

**City of Newburyport  
Zoning Board of Appeals  
Online Meeting  
July 13, 2021  
Minutes**

**1. Roll Call**

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

**2. Public Hearings**

**Brendon Johnson and Krystina Creel Johnson**

**65 Curzon Mill Road**

**2021-06 - Dimensional Variance**

Mr. Moore recused himself from the matter. The applicant requested a continuance. Mr. Chagnon moved to continue the public hearing to the August 24, 2021, meeting. Mr. DeLisle seconded the motion. The motion was approved by a 4-0 vote. (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**John and Beverly Murphy, Trustees c/o Lisa Mead, Mead, Talerman & Costa, LLC**

**3 Marsh Street**

**2021-30 - Special Permit for Non-Conformities**

Lisa Mead represented the applicant, who is proposing to construct a 420 square-foot addition on pilings on the street side of an existing single-family home. The addition would provide a first-floor bedroom, laundry room and closet. The property is in the PIOD and the A/C District. It is non-conforming for lot area, lot coverage, frontage, both side-yard setbacks and rear-yard setback. The 26.3' x 16' addition would be closer to the street than the existing structure. The existing front-yard setback is 41 feet, where 50 feet is required. The proposed front-yard setback would be 25.1 feet. The lot coverage would increase from 22% to 27.9%, where 3% is allowed. The existing rear-yard and side-yard setbacks would not change.

The plans have been revised in response to concerns raised at the June 6 meeting about the increase to the FAR. The existing FAR is 37.8%, where 25% is required. The applicant is proposing to remove the shed, which lower the proposed FAR from 43.7% to 41%. Attorney Mead said the addition would be built over the existing gravel drive and the 3.2% increase in the FAR would not be detrimental to the neighborhood.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked if consideration had been given to the reconfiguration of the first floor living space rather than the expansion of the footprint. Attorney Mead said the existing first floor is not large enough to accommodate a master bedroom with a closet and laundry room.

Mr. DeLisle said the increase in FAR would now be 9% rather than the 16% originally proposed. He asked if the existing first bedroom continue to be used as a bedroom. Attorney Mead said the room would no longer have a closet and would therefore no longer meet the requirements for a bedroom.

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Mr. Benik confirmed that one sink and one toilet would be added and the number of bedrooms would not change. He also confirmed that the FAR would increase from 37.8% to 41%.

Mr. Moore said he appreciates that changes were made to the plans to address the FAR. However, the FAR is already 50% over that which is allowed.

Mr. DeLisle said the FAR is less than what had previously been proposed. The detriment to PIOD would be mitigated by the placement of the addition on pilings over an existing gravel driveway.

Mr. Chagnon said the increase to the FAR would be modest and Mr. Ciampitti said it would be nominal. Mr. Benik said he is concerned about increases to the FAR but he is satisfied the application meets the criteria of the Ordinance.

Mr. Benik moved to issue a Special Permit for Non-Conformities for 3 Marsh Street. Mr. DeLisle seconded the motion. The motion was approved by a 4-1 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, no).

**Patrick Nesius**  
**163 Crow Lane**

**2021-36 - Special Permit for Non-Conformities**

Doug Deschenes represented the applicant, who is proposing to demolish an existing three-bedroom house and construct a new four-bedroom house on the same footprint. An attached garage would be added. The property is in the R-1 zoning district. It is non-conforming for lot area, frontage and one side-yard setback. The side-yard setback non-conformity would be upwardly extended. The size of the structure would increase from 2,186 square feet to 4,698 square feet and the height of the roof would increase from 20 feet to 29 feet.

Attorney Deschenes said the lot is a large one and the house would not impose on the other homes in the neighborhood. The houses immediately adjacent to the property are not as large as the one being proposed, but many structures in the broader neighborhood are as large or larger.

The application triggers the Tree and Sidewalk Ordinance. There are no sidewalks on either side of the street. The Chair of the Tree Commission has recommended that the applicant plant three small flowering trees evenly across the front of the property.

The hearing was opened to comments from the public. John Moreland, 161 Crow Lane, said the applicant has satisfied his concerns about the proposal and he supports it. He said the proposal would be an improvement to the neighborhood.

Mr. Moore asked about the way in which the concerns of the abutter were satisfied. Attorney Deschenes said the existing fence would be replaced, the large birch tree would be retained and a row of arborvitae would be added to create a buffer between the two properties.

Mr. DeLisle and Mr. Chagnon asked about the size of the proposed structure. The living space would be approximately 3,300 square feet, which includes the finished attic and space above the garage.

Mr. Benik asked about the distance to the nearest large house. Attorney Deschenes said the distance from the property to the house at the entrance of Crow Lane is approximately 250 feet.

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Mr. Moore said no new non-conformities would be created and the direct abutter supports plans. Mr. DeLisle said he is concerned about the size of the structure relative to those adjacent to it but this would not be sufficient to determine the proposal would be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Chagnon said the proposed house would be large and he is concerned about the height but not enough to cause him to object to the proposal.

Mr. Benik said the project would enhance the neighborhood. It would be larger than abutting houses, but not larger than other houses in the neighborhood.

Mr. Moore moved to approve a Special Permit for Non-Conformities for 163 Crow Lane with the conditions that the applicant shall implement the plan for fencing, vegetation and birch tree care as discussed with the abutter and the recommendation of the Chair of the Tree Commission for tree planting shall be coordinated with the DPS with a plan and timeline for completion documented in writing with the concurrence of the DPS prior to the grant of a Building Permit and this completion shall be verified prior to the grant of an Occupancy Permit for the new structure. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).

