

**City of Newburyport
Zoning Board of Appeals
Online Meeting
September 14, 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, Bud Chagnon and Ken Swanton and associate member Gregory Benik. Stephen DeLisle was absent. Also in attendance were Planning Director Andy Port, Planner Katelyn Sullivan and Note Taker Gretchen Joy.

2. Public Hearings

**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 28, 2021, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote. (Mr. Moore, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes).

Eric Primack

30 Winter Street

2021□49 □ Special Permit for Non□Conformities

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the September 28, 2021, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote. (Mr. Moore, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Swanton, yes).

**Christopher and Holly Ragusa, Trustees, c/o Lisa Mead, Mead, Talerman & Costa, LLC
276 High Street**

2021□48 □ Special Permit

Lisa Mead represented the applicant, who is proposing to demolish a portion of a carriage barn and move it to a different location on the property. Under the DCOD, relocation is considered demolition. The lot is fully conforming and no work is being proposed for the single-family residence. The main structure and barn were constructed around 1850. Additions were made to the barn between 1914 to 1925 and it is these additions that are to be removed.

The Newburyport Historical Commission issued an advisory report in May. The Commission agreed that the removal of the additions would help preserve the structure. The Commission found the proposed design to be too ornate and requested that it be simplified. The applicant had originally proposed to move the barn to the left rear corner of the property. The Commission wanted to maintain the historic relationship between the main house and the accessory structure. The applicant agreed to relocate the structure in its existing plane, but is proposing to move it further back on the property than recommended by the NHC.

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Aaron Sturgis said the additions were constructed at grade with no foundation, which has had a negative impact on the original barn. The barn is in need of structural repair because of the additions. A new foundation would help with the structural issues. The structure would be rolled onto a new foundation and then repaired. It would be necessary to move the barn twice if it were to be placed on a foundation in its existing condition. The barn would be returned to its original form, although a new addition would be constructed at its rear. The new addition would make the building usable and stable.

Scott Brown said the yard is currently underutilized. The re-positioning of the barn would allow the use of the entire lot. The design of the structure has been simplified and it would appear as it did in the 19th century.

Attorney Mead said the Board must find that the portion of the structure to be demolished has no remaining market value. The Historical Commission did not oppose the demolition of the additions and the placement of the barn on a foundation. She said the applicant found the recommendation of the Commission to move the barn only one to two feet to be unreasonable. Moving it twice would be risky. In its proposed location, the barn would be visible from High Street and would be a useful accessory structure on the property. The use is allowed by right and would not change. The relocation of the barn would not impair the character of the neighborhood. The applicant intends to replace the fence at the rear of the property with a six-foot fence and trim the branches of the existing trees near the property line.

The hearing was opened to comments from the public. Attorney Douglas Deschenes said he represents Erin DeGenova of 30 Collins Street, who is opposed to the moving of the structure. She would like the barn to remain in its existing location. Ms. DeGenova said a two-story structure located 27.5 feet from her property would reduce its market value. The barn in this location would impede her view of her yard and would impact air flow and sunlight. She would prefer for the structure to be located 45 feet from the property line. She submitted written comments, in which she requested that the larger tree at the rear of the property be removed or at least trimmed and the fence repaired. She would like additional trees to be planted to screen the property line.

Glenn Richards, 6 Kent Street, said the new plans are a significant improvement over the ones that had been originally submitted to the Historical Commission. The members had expressed their preference for the barn being moved only one to two feet back. He said it would be possible for the barn to be moved only once while remaining close to the main structure.

Melissa Rau, 28 Collins Street, said she is opposed to the moving of the barn. She would like the conditions described by Ms. DeGenova to be a part of any approval.

Don Staruk, 46 Oakland Street, asked about the creation of additional open space. He is concerned that multiple units would be constructed on the property. The public comment period was closed.

Mr. Moore asked if pest control would be undertaken during moving of the barn. Attorney Mead said the City requires that pest-control measures be taken. She added that the property is surrounded by mature trees that would not be disturbed and the relocation of the barn would not change the light or air movement on the adjacent property. She said the property would always be single-family, as there is insufficient frontage for multiple units.

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Mr. Moore asked about the mechanics of moving the barn. Aaron Sturgis said steel would be added in both directions. The structure would be lifted 14 inches and rolled to its new location. He said a timber-frame structure is easy to move. It would be more difficult to lift the structure high enough to construct a foundation under it.

