

**City of Newburyport  
Zoning Board of Appeals  
Senior Community Center  
December 12, 2023  
Minutes**

**1. Roll Call**

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

**2. Public Hearings**

**Jesse Ambrosina**

**10-12 Walnut Street**

**ZNC-23-31 - Special Permit for Non-Conformities**

The applicant is proposing to construct an addition to a two-family house in the R2 district and the DCOD. The lot is on a corner, with the primary front yard on Walnut Street and the secondary front yard on California Street. The property is non-conforming for lot area, frontage and primary and secondary front-yard setbacks.

The applicant is proposing to add a 26.5 foot by 23.5 foot addition along the California Street side of the structure. The secondary front-yard setback non-conformity would be extended. The existing structure is 6.2 feet from the property line and the setback of the addition would be 7.5 feet, where 25 feet is required. The height of the existing structure is 29 feet and the height of the addition would be 23.3 feet. A garage would be constructed under the addition. An existing shed would be removed and replaced with a smaller shed in a new location. The lot coverage would increase from 16% to 24.8%, where 25% is allowed.

The number of units would not change. Mr. Ambrosina said one unit would be occupied by his parents in the future. The original eave roofline on the Walnut Street façade would be restored to visually separate the dormer. The windows on the gable ends of the third floor of the existing structure would be restored to be consistent with the other windows. The configuration of the stairs on the California Street façade would be changed to be consistent with others in the neighborhood. The applicant agreed to repair the sidewalk in two locations on Walnut Street according to the specifications of the DPS.

The hearing was opened to comments from the public. John Veal, 263 Merrimac Street, asked about the changes to the property. Mr. Ambrosina said the existing shed would be removed and replaced by a small utility shed. He plans to complete the work to the exterior by the end of the summer. One tree would be removed but the street trees would not be impacted. The location of the garage would not be changed.

Scott Marshall, 5 California Street, asked if the application could be prevented from moving and using the property as an investment.

Mary McCormack, 12 California Street, asked about the time work would begin and end each day, the noise that would be created by the garage doors and plans for exterior lighting.

Kathy Gerry, 2 Chapel Street, said the street is narrow and asked where the builders would park. The public comment period was closed.

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Ms. Schow asked if the applicant had spoken to the neighbors to address their concerns. Mr. Ambrosina said he left notes in their mailboxes and responded to texts and emails.

Mr. Benik asked about the size of the living units. Mr. Ambrosina said the existing units are both around 1,400 square feet. One unit would increase by 600 square feet and 450 square feet would be added to the second unit. He said the two belt-driven garage doors would be 18 feet wide. They would be below the master bedroom, so their quiet operation would be important to the occupants. He said he had considered a wider, single door and he has no plans for lighting on the garage. He would be willing to reduce the amount of light emitted from the fixture on the California Street façade.

Mr. DeLisle asked about parking for the workers. Mr. Ambrosina said there are four on-site parking spaces. He would ask the workers to be considerate of the neighbors. Andy Port said the City dictates the time of day during which construction is permitted.

Mr. Swanton asked about the occupancy of the units and if a two-family structure could be converted into two condo units. Andy Port said a condo conversion might be possible, but the purview of the ZBA does not include the form of ownership. Mr. Ambrosina said both units are currently unoccupied. He does not intend to convert the structure into condos. He intends to slowly work on the interior of the addition and for it to remain unoccupied until the time his parents are ready to move in.

Mr. Benik said no new non-conformities would be created. The addition would be large, but the open space and lot coverage criteria would be met. The building site comparison shows the size of the structure would be consistent with others in the neighborhood. The existing non-conformities would be extended, but the addition would be set back and would not be as intrusive as the existing structure. Significant improvements would be made to the existing structure. The proposal would not be more detrimental to the neighborhood than the existing conditions.

Mr. DeLisle said a single garage door would be more intrusive than two doors. He is concerned that the applicant would find it necessary to illuminate the access stairway, which would result in lighting that would be more intrusive than that which has been proposed. A requirement for down-facing fixtures could be made a condition of the Special Permit. He said the proposed massing is not a problem for him.

Mr. Chagnon said the scale of the addition would fit with the neighborhood and the lot is large enough to accommodate it. He said he appreciates that the existing structure would be improved.

Mr. Swanton said the addition of trim would improve the appearance of the roofline. The plans that were submitted show two garage doors. The approval of the application would bind the applicant to this configuration. The lot is a decent size and the addition would not be overly large for the neighborhood. The open space and lot coverage criteria would be met.

Ms. Schow said she is concerned the applicant did not obtain letters of support from the neighbors, but the proposal would improve the existing conditions and would not be detrimental to the neighborhood.

Mr. Benik moved to issue a Special Permit for Non-Conformities for 10-12 Walnut Street with the condition that prior to the close out of the building permit, the sidewalk adjoining the project on Walnut Street shall be improved through coordination with the Department of Public

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Services to be compliant with ADA requirements and the sidewalk adjoining the project on California Street shall be improved through coordination with the Department of Public Services to be compliant with ADA requirements if it is impacted during the construction. Ms. Schow seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Benik, yes; Ms. Schow, yes).

### **3. Business Meeting**

#### **a) Minutes**

Mr. Chagnon moved to approve the minutes of the November 28 meeting. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Mr. DeLisle, yes; Mr. Benik, yes; Ms. Schow, yes).

#### **b) Other Business**

The members discussed a requirement for all participants to attend meetings in person. Andy Port said for financial reasons it would not be desirable to require the City's legal counsel to attend meetings in person. He said some latitude should be allowed for members to participate remotely if necessary. The public has become accustomed to participating in meetings remotely. He said the Planning Board finds hybrid meetings to be a beneficial tool. The City has not adopted a policy that all boards must follow. Ms. Schow said she is in favor of public participation in meetings and it is not always possible for members of the public to attend meetings in person. Mr. Benik said the members, the applicants and their representatives should attend meetings in person, as well as members of the public who wish to comment. Members of the public who do not wish to comment would be able to view the meeting remotely. The matter will be added to the agenda of an upcoming meeting for discussion.

Andy Port said no formal applications have been received yet for short term rental units. The ZBA should expect to receive input from the City Solicitor before the time it must make any determinations on applications.

City Councilor Connie Preston said she is concerned that the ZBA might have a bias against the intentions of the Council with regards to short-term rental unit applications. She said members of the public should not be allowed to participate remotely if applicants must attend meetings in person. Mr. Swanton responded that the discussion about meeting participation was a general one, and not related specifically to meetings in which STRUs would be considered. He said the Board is seeking input from legal counsel so that the members fully understand the Ordinance before they are asked to make any decisions on applications.

### **4. Adjournment**

Mr. DeLisle moved to adjourn the meeting at 8:35 p.m. Mr. Benik seconded the motion. The motion was unanimously approved.