

**City of Newburyport  
Zoning Board of Appeals  
Online Meeting  
December 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 Mark Moore, Bud Chagnon, Robert Ciampitti 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. Request for Minor Modification**

**257 Low Street (1991-04)**

Tor Larson represented the applicant, who is proposing to replace the sign at Children's Health Care. He said the new sign would be more visible to patients and would allow vehicles to more safely enter the property. The two-sided sign would be placed on the opposite side of the driveway from the existing sign and would be perpendicular to Low Street. The height of the granite posts would not be greater than 6'-7" and the sign would be no longer than 8'-8", which is shorter than the existing sign.

Mr. Moore asked about the removal of the existing pine tree. Mr. Larson responded that the tree would block the sign in its proposed location. The tree would be reused on another property.

Mr. Chagnon asked about the size of the sign. Mr. Larson said the existing sign is 69 square feet and the proposed sign would be 60 square feet.

Mr. Benik asked about the change to the style of the sign. The applicant responded the letters would be taller, which would make them more visible to drivers. The style of the lettering would be more legible.

Mr. Ciampitti asked if the sign would be illuminated. Mr. Larson responded that it would not be, as patients would not visit the facility at night.

Mr. Moore said the change in the orientation of the sign and the removal of the tree makes sense. The other Board members were in agreement.

Mr. Moore moved to deem the request minor and to approve the request for Minor Modification with the condition that no part of the sign or footing shall be closer than six feet from the face of the adjacent roadway or driveway curbing. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**3. Public Hearings**

**Hebbelinck Real Estate LLC c/o Lisa Mead, Mead, Talerman & Costa LLC**

**193 High Street**

**2019-042 - Appeal of Notice of Violation from Zoning Enforcement Officer**

Lisa Mead represented the applicant and said she submitted a letter concerning the request for a continuance. Mr. Chagnon moved to continue the public hearing to the May 12, 2022, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

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**Mike Bukhin and Anna Wallack c/o Lisa Mead, Mead, Talerman & Costa LLC  
4 Plum Street**

**2021-59 - Special Permit for Non-Conformities**

The applicant requested an extension. Mr. Moore moved to continue the public hearing to the January 25, 2022, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**Ray Kingman c/o Lisa Mead, Mead, Talerman & Costa LLC  
10 75th Street**

**ZNC-21-6 - Special Permit for Non-Conformities**

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

**I.D. Sign Group, Inc.**

**45 Storey Avenue**

**VAR-21-2 – Variance**

The applicant requested to withdraw the application without prejudice. Mr. Moore moved to accept the request to withdraw without prejudice the Variance application for 45 Storey Avenue. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, 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**

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 applicant has provided additional comparative material. Attorney Mead said the proposal is not substantially more detrimental to the neighborhood than the existing conditions. She defined substantial as “to a significant extent.” She said the proposal would be less dense than the existing conditions and would provide more separation between adjoining structures than other properties in the neighborhood.

Mr. DeMaio described the layout of the interior of the proposed structure. He said the best opportunity for the preservation of the historic structure is the construction of the proposed addition. The goal is to preserve the interior features of the historic structure and to restore the windows and façade where possible.

Mr. DeMaio said no new non-conformities would be created. Five parking spaces would be provided. The lot coverage would decrease from 24.7% to 24.5%. The ridgeline of the addition would be lower than that of the existing structure. The addition would be differentiated from the original structure. The rhythm of the windows and shutters would

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mirror those of the original structure. The addition would be set back from the Russia Street façade and would not very visible from Olive Street. The hyphen would not be visible from the corner of Olive Street and Russia Street.

Mr. DeMaio said the addition would fit in with the neighborhood and would not be out of place with its surroundings. It would have more open space than other lots on Olive Street. Other structures in the neighborhood are larger. Four neighboring buildings on Russia Street, Congress Street and Olive Street are taller than the existing structure and the addition. In terms of relative mass, there is a greater sense of height to the other buildings on Olive Street, regardless of their length. Other houses are closer to their neighbors.

