

**City of Newburyport  
Zoning Board of Appeals  
Online Meeting  
June 28, 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, Bud Chagnon, Ken Swanton, Stephen DeLisle and Gregory Benik. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan, Zoning Administrator Jennifer Blanchet and Note Taker Gretchen Joy.

**2. Request for Minor Modification**

161 Water Street (ZNC 21-12)

David Antczak said plans had previously been approved for the construction of a second story above an existing first-floor addition. He is instead proposing to construct a deck in the same location as the approved addition. The deck would be 16' by 20', exclusive of the stairs and landing. A sliding door would replace the existing entry door. The abutters on either side of the structure have submitted letters of non-opposition. Mr. Antczak said he would like to retain the right to proceed with the previous proposal should funding become available.

Mr. Swanton moved to deem the request minor and to approve the minor modification with the condition that the Certificate of Vote shall include language clarifying the applicant's approval for the deck improvements, as well as the option to construct the original plans in their entirety at a later date, provided that the subject SPNC has not since lapsed. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

**3. Public Hearings**

**Waldot Realty, LLC c/o Lisa Mead, Mead, Talerman & Costa LLC**

**200-208 Merrimac Street**

**VAR-22-2 - Variance**

**ZNC-22-7 - Special Permit for Non-Conformities**

The applicant requested a continuance. Mr. DeLisle moved to continue the public hearing to the July 26 meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

**Douglas C. Deschenes**

**22-24 Market Street**

**ZNC-22-13 - Special Permit for Non-Conformities**

**ZSP-22-1 - DCOD Special Permit**

**ZSP-22-2 - Special Permit for Hotel/Inn Use**

Douglas Deschenes said the developer is proposing to convert the property from its current use as a lodging house to an inn. It has been used as a lodging house since 1980. The property is non-conforming for lot area, frontage, front-yard setback, both side-yard setbacks, rear-yard setback and lot coverage. It is also non-conforming for parking. There are no off-street parking spaces, while five are required for the existing use and six would be required for the proposed use as an inn.

City of Newburyport  
Zoning Board of Appeals  
June 28, 2022

The connection to 26 Market Street would be removed and that structure would be restored to one or two-family residential use. The single-story structure and deck at the rear of the existing structure at 22-24 Market Street would be removed, as well as the second-story deck above a single-story addition. Two sheds would be removed from the rear of the property.

A DCOD Special Permit is needed for the demolition of more than 25% of the exterior of the existing structure. The 37.46% of the exterior walls that are to be removed are located primarily at the rear of the structure and were later-added. They are not historically significant. Two later-added chimneys would be removed as well.

The applicant is proposing to construct two two-story additions at the rear of the building with a new deck and stairway. The windows, doors, chimneys, siding and trim of the existing structure would be renovated in conformance with the plans approved by the NHC. The applicant worked with the Preservation Trust in developing the plans. The materials of the new addition would match those of the historic structure.

Architect Scott Brown said the structural integrity of the two additions that are to be removed is questionable. They have no value for the intended use. The front elevation would not be changed but for the addition of three dog-house dormers, which would be appropriate for the style of the house.

A Special Permit is needed for the use of the property as an inn. Attorney Deschenes said the proposed use would be in harmony with the purpose and intent of the Ordinance. The use is essential and/or desirable to the public convenience or welfare. There is a demand in the city for housing for visitors. The proposal would eliminate the pre-existing non-conforming use. It would not create undue traffic congestion or impair pedestrian safety. The use would not be detrimental to the character of the neighborhood. The property has been used for over 30 years in a similar manner with a similar function and intensity. The structure would be renovated and upgraded, which would eliminate any health or safety issues the existing structure may pose. While there might be a slight increase in the water and sewer requirements, those systems would not be overloaded or unduly burdened.

A Special Permit for Non-Conformities is required. The proposal would not extend and pre-existing non-conformities and no new non-conformities would be created. The non-conforming lot coverage would be slightly improved from 49.8% to 49.2%.

Attorney Deschenes said the abutters have been notified of the plans. They have expressed concerns about construction impacts, privacy on the decks and the operation of the inn. He said the number of hours that staff would be on-site would be limited. The direct abutters would be provided an after-hours phone number for the staff. Quiet hours would be posted. Signage would indicate that no smoking or loitering would be permitted on the decks.

The hearing was opened to comments from the public. Emily Dunn asked the reason that the Board approved a continuance of the public hearing for 200 Merrimac Street. Mr. Ciampitti said it is in the interest of the community and the process to allow the applicant to further refine the plans.

Steve DiNunzio, 13 Summer Street, said four fence sections exist along the rear property line between the two sheds. He would like the new sections that would take the place of the sheds to be installed by the same fence company for a consistency of appearance. He said he thinks the proposed deck is larger than it needs to be. He said a 5' x 5' platform should be

City of Newburyport  
Zoning Board of Appeals  
June 28, 2022

sufficient for egress. He is concerned about noise and the lack of privacy in his house and yard that would result from people gathering on the second-story deck.

