

**City of Newburyport
Zoning Board of Appeals
Online Meeting
May 10, 2022
Minutes**

1. Roll Call

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

2. Public Hearings

Hebbelinck Real Estate LLC c/o Lisa Mead, Mead, Talerman & Costa LLC

193 High Street

2019-042 - Appeal

Mr. DeLisle recused himself from the matter. Lisa Mead represented the applicant and requested a continuance. She said the trial has concluded and she does not expect a decision before fall.

Mr. Benik moved to continue the hearing to the November 22 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 4-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Benik, yes; Mr. Chagnon, yes).

Jivonne Alley & Noel Ochtman

35 High Street

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

The applicant has found a by-right solution and requested to withdraw the application. Mr. DeLisle moved to approve the request to withdraw the application without prejudice. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes).

Amy and Terrance Leary c/o Mead, Talerman & Costa

4 Reilly Avenue

ZNC-22-11 - Special Permit for Non-Conformities

Lisa Mead and Scott Brown represented the applicant, who is proposing to add 1.5 stories to an existing ranch-style structure in the R2 district. The property is non-conforming for lot area, frontage, front-yard setback and rear-yard setback.

The existing porch would be removed from the rear of the structure. The addition would be constructed within the remaining footprint of the structure. The rear-yard non-conformity is currently 11 feet, where 25 feet is required. This non-conformity would be improved to 11 feet with the removal of the porch. The front and rear-yard setback non-conformities would be upwardly extended. The height of the proposed addition would be 24'-6". A front porch and shutters would be added. The windows would be vinyl clad with simulated divided lights and the siding would be fiber cement.

Attorney Mead said the existing house is too small for a family of five. There are many architectural styles in the neighborhood and many 2.5-story structures. Several of these are ranches that have been upwardly extended. The proposed structure would not be the largest or smallest in the neighborhood. Its mean height would be more than ten feet lower than the 35 feet allowed.

City of Newburyport
Zoning Board of Appeals
May 10, 2022

The hearing was opened to comments from the public. Tim Smith, 53 Marlboro Street, said he is concerned about lot density. The proposal would result in too much house for a small lot. He said he believes the proposed structure would not fit with the character of the neighborhood and it would be detrimental. He said the style of the structure would be similar only to that of 5 South Pond Street, for which the Special Permit set a detrimental precedent. He asked about the height of the structure, which is shown on the plans as being at 30 feet.

Mr. DeLisle asked about the size and height of the proposed structure. The existing structure is 1,409 square feet and the proposed structure would be 2,421 square feet. The height of the ceilings on the first floor are 7.5 feet, which would not be changed. The ceiling height on the second floor would be 8 feet. The ridge height would be 29'-5". The mean roof height would be 24'-6".

Mr. Swanton commented that the zoning matrix does not include height and requested that it do so in the future. He asked if the proposed structure would be the highest on the street. Attorney Mead said she believes 11 Reilly Avenue and 10 Reilly Avenue would be taller.

Mr. DeLisle said no new non-conformities would be created. He said the housing stock in the neighborhood is mixed, with the newer houses being larger than the old. The new house would be tall, but would be under the requirements of the zoning code. The footprint would be made smaller, which would improve the already-conforming open space and lot coverage. The application would not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Swanton said the abutters on either side of the property and across the street from it are not opposed to the application. He said the proposal would not be out of line with the street. He said a tall structure would be located on a small lot, but lot size is only considered for Plum Island applications.

Mr. Chagnon pointed out that Mr. Smith lives in a house of approximately the same height as the proposed structure with a similar roof pitch. He does not find that the height would be out of line with the neighborhood.

Mr. Benik thanked Mr. Smith for his comments but said he does not agree with them. No new non-conformities would be created. The open space and lot coverage would be reduced. The height would be well below the requirements. The existing house is quite modest in size and the size of the proposed structure would not be out of character with the neighborhood. Many homes in the immediate neighborhood are as large.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 4 Reilly Avenue with the condition that the applicant abides by the Tree and Sidewalk Ordinance. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes).

O. Simon Panall
21 Oak Street

ZNC-22-12 - Special Permit for Non-Conformities

The applicant is proposing to add a second story to an existing garage and construct a ten-foot addition at its rear. A second story would be added above the existing connection between the garage and the house.

City of Newburyport
Zoning Board of Appeals
May 10, 2022

The property is non-conforming for front-yard setback and one side-yard setback. The existing garage is 7.1 feet from the side property line, where 10 feet is required. The addition would upwardly extend the side-yard non-conformity.

The height of the garage would be lower than the main structure. The ridgeline of the garage is currently 14'-9" and the proposed ridgeline would be 21'-4". The addition would be clad with a fiber cement siding and would have vinyl trim to match the existing conditions.

No one from the public spoke in favor of or in opposition to the proposal. Mr. DeLisle asked about the size of the addition. The proposal would add 240 square feet to the first floor of the structure and 936 square feet to its second floor. Mr. Benik asked about the use of the space above the garage. Mr. Panall said it would be a wood shop.

Mr. DeLisle said that while the size of the garage would be increased, the addition would not be out of scale with the lot and other buildings in the neighborhood. He said no new non-conformities would be created and the proposal would not be detrimental to the neighborhood. Mr. Swanton said the rear yard is large and the amount that the garage would be extended would be small.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 21 Oak Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes).

**Windward Shaw LLC c/o Lisa Mead, Mead, Talerman & Costa LLC
10 Oak Street**

ZNC-22-14 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to construct a single-story addition at the rear of a single-family home that was built in 1885. The property is in the R2 district and the DCOD. It is non-conforming for frontage and front-yard setback. A Special Permit was issued in 2013. The proposal would create a cumulative addition of more than 500 square feet.

The applicant is proposing to remove 9.2% of the exterior walls and construct a 180 square-foot addition in the location of an existing deck. The proposed addition would meet all of the dimensional requirements. Attorney Mead said the windows and materials in the addition would match those of the existing structure. The addition would not impact the existing second-story windows. The Ordinance does not require for the proposed new deck to meet any dimensional requirements.

No one from the public spoke in favor of or in opposition to the proposal. Mr. DeLisle said the proposal is modest and would fit into the space occupied by an existing deck. It would not be visible from the street and would not be detrimental to the neighborhood.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 10 Oak Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes).

3. Business Meeting
a) Minutes

City of Newburyport
Zoning Board of Appeals
May 10, 2022

Mr. Swanton moved to approve the minutes of the April 26, 2022, meeting. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes).

b) Updates from the Chair and Planning Director

None

4. Adjournment

Mr. DeLisle moved to adjourn the meeting at 8:22 p.m. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes).