



CITY OF NEWBURYPORT
ZONING BOARD OF APPEALS
60 PLEASANT STREET • P.O. Box 550
NEWBURYPORT, MA 01950
(978) 465-4400
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2017 JUL 17 AM 10:28

RECORD OF PROCEEDINGS AND DECISION
FOR A SPECIAL PERMIT

An application for a Special Permit was filed by:

Arthur Allen, Feather Tree Real Estate Investors
369 Waverly Road
North Andover, MA 01845

for property owned by **Raj Prem** for the following request:

allow a two-family (Use #102)

The application was filed at the City Clerk's Office on **06/02/17** under the Zoning Ordinance Section X-H.3 Powers of the Board and Section **V.D Table of Permitted Uses**.

The application is for the premises at **114-118 Merrimac Street** in the **WMD** Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel **50-66** and recorded in the Essex South District Registry of Deeds as **20718-308**. The newspaper notices for the public hearing were posted on **06/12/17** and **06/19/17** in the Newburyport Daily News.

A public hearing was held for the above application on **07/11/17** at 7:15 p.m. at which time the Board heard the petition for a Special Permit. Upon motion made by Member **Renee Bourdeau** and duly seconded by Member **Maureen Pomeroy**, the Board voted to **APPROVE** the petition for the Special Permit.

The following members present and voting, and voting as follows with respect to the petition:

Robert Ciampitti	<u>Recused</u>	Richard Goulet	<u>Yes</u>
Renee Bourdeau	<u>Yes</u>	Maureen Pomeroy, Associate	<u>Yes</u>
Edward Ramsdell, Chair	<u>Yes</u>		

Having received the necessary two-thirds super majority vote or all the members of the ZBA, in accordance with M.G.L. c.40A, Section 9, as adopted, the petition for the Special Permit was therefore **APPROVED**.

FINDINGS

After the public hearing, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance Section X-H-7 Special Permits, the Newburyport Zoning Board of Appeals made the following findings:

1. The use requested is listed in the table of use regulations or elsewhere in the ordinances requiring a special permit in the district for which application is made. The applicant has submitted an application for a Special Permit for Use to allow a two-family use.
2. The applicant is proposing to construct a two-family structure on the vacant, former 'Mr. India' property. The applicant is not seeking any dimensional or parking relief, only the Special Permit for Use. The applicant submitted revised elevation drawings showing the existing sidewalk grade, the average sidewalk grade, mean roof height, and peak roof height (attached to email, hard copies provided at meeting). The applicant has 'sunken' the driveway to reduce the overall height of the structure. The mean roof height is 25' from average grade, with the peak roof height 25.5' from the existing sidewalk grade.
3. The revised elevation plans show a structure that has been lowered by 1' from what was originally proposed. Originally, the mean roof height from the existing grade was 25', now it is 24' from the existing grade. The height to the peak of the structure from the existing grade was originally proposed to be 26.5' and is now proposed to be 25.5'. This number is likely the most important number since it is what the public will see as they stand next to the structure. The applicant was able to lower the height of the structure by one foot by sinking the first level parking area.
4. The requested use is essential and/or desirable to the public convenience or welfare. This use is permitted by special permit in this district.
5. There is sufficient parking for both of the proposed units as there are four onsite parking spaces provided that have been modified to further reduce the height of the building. The proposed two-family use will have significantly fewer vehicle trips per day than the grandfathered uses that include a restaurant, a laundromat, and a residential unit.
6. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety. The applicant has worked to reduce such concerns by siting the structure away from the corner thus bettering the site lines up and down Merrimac Street.
7. The proposed structure improves several of the non-conformities that existed with the former building. The applicant has also kept the height of the structure at 26'-6" (to the top of the peak from lowered average grade), which does not appear to impair views from the rail trail.
8. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare.
9. Any special regulations for the use, set forth in the special permit table are fulfilled.
10. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.
11. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.
12. The proposed use is in harmony with the purpose and intent of this ordinance.

13. The proposed use shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

14. Evidence was presented and the Board found that the proposed use (two-family) continues to be in conformity with the neighborhood and will not be substantially more detrimental to the neighborhood than the previous one-family use.

PLAN REFERENCES

This Special Permit is approved based on the following plans and/or documents:

"Certified Plot Plan 114-118 Merrimac Street" by Winter GEC, Inc. dated June 2, 2017;
"Turning Movement Plan - 2" by Winter GEC, Inc. dated June 26, 2017; and
"The Proposed 114-118 Merrimac Street Newburyport, MA" by N Design dated June 29, 2017
consisting of pages A and A2.

Any alterations to these plans shall require subsequent approval by the Zoning Board of Appeals.

CONDITIONS OF APPROVAL

The following conditions do not limit any other rights and remedies the City of Newburyport may have.