There are six doors and 38 windows at 25-35 Olive Street, which has 125 feet along the street. The building covers 41% of the lot and the open space is largely paved. The building is closer to its neighbors than the proposed addition would be and has 50% more floor area. It is separated from its neighbors on each side by 12 feet to the north and 13 feet to the south. The proposed addition would be separated from its neighbors by 38 feet to the north, 69 feet to the south and 38 feet to the west. The height of the eave of 25-35 Olive Street is at the ridge of the historic building, which is in turn 4.5 feet higher than the hyphen. The six-unit building is substantially larger than the existing structure and the proposed addition.

Attorney Mead concluded by saying that the adjacent buildings in the neighborhood are taller, longer and denser than the proposal. They have less separation and less open space. The proposal is not out of character in terms of its size, density and impact on neighboring structures. She reminded the Board members of the standard of Ordinance that they must follow, which is that the proposed change must not be substantially more detrimental to the neighborhood than the existing conditions.

The hearing was opened to comments from the public. Bill Sheehan said he represents Carol Zamprogna, a direct abutter at 20 Olive Street. He said the proposal is for two houses on a single lot. The hyphen has been added to avoid the Ordinance. The existing building is 24 feet by 38 feet. The new structure would be 24 feet by 84 feet. The lot and structure are already non-conforming. The existing lot is 10,750 square feet, where 15,000 is required for single-family use. The house is too close to Olive Street and too close to the side setback. For two-family use, the Ordinance requires 11,250 of square feet that are not devoted to buildings. This lot does not have that many square feet in total.

Attorney Sheehan said the proposal should be compared to other houses in the neighborhood, not a unique six-family structure. He said the proposal would be almost two times as large as the largest house in the neighborhood and three times as large as many. The two lots in the neighborhood that are closest in size have a ratio of building to lot area of 30-35%. The ratio of the proposal would be almost 50%. He said the proposal would not fit in with the neighborhood and would be substantially more detrimental than the existing conditions. While the lot coverage would slightly decrease, the massing would increase. The buildings would block light and air. They would overcrowd the existing non-conforming lot and the neighborhood. The opposition of the neighborhood is almost universal.

Elizabeth Hallett, 23 Olive Street, said the lot is historic as well as the house. There are few remaining examples of this type of property due to infill. Yards provide air, light,

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habitat, peace and beauty. The proposal would create more traffic and worsen the parking problem. The square footage of the addition would be larger than seven of the houses in the immediate neighborhood.

Amy Badger, 21 Olive Street, said she opposes the project, which she sees as maximizing profit at the expense of the existing house and the neighborhood. The already-dense neighborhood would not be able to support the increased density. The light and air that are important to the neighborhood would be lost and the quality of life of the neighbors would be impacted. The increased traffic and demand for parking would be detrimental. The existing home could naturally be divided into two modest units. Housing that is more affordable is more needed in the community than high-end structures.

Carol Zamprogna, 20 Olive Street, said the residents of the neighborhood have stood together in opposition to the project. Over 80 residents have signed a petition against this type of infill. The Board should protect the character of the neighborhood from undesirable development. The proposal does not meet the standards for two-family use and the Special Permit should be denied. The voices of the neighbors should be heard. The massing and scale are too large for the neighborhood. The project should be smaller to protect the historic character of the neighborhood.

Micah Donahue, 16 Olive Street, said the character of the neighborhood should be protected from irreversible infill.

Tom Kolterjahn, 64 Federal Street, said the Preservation Trust continues to oppose the proposal. It would detract from the neighboring houses and would make the corner lot dominant. The size and massing of the project should be reduced. The house could be restored with a modest addition.

Stephanie Niketic, 93 High Street, said the applicant has emphasized the Standards of the Secretary of the Interior, but has neglected to mention these include the preservation of the setting of a historic structure. The property included a garden, which was a space the occupants and neighbors could enjoy. The preservation of the interior of the structure is meaningless as an exchange for zoning relief without a preservation restriction. Any owner would be able to gut the interior. Future owners would likely install accessory structures, which would further reduce the amount of open space.

Frances Moore, 19 Olive Street, said the spirit of law must be considered in addition to the letter of the law. She said the sense of community and neighborhood would be lost.