Jacob Dumont, 169 Merrimac Street, asked when in-person meetings would take place. Andy Port responded the Planning Office is working to obtain better equipment for hybrid meetings. Some problems have been experienced during City Council and Planning Board meetings.

Attorney Deschenes said his client has agreed to use the same fencing material along the rear property line. An abutter has requested that white vinyl be used for the side fence. Scott Brown said the size of the decks were reduced to the minimum size allowed under the building code. The proposal would be an improvement over the existing conditions and would have less impact on the abutter. Full occupancy would be considered to be 20 people. A special permit has been received from the Planning Board to allow one off-site parking spot in the municipal garage with a payment into the ITIF. Additional public parking is available at a short walking distance.

Mr. DeLisle asked the reason that the deck would not be considered as being in the rear-yard setback. Attorney Deschenes said a means of egress is excluded from dimensional requirements.

Mr. Swanton asked if the steps taken to address the concerns of the abutters would be put in writing as requirements. Attorney Deschenes said they are voluntary but are a part of the application. He would accept them being made a condition of the Special Permit. He said a note would be made in the plans about the fencing material. Mr. Swanton asked about the quiet hours. Attorney Deschenes said he would like them to be 10:00 p.m. on weekdays and 11:00 p.m. on weekends. He added that the stone patios would encourage outdoor use at ground level, which would have less of an impact on the abutters. Andy Port said the Board has the ability to place conditions on the Special Permit. Mr. Ciampitti said the Board may make the requirements more stringent but not more lenient. Ben Legare, 3 Colby Farm Lane, said that according to the Ordinance, quiet hours in the business district begin at 10:00 p.m. unless otherwise permitted.

Mr. Chagnon asked about the relationship between the two existing buildings. Attorney Deschenes said they are two separate lots and addresses. The building at 26 Market Street is currently a part of the rooming facility. It would be disconnected from the other structure and converted back to residential use. The property would be sold and it is not known at this time if it would be a one or two-family residence.

Mr. DeLisle asked about the means for accessing the third-floor unit. He also asked if the applicant considered two separate staircases for each second-floor door. Scott Brown said a new stairway would be added in the two-story addition to access the third floor. He said two separate stairways to the second-story doors would have an impact on the amount of outdoor space. Attorney Deschenes said that while the proposed deck and stairway would not be a perfect solution, they would not be significantly more detrimental to the neighborhood than the existing conditions, which is the standard of review.

Mr. DeLisle said that for the DCOD Special Permit, the applicant has presented substantial evidence that the rear portions of the structure that are to be removed are of lesser historic value. The Historical Commission has agreed with this. The applicant has demonstrated that the structure retains no substantial remaining market value or reasonable use. The applicant read into the record the nine points of the DCOD Special Permit criteria and the nine points of

City of Newburyport  
Zoning Board of Appeals  
June 28, 2022

the Special Permit for Use criteria. He said six units would be better for the neighborhood than seven rooms and the developer would be making a substantial investment in the building. He said no new non-conformities would be created and agreed that the proposed renovations, while not perfect, would not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Chagnon said the applicant has worked with the neighbors and he would support all three permits provided that the conditions discussed are included.

Mr. Benik said the tired building would be improved and rooms for guests are greatly needed in the city. He does not think that the proposed deck would be more of a problem than the existing conditions.

Mr. Ciampitti said the design is thoughtful. The intensity of use would be reduced and the proposal would be more in keeping with the neighborhood than the existing conditions.

Mr. Chagnon moved to issue a DCOD Special Permit for 22-24 Market Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

Mr. Chagnon moved to issue a Special Permit for Use for 22-24 Market Street with the conditions that: 1) it shall be noted on the plan that the side fence shall be white vinyl and the rear fence shall be cedar to match the existing fence, 2) phone numbers of management shall be given to the three direct abutters and 3) signage shall be added that no congregating shall take place on the deck, no smoking is allowed and quiet hours that are consistent with the City Ordinance shall be posted. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

Mr. DeLisle moved to issue a Special Permit for Non-Conformities for 22-24 Market Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

#### **4. Business Meeting**

##### **a) Minutes**

Mr. Chagnon moved to approve the minutes of the June 4, 2022, meeting. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

##### **b) Updates from the Chair and Planning Director**

A discussion took place on the return to in-person meetings. Andy Port said the July 27 meeting would take place in person. While some Board members would like the meetings to be fully in person, it is likely that hybrid meetings will be the new standard.

#### **5. Adjournment**

Mr. Swanton moved to adjourn the meeting at 10:01 p.m. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton; yes; Mr. DeLisle, yes; Mr. Benik, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).