1. This Special Permit shall not take effect until a copy of the decision bearing the certification of the City Clerk is recorded in the Essex South Registry of Deeds or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

2. This Special Permit will lapse after two years if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.

3. Prior to obtaining a Building Permit, the applicant/owner shall submit a Landscape Plan to the Office of Planning & Development depicting shrubbery and/or low level landscaping elements along the property's southeastern border, i.e. the area between the new structure and the Route 1 off-ramp.

4. Prior to obtaining an Occupancy Permit, the plantings depicted on the Landscape Plan shall be installed.

5. In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found, upon recommendation of the DPS, that the applicant shall reset all granite curbing and replace the existing concrete sidewalk.

This decision was filed with the Newburyport City Clerk on **07/17/17** and sent registered mail to the applicant and by regular mail to the Parties in Interest and the abutting Municipalities.

Undersigned Chair of the Zoning Board of Appeals


Edward L. Ramsdell

Date: 07/17/17

CERTIFICATION OF CITY CLERK

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A, Section 17, that the decision for the property known as **114-118 Merrimac Street** was filed in the Office of the City Clerk on **07/17/17**.

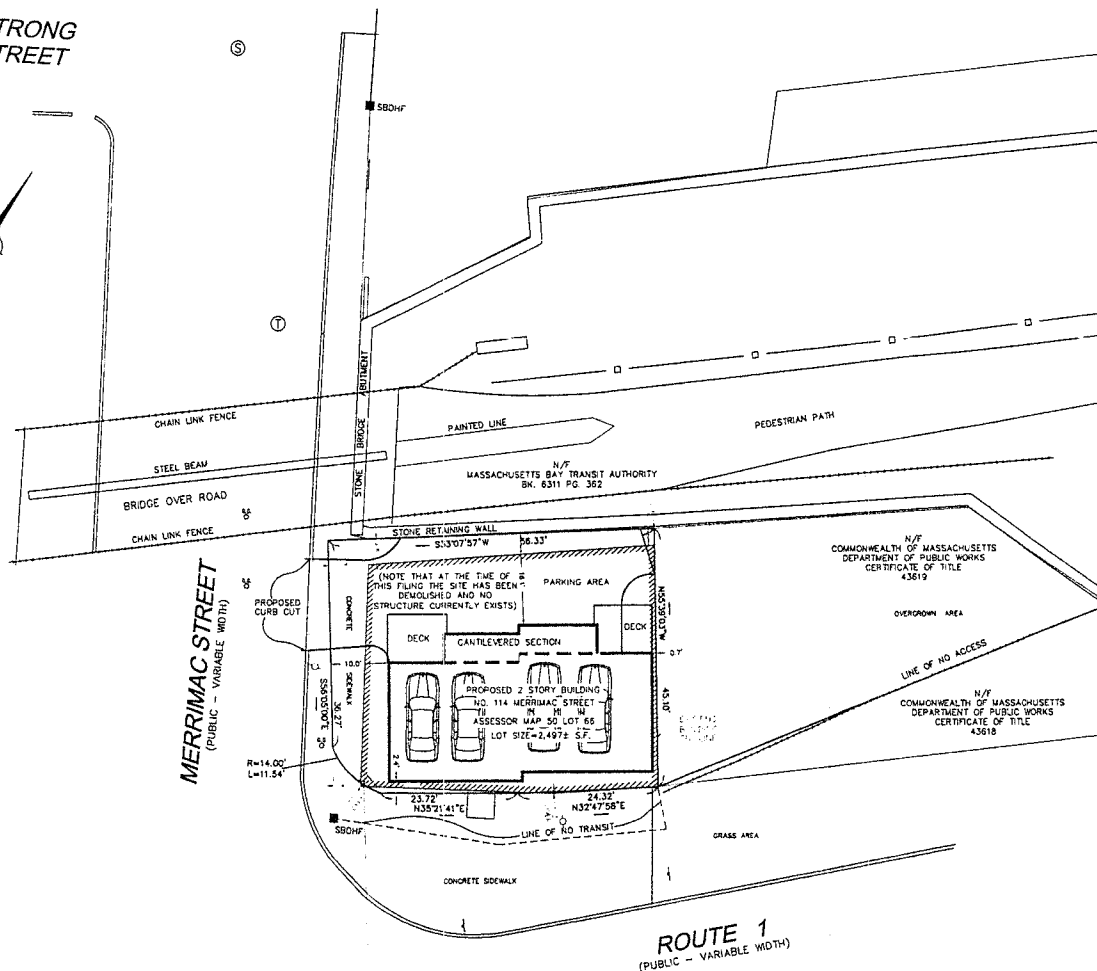
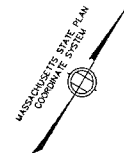
Pursuant to M.G.L. Chapter 40A, Section 11 this decision was also filed with the Newburyport Planning Board on **07/17/17**.

Twenty (20) days have elapsed since the decision was filed and **NO APPEAL** has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing of this decision in the Office of the City Clerk.

