

**City of Newburyport  
Zoning Board of Appeals  
Online Meeting  
July 27, 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 Ken Swanton, and associate member Gregory Benik. Bud Chagnon joined the meeting at 9:10 p.m. Also in attendance were Planning Director Andy Port and Note Taker Gretchen Joy.

**2. Public Hearings**

**Caswell Restaurant Group, Inc. c/o Lisa Mead, Mead, Talerman & Costa, LLC 17-21 State Street**

**2021-18 - Appeal**

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the October 12, 2021, meeting. Mr. Benik seconded the motion. The motion was approved by a 4-0 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, abstain; Mr. Chagnon, absent).

**22-24 Olive St LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC**

**22-24 Olive Street**

**2021-44 - Special Permit for Non-Conformities**

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the September 14, 2021, meeting. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes; Mr. Chagnon, absent).

**Pattiann Bampos**

**2 Neptune Street**

**2021-26 - Special Permit for Non-Conformities**

Mr. Ciampitti said he is not qualified to vote on the matter. The applicant did not wish to proceed with a limited board and requested a continuance. Mr. Moore moved to continue the public hearing to the August 10, 2021, meeting. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes; Mr. Chagnon, absent).

**Alexander and Mary Bruce Rae-Grant c/o Lisa Mead, Mead, Talerman & Costa, LLC**

**20 Atwood Street**

**2021-37 - Dimensional Variance**

**2021-38 - Special Permit for Non-Conformities**

Mr. Ciampitti said he is not qualified to vote on the matter. The applicant did not wish to proceed with a limited board and requested a continuance. Mr. DeLisle moved to continue the public hearings to the August 10, 2021, meeting. Mr. Moore seconded the motion. The motion

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was approved by a 5-0 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes; Mr. Chagnon, absent).

**MFG Ventures, LLC**

**10 Briggs Avenue**

**2021-42 - Special Permit for Non-Conformities**

Braden Monaco described the plans to demolish a single-story ranch-style house and replace it with a two-story structure that would be partially on the existing footprint. The existing primary front-yard setback is 20.4 feet, where 25 feet is required. The second story of the new structure would be cantilevered and have a setback of 18.4 feet. The property is a corner lot. The location of the driveway would be changed from Briggs Avenue to Brown Avenue. Mr. Monaco said most of the houses on the street have setbacks similar to that which is being proposed.

The hearing was opened to comments from the public. Ralph Gillis said he is concerned about construction vehicles and asked about the work schedule. The public comment period was closed.

Mr. Moore said the Chair of the Tree Commission did not recommend the planting of additional trees due to the existence of mature trees on the site, but he has observed that trees have been removed. Mr. Monaco said some trees were removed that were not in the City right-of-way and were in poor condition. One tree that was located on the property line was removed. He intends to replace this tree with guidance from the Chair of Tree Commission.

Mr. DeLisle asked about the proposed materials. The structure would be clad with HardiePlank. The siding would be horizontal, although the plans show it as being vertical. The roof of the portico would be metal. Asphalt shingles would be used for the remainder of the roof.

Mr. Swanton commented that the structure is non-conforming for front-yard setback and yet the proposed structure would be closer to the property line. Mr. Monaco said the cantilevered two feet would allow for four bedrooms on the second floor without making it necessary to add living space above the garage. He provided information on the distance of neighboring structures from the street. He said the proposed structure would be in line with the others on the street, which are mostly 28 to 34 feet from the street. He also said the work would mainly take place Monday through Friday between 7:00 a.m. and 3:00 p.m. It might be necessary to do some work on Saturday mornings. He would be willing to address any concerns of the neighbors with regards to construction.

Mr. Moore said the project would improve the property. The non-conformity would be upwardly extended and intensified but no new non-conformities would be created. The massing would not be an issue due to the size of the lot. He would support the application with the provision that the applicant cooperates with the Tree Commission.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 10 Briggs Avenue with the condition that the applicant shall be responsible for compliance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes; Mr. Chagnon, absent).

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**86-88 Prospect Street, LLC - Blake Wilcox, Manager**

**86-88 Prospect Street**

**2021-43 - Special Permit for Non-Conformities**

Mark Griffin represented the applicant, who is proposing to renovate an existing multi-family structure and construct a two-story addition and three-bay garage. The structure currently contains five residential units and would continue to do so. The use is non-conforming in the R-2 District. The property is non-conforming for area, front-yard setback and side-yard setback. The proposed garage and addition would meet the dimensional controls of the Ordinance. The existing one-story commercial addition at the front of the property would be retained.

Blake Wilcox said the view of the addition from the street would be minimal. The project has been designed to retain a portion of the green space on the lot. Matt Langis said the form of the original structure would be retained. The 600-square foot addition would match the character of the existing structure and would be consistent with the neighborhood. The addition would be sided with HardiePlank and six-over-six windows would be installed.

Attorney Griffin said the project meets the standards of §IX.B.2 of the Ordinance. The addition would be located in the back corner of the structure, where it would not visually impact the neighbors and would not add to the scale and massing of the building. No new non-conformities would be added. A tired building would be upgraded. No additional units would be created.

