

**City of Newburyport
Zoning Board of Appeals
Senior Community Center
June 13, 2023
Minutes**

1. Roll Call

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

2. Public Hearings

**a) Nancy and David Rees, c/o Lisa Mead, Mead, Talerman and Costa LLC
255 High Street**

ZNC-23-13 - Special Permit for Non-Conformities

Lisa Mead represented the applicant and requested a continuance, saying the matter is still before the Historical Commission. Mr. DeLisle moved to continue the public hearing to the July 25 meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Ms. Schow, yes).

**b) Travis and Sarah Sumner c/o Lisa Mead, Mead, Talerman & Costa LLC
69 High Street**

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

Ms. Schow recused herself from the public hearing. Lisa Mead represented the applicant, who is proposing to construct a single-story addition at the rear of a structure that was built in 1865, according to the District Data Sheets. The property is in the HSRA and DCOD. It is non-conforming for frontage and left side-yard setback.

The one-story porch at the rear of the structure would be removed and replaced with a one-story addition, which would extend the side-yard setback non-conformity. The Historical Commission approved the plans with a condition about the chimney that has been incorporated into the current proposal. By mutual agreement between the current and previous owners, a preservation restriction was placed on the rear of the lot to prevent future development.

Architect Jeff Tucker said the addition would not be visible from High Street. It would be set in 16 inches from the main structure. The house is not parallel to the property line. The existing side-yard setback is 18.6 feet, where 25 feet is required. The proposed setback would be 22.0 feet.

Attorney Mead said the High Street façade of the structure would not be changed. The addition would be completely constructed behind the existing structure. The view of the addition from the street would be blocked by the slope, the vegetation and the existing bay on the left side of the structure. The addition would be smaller in size and height than the existing structure. The lot coverage would increase from 3.7% to 4.3%, where 12% is the maximum allowed. The owners of 67 High Street and 71 High Street submitted letters of support.

The hearing was opened to comments from the public. Mark Bilodeau, 69 High Street, said the addition is large and he would not want the property to be turned into condos. A hardship would not be created for the applicant if the large addition were not to be approved. He is concerned a precedent would be set for the construction of additions of this size.

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Stephanie Niketic, 93 High Street, said the structure would be 7,000 square feet with the addition, which is large enough to contain three condos. She said it seems the 800 square-foot deck with a fireplace is a space intended for parties, and sound carries on the Ridge. The Assessor's record lists the property as being three family. She said this information should be updated if the proposal were to be approved. She added that the applicant stated at the Historical Commission meeting that the purpose of constructing an addition of this size is to keep the historic interior of the structure intact, but this is not binding. The public comment period was closed.

Attorney Mead said the two-family use is not grandfathered. The house has been in single-family use since it was purchased by the applicant in October 2021. A Special Permit would be needed for two-family use after October 2023. Anything more than two-family use is not permitted in the district. The Assessor's records will be updated after the work has been completed.

Mr. Chagnon asked about the size of the addition. Attorney Mead said the addition would be 800 square feet and the porch above it would be the same size. The living area of the existing structure is 5,998 square feet and the gross square footage is 9,801. He asked if the addition would have quoins. Mr. Tucker said cove siding would be used on the addition. It would complement, not copy, the historic structure.

Mr. Swanton asked about the stairs leading to the basement. Attorney Mead said the basement would be used for storage and would not contain any living area. The large windows are being added to provide light.

Mr. Benik said the structure is an important one. The addition would sit comfortably on the property in terms of size, scale and massing. It would complement the existing structure and would not be visible from the street. The proposal would conform to the open space and lot coverage requirements. No new non-conformities would be created. The existing non-conformity would be extended but the addition would be further from the property line than the main structure.

Mr. DeLisle said the large amount of vegetation on the property would screen the addition from High Street.

Ms. Peknik said that while decisions do not set precedents, applicants often point out changes to other properties in the neighborhood to support their proposals. She said the addition is large and asked if a condition could be made that the structure would be for single-family use only. Attorney Mead said single-family use is being proposed, and the property would lose value if the ability to apply for a Special Permit for two-family use were taken away. Mr. Swanton said two-family use is allowed in the district.

Mr. Chagnon said the addition would be subordinate to the main building. The massing would fit well on the large lot.

Mr. Benik moved to approve a Special Permit for Non-Conformities for the proposed single-family use at 69 High Street. Mr. Chagnon seconded the motion. The motion was approved by a 4-0 vote (Mr. Swanton, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Ms. Peknik, abstain).

c) 209 High Street, LLC c/o Lisa Mead, Mead, Talerman & Costa LLC

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209 High Street

ZNC-23-14 - Special Permit for Non-Conformities

ZSP-23-4 - Special Permit

Lisa Mead represented the applicant, who is seeking approval to convert a nine-unit inn to two-family use. The property is located on a corner in the HSRB and the DCOD. It is non-conforming for lot area, lot coverage, primary and secondary front-yard setbacks and rear-yard setback. The structure was constructed around 1806. A Variance was granted in 1979 to allow the change from single-family use. The use became non-conforming when the HSRB was created. A Special Permit was granted in 1984 to allow the carriage house to be used as a single-family residence.

The applicant is not proposing any dimensional alterations to the main structure. The only change to the exterior would be the replacement of a third-floor window at the rear of the structure with a door. A metal spiral staircase would be added. The staircase would not count towards the dimensional calculations. The DCOD is not triggered, as less than 1% of the exterior walls would be modified.

A permit is not needed for the changes planned for the carriage house. These changes include the restoration of the window trim detail, the replacement of the contemporary windows on the southwest corner of the structure, the restoration of the barn door detail on the front facade, and the removal of the contemporary fan detail and doors.

On the main house, the chimneys would be repaired and repointed. The balustrade around the top of the roof would be repaired and reconstructed. The entablatures, soffits and modillions would be repaired and replaced in kind as necessary. All siding, trim, moulding and windows would be repaired, as would be the vestibules and the porches with their decking and handrails. The exterior of the structure would be painted. The plant materials around the structure would be removed or cut back. A new gravel driveway and garden paths would be installed. The copper beech would be preserved.

The hearing was opened to comments from the public. Rita Mihalek, 53 Warren Street, spoke on behalf of the Newburyport Preservation Trust. She said the Trust is concerned about the character defining features being kept intact. The soffits, entablatures, chimneys and modillions must be restored. The repointing must be done with lime mortar. The public comment period was closed.

Attorney Mead reviewed the nine criteria for two-family use. She said two-family use would be more desirable in the neighborhood than a nine-unit inn. The use would not create undue traffic congestion and would not overload the City systems. It would not impair the integrity or character of the district. Attorney Mead said there are many two or multi-family structures on this part of High Street. An excess of that particular use would not be created. The use would be in harmony with the intent of the Ordinance. There would be minimal changes to the exterior of the structure. No new non-conformities would be created and there would be no extension, alteration or intensification of any existing non-conformities.

Ms. Schow asked if the Board has the authority to grant the two-family use, when there is already a separate single-family structure on the lot. Attorney Mead said permission for the second residential unit on the lot was granted in 1984.

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Mr. DeLisle asked about the materials of the spiral staircase. The staircase and its railings and landing would be black metal. It is needed for a second means of egress from one of the units. Attorney Mead said the intent is to repair or replace in kind the exterior character-defining features, such as the soffits and modillions.

Ms. Peknik said that a condition of the 1979 Variance was that no exterior changes would be made to the structure. She asked about the statement in the application that only minimal changes would be made. Attorney Mead said the only change would be the conversion of the window to a door.

Mr. DeLisle said no new conformities would be created. The proposal would not be detrimental to the neighborhood. The staircase would be at the rear of the property. The applicant thoroughly reviewed the criteria for the Special Permit for use.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 209 High Street with the conditions that prior to occupancy, the applicant shall replace the existing concrete sidewalk from the side door to the end of the first driveway with brick or concrete and the applicant shall remove the trees and shrubs on the public right-of-way from the existing northern driveway to the southern property line. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Ms. Schow, yes).

Mr. DeLisle moved to approve a Special Permit for 209 High Street with the conditions that prior to occupancy, the applicant shall replace the existing concrete sidewalk from the side door to the end of the first driveway with brick or concrete and the applicant shall remove the trees and shrubs on the public right-of-way from the existing northern driveway to the southern property line. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Ms. Schow, yes).

3. Business Meeting

a) Minutes

Mr. Benik moved to approve the minutes of the May 23, 2023, meeting. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. Benik, yes; Mr. DeLisle, yes; Ms. Peknik, yes; Ms. Schow, yes; Mr. Swanton, abstain).

b) Other Business

None

4. Adjournment

Mr. Chagnon moved to adjourn the meeting at 8:50 p.m. Ms. Schow seconded the motion. The motion was approved.