**Stephen and Jodi Paciulan**

**10 Sylvester Street**

**2021-39 - Special Permit for Non-Conformities**

Douglas Deschenes represented the applicant, who is proposing to construct an addition at the rear of an existing single-family home and add a third-floor. An attached garage with living space above it and a pool house would also be constructed. The existing detached garage would be demolished.

The property is in the R-2 zoning district. It is non-conforming for front-yard setback. The front entrance way wall is 4.9 feet from the front lot line. The existing entrance way wall would be removed and the new entrance way wall would be set back 9.5 feet from the property line. A new farmer's porch would extend along the front of the structure and would be 4.9 feet from the property line. The farmer's porch and third-floor addition would extend the pre-existing non-conforming front-yard setback upward and along the front lot line. The height of the structure would be increased from 18.3 feet to 29 feet.

Stephen Paciulan spoke of the importance of the home to his family. He said that with one bathroom and three generations living together, it is in need of modernization.

The project triggers the Tree and Sidewalk Ordinance. There are no sidewalks in the neighborhood. The Chair of the Tree Commission has recommended that the unkempt junipers to the right of the house be replaced with trees or shrubs appropriate for the neighborhood.

Attorney Deschenes said no new non-conformities would be created. The lot is one of the largest in the neighborhood and the larger home would not impose on the surrounding ones. The open porch would decrease the massing on the street. Letters of support from 23 neighbors has been submitted.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked about the height of the peak. The existing peak is 26 feet and this would be increased to 34.6 feet.

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Mr. DeLisle asked about the increase in the size of the structure. The existing structure is 1,823 square feet and the proposed structure would be 3,781 square feet.

Mr. Moore said no new non-conformities would be created and the one pre-existing non-conformity would be improved. Mr. DeLisle said the application is compelling. The project is an excellent one that would not be detrimental to the neighborhood.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 10 Sylvester Street with the condition that the recommendation of the Chair of the Tree Commission for tree planting shall be coordinated with the DPS with a plan and timeline for completion documented in writing with the concurrence of the DPS prior to the grant of a Building Permit and this completion shall be verified prior to the grant of an Occupancy Permit for the new structure. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).

**Windward Shaw LLC c/o Lisa L. Mead, Mead, Talerman & Costa, LLC  
3 57th Street**

**2021-40 - Special Permit for Non-Conformities**

Lisa Mead represented the applicant, who is proposing to demolish an existing one-story structure and replace it with a new two-story structure on pilings. The property is located in the R-3 zoning district and the PIOD. It is non-conforming for lot size, lot coverage, frontage, side-yard setback and rear-yard setback. The lot is 4,900 square feet. The new structure would have a smaller footprint than the existing one and would meet all dimensional requirements except for the FAR. The FAR would increase from 19.2% to 28.9%. The lot coverage would decrease from 21.3% to 16.3% and the open space would increase from 35% to 55.7%. The current living area is 814 square feet and the proposed living area would be 1,416 square feet.

Attorney Mead said the increased FAR would not be more detrimental to the neighborhood and the PIOD than the existing structure. The proposal would meet FEMA requirements and those of the Newburyport Wetlands Protection Ordinance. The applicant has submitted 14 letters of support.

No one from the public spoke in favor of or in opposition to the application. Mr. DeLisle asked about the number rooms and the square footage of the bedrooms. Attorney Mead said no rooms would be added but the bedrooms and kitchen would be larger, which would make them more livable. She said 191 square feet would account for the 3.9% above the permitted FAR. There are currently two bedrooms and no new bedrooms would be added. The bedrooms would be 16' x 15' and 11' x 12'. There is currently one bathroom. The new structure would have two full bathrooms and one half bathroom.

Mr. Moore said the construction of a house on pilings would reduce the threat to the PIOD. Mr. DeLisle said the proposal is modest. He said the lot is small, which increases the FAR.

Mr. Benik said the lot is small and environmental concerns outweigh the strict application of the FAR application. He said it would be an improvement for the island and the PIOD.

Mr. Moore moved to approve a Special Permit for Non-Conformities for 3 56<sup>th</sup> Street. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).

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**Ezekiel Wheeler**  
**6 Perkins Way**  
**2021-41 - Special Permit**  
**allow Storage/Warehousing (Use #613)**

Douglas Deschenes represented the applicant, who is proposing to use a newly constructed building for the temporary storage of household goods and furniture moved by his company for his clients. The items would be stored while being moved from one location to another. The Use Regulation has recently been amended to allow for storage and warehousing.

Attorney Deschenes said there is a significant need for moving services in the area. The use is in harmony with the purpose of the Ordinance. It requires little in terms of water, sewer and electric utilities. There would be no permanent employees at the facility. One or two trucks might park overnight on some instances. The use would generate less vehicular and pedestrian traffic than most typical uses in the industrial zone. The number of vehicles would vary seasonally and is estimated to be between none and 18 per day. No hazardous materials would be stored.

Mr. Moore reviewed the Special Permit findings. He said the use is listed in the table of uses. The project is desirable because there is a demand. It would will not create traffic congestion or impair the character of the district.

Mr. DeLisle said he would support the application. Mr. Benik said the use is benign and the criteria for a Special Permit have been met.

Mr. Benik moved to approve a Special Permit for Use #613 for 6 Perkins Way. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).

**3. Business Meeting**

**a) Minutes**

Mr. DeLisle moved to approve the minutes of the June 22, 2021, meeting. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).

**b) Annual Election of Officers**

The election of officers was tabled to a meeting when all members would be present.

**4. Adjournment**

Mr. Moore moved to adjourn the meeting at 9:34 p.m. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes).