

**City of Newburyport
Zoning Board of Appeals
Hybrid Meeting
December 13, 2022
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 Bud Chagnon, Ken Swanton, Stephen DeLisle and Gregory Benik and associate members Lynn Schow (voting) and Patricia Peknik (non-voting). Rob Ciampitti was absent. Also in attendance were Planner Katelyn Sullivan and Note Taker Gretchen Joy.

2. Public Hearings

**a) Riverview Condominium Trust c/o Lisa Mead, Mead, Talerman & Costa LLC
140-142 Merrimac Street**

ZNC-22-28 - Special Permit for Non-Conformities

Lisa Mead and Aileen Graf represented the applicant, who is proposing to expand a two-unit condominium building in the WMD and the DCOD. The front portion of the building dates from 1810, according to the district data sheets. In 1986, the building was in the B2 district. A Variance granted for two-family use at that time and the structure was enlarged.

The property is on a corner lot, with the primary front yard on Pop Crowley Way and its front door on Merrimac Street. It is non-conforming for lot area, lot coverage, height, primary and secondary front-yard setbacks and rear-yard setback.

The applicant is proposing to construct an addition in the rear-yard setback to provide an interior stairway. The addition would reduce the rear-yard setback from 13 feet to 5.5 feet, where 25 feet is required. The existing decks on the river side of the structure would be expanded towards the water and would be covered at the upper level to create living space. The expansion of the decks would extend the primary front-yard setback non-conformity. This setback non-conformity would also be intensified. It would decrease from 3 feet to 2.5 feet due to the inward jog of the front-yard property line. The lot coverage would increase from 25.8% to 32.6%, where 25% is required. The open space would decrease from 55.6% to 48.9%, where 40% is required. An existing shed that is close to the property line would be removed.

Aileen Graf said the aesthetic changes to the exterior would complement the original brick portion of the structure. Attorney Mead said no new non-conformities would be created. The proposal would provide a fitting update to the changes made to the building in 1986. The existing shed is closer to the boundary than the proposed addition. The vegetation at the property line would lessen the impact of the addition on the abutting property. Seven letters of non-opposition were submitted.

The hearing was opened to comments from the public comment. Susan Martenson, 151 Merrimac Street, said she is happy no changes would be made to the roofline or the front of the property.

Mr. Chagnon asked if the existing fence is on the property line. Attorney Mead said the fence runs in a straight line and does not respect the property line.

Mr. Benik asked about the siding. Ms. Graf said it would be replaced with a wider siding in a muted color.

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Ms. Schow asked about the portion of the Merrimac Street façade that hangs over the sidewalk. Attorney Mead said it does not count towards the setback.

Mr. DeLisle asked if any interior stairs currently exist. Ms. Graf said they are inside the Merrimac Street entrance. In the rear, the only stairs are on the exterior.

Ms. Peknik asked if the occupancy would change. Ms. Graf said the building would still house two units. The square footage of both units would increase and a bedroom would be added on the top unit.

Mr. Swanton asked about the change to the volume of the building. The first floor would increase from 1,754 square feet to 2,102 square feet. The two top floors would increase from 1,808 square feet to 2,399 square feet. He asked if an extension to the side of the building that faces the river had been considered, where it would not intensify a non-conforming setback. Attorney Mead said an addition at the end of the structure would be very visible from the street. The addition in its proposed location would be hidden by vegetation. Ms. Graf said the building is already long and an addition at the rear would create an impact visible from the river.

Mr. Chagnon said the existing conditions are awkward and the changes would be more aesthetically pleasing. The positive changes would outweigh the encroachment on the rear-yard setback and the lot coverage.

Mr. Benik said the existing open stairwells are unsightly. The proposal would significantly extend the rear-yard non-conformity, but the building would be safer and more livable.

Ms. Schow said the proposal would bring the two parts of the building together in a more harmonious way. The increase in volume would be large but the proposal would be an improvement to the existing structure.

Mr. DeLisle said that while the increase in lot coverage and the encroachment on the setback would be significant, the proposal would not be substantially more detrimental to the neighborhood than the existing conditions.

