

**City of Newburyport
Zoning Board of Appeals
Hybrid Meeting
August 9, 2022
Minutes**

1. Roll Call

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

2. Public Hearings

**Richard and Pamela Renzi, c/o Lisa Mead, Mead, Talerman & Costa LLC
26 Columbus Ave.**

ZNC-22-20 - Special Permit for Non-Conformities

Lisa Mead and Scott Brown represented the applicant, who is proposing to remove a one-story sunroom and rear mudroom from a single-family property in the R2 District. There is no Form B for the Dutch Colonial structure, which appears on the 1924 Assessor's map. The property is non-conforming for lot area, frontage and front-yard setback.

The sunroom is original to the structure. It would be replaced with a two-story addition that would be constructed on a larger footprint. It would be 12.6' from the front property line, while the setback of the main structure is 11.5'. The mudroom at the rear of the structure is not original. It would be replaced by a one-story addition on a larger footprint.

Scott Brown said the homes in the neighborhood are of the same style and many have the same type of addition. The locations of several windows would be changed. The small second-story windows would be replaced with larger ones. Columns would be added at the front door. The roof of the addition would be slightly lower than the roof of the original structure and would be of a similar form.

Attorney Mead said no new non-conformities would be created. The front-yard setback non-conformity would be extended but not intensified. She said the change would be an improvement over the existing conditions and would be consistent with the neighborhood. Letters of non-opposition were submitted by five abutters.

The hearing was opened to comments from the public. Property owner Richard Renzi said he and his wife would live on the upper floor and his father would live on the first floor.

Mr. DeLisle asked about one letter of non-opposition that stated it was contingent on the removal of the shed. Attorney Mead confirmed that the shed would be removed. Mr. DeLisle asked about the materials of the additions. The siding would be fiber cement board and the windows would be aluminum clad with simulated divided lights.

Ms. Schow asked if the letters of non-opposition were submitted by direct abutters. Attorney Mead said she is not aware of any opposition to the proposal.

Mr. DeLisle said the project is a good one and he would support it. It would not be more detrimental to the neighborhood than the existing conditions. Mr. Swanton, Mr. Chagnon and Ms. Schow said they are in agreement with this.

Mr. Benik said the proposal would be consistent with the neighborhood, where there is a pattern of this type of addition. He said he likes that the addition would be set back from the

City of Newburyport
Zoning Board of Appeals
August 9, 2022

front face of the structure. Ms. Peknik said it might be a good idea to remove the vegetation from the front of the structure.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 26 Columbus Avenue subject to the removal of the shed. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote.

Andrew Crocker
305-307 High Street
ZSP-22-3 - Special Permit for Non-Conformities

The applicant is proposing to construct a two-story addition at the rear of an existing two-family structure. The building is comprised of two condo units and is on a corner lot. The property is non-conforming for lot area, open space, lot coverage, front-yard setback, rear-yard setback and both side-yard setbacks.

Andrew Crocker said the property owners are now working from home and require additional space. The footprint of the addition would be 270 square feet and a total of 540 square feet would be added to the structure. The lot coverage would increase from 27.8% to 31.9%. The open space would be reduced from 61.4% to 57.2%. The rear-yard setback non-conformity would be intensified. It would be reduced from 21.2 feet to 20.5 feet. The left side-yard setback would decrease from 54.5 feet to 38.9 feet, which would remain conforming. The addition would be clad with cedar plank siding. Four abutters have submitted letters of support, including the owner of the adjacent condo unit.

The first floor would be reconfigured for the addition of a conference room. On the second floor, a bedroom would be added and a bathroom would be relocated into the addition. The addition would have a gable roof that would be framed over the existing shed roof. The existing roof framing would remain in place. The front and sides of the existing structure are clad with asbestos shingles and the rear is clad with cedar clapboards. Cedar clapboards would be used on the rear of the addition. The sides would be of fiber cement shingles. Mr. Crocker said the height of the addition would match the height of the existing building. He said the addition would not be visible from High Street.

Mr. DeLisle said no new non-conformities would be created and the proposal would not be substantially more detrimental to the neighborhood than the existing conditions. He said he was concerned with the decrease in open space and the increase in coverage on a small lot, but the addition not being visible from the street lessens these concerns. Mr. Swanton said the size of the addition is small in comparison to that of the structure.

Ms. Peknik said that in February the Board approved a permit for the adjacent property at 303 High Street. She said in that instance, the ridgeline of the addition was not the same as that of the main structure. She said the ridgeline for the proposed addition should be lower. She also said the wall of the addition would be coplanar with the house, and she believes it would be visible from High Street. The over-framing of the roof would alter the massing of the structure. She does not think the design of the addition is well integrated with that of the main structure, as it was at 303 High Street. According to the district data sheets, the house dates from around 1800, which is earlier than stated in the presentation. She is concerned about the loss of open space on High Street. She said the increase in lot coverage to 31.9% would interfere with the

City of Newburyport
Zoning Board of Appeals
August 9, 2022

intent of the HSR-B district. The height and nature of the addition would make it disharmonious with the neighborhood.