The hearing was opened to comments from the public. Stephanie Niketic, 93 High Street, said the project is only .03% from the DCOD review requirement. She said the abutters should request an independent review.

Tom Kolterjahn, said the project would be improved if the commercial space were to be removed, as it clashes with the original structure. He said the rear addition should be made larger to compensate for the loss of square footage. He added that better quality materials should be used. The public comment period was closed.

Mr. Moore said the original structure is beautiful. The removal of the commercial space would improve it. He asked if this has been considered. Attorney Griffin said he does not believe approval for the demolition would be granted.

Mr. DeLisle said he is concerned about the scale and massing of the project. He said three-car garages are not common in the neighborhood and it would add weight to the Parson Street side of the property. Mr. Wilcox agreed to reduce the size of the garage to two bays.

Mr. DeLisle said he is also concerned that 24.97% of the exterior walls would be removed, which is too close to the 25% that would trigger a DCOD review. Attorney Griffin said it is the job of the Building Commission to monitor the construction.

Mr. Swanton said he had hoped the applicant would agree to remove the commercial addition. He is concerned about a five-unit building on a small lot that is less than two feet away from two streets. The removal of the commercial one-story addition would alleviate some of his concerns about density. He said 24,000 square feet is required for five-family use, but the lot is only 11,000 square feet, a 55% increase. He said the neighborhood is comprised of one and two- family houses. He asked why the proposal would not be detrimental to the neighborhood. Attorney Griffin said the lot is one of the largest in the

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neighborhood. The lot coverage would be less than what is permitted under the Ordinance. While the proposal would be denser than the existing conditions, it would still comply with the Ordinance. The addition would be placed in such a way that it would have a minimal impact on the neighborhood.

Mr. Swanton asked why the applicant did not consult the Historical Commission about the demolition, rather than assuming the approval would not be granted. Blake Wilcox said the retention of this section was a business decision. He wishes to keep costs down and the demolition would be expensive. He likes the design of the addition and would not want to fill in the green space by increasing its size.

Mr. Moore said the building would look better if the corner one-story section were to be removed, but the Board is not able to require this.

Mr. DeLisle said the change in the size of the garage would reduce the density. The lot is small but the five-unit use is preexisting. He said he continues to be concerned about the removal of 24.97% of the exterior walls.

Mr. Swanton said he is concerned about adding mass on a small lot where the structure is very close to two streets. He said he would not have a problem with the density if the one-story section were to be removed and the new addition were to be made larger.

Mr. Benik said the Board does not have jurisdiction over the one-story section and the five-unit use is pre-existing. He said the need for affordable housing is equally valid as historic preservation. He also thinks it would be preferable for cars to be in a garage rather than a parking lot. He said the DCOD concern has merit, but the Building Commission is responsible for overseeing the work and the project is within the regulations. He said the work would be a significant improvement over the existing conditions and there are no objectors from the community.

Mr. Ciampitti said the commercial space is out of synch with the remainder of the property but it is not within the purview of the Board. The proposal would not be more detrimental to the neighborhood than the existing conditions.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 86-88 Prospect Street with the conditions the applicant shall submit a revised plan for a two-bay garage and the applicant shall remove the existing Crabapple and Japanese Lilac on the Prospect St side and install two new *Syringa reticulata* with a minimum DBH of 1.75” according to the Tree Commission Chair’s recommendations prior to issuance of an Occupancy Permit, with the tree plantings and details being coordinated with the Department of Public Services and the tree installation shall be completed prior to the grant of any Occupancy Permit unless such timeline is extended to an agreed upon date certain via written approval of the Zoning Administrator. Mr. Moore seconded the motion. The motion was approved by a 4-1 vote. (Mr. Moore, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, no; Mr. Chagnon, absent).

### **3. Business Meeting**

#### **a) Minutes**

Mr. DeLisle moved to approve the minutes of the July 13, 2021, meeting. Mr. Moore seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, abstain; Mr. Chagnon, absent).

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**b) Zoning Ordinance Amendments**

Andy Port discussed some proposed changes to the Zoning Ordinance. Language would be added to address the fact that the dimension table does not cover all uses. The amendment would state that the dimensional requirements for non-conforming use shall be the same as the most restrictive dimensional requirements for conforming uses in the district. The next step in the process would be the revision of the administrative section of the Ordinance.

**c) Annual Election of Officers**

Mr. Moore moved to nominate Mr. Ciampitti for the position of Chair. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

Mr. Chagnon moved to nominate Mr. Moore for the position of Vice Chair. Mr. DeLisle seconded the motion. The motion was approved by a 6-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

Mr. Benik moved to nominate Mr. DeLisle for the position of Secretary. Mr. Moore seconded the motion. The motion was approved by a 6-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

**4. Adjournment**

Mr. Swanton moved to adjourn the meeting at 9:16 p.m. Mr. Moore seconded the motion. The motion was approved by a 6-0 vote (Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).