is scheduled to be on the agenda for next Planning Board meeting.

Mr. Moore moved to approve a six-month Variance Extension for 342 Merrimack Street. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

3. Public Hearings

Brian and Erin Callahan

29 Warren Street

2020-020 - Dimensional Variance

2020-021 - Special Permit for Non-Conformities

The applicant is proposing to demolish an accessory structure that sits on the property line and replace it with a new structure that would be attached to the house at a greater distance from the property line. The first floor would be used for storage and living space would be created on the second floor. A Dimensional Variance would be needed for the 3.6-foot side setback where 10 feet is required. A Special Permit for Non-Conformities would be required because the pre-existing non-conforming front setback would be extended and the lot coverage would be increased.

No one from the public spoke in favor of or in opposition to the application. Mr. Swanton asked if the addition could be moved further from the property line. The architect, Matt MacEachern, said a narrower addition would not provide an adequate amount of useable space. He added that the existing building is at an odd angle to the main structure and joining them would be visually awkward.

City of Newburyport
Zoning Board of Appeals
April 28, 2020

Mr. Moore said a variance would not grant special permission to the applicant because many other houses in the neighborhood have the same type of addition. The location of the accessory structure with respect to the house is unique. He added the proposal would not be substantially more detrimental to the neighborhood than the existing conditions because there are many similar structures in the neighborhood. Mr. Swanton said the proposal is a reasonable one. It would improve the existing conditions by removing a structure from the property line. Mr. Chagnon said the addition would be in keeping with the neighborhood. Mr. Ciampitti said the Planning Office has not received any comments from abutters. The application does not trigger the Tree and Sidewalk Ordinance.

Mr. Moore moved to approve a Dimensional Variance for 29 Warren Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

Mr. Moore moved to approve a Special Permit for Non-Conformities for 29 Warren Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

Gregory Elliot and Candace McMahan
12 54th Street

2020-019 - Special Permit for Non-Conformities

Lisa Mead and John Sava represented the applicants, who are proposing to renovate a single-family structure in the Plum Island Overlay District (PIOD). A second story would be added above the existing structure and a first-story addition would be constructed. The lot is pre-existing non-conforming for front yard setback, lot area and side yard setback on the east. The non-conformities will not be extended. The height will be increased but will not exceed the 30 feet that is allowed. The Historical Commission released the structure for demolition.

Four letters of support were received from abutters. No members of the public spoke in favor of the application. Lynn, Richard and Adam Murray, 8 54th Street, spoke in opposition to the proposal. They are abutters to the east and said their second-floor windows would look out on a wall. They currently have a view of the basin over the roof of the existing structure. They said the proposal would impact their privacy, views, light and air. Attorney Mead said the view from the left would be improved because a gable would be removed. The view from the right would be impacted, but the Zoning Ordinance does not protect views. Mr. Sava said he had spoken with the Murrays and was under the impression they were in agreement with the plans.

Mr. DeLisle asked if the views of the abutters who submitted letters of support would be impacted. Attorney Mead responded that if the structure were to be demolished, its replacement would be taller because it would be placed on pilings. She reiterated that the ordinance does not protect views. Mr. Moore said that some agreement with the abutters seems to have been reached and the view in one direction would be improved, but asked if more could be done to accommodate these neighbors. Mr. DeLisle also asked about the way in which the ground would be impacted. Mr. Sava said the one-story addition would be on sonotubes and the existing foundation would be used. Mr. Swanton asked how making the house larger would not be substantially more detrimental to the neighborhood. He said the PIOD was put in place because the ecosystem on the island is very fragile. The environment is being put under increased

City of Newburyport
Zoning Board of Appeals
April 28, 2020

pressure as the sizes of houses are increased. Attorney Mead responded that more restrictions are placed on construction in the PIOD than in other parts of the city. This was done to strike a balance between property rights and the need to protect the environment.

Mr. Moore said other large houses exist on the street and while the proposal would impact the immediate abutters, he does not believe it would be substantially more detrimental to the neighborhood. Mr. Swanton said he is concerned about what would happen to the ecosystem if all houses were allowed to become larger. Mr. DeLisle said according to section 21G of the ordinance, the Board must take the PIOD into consideration but because no changes would be made to the ground, the application would not be significantly more detrimental. Mr. Chagnon said the applicant has done a good job of fitting the modification into the neighborhood but he is concerned about the way in which larger homes would impact the water and sewer infrastructure. Attorney Mead said under Title 5, the addition of one bedroom is allowed for one and two bedroom homes. Mr. Ciampitti said while the proposal would be detrimental to the immediate abutters, their view would not be completely obstructed and views are not protected by the ordinance.