Newburyport City Clerk

Date: _____

STRONG STREET



ZONING DIMENSIONAL REQUIREMENTS

WFO ZONING DISTRICT (WATERFRONT MARINE DEPENDENT)
SINGLE-FAMILY ZONING REQUIREMENTS (101)

	REQUIRED (USE 50)	EXISTING*	REQUIRED (USE 102)**	PROPOSED
MINIMUM STREET FRONTAGE	120 FT	95.85 FT	120 FT	95.85 FT
MINIMUM LOT AREA	20,000 S.F.	2,497± S.F.	15,000 S.F.	2,497± S.F.
MINIMUM FRONT YARD SETBACK	25 FT	0.5 FT (OVER)	25 FT	2.1 FT
MINIMUM SIDE YARD SETBACK (R)	25 FT	0.5 FT	20 FT	0.7 FT
MINIMUM SIDE YARD SETBACK (L)	25 FT	4.7 FT	20 FT	10.0 FT
MINIMUM REAR YARD SETBACK	25 FT	2.9 FT	25 FT	16.1 FT
MAXIMUM BUILDING HEIGHT	25 FT	21.5 FT	25 FT	25 FT
MINIMUM OPEN SPACE	N/A	N/A	40%	18.5%
MAXIMUM LOT COVERAGE	30%	87.5%	25%	42.7%

* NOTE THAT AT THE TIME OF THIS FILING THE SITE HAS BEEN DEMOLISHED AND NO STRUCTURE CURRENTLY EXISTS. REFERENCE IS MADE TO THE STRUCTURE THAT WAS IN EXISTENCE AT THE TIME OF THE ORIGINAL SURVEY.

LOCUS TITLE INFORMATION

Z. MECHANICS COURT

OWNER: PREM RAJ & ANITA KUMAR
DEED REFERENCE: BK. 20719 PG. 308
PLAN REFERENCE: 1972 STATE LAYOUT NO. 6012
ASSESSORS: PARCEL ID 50-66

NOTES

THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS AND THE PROPOSED NEW BUILDING HOUSING TWO CONDOMINIUMS. THE BOUNDARY LINES AND DETAIL SHOWN ARE AND IS THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED BY DESIGN CONSULTANTS, INC. ON APRIL 30 THROUGH MAY 17, 2014.

GROUND FOOTPRINT AND BUILDING HEIGHT OF THE PROPOSED STRUCTURE HAVE BEEN PROVIDED BY THE CLIENT IN DIGITAL FORMAT.

ABUTTERS INFORMATION WAS TAKEN FROM CITY OF NEWBURYPORT ASSESSOR'S RECORDS.

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

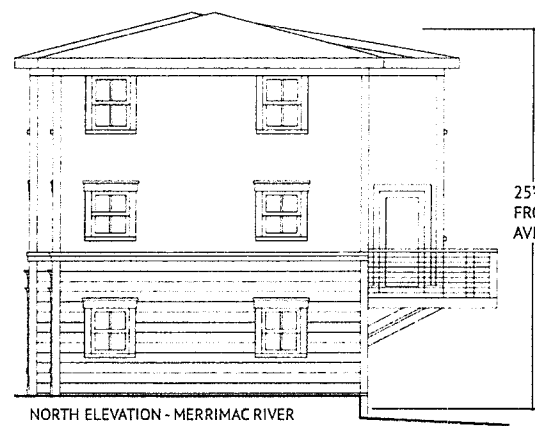
P.L.S. EVERETT J. CHANDLER, P.L.S. MASS. REGISTRATION NO. 41783

DATE: 6/24/17



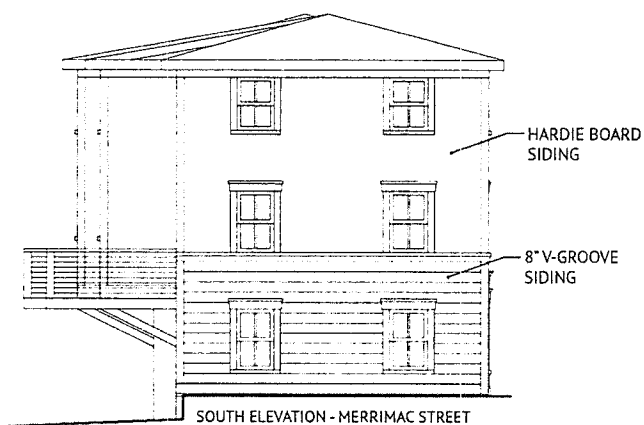
EAST ELEVATION - ROUTE 1

24'-0" HEIGHT FROM
SIDEWALK



NORTH ELEVATION - MERRIMAC RIVER

25'-0" HEIGHT
FROM LOWERED
AVERAGE GRADE



SOUTH ELEVATION - MERRIMAC STREET

HARDIE BOARD
SIDING

8" V-GROOVE
SIDING



WEST ELEVATION - RAIL TRAIL

