

**City of Newburyport
Zoning Board of Appeals
Senior Community Center
May 9, 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, Stephen DeLisle, Bud Chagnon, Ken Swanton and Gregory Benik and associate member Patricia Peknik. Associate member Lynn Schow 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

The applicant requested an extension. Mr. Swanton moved to continue the public hearing to the June 13 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Ms. Peknik, yes).

**b) Tucker and Haley McCarthy, managers of Overlook Holdings LLC c/o Lisa Mead,
Mead, Talerman & Costa LLC**

31 Overlook Street

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

The applicant requested an extension. Mr. Chagnon moved to continue the public hearing to the May 23 meeting. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Ms. Peknik, yes).

c) Derek Lively

28 Charles Street, Unit B

VAR-23-1 – Special Permit for Non-Conformities

Mr. Chagnon recused himself from the public hearing. The applicant is proposing to construct an addition at the rear of an existing non-conforming structure on a lot with two single-family structures. The property is non-conforming for lot area, frontage, lot coverage and front-yard setback. The Zoning Administrator revised the Zoning Determination on May 3, 2023. A Special Permit is now required rather than a Variance. An expansion of lot coverage and the non-conforming setback on the other structure had previously been granted through a Variance.

The applicant is proposing to expand the existing rear deck and add a screened porch. A roof would be added between the existing sliding doors and the screened porch. The deck would be 12' x 18' and the screened porch would be 12' x 15'. The roof peak of the screened porch would be at the bottom sill of the second-story windows. The proposed addition would expand the non-conforming lot coverage and extend the non-conforming side-yard setback. The existing lot coverage is 28.66%, where 25% is the maximum allowed, and would increase to 31.78%. The existing right side-yard non-conformity is 1.42 feet, where 10 feet is required. The open space and rear-yard setbacks would decrease, but would remain conforming.

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Mr. Swanton confirmed that the neighbor who shares the lot submitted a letter of support. Ms. Peknik said the support letter references the dimensions of the screened porch and asked if this abutter is aware that a deck is to be added as well. Mr. Lively responded that the neighbor was shown the rendering and walked the site with the applicant.

Mr. Benik asked about the materials. The porch would be constructed of screens and Azek Trim Board. The roof members of the porch would be exposed.

Mr. Swanton said no new non-conformities would be created. The neighborhood is dense and is near the James Steam Mill. The project is minimal and has the support of the neighbors. It would not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Benik the proposal would be in scale with the existing structure. The increase in lot coverage would not be significant.

Mr. Swanton to approve a Special Permit for Non-Conformities for 28 Charles Street, Unit B, VAR-23-1. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. Benik, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Ms. Peknik, yes).

d) Christina and Tadhg Curtin

4 Everette Drive

VAR-23-2 - Variance

Joel Gagnon represented the applicant, who is proposing to construct a two-story addition to the rear of a single-family home in the R1 district. The property is on a corner and is non-conforming for lot area and primary and secondary front-yard setbacks.

The 12' x 15' two-story addition would be located at the rear of the structure. A bedroom would be added to the first floor and a master suite would be added on the second floor, for a total of 280 square feet of living space. A covered porch would be constructed on the addition. The addition would be 27.1 feet from the rear property line, where 30 feet is required, creating a new non-conformity. The existing rear-yard setback is 36.7 feet.

Mr. Gagnon said a hardship is caused by the shape of the lot and the orientation of the house on the lot. The house sits at a diagonal on the lot and there is less room at the end of the lot where the addition would be constructed. The applicant has investigated other alternatives, but these would be less functional, aesthetically unappealing and more expensive. He said the relief would not constitute a grant of a special privilege, as other structures in the neighborhood are located less than 30 from the rear property line.

The hearing was opened to comments from the public. Paul and Sarah Claffin, 1 Chatigny Lane, said they are opposed to the proposal. They said the addition would encroach on their privacy and they are concerned the value of their property would be lowered. The addition would be within 30 feet of their bedroom. They said it is not unusual in the neighborhood for houses on corner lots to be situated at an angle. They added that the addition could instead be constructed over the garage and breezeway.

Mr. Gagnon said that a bathroom windows would be blocked if the addition were to be constructed further from the corner. If it were constructed over the breezeway, it would impact the sewer line and the bedroom would be located off of the kitchen.

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Mr. Swanton said the addition would not have to be moved very far to increase the setback from 27.1 feet to 30 feet. Mr. Gagnon said this would disrupt the interior layout.

Mr. DeLisle asked if a vegetative screen could be planted for privacy. Ms. Peknik said the conditions are not unique to the property. There are other lots in the neighborhood where the houses are located at an angle. The addition would be a large one on a highly visible corner. It would impact the light, air and privacy of the neighbors.

Mr. Benik said the shape of the lot is unique. The applicant has been thoughtful about exploring other alternatives and would be deprived of the reasonable use of the lot. The covered porch would not be used year round and would not be intrusive. It would improve the house and the neighborhood as a whole.

Mr. Ciampitti said the shape of the lot is peculiar and rare. The applicants did not cause the shape of the lot or the orientation of the house on it.

Mr. Swanton said the orientation of the lot is not the fault of the applicant and the existing house is not large. He would support the application with a condition about screening.

Mr. Chagnon said the rooms would be too small in the proposed addition if the setback were increased to 30 feet. He is convinced it would not be possible to move the addition further along the back of the house. The Board has approved Variances for corner lots due to their special conditions.

Mr. DeLisle said a Variance would not be a special privilege, as other houses in the neighborhood are closer to the lot line than are allowed.

The Board members discussed conditioning the approval of the proposal on a plan for screening that is acceptable to the applicant and the abutter. It would be necessary for the applicant to submit a specific planting plan that would be a part of the record.

The applicant requested an extension. Mr. Benik moved to continue the public hearing to the May 23 meeting. Mr. Swanton seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Ms. Peknik, yes).

3. Business Meeting

a) Minutes

Mr. Swanton moved to approve the minutes of the April 24, 2023, meeting. Mr. Chagnon seconded the motion. The motion was approved.

b) Other Business

Andy Port said a developer intends to present a plan for 16 units off of Dexter Lane to the Affordable Housing Trust. The City's Safe Harbor status is set to expire on March 2, 2024. The Planning Department will be working to update the 40B regulations before then.

Ken Swanton attended the information session for boards and commissions on May 4

4. Adjournment

Mr. Swanton moved to adjourn the meeting at 8:41 p.m. Mr. Chagnon seconded the motion. The motion was approved.