Mr. Moore moved to approve special permit for Non-Conformities for 12 54th Street. Mr. Chagnon seconded the motion. A roll call vote was taken: Mr. Ciampitti, yes; Mr. DeLisle, no; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, no). Attorney Mead interrupted the voting before it was finalized and asked for a continuance. Mr. Swanton moved to suspend the vote and continue the public hearing at the request of the applicant to the May 12 meeting. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

City of Newburyport Parks Department

40 Low Street

2020 - 027 - Sign Variance

Lisë Reid and Chris Huntress presented the plans for a freestanding sign at Bradley Fuller Park. Freestanding signs are only allowed by right in the industrial zone. A sign had previously been installed on the fence, but the fence was replaced and the new one was too low for a sign. The freestanding sign would help identify the entrance to the large public recreational facility. The proposed sign would be six feet wide and five feet in height and would face Low Street. It would be of a high-density foam that would be painted and have the appearance of wood. The posts would be of granite. The sign would not be lighted as the facility is not used at night. The applicants said the unique conditions are not the result of actions taken by the City subsequent to the adoption of the ordinance and the relief would not constitute a grant of special privilege inconsistent with limitations upon other properties in the district.

No one from the public spoke in favor of or in opposition to the application. Mr. Moore said the conditions are unique in that there are no other recreation facilities in the neighborhood. He said the request is reasonable for the use and a special privilege would not be granted. Mr. DeLisle commented that the sign would be more visible if it were two-sided and oriented perpendicularly to the street. The applicants agreed with the suggestion.

Mr. Moore moved to approve a Sign Variance for 40 Low Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

City of Newburyport
Zoning Board of Appeals
April 28, 2020

Michael and Kerrin Costello c/o Lisa Mead, Mead, Talerman & Costa, LLC
249-251 Water Street

2020-028 - Special Permit for Non-Conformities

Lisa Mead and Aileen Graf represented the applicants, who are proposing to a revert two-family residence to a single-family home. The property is pre-existing non-conforming for lot size, lot coverage and frontage. The structure is pre-existing non-conforming for all setbacks. The height is under 30 feet allowable and would not be changed. A covered front porch would replace the existing enclosed one. Dormers would be added to both sides of the roof. A one-story enclosed porch on the east side of the structure would be converted to living space and a two-story addition would be constructed at the rear. First and second story porches on the rear addition would extend the non-conforming side yard setbacks. A raised patio with living space above it would extend the rear yard setback and would upwardly extend the side yard setbacks. The proposal would also intensify lot coverage. The applicants have made changes to the plans to address the concerns of the abutters.

The property is located in the flood zone. The applicants are seeking an exemption from the FEMA requirement for the structure to be placed on pilings on the grounds that it is historically significant. The application triggers the Tree and Sidewalk Ordinance but DPS noted there is no space to plant trees and the sidewalk is sufficient.

No one from the public spoke in favor of or in opposition to the application. Mr. Moore said he is in favor of the proposal and it would not create a new non-conformity. He said the plan is thoughtful and the applicant has worked with the abutters. Mr. Swanton said the proposal is a sensitive one and would not be detrimental to the neighborhood.

Mr. Moore moved to approve a Special Permit for Non-Conformities for 249-251 Water Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

Blake and Margo Witherington
78 Middle Street

2020-029 - Special Permit for Non-Conformities

Michael Graf represented the applicants, who are proposing to demolish a pre-existing non-conforming accessory structure and replace it with a new structure on the same footprint. Relief is being sought for the upward extension of rear and side non-conformities. A portion of the existing structure is one-story with a shed roof. The new structure would have a full second story with a dormer on the east side. The height of the ridgeline would not exceed that of the existing structure. The amount of living space added would be greater than 500 square feet. No new non-conformity would be added. The plans show the new structure would be of brick with a single garage door. The applicant is now proposing that the front façade would be of clapboards with two garage doors. The remaining sides of the structure would be shingled. The bottom eight inches of the structure would be brick.

No one from the public spoke in favor of or in opposition to the application. Mr. DeLisle said he does not object to the massing of the proposed structure. He said the addition would be a nice one and no non-conformities would be created. Mr. Swanton said the structure is not very visible from the street and the changes would not be noticeable. Mr. Moore said the proposal is

City of Newburyport
Zoning Board of Appeals
April 28, 2020

reasonable and well done. Mr. Chagnon said the new structure would not be detrimental to the neighborhood and would be an improvement. Mr. Moore moved to approve a Special Permit for Non-Conformities for 78 Middle Street. Mr. Swanton seconded the motion. The motion was approved by a 4-1 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, no; Mr. Swanton, yes).

Mr. Moore moved to adjourn the meeting at 9:45 p.m. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Moore, yes; Mr. Chagnon, yes; Mr. Swanton, yes).

Respectfully submitted,
Gretchen Joy
Note Taker