Ms. Peknik said she is also concerned about the increase in volume, but Pop Crowley Way feels more like a ramp to a parking lot than a street. She said the vegetation screening the addition could be removed and should not be considered as a part of the equation.

Mr. Swanton said the rear yard feels like a side yard. He said he is generally not in favor of this much of an encroachment, but the situation is unique and the building would be improved in many ways.

Mr. Benik moved to approve a Special Permit for Non-Conformities for 140-142 Merrimac Street. Mr. DeLisle seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Ms. Schow, yes; Mr. Benik, yes; Mr. DeLisle, yes).

b) Philip Cootey

22 Philips Drive

ZNC-22-30 - Special Permit for Non-Conformities

The applicant is proposing to construct an addition that is greater than 500 square feet on a property that is non-conforming for frontage. The frontage is 100 feet, where 125 feet is required. Phillip Cootey said the single-family structure was built in the late 1960s. The backyard is large, with seven abutting neighbors. The addition would be made to the rear of the

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existing structure and would not be visible from the street. The existing rear-yard setback is 213.7 feet, where 30 feet is required. The proposed addition would be 184.2 feet from the rear property line. The design and materials of the addition would be complementary to the existing home.

Mr. Chagnon asked about the size of the addition. The existing structure is 1,450 square feet and 1,140 square feet would be added for a total of 2,590 square feet.

Ms. Schow asked about the open space. Mr. Cootey said it would be 91.6% after the addition has been constructed. The existing open space is 94.4%.

Mr. Chagnon said the home is modest and the addition would be modest as well. The neighborhood could take the massing. The lot is large and the frontage is the only non-conformity.

Ms. Schow moved to approve a Special Permit for Non-Conformities for 22 Philips Drive. Mr. Benik seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Ms. Schow, yes; Mr. Benik, yes; Mr. DeLisle, yes).

c) Brian and Megan Garrett

20 Chapel Street

ZNC-22-31 - Special Permit for Non-Conformities

Matt Langis represented the applicant, who is proposing to add a mudroom and covered porch to a single-family structure that was constructed around 1800 and has been altered.

The property is non-conforming for lot area, lot coverage, frontage, front-yard setback, right side-yard setback and rear-yard setback.

The mudroom and covered porch would both be 76 square feet, adding 152 square feet to the structure. The lot coverage would increase from 28.4% to 30.9%. The existing rear-yard setback is 14.9 feet, where 25 feet is required. The addition would be 25 feet from the property line and would extend the existing rear-yard setback non-conformity.

Mr. Langis said the windows, siding and trim would match the character of the existing structure. The addition and porch would not be visible from the street. The size and scale of the proposal would be in keeping with the neighborhood.

Mr. Chagnon said the change to the structure would be minor and would not be visible from the street. Mr. Benik said the addition would be modest and in keeping with the neighborhood. Ms. Schow said the volume of the addition would be small and out of sight. Mr. Swanton said the rear-yard non-conforming setback would be extended but not intensified.

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

3. Business Meeting

a) 49 Kent Street – Request for In-Law Renewal

Lisa Mead represented the applicant and said the Special Permit for the in-law apartment will have been approved three years ago in February. The occupants are the adult children of the owners.

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Mr. DeLisle moved to approve the request to extend the In-Law Special Permit for 49 Kent Street for three years. Ms. Schow seconded the motion. The motion was approved by a 5-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Ms. Schow, yes; Mr. Benik, yes; Mr. DeLisle, yes).

b) Correspondence

A letter regarding the discussion of fences with the abutters of 11 Purchase Street was received and filed.

c) Minutes

Mr. Chagnon moved to approve the minutes of the November 22, 2022, meeting. Mr. DeLisle seconded the motion. The motion was approved by a 6-0 vote (Mr. Swanton, yes; Mr. Chagnon, yes; Ms. Schow, yes; Mr. Benik, yes; Mr. DeLisle, yes; Ms. Peknik, yes).

4. Adjournment

Ms. Schow moved to adjourn the meeting at 8:29 p.m. Mr. Chagnon seconded the motion. The motion was approved.