

**City of Newburyport
Zoning Board of Appeals
Senior Community Center
September 26, 2023
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 members Rob Ciampitti, Ken Swanton, Bud Chagnon, Stephen DeLisle and Gregory Benik and associate member Patricia Peknik. Associate member Lynn Schow was absent. Also in attendance were Planning Director Andy Port and Note Taker Gretchen Joy.

2. Public Hearings

**a) Nancy and David Rees, c/o Lisa Mead, Mead, Talerman and Costa LLC
255 High Street**

ZNC-23-13 - Special Permit for Non-Conformities

Mr. Swanton moved to accept a request to withdraw the application without prejudice. Mr. DeLisle seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Benik, yes; Ms. Peknik, yes).

**b) John Padden and Julie Christie c/o Lisa Mead, Mead, Talerman & Costa LLC
14 Payson Street**

ZNC-23-22 - Special Permit for Non-Conformities

Lisa Mead represented the applicant and requested a continuance. Mr. Swanton moved to continue the public hearing to the October 24 meeting. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Benik, yes; Ms. Peknik, yes).

**c) Mical Real Estate & Construction LLC, c/o Lisa Mead, Mead, Talerman & Costa LLC
34-36 Prospect Street**

ZNC-23-20 - Special Permit for Non-Conformities

Mr. Swanton recused himself from the matter. Lisa Mead represented the applicant, who is proposing to expand a two-family structure in the R2 district and the DCOD. The property is non-conforming for lot area, frontage and both side-yard backs. There are currently two off-street parking spaces, where four are required.

The structure was constructed in 1855. A one-story addition was constructed at its rear at a later date. The DCOD is not triggered and Historical Commission approval is not needed. A second story would be constructed above the one-story addition, which would upwardly extend the side-yard setback non-conformity. A front stoop would be added that would intensify the front-yard setback non-conformity. The entries would be removed from both sides of the structure, which would improve the side-yard setback non-conformities. The parking would be removed from the left side of the structure and landscaping would be added in its place. Four parking spaces would be provided at the rear of the structure. By-right dormers would be added to both sides of the roof.

Attorney Mead said no new-conformities would be added. The proposal would not be more detrimental to the neighborhood than the existing conditions. The structure is in poor condition and is in need of improvement. The existing left side-yard setback is one foot and

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would be improved to six feet. The second-story addition would be lower in height than the original structure and would be subordinate to it. The proposed stoop would be 4.6 feet from the property line. Attorney Mead said front entryways are not uncommon in the neighborhood. Some of these encroach on the sidewalk.

The hearing was opened to comments from the public. Shelly Cook, 38 Prospect Street, said she is concerned about the parking in the backyard, where there are now trees and shrubs. She would like landscaping to be installed for privacy. She is especially concerned with the deck on the second-floor addition, which would overlook her deck and eliminate her privacy.

Ken Swanton, 10 Tremont Street, said the neighborhood is dense and the rear of the property might be the largest green space in the south end. Its presence is nice for the members of the community. The second-story deck would be the first in the neighborhood. The building needs improvement, but the deck would be unusual in a special neighborhood.

Tracey Smith said she is the daughter of Shelly Cook and she grew up at 38 Prospect Street. She said the project would increase the non-conformity and would be detrimental to the neighborhood. With two four-bedroom units, the traffic would be increased. For many years, a single woman has been living alone in the structure. She said the deck would impact her mother's privacy. The public comment period was closed.

Mr. DeLisle asked about the gravel shown on the plan near parking space #3. Attorney Mead said the gravel is not a part of the driveway. Cars would not be parked there, but it is needed for turning. She said the deck would provide outdoor space for the rear unit and there are similar decks in the neighborhood. Mr. DeLisle asked if screening could be added to the side of the deck. He asked if the areas that provide access to the basement are a part of the open space calculation. Attorney Mead said she did not know, but the property would be 40% open.

Mr. Chagnon asked if the window on the right side of the structure is considered in the setback and open space calculations. Attorney Mead said it is not, as it is cantilevered.

Ms. Peknik asked about the width of the sidewalk. Attorney Mead said the sidewalk is 4.5 feet wide and protrudes into the property. Ms. Peknik asked about the amount of space being added to the structure. Attorney Mead said 379 square feet would be added. Living space would be added in the attic and on the second story, and the basement would be converted to living space. The two units would have a gross area of 4,590 square feet.

The Board members discussed the zoning matrix, which indicates the open space would be 25.4%, where 40% is required. Attorney Mead said the matrix is incorrect and the open space would be 40%. She agreed to provide a plan that demonstrates the open space requirement would be met. She stated later in the meeting that she had been incorrect and the open space would be 42.5%.

The Board members also discussed the screening of the deck. Some members thought the applicant agreed to plant trees to screen the deck. Attorney Mead said there would not be sufficient space for a vegetative screen. Instead, an opaque screen would be attached to the end of the deck. Plans for the screen would be submitted after the architect has designed it.

Mr. DeLisle said no new non-conformities would be created. He would like to have more green space on the property but he would support the application. The screening on the deck would be a reasonable accommodation.

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Mr. Benik said the use of asphalt for the parking area is a concern. There are better materials. The neighborhood is dense and the proposal would be an improvement.

Mr. Chagnon said the amount of open space is a concern, but he accepts calculations the applicant provided.

Ms. Peknik said the dormers and front stoop contribute to the massing of the structure. Roof decks are always inappropriate on narrow lots in dense neighborhoods and she would not support the application with one.

Mr. Ciampitti said the standard is that the project must be substantially more detrimental to the neighborhood than the existing conditions. He would support the application with conditions.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 34-36 Prospect Street with the conditions that prior to the issuance of the building permit, the applicant shall submit a plan for an opaque screen that would be installed on the left side of the second-story deck at the rear of the structure and a calculation demonstrating the 40% open space requirement has been met and a sidewalk in the applicant's choice of either concrete or brick shall be installed in accordance with the DPS recommendation. Mr. Benik seconded the motion. The motion was approved by a 4-1 vote (Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Benik, yes; Ms. Peknik, no).

**d) Luke and Katherine Shipman c/o Lisa Mead, Mead, Talerma & Costa LLC
217 Northern Boulevard
ZNC-23-24 - Special Permit for Non-Conformities**

Lisa Mead and Aileen Graf represented the applicant, who is proposing to construct an addition on a single-family home in the R3 district and the PIOD. The structure was constructed around 1900. The Historical Commission determined it is not historically significant. The property is non-conforming for lot area, front-yard setback, right side-yard setback, lot coverage and FAR. The FAR is 31.7%, where 25% is the maximum allowed. The lot is pie-shaped, with a curved frontage on Northern Boulevard and 76th Street. The applicant maintains the City-owned land beyond the property line.

The applicant is proposing to add a second story above an existing one-story section of the structure. No bedrooms would be added. The proposal would add 125 square feet of living area to the structure. The side-yard setback non-conformity would be extended, the lot coverage would increase and the FAR would increase to 33.7%.

Attorney Mead said no new-conformities would be added and the proposal would not be more detrimental to the neighborhood than the existing conditions. The addition would be minimally visible from the street. The addition would allow for a more efficient organization of the interior space of the structure. Six letters of support were received, two of which were from direct abutters.

Mr. Swanton said that due to the location of the property in the PIOD, no new non-conformities would be created. He said he is concerned with overbuilding. The FAR is already over the percentage that is permitted and would be increased. He said he will be consistent with his objection to proposals that increase the FAR and he would not support the applicant.

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Mr. DeLisle said the increase in the FAR is small and the addition would be above the existing structure.

Mr. Benik said the increase in the FAR would be modest. Ms. Peknik said she does not object to the proposal.

Mr. Chagnon said the property functions like one that is larger in area. The size of the addition would be modest and it would be located over the existing house.

Mr. Ciampitti said he would support the application. The proposal is modest and the increase in the FAR would be minimal.

Mr. Chagnon moved to approve a Special Permit for Non-Conformities for 217 Northern Boulevard. Mr. DeLisle seconded the motion. The motion was approved by a 4-1 vote (Mr. Swanton, no; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Benik, yes).

e) Holly Mazur

6 Butler Street

ZNC-23-23 - Special Permit for Non-Conformities

The applicant is seeking to modify an existing Special Permit for Non-Conformities to allow for the addition of dormers. The property is in the R2 district. It is non-conforming for lot area, frontage, lot coverage, front-yard setback and both side-yard setbacks. The street face of the dormers would be within the non-conforming front-yard setback. In 2020, the applicant received a Special Permit to construct an addition greater than 500 square feet.

Holly Mazur said since the construction of the addition was completed, she and her husband have begun working from home and have had a third child. She is proposing to add 288 square feet to the structure to increase it from four to five bedrooms. Five letters of support were submitted.

Mr. DeLisle asked about the previous application. Ms. Mazur said the detached garage had been moved and attached to the house with a two-story connector.

Mr. DeLisle said the structure is large and he is concerned about massing. He said he would reluctantly support the application.

Mr. Swanton said the large dormers create a massing issue, but the house is set back from the street and other large houses have been built in the neighborhood. The neighbors do not object to the proposal and he would reluctantly support it.

Mr. Chagnon said there are other large houses in the neighborhood and the addition would be modest.

Mr. Benik said other large houses have been built in the neighborhood and this structure would be medium-sized in comparison.

Ms. Peknik commented that the Board approves decks and dormers and then approves subsequent applications because houses with decks and dormers exist in the neighborhood.

Mr. Swanton moved to approve a Special Permit for Non-Conformities for 6 Butler Street. Mr. DeLisle seconded the motion. The motion was approved by a 4-1 vote (Mr. Swanton, no; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. DeLisle, yes; Mr. Benik, yes).

4. Business Meeting

a) Minutes

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Mr. Swanton moved to approve the minutes of the August 8 and September 12 meetings. Mr. Chagnon seconded the motion. The motion was unanimously approved.

b) Other Business

None

5. Adjournment

Mr. Swanton moved to adjourn the meeting at 8:58 p.m. Mr. Benik seconded the motion. The motion was unanimously approved.