Ms. Schow said she agrees with the comments made by Mr. DeLisle. She thinks it is important that the changes would not be visible from the street.

Mr. Ciampitti said the addition is small relative to the mass of the lot. Mr. Benik said the proposal would not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Swanton moved to approve a Special Permit for Non-Conformities for 305-307 High Street. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote.

Steven J. Harrold c/o Lisa Mead, Mead, Talerman & Costa LLC

46 Toppans Lane

VAR-22-4 - Variance

Lisa Mead represented the applicant, who is seeking a Variance to install a 12' x 30' in-ground pool within the side-yard setback. The lot was created in 2019. It was previously a larger one that included the lot at 44 Toppans Lane. The lot line with 48 Toppans Lane was changed in 2020. The owners of 46 Toppans Lane hold an easement over a portion of the lot at 48 Toppans Lane.

The proposed pool would be 1.8 feet and 5.8 feet from the side boundary, where six feet is required. Attorney Mead said it would be difficult to locate the pool within the site boundaries. The proposed location would be a significant distance from the easement line. The applicant has full control over the easement. The pool would be in the driveway if it were moved the required distance from the lot line. She said the shape of the lot is unique and creates a hardship. Three letters of non-opposition have been submitted.

The hearing was opened to comments from the public. Jonathan Burgiel, 0 Zabriskie Drive, said three homes now exist where once there was a single property. This has created congestion near his home. He said the pool could be moved four feet to the right without disturbing the driveway. He said there is no hardship that would require a Variance. The public comment period was closed.

Mr. DeLisle said the Board cannot recognize the easement line as a property line. Attorney Mead said the pool would not be too close to the neighboring property and would meet the intention of the ordinance. The applicant would be deprived of the reasonable use of the property due to the shape of the lot and the narrowing of the rear yard by the angle of the southern property line.

Mr. Swanton commented that there is a great deal of pavement on the site and the driveway extends beyond the opening of the garage. It would only be necessary to move one corner of the pool six inches in order for it to be conforming.

Mr. Benik said he is not convinced the applicant has demonstrated the existence of a hardship. The location of the pool could be shifted or its width could be reduced in order to be conforming.

Mr. Chagnon said the applicant could locate the pool in such a way that would not require a Variance. If the size of the pool were reduced to 12 feet by 24 feet, it would only be necessary to move it three feet for it to be conforming.

City of Newburyport
Zoning Board of Appeals
August 9, 2022

Ms. Peknik said the objections of the abutter should be taken into consideration and the bar for a Variance should be high.

Attorney Mead requested a continuance to consider the comments of the Board and explore alternatives to the proposal.

Mr. Swanton moved to continue the public hearing to the August 23 meeting. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote.

Kevin Keiler

182 Northern Blvd

ZNC-22-21 - Special Permit for Non-Conformities

The applicant is proposing to install a 12' x 16'-10" sunroom above an existing deck. The property is in the PIOD and is non-conforming for area, frontage, front-yard setback, one side-yard setback and FAR. The deck is eight feet above grade. In order to comply with the building code, a new 6" x 6" post would be attached to the existing deck with a single helix screw.

The sunroom would add 172 square feet of living space. The lot coverage would increase from 15% to 17% and the open space would decrease from 85% to 83%. The FAR would increase from 31% to 33%. The existing basement area is included in the FAR calculations, as the ceiling height is at least six feet. The unfinished garage also contributes to the FAR.

The hearing was opened to comments from the public. Owner Warren Russo said the neighbors appreciate the improvements he has made to the property. The public comment period was closed.

Mr. Swanton said the situation is unusual and he would support the application. The FAR is high because of the unfinished basement. Without the unfinished garages, the FAR would be under 25%.

Mr. DeLisle said no new non-conformities would be created and the proposal would not be substantially more detrimental to the neighborhood than the existing conditions. He had no concerns with regards to the PIOD. The addition would not be within ten feet of the sideline, it would not be more than two stories, and would not be over 35 feet in height.

Mr. Chagnon said the addition is a small one that would be constructed over an existing deck. Mr. Ciampitti said the request is modest.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 182 Northern Blvd. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote.

3. Business Meeting

a) Minutes

Mr. Swanton moved to approve the minutes of the July 26, 2022, meeting. Mr. DeLisle seconded the motion. The motion was approved.

4. Adjournment

Mr. Swanton moved to adjourn the meeting at 8:51 p.m. Mr. DeLisle seconded the motion. The motion was approved.