Carol Rouleau, 26 Olive Street, said the renovation of the existing structure for two-family use is not being considered because it would not maximize the developer's profit. She said the drawings do not show parking and are therefore not realistic.

Stephen Bowditch, 21 Olive Street, said the existing structure could be maintained as a two-family house with a modest addition. There is no need for an 1,800 square foot addition with a hyphen. The ZBA must be stewards that protect against undesirable development that would change the character of the neighborhood. The rights of residents should outweigh those of a developer. The structure at 25-35 Olive Street should not be used as an example of lot coverage. The public comment period was closed.

Mr. Moore asked if the stakes in the ground are for the proposed addition and if the proposed footprint added to the MiMap system is to scale. Attorney Mead answered yes to

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both questions. Mr. Moore asked about the statement from the applicant that the structure would be the third largest in the immediate neighborhood in terms of finished area. Attorney Mead agreed that it would be second largest, behind 25-35 Olive Street. Mr. Moore said it should be considered first largest, as the six-unit building is not be a good comparison.

Mr. Swanton asked about the size of the addition. Attorney Mead said there would be 1,984 of new construction, but 493 square feet of existing structure would be demolished for a net gain of 1,491 square feet. Mr. Swanton asked if a larger single-family home could be built without relief. Attorney Mead said the house could by right be connected to a two-car garage with living space above it. The result would be taller, with more square footage, and the density would increase to 25%. Only a building permit would be required. Mr. Swanton asked if the applicant considered not adding parking to the Russia Street side of the building and making the addition more modest. Attorney Mead responded that it would be necessary to make the parking area off Olive Street longer, which would result in the loss of open space. She said that during the design process, the addition was made smaller. No preservation restriction is being considered at this time but could be if the Board requested it.

Mr. Chagnon said the addition is tasteful but the Board must listen to the comments of the neighbors. The addition would be large in comparison to the existing house and the surrounding area. It should be possible to construct a more modest addition.

Mr. Benik asked about the square footage of each unit. There would be 3,125 square feet in the existing structure and 1,851 in the addition. There would be three bedrooms and 2.5 bathrooms in the addition.

Mr. Moore said that while no new non-conformities would be created, the proposal would be more detrimental to the neighborhood than the existing conditions in terms of size, scale and massing. The design is attractive, but is a large building attached to another building. It would be highly visible from the street. The loss of open space would be detrimental to the neighborhood.

Mr. Swanton said the proposal was nicely done, but would not be right for the street. He is concerned with massing in this dense, historic neighborhood. He said the addition would be prominent and look like a second house. The concerns of the abutters must be considered.

Mr. Chagnon said the addition is attractive and is subordinate to the original structure, but it is inappropriate for the neighborhood. It is too large and would be visible from the street. He said the Board members must listen to the concerns of the abutters. A smaller addition that is attached more closely to the main structure might be more easily approved.

Mr. Benik said the addition is thoughtful and well designed, and would be acceptable in a different location. He said the lot is small for two residential structures. An 1,800 square foot addition is quite large. The proposal would be substantially more detrimental to the neighborhood.

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the January 11, 2022, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

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**Derek Lively**  
**28 Liberty Street, Unit 5**  
**2021-57 - Dimensional Variance**

Derek Lively represented the owner of the condo, Jeff Scionti, who is seeking a Variance to install a 14' x 16' second-story deck and stairs above an existing driveway. The property is in the B2 district and the DCOD. The side and rear yard setbacks are non-conforming and would be intensified. The existing rear setback is 9'-1", where 10 feet is required. The proposed rear setback would be 3.2 inches.

Mr. Lively said no special privilege would be granted, as the other units in the multi-family structure have decks. A deck previously existed on this unit, but was removed. Mr. Scionti said almost all of the buildings in the neighborhood have usable outdoor spaces. The spiral stairs provide emergency egress for all of the units. A reduction in the size of the deck was considered, but would not allow for the parking of two cars.

No one from the public spoke in favor of or in opposition to the application. Mr. Moore asked the application to explain the nature of the hardship. Mr. Scionti said the building takes up most of the lot. Condos usually have an outdoor common space or other usable outdoor space. It would be necessary to remove parking to obtain usable outdoor space without a Variance.

