

**City of Newburyport
Zoning Board of Appeals
Online Meeting
August 11, 2020
Minutes**

1. Roll Call

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

2. Business Meeting

Minutes

Ms. Webb moved to approve the minutes of the July 28, 2020, meeting as submitted. Mr. Swanton seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

3. Public Hearings

Ryan McShera, Red Barn Architecture

4 68th Street

2020-030 - Special Permit for Non-Conformities

The applicant is proposing to demolish a one-story single-family residence and replace it with a two-story single-family residence. The public hearing was continued from the July 14 meeting due to the Board members' concerns about the FAR. The FAR of the existing structure is .21. The FAR of the new building would be .32, greater than the .25 allowed. Additional relief for FAR in the Plum Island Overlay District may be granted by Special Permit if the proposal is deemed to be not more detrimental to the neighborhood than the existing conditions.

Ryan McShera said the proposal would not be more dense than other properties in the neighborhood. Of the properties he surveyed, 16 were denser and 6 were of equal or lesser density.

No one from the public spoke in favor of the proposal. Tarah and Ron Cammett, 10 68th Street, said the applicant has not shown them the plans and they would not support the project. They said the street is short and narrow and a pickup truck has frequently blocked their driveway. They are concerned this would be an ongoing situation during construction. Mr. McShera responded there would be easier to access the site once the structure has been removed.

The Board members were concerned about the group of properties the applicant used to demonstrate the density of the neighborhood. He assessed very few of the 150 properties shown on his map. Only one of the properties about which he reported is a direct abutter. Many of the surrounding properties are of a much lower density than the ones he selected. Mr. McShera said he selected the properties to show a FAR of .32 would not be substantially more detrimental to neighborhood. He said the FAR of a property on the opposite side of the street is .45.

Mr. DeLisle said he not yet been satisfied about the issue. The applicant is requesting a FAR that is almost 30% greater than that which is allowed. Ms. Webb said she would like more information on the abutting properties. While the applicant has demonstrated that there are parcels with greater densities, they are not immediately adjacent to the property in question. Mr. Swanton said the Planning Department has asked the Board members to consider density on Plum Island. The applicant has shown that 16 out of 150 properties have a higher density. The

City of Newburyport
Zoning Board of Appeals
August 11, 2020

properties he personally surveyed were lower in density. He found one with a FAR of 10%. He said allowing a FAR greater than .25 troubles him. Mr. Chagnon said he is comfortable with the proposed density and he would support the applicant. Mr. Moore said while the FAR has been exceeded on other properties, the island should not be allowed to become more and more dense. Mr. DeLisle said while the proposed structure would be an improvement over the existing one, he would like additional information on the FAR of the immediately abutting properties.

The applicant requested a continuance to the next meeting. Mr. DeLisle moved to continue the public hearing to the August 25 meeting. Ms. Webb second the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

John and Margaret Ohrn c/o Mead, Talerman & Costa, LLC
18 Madison Street

2020-048 - Dimensional Variance

The applicant requested to withdraw the application. Ms. Webb moved to approve the request to withdraw the application without prejudice. Mr. Moore seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

Justin and Katherine Ponting

11 Barker Street

2020-051 - Special Permit for Non-Conformities

Ken Savoy represented the applicant, who is proposing to add a second story above an existing garage, construct a connector between the garage and the existing two-story structure and expand the deck to the rear. The property is nonconforming for lot area. The structure is nonconforming for frontage and one side yard setback. The existing garage is larger than is permitted for an accessory building. Its foundation is not sufficient and the addition would be supported by six piles. The connector between the second stories would be elevated above the flood plain. The existing structure is 1,137 square feet and the proposed structure would be 1,947 square feet. The FAR is currently .146 and it would be increased to .250. Windows and siding would match that of the existing structure. No trees would be removed to accommodate the enlarged deck. Mr. Savoy said the addition was designed to meet the FAR requirements.

No one from the public spoke in favor of or in opposition to the proposal. Mr. DeLisle said the project would meet the requirements of the ordinance. The new living area would be elevated and the footprint would not increase. Ms. Webb commended the applicant for staying within the regulations for FAR. The proposal would create additional square footage while minimizing its impact. Mr. Swanton said the project is a good one and he would support it.

Ms. Webb moved to approve a Special Permit for Non-Conformities for 11 Barker Street. Mr. Swanton seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

Patrick Nesius c/o Lisa L. Mead, Mead, Talerman & Costa, LLC

23 Moseley Avenue

2020-052 - Special Permit for Non-Conformities

Lisa Mead represented the applicant, who is proposing to add a second-story to a single-family

City of Newburyport
Zoning Board of Appeals
August 11, 2020

structure. More than 500 square feet would be added to the structure. The footprint would not change. The property is non-conforming for lot area: it is 8,656 square feet where 10,000 is required. The existing mean roof height is 14.6 feet and the proposed would be 23.5 feet. The bump-out on the second floor would not have any implications for the front setback. Attorney Mead said a survey of nearby structures shows the structure would not be the smallest or the largest in the neighborhood. Letters of supported from abutters were submitted.

No one from the public spoke in favor of or in opposition to the proposal. The Board members were in agreement that they would support the project. It would not create any new nonconformities and it would not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. DeLisle moved to approve a Special Permit for Non-Conformities for 23 Moseley Avenue. Ms. Webb seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

**Windward Shaw LLC, c/o Lisa L. Mead, Mead, Talerman & Costa, LLC
68 Middle Street**

2020-053 - Special Permit for Non-Conformities

The applicant requested a continuance. Mr. DeLisle moved to continue the public hearing to the August 25 meeting. Ms. Webb seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

Andy Port said that while the matter was continued and no public comment would be required, a member of the public, Fred Neidhardt, had raised his hand to speak. He said Mr. Neidhardt may have questions of a procedural nature and it might be beneficial for the Board members to hear from Attorney Mead about any potential legal or procedural issues. Attorney Mead responded that the matter was continued and while she would be happy to do whatever the Board wishes, she believes it would be out of order to take questions. Mr. Moore said he is concerned it would be out of order to take public comment and the matter would be continued. Mr. Port said any testimony would be taken at the next meeting the Board has on the application. Mr. Neidhardt may contact the Planning Office with any questions or concerns.

CWC Design LLC

400-402 Merrimac Street

2020-054 - Special Permit for Non-Conformities

Chris Crump represented the applicant, who is proposing to construct an enclosed front entry to a multi-family apartment building. A covered porch would be added to the entryway, which would result in a slightly larger footprint. Other structures in the area are located closer to the street. The work would meet all dimensional controls. A Special Permit is needed because the structure is located in the R1 district, where multifamily buildings are not permitted.

No one from the public spoke in favor of or in opposition to the proposal. The Board members were in agreed that they would support the project.

Ms. Webb moved to approve a Special Permit for Non-Conformities for 400-402 Merrimac Street. Mr. DeLisle seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Ms. Webb, yes).

City of Newburyport
Zoning Board of Appeals
August 11, 2020

Ms. Webb moved to adjourn the meeting at 8:37 p.m. Mr. Swanton seconded the motion. The motion was unanimously approved.

Respectfully submitted,
Gretchen Joy
Note Taker