Mr. Swanton asked if the Historical Commission approves of the new design and if it follows the Secretary of the Interiors Standards for Historic Preservation. Glenn Richards said there is evidence of the original barn and the new plans are fairly faithful to its design. The Secretary's Standards state that the relationship between the main structure and the accessory buildings should be maintained. The Historical Commission has not reviewed the revised plans. The members would likely not want the barn to be moved so far back on the lot. The distance of one to two feet had been discussed during their review of the proposal.

Mr. Moore said there are many positive elements to the proposal. However, the barn is listed as contributory on the district data sheets, which is both significant and unusual. The historic relationship to the house makes the barn contributory. If it were to remain in its existing location, the special historic relationship would be left intact. He likes the proposed design of the structure, but does not like its proposed location. He does not think that leaving it in its current location would block too much of the view from the house. Attorney Mead clarified that the left side of the barn is being retained, not the right side. The structure would not move straight back. It would slide to the right, closer to the property line.

Mr. Swanton said he agrees with Mr. Moore. Mr. Chagnon said he likes the proposed design but he is concerned about the distance the barn is being moved. He approves of it being moved towards the lot line so that it would be visible from the street. He said the distance could be greater than one or two feet, but less than the 75 feet being proposed. Approximately 20 feet might be appropriate. In its proposed location, it would be extremely subordinate to the main house and would not necessarily even appear to be associated with the property.

Mr. Benik said the historic structure has been impaired by shoddy additions and their removal would be appropriate. The proposed barn would be smaller and faithful to the historic values. The visual connection with the primary residence would remain. He said he could find no consistency in the city in the relationship between the main structure and an accessory building. He also found no literature that would support the existing location as being natural. He does not find moving the structure back would create an unnatural relationship, as the Historical Commission contends, and that Board's recommendations are not compelling. He added that the concerns expressed by the neighbors are reflected in the Zoning Ordinance, and the proposal meets its requirements.

Mr. Ciampitti said he could support the proposed plan. The barn would be smaller and more cohesive than its current condition. He said the decisions of the Board are driven by legal criteria.

Mr. Moore said moving the barn back and to the right would improve its visibility. He agrees with Mr. Benik and could support the application. Mr. Swanton agreed that the position of the NHC was not forceful. Mr. Chagnon said could support the application.

Mr. Benik moved to approve a Special Permit for 276 High Street. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

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Michele Simone on behalf of Kim Goulette

5 Helena Street

2021-50 - Special Permit for Non-Conformities

Michele Simone presented the plans to construct an addition to a single-family structure on Plum Island. The property is non-conforming for lot area, front-yard setback and one side-yard setback. The 172 square feet of additional living space would be used for a second bedroom. A portion of an existing deck would be enclosed to construct the bedroom. The footprint of the structure not be expanded. The additional has already been partially constructed. The work was commenced without ZBA approval or a building permit.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked how the construction could be completed to such an advanced degree without the necessary permitting. Ms. Simone said Conservation Commission approval was received in February 2021. She said she applied for a building permit on April 22. After the work began, she was not able to find a copy of the permit. She said the error was perhaps the result of the City's transition from paper to electronic permitting. Andy Port said he is uncertain that this transition would have been a factor.

Mr. Swanton asked if the error was on the part of the applicant or the Building Department. Ms. Simone said that she received a copy of the permit in April. Mr. Swanton said the FAR would increase from 7.5% to 9%. He said he is not opposed to the improvement of Plum Island properties but he has been concerned with overbuilding. In this application, the proposed FAR would be well below that which is permitted.

Mr. Benik asked if a signed building permit had been received. Ms. Simone responded that it had been.

Mr. Moore said he could support the proposal but he would not encourage applicants to begin work before permitting is in place. He said no new non-conformities would be created. The additional bedroom would result from the enclosure of an existing deck and would not be detrimental to the neighborhood.

Mr. Swanton said he does not like to approve work that has already begun but it appears that the problem was on the side of the City. He is not concerned with the small increase in the FAR and the footprint of the structure would not be changed.

Mr. Chagnon said the proposal is modest one. Mr. Benik said he is concerned that the continual addition of bedrooms without bathrooms would have a cumulative impact on the island but he is able to support this project.

Mr. Ciampitti said he would have supported the application if it had been submitted before work began and he is able to do so at this time as well.

Mr. Swanton moved to approve a Special Permit for Non-Conformities for 5 Helena Street. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

3. Business Meeting

a) Minutes

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Mr. Moore moved to approve the minutes of the August 24, 2021, meeting. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).

b) Updates from the Chair

The board members will begin appearing on video at the next meeting.

4. Adjournment

Mr. Chagnon moved to adjourn the meeting at 8:52 p.m. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes; Mr. Moore, yes; Mr. Swanton, yes).