Mr. Swanton asked about the parking spaces under the building. Unit #5 has only one parking space under the front of the building. Mr. Swanton pointed out that the decks for the other units are smaller. He asked if the deck could be cantilevered. This would not be possible due to cinder blocks on the rear of the building.

Mr. Chagnon asked about the parking under the proposed deck. He said a 14-foot wide would not be necessary to accommodate a car. Mr. Lively said the width of the deck is needed to allow doors to be opened on both sides of the car.

Mr. Benik asked about the size and materials of the deck that was removed. The dimensions and materials are not known. He asked about the materials of the proposed deck. It would be a TimberTech decking and rail system that would match the existing materials on the other units.

Mr. Ciampitti said the neighborhood is a close one. He said one condo trustee submitted a letter of support and no neighbors have expressed opposition. Mr. Scionti said he has spoken with the owners of the other units. The owner of Middle Street Foods is in support of the fence being retained. Mr. Ciampitti also asked about the spiral staircase. Mr. Lively said this is a legal means of emergency egress.

Mr. Swanton said the deck is large when compared to those of the other neighbors and asked if its size could be reduced. Mr. Scionti said it would not be possible to open the doors on both sides of the car.

Mr. Moore said a deck that is as large as the one being proposed could be seen as a special privilege when compared to the other decks on the building. He thinks a different solution would be possible.

Mr. Swanton said a deck of this size would be a special privilege. He said it should be possible to construct a modest deck that would be more in keeping with those on the other

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units. He suggested that the parking could be moved slightly to the left and a smaller deck could be constructed on the right.

Mr. Chagnon said a more modest deck might be acceptable. Mr. Benik said the existence of a prior deck supports the application, but the proposal is out of proportion with the other decks.

The applicant requested a continuance. Mr. Moore moved to continue the public hearing to the February 8, 2022, meeting. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**Charron Drive LLC c/o Lisa Mead, Mead, Talerman & Costa LLC  
5 Charron Drive**

**ZNC-21-5 - Special Permit for Non-Conformities**

Lisa Mead represented the applicant, who is proposing to demolish an existing single-story ranch-style home that was constructed in 1964 and replace it with a new two-story structure. The property is non-conforming for lot area. The new home would be more than 500 square feet larger than the existing home.

The footprint of the existing home would be retained, but it would be squared off in the back. A two-car garage with living space above would be added. Attorney Mead said no new non-conformities would be created. The new structure would meet all dimensional controls except for lot area. The architectural style of the proposed structure includes the simple gable of a ranch and has the appearance of a modern farmhouse. Attorney Mead said the neighborhood is in transition and is made up of houses of many different sizes and styles. Additions, garages and decks have been constructed to ranch-style homes. Often these additions have taken advantage of the topography of the street. The proposed structure would be located near the largest homes on the street.

No one from the public spoke in favor of or in opposition to the proposal. Mr. Moore asked about the size of the proposed structure. The amount of living area would be 3,053 square feet, with 1,197 on the first floor and 1,856 on the second floor. The height would be 25'-8.75".

Mr. Moore said no new non-conformities would be created. The proposal would not be detrimental to the neighborhood. The house would be constructed on the existing footprint and would be an improvement over the existing conditions.

Mr. Swanton said that the street could handle the massing of the proposed structure. Mr. Ciampitti said the style of the proposed structure is reminiscent of a ranch.

Mr. Chagnon moved to approve the Special Permit for Non-Conformities application for 5 Charron Drive with the condition the applicant shall comply with the Tree and Sidewalk Ordinance. Mr. Swanton seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton; yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**4. Business Meeting**  
**a) Minutes**

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Mr. Swanton moved to approve the minutes of the November 23, 2021, meeting. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).

**b) Updates from the Chair and Planning Director**

Andy Port will provide the members with information on the proposed changes to the Ordinance regarding short-term rental units.

**5. Adjournment**

Mr. Swanton moved to adjourn the meeting at 10:34 p.m. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote (Mr. Moore, yes; Mr. Swanton, yes; Mr. Chagnon, yes; Mr. Ciampitti, yes; Mr. Benik, yes).