

**City of Newburyport
Zoning Board of Appeals
Online Meeting
November 23, 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, Stephen DeLisle, Mark Moore, Bud Chagnon and Ken Swanton and associate member Gregory Benik. Also in attendance were Planner Katelyn Sullivan, Zoning Enforcement Officer Jennifer Blanchet and Note Taker Gretchen Joy.

2. Public Hearings

Brendon Johnson and Krystina Creel Johnson

65 Curzon Mill Road

2021□06 □ Dimensional Variance

Mr. Moore recused himself from the matter. The applicant requested to withdraw the application without prejudice. Mr. DeLisle moved to allow the applicant to withdraw the application for 65 Curzon Mill Road without prejudice. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. DeLisle, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes).

Caswell Restaurant Group, Inc. c/o Lisa Mead, Mead, Talerman & Costa, LLC

17□21 State Street

2021□18 □ Appeal

The applicant requested a continuance. Lisa Mead said she has submitted written information about the request on behalf of the applicant. Mr. Moore moved to continue the public hearing to the February 8, 2022, meeting. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes).

Pattiann Bampos

2 Neptune Street

2021□26 □ Special Permit for Non□Conformities

Mr. Ciampitti was not qualified to participate in the matter. Mr. Moore acted as chair. Pattiann Bampos said that she has downsized the project in response to concerns about massing and the visibility of the dormer and it has now been removed from the plans. She is instead proposing to raise the wall of the rear façade 2.5 feet to allow for greater ceiling height and storage on the second floor. The roofline would be upwardly extended and the pitch of the roof would be changed. Three skylights would be added for a total of five to provide light to the second floor. Ms. Bampos said the new proposal would preserve the view of the roof from Water Street and would meet the building code. She said the footprint of her half of the structure would not change and no new non-conformities would be added.

In response to comments made at previous meetings, Ms. Bampos provided a list of projects located in close proximity to streets for which special permits have been issued. She also displayed a series of photographs of additions to structures in the neighborhood that are in highly visible locations.

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The hearing was opened to comments from the public. Tom Kolterjahn, 64 Federal Street, said the Preservation Trust continues to oppose the application in the strongest terms possible. He said the post and beam framing is one piece and is self-supporting. The raising of the roof would result in the removal of a large portion of the frame that gives the structure strength and makes it resistant to racking. The integrity of the frame would be destroyed. The owner of the other side of the structure would be adversely impacted and his unit would also lose its structural integrity.

Stephanie Niketic, 93 High Street, said the owner of the shared wall unit recently submitted a letter to the Board in which he voices his concern about the structural problems that could be created for his side of the building.

Reg Bacon, 21 Strong Street, said the building has already been compromised. He said the removal of the dormer from the plans would preserve the form of the building but he is concerned that an authentic building will not be distinguishable from a re-creation. He said the city is losing its architectural authenticity. The public comment period was closed.

Mr. DeLisle asked about what measures would be done to alleviate the concerns of the shared wall neighbor. Ms. Bampos said she does not know what is in the walls and she could use guidance on how to evaluate this.

Mr. DeLisle also asked if the knee wall would extend the entire length of the house. Ms. Bampos said it would. She said raising the wall would change the pitch of the roof to allow for the head height required by the building code. The entire roof would likely be replaced. The roof is sagging and the shingles appear to be in poor condition.

Mr. Swanton said the letter from the owner of the other side of the house indicates he is concerned that the upward extension of the wall would impact his light and views. He is also concerned about the impact to the integrity of the structure. He asked if Ms. Bampos has discussed her plans with the person who shares the structure with her. Ms. Bampos responded that she has not seen him recently. She said he supported the project in 2020 when he was considering work of his own and then withdrew his support when his plans changed. Mr. Swanton said he reviewed the list of other special permit applications Ms. Bampos submitted and he did not find those projects to be as close to the street as the current proposal.

Mr. Moore asked if those who had previously supported the project have been shown the new plans. Ms. Bampos said her supporters had expressed their general approval of work being done to improve the structure.

Mr. DeLisle said his concerns have not been alleviated and the current proposal could be seen as a large dormer than spans the entire roof. He said it would change the structure. He is concerned about the size, scale and massing of the proposal and is also troubled that the owner of the second living unit in the structure is opposed to it.

Mr. Swanton said he could not support the proposal. He is opposed to an increase in height that is so close to the street and the owner of the other side of the house has written letters of opposition.

Mr. Chagnon said he supported the plans for the dormer and he would also support the current proposal. He said most people would not be able to tell that the roof had been raised 2.5 feet.

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Mr. Benik the structure has been compromised over the years. It no longer has the historic values that would lead him to reject the proposal. He said the massing and scale would be consistent with the area and the structure is smaller than others in the neighborhood. He said the application is consistent with the historic nature of a saltbox and he has not read that a standard roof pitch exists for this style of structure. He said that due to the configuration of the house, he does not believe the proposal would block the water view from the other unit and the impact on light would be minimal. With regards to the house's structural integrity, he said he is not convinced the work could not be undertaken safely.

Mr. Moore said the Ordinance reads that its purpose is not to regulate the alteration of a historic building, even if it would involve the demolition of a character-defining architectural feature. He said his focus then shifts to size, massing and scale, which he does not see as being detrimental to the neighborhood. He said there are many dormers and taller buildings in the vicinity.

Mr. DeLisle said the comments of the other Board members are persuasive but he still has grave concerns. Mr. Swanton said his opinion has not changed and he is not in support of the application.

The six-month time period after the Demolition Delay has expired will end on February 19. It does not seem likely the applicant would be able to present a project that would be approved and to obtain a building permit by that date. The process would begin again with a new Demolition Delay application. If the Board were to vote against the application, the applicant would be required to wait two years before submitting a new proposal that is not significantly different from the current proposal.

The applicant requested to withdraw the application without prejudice. Mr. Benik moved to allow the applicant to withdraw the application for 2 Neptune Street without prejudice. Mr. Chagnon seconded the motion. The motion was approved by a 5-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes).

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

22□24 Olive Street

2021□44 □ Special Permit for Non□Conformities

Mr. DeLisle recused himself from the matter. Lisa Mead and Ernie DeMaio represented the applicant, who is proposing to remove two additions to a two-family structure and replace it with one two-story addition. The Historical Commission imposed the Demolition Delay and lifted it after the plans were revised.

The property is in the R-2 district and the DCOD. It is located on the corner of Russia Street and Olive Street. The primary front yard is on Russia Street. The property is non-conforming for lot area, secondary front-yard setback and rear-yard setback. There are currently two parking spaces, where four are required. No new non-conformities would be created. The proposed addition would be larger than 500 square feet, which requires a Special Permit. Lot coverage would decrease from 24.7% to 24.5%. Five parking spaces would be provided.

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Ernie DeMaio reviewed the details of the plan. He said the addition would allow for the preservation of the interior features of the original structure. It would be necessary to gut the interior of the structure if it would be converted to two-family use.

Attorney Mead said the proposed addition would be subordinate to the original structure. It would be smaller in footprint, square footage and ridge height. The removal of the two inappropriate additions would expose portions of the brick façade of the original structure. Two original windows would be uncovered. The hyphen and materials would distinguish the addition from the original structure. The addition could be removed without damaging the historic structure. The alignment of the windows in the addition would reflect those of the original structure.

Attorney Mead said that non-conforming outbuildings would also be removed. The lot has a significant amount of open space. Many properties on Olive Street are not conforming for lot coverage. When compared to other properties, the proposal would be in the low to middle range in terms of density.

The hearing was opened to comments from the public comment. Attorney Bill Sheehan, said he represents Carol Zamprogna. He said the proposed structure is massive and would be twice as large as the next largest house. He said it would be out of character with the size of other structures in the neighborhood. He said a second dwelling is being proposed, not an addition. The structure would be too close to his client's property and would have a negative impact on her. It would block her light and air and would be too big for the neighborhood.

Amy Badger, 21 Olive Street, said the existing back yard is proportional to the neighborhood and is modest in relation to the size of house. She said it is a backyard and not a piece of land to be developed. The removal of two one-story additions and a garden shed does not seem comparable to the addition of a two-story structure. She said the addition of a second house in the backyard would be infill. The proposal shows a disregard for the quality of life of the neighbors. The addition should be more modest.

Micah Donahue, 16 Olive Street, said the house is more visible than others on Olive Street. The property needs special protection. He said the abutters have not had the opportunity to review the measurements Attorney Sheehan submitted. He would like the matter to be continued. He also questioned the dimensions of the proposed parking areas.

Carol Rouleau, 26 Olive Street, said almost 2,000 square feet of structure would be added to the site. She said the open space includes four parking spaces off of Olive Street and she could not find the dimensions of these. She thinks tandem parking should be an option. She said the backyard would be sacrificed to infill and the size of the addition should be examined.

Elizabeth Hallett, 23 Olive Street, said the open space contributes to the importance of the historic home. The size and scale of the proposal would be detrimental to the neighborhood. The one-story additions and outbuildings did not block light or air or the view of the historic house. She said parking is an issue, the addition would be too large and it is infill.

Carol Zamprogna, 20 Olive Street, said her house is not visible on the drawings. A tree has been shown in its place, which makes the property look larger than it is. The decision of the Historical Commission was not unanimous. She opposes the massing and scale of the proposed addition and said it is too large for the neighborhood.

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Stephen Bowditch, 21 Olive Street, said the original house has character. The 2,000 square foot addition would fill in the backyard and is too large. The addition would impact the light and air of the abutters. He pointed out that no abutters have supported the plan.

Tom Kolterjahn, 64 Federal Street, said the Preservation Trust opposes the project in its current form. It would detract from the neighboring houses and impact the neighborhood. It must be reduced in size. He would like the original house to be restored and a modest addition constructed.

Stephanie Niketic, 93 High Street, said the Board members and neighbors should have the time to review the materials that were recently submitted. The applicant has asked the Board to consider the Secretary of the Interior's Standards for Historic Preservation, but has not mentioned one standard, which is that a new addition should not be highly visible from a public way. Because it is a corner lot, the proposed addition would be visible from two public ways. The addition would be too large and would be detrimental to the neighborhood.

Frances Moore, 19 Olive Street, said the addition steals from the neighborhood the sense of light, air and trees. The public comment period was closed.

Mr. Moore asked about the dimensions of the parking spaces. Attorney Mead said there would be two curb cuts on Russia Street for four parking spaces that would meet the City's dimensional requirements. One existing space off of Olive Street would be retained. Attorney Mead said the applicant has met the filing requirements. She said the only additional material submitted pertained to the dimensions of the floor plans on the addition. No new information was presented. She said floor plans are not a requirement of the submission.

Mr. Swanton asked about the overall massing. Attorney Mead said the net gain would be 1,491 square feet. The overall size would be 5,100 square feet. The lot coverage would be slightly reduced through the removal of the one-story additions and outbuildings. Mr. Swanton said the concern is the massing is concentrated in a two-story addition. He asked the applicant to explain how the building is not too large for the neighborhood. Attorney Mead said the property would have more open space than most in the neighborhood. The finished area of the structure would be larger than that of the single-family homes in the neighborhood but would not be the largest building. She said the lot is large and the proposal meets the dimensional requirements. The lot is conforming for single-family use and a single-family house that is larger than the proposal could be constructed without relief.

Mr. Chagnon said the Board receives applications for small additions and asked what is driving the size of this addition. Mr. DeMaio said the existing structure is not conducive to two-family use. It could not be divided into two units without the interior being gutter.

Mr. Benik said he would like time to review the documents Mr. Sheehan submitted. Materials were provided to the Planning Director, who has been out of the office and the materials have not yet been posted on the website. The members were in agreement that they would like the public hearing to be continued in order to have time to review these materials.

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the December 14 meeting. Mr. Benik seconded the motion. The motion was approved by a 6-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes).

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Raymond Johnston
20 Lafayette Street

ZNC 21 3 - Special Permit for Non-Conformities

The applicant is proposing to construct a 476 square-foot, one-story addition to a single-family home. The added living area would provide a first-floor bedroom, bathroom, closet and laundry that would allow the applicant to age in place. The pitch of the roof would be low so as to not block the existing windows on the second floor. The property is pre-existing non-conforming for lot area, frontage and front setback. One side setback would decrease from 27.3 feet to 10.5 feet, where 10 feet is required. The addition would be set back four feet from the front of the house and would be 20 feet from the front property line. No new non-conformities would be created. Four letters of support were submitted.

No one from the public spoke in favor of or in opposition to the application. Mr. Moore asked about the building materials. The materials would match those of the existing structure. Clapboards would be used on the front façade and the cedar shakes would be used on the remaining sides. The proposed barn doors would be decorative and not functional.

Mr. Moore said he would support the proposal. It is tasteful and would not create any new non-conformities. He had no concerns about the size, scale or massing of the addition and said it would not be detrimental to the neighborhood. The other Board members were in agreement and all especially liked the proposed barn doors.

Mr. Moore moved to approve a Special Permit for Non-Conformities for 20 Lafayette Street. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes).

Alfred G. Clifford
156 State Street

VAR 21 1 - Dimensional Variance

ZNC 21 4 - Special Permit for Non-Conformities

ZSP 21 1 - Special Permit

The applicant is proposing to demolish the existing commercial structure that was constructed around 1969 and replace it with a four-unit, multi-family dwelling. The property is located in the B-1 district. It is non-conforming for lot area, coverage, both side setbacks and rear setback. A portion of the existing structure extends beyond the rear property line. The lot coverage and side and rear setbacks would be improved. No new non-conformities would be created. Mr. Clifford said the proposal would be in keeping with the residential neighborhood and would not be more detrimental than the existing conditions.

The roof currently drains onto the abutter's property, a situation that would be improved. The applicant is working with the City Engineer to comply with the local Stormwater Management Ordinance. The mature trees would be retained and new trees would be added for privacy.

The applicant is seeking a Special Permit for a change from Use 403 to Use 103. Multi-family use is allowed in the district by Special Permit. The frontage is 90 feet where 120 is required for multi-family use. A Variance is needed for the new non-conforming frontage.

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The hearing was opened to comments from the public. Linda Dolmatch, 152 State Street, said she is opposed to the proposed density. The proposal would result in additional runoff and a lack of open space. She said three units would be preferable.

Jesslyn Sullivan, 152 State Street, Unit 4, said her unit would face the proposed structure and she would like more evergreens to be planted for privacy.

Edmund Lattime, 152 State Street, Unit 5, said he is concerned about stormwater runoff, especially with the lack of green space on the site. He wants the measures to control runoff to be required rather than recommended. He is also concerned about privacy and noise. He said the number of units should be reduced.

Roy Beane, 162 State Street, Unit 3, said he signed a document he thought was acknowledging the receipt of the plans. He did not endorse the application. He is concerned about runoff and privacy. He said there does not seem to be much room for trees along the driveway.

Kim Lively, 162 State Street, Unit 3, said she is concerned about the height of the rear building. The third-story living space would look into her backyard and bedroom window. She is also concerned about runoff and density.

Corey Prince, 152 State Street, Unit 3, said the ridgeline of the proposed structure would be nine feet higher than the current structure. It would be one long building. The existing building is below the grade of the street. The proposal would change the topography of the site and the drainage pattern. The new unit would look into the rear of the abutting units.

Tammy Prince, 152 State Street, Unit 3, said three units would be a better fit. The public comment period was closed.

Mr. Moore said the applicant should consult with an arborist to determine that the installation of a driveway would not harm the trees.

Mr. DeLisle suggested the matter be continued due to the amount of information in the application and the length of the agenda. The other members were in agreement. They would like clarification on the nature of the hardship. Stormwater management, the length of building and the height of the ridgeline were also areas of concern.

The applicant requested a continuance. Mr. Swanton moved to continue the public hearing to the December 28 meeting. Mr. Moore seconded the motion. The motion was approved by a 6-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes).

3. Business Meeting

Minutes

Mr. Swanton moved to approve the minutes of the November 9, 2021, meeting. Mr. Moore seconded the motion. The motion was approved by a 4-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, abstain; Mr. Ciampitti, abstain).

4. Adjournment

Mr. Moore moved to adjourn the meeting at 11:12 p.m. Mr. Swanton seconded the motion. The motion was approved by a 6-0 vote (Mr. DeLisle, yes; Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Benik, yes; Mr. Ciampitti, yes).