

**City of Newburyport Zoning Board of Appeals  
Application for a SPECIAL PERMIT**

Petitioner: Hillside Living LLC

Mailing Address: c/o Lisa Mead, Blatman, Bobrowski, Mead & Talermin, LLC 30 Green St, Nb

Phone: 978 463 7700 Email: Lisa@bbmatlaw.com

Property Address: 12-14 Cottage Court

Map and Lot(s): 35-122B and 122A Book and Page(s): See attached

Zoning District: R3 Years owned land: less than 1

Owner(s) Name: Hall and Moskow Corp

Mailing Address (if different): 75 Water Street, Newburyport

The applicant is requesting a Special Permit under section(s):

- ☒ Special Permit for Use (V.D) – Use # 413
- ☐ Spacing (VI.D)
- ☐ In-Law Apartment (XIIA)
- ☐ Bonus Provisions for Multifamily Developments (XVI)

- ☐ Personal Wireless Communication Services (XX)
- ☐ Wind Energy Conversion Facilities (XXVI)
- ☐ Other \_\_\_\_\_

Description of request:

**Construct private parking lot.**

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

Petitioner and Landowner signature(s):

Signature

Print or type above name(s) here DAVID D. HALL

12 – 14 Cottage Court

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Book 34486 Page 515

## OFFICE OF THE BUILDING COMMISSIONER/ZONING CODE ENFORCEMENT OFFICER

ZONING DENIALCity APR#: 62Name: Hall And Moscow Corp.Address: 12-14 Cottage Court Zoning District: R-IIIRequest: Add Private Parking Use Creating over (10)Parking Spaces☐ ZONING BOARDDimensional Variance☐ Dimensional Controls (VI)

<input type="checkbox"/> Lot Area	<input type="checkbox"/> Open Space	<input type="checkbox"/> Front Yard
<input type="checkbox"/> Lot Frontage	<input type="checkbox"/> Height	<input type="checkbox"/> Side Yard
<input type="checkbox"/> Lot Coverage	<input type="checkbox"/> Lot Width	<input type="checkbox"/> Rear Yard

☐ PIOD (XXI)☐ FAR  
☐ 2 1/2 stories☐ Parking (VII)Use Variance☐ Not permitted use (V)Sign Variance☐ Sign Location/Replacement (VIII-D)Special Permit

- ☒ Special Permit for Use (V.D) Use #: 413
- ☐ Spacing (VI.D)
- ☐ In-Law Apartment (XIIA)
- ☐ Bonus for Multifamily Developments (XVI)
- ☐ Personal Wireless Communication Services (XX)
- ☐ Demolition Control Overlay District (XXVIII)
- ☐ Wind Energy Conversion Facilities (XXVI)

Special Permit for Non-Conformities

- ☐ Extension or Alteration (IX.B.2)
- |   |                                       |
|---|---------------------------------------|
| <input type="checkbox"/> Parking          | <input type="checkbox"/> Rear Yard    |
| <input type="checkbox"/> Upward Extension | <input type="checkbox"/> Lot Coverage |
| <input type="checkbox"/> Open Space       | <input type="checkbox"/> Side Yard    |
| <input type="checkbox"/> Height           | <input type="checkbox"/> Lot Frontage |
| <input type="checkbox"/> Lot Area         | <input type="checkbox"/> Front Yard   |
- ☐ Over 500 s.f. increase (IX.B.3.c)
- ☐ Plum Island Overlay District (XXI-G-3)
- |  |
|--|
| <input type="checkbox"/> FAR                 |
| <input type="checkbox"/> Footprint Expansion |
| <input type="checkbox"/> Height Increase     |

☐ PLANNING BOARDSpecial Permit

- ☐ One residential structure per lot (VI.C)
- ☐ Floodplain (XIII)
- ☐ Open Space Residential Development (XIV)
- ☐ Water Resource Protection District (XIX)
- ☐ Federal Street Overlay District (XXII)

- ☐ Courts and Lanes (XXIII)
- ☐ Waterfront West Overlay District (XXIV)
- ☐ Towle Complex Redev. Overlay District (XXV)
- ☐ Downtown Overlay District (XXVII)

Site Plan Review (XV)

- ☒ Major ☐ Minor

☐ HISTORICAL COMMISSION

- ☐ Demo. Delay ☐ Advisory Review

☐ CONSERVATION COMMISSION☐ CITY COUNCIL

- ☐ GACM (X.H.9)

11/18/15  
DateBlag Tusp.  
Building Commissioner/Zoning Code Enf. Officer

**BLATMAN, BOBROWSKI, MEAD & TALERMAN, LLC**

ATTORNEYS AT LAW

30 GREEN STREET  
NEWBURYPORT, MA 01950  
PHONE 978.463.7700  
FAX 978.463.7747

**LISA L. MEAD**  
Lisa@bbmatlaw.com

*Concord Office*  
9 DAMONMILL SQUARE, SUITE 4A4  
CONCORD, MA 01742  
PHONE 978.371.2226  
FAX 978.371.2296

*Millis Office*  
730 MAIN STREET, SUITE 2B  
MILLIS, MA 02054  
PHONE 508.376.8400  
FAX 508.376.8440

November 19, 2015

Ed Ramsdell  
Chair  
Zoning Board of Appeals  
City of Newburyport  
60 Pleasant Street  
Newburyport MA 01950

RE: 12-14 Cottage Court (the "Property")  
Special Permit for Private Parking

Dear Chairman Ramsdell and Members of the Board;

Reference is made to the above captioned matter. In that connection, this firm represents Hillside Living LLC., (the "Applicant") which is developing the Property. The Property is located in the R-3 zoning district and it currently consists of a pre-existing non-conforming structure which is a two family use. The Property is non-conforming due to front setback, 20 feet is required and 10.5 is provided. The two family use is non-conforming as the current R-3 requires a Special Permit for a two family use and the use was created prior to said change in the Newburyport Zoning Ordinance ("NZO").

The Applicant intends to add an additional use to the Property, namely, private parking which is use 413 in the table of use regulation in the NZO. As a result, a Special Permit in accordance with section IX-B(2) is therefore required.

Ground mounted solar panels will cover the parking spaces, and as such said installation is governed by G. L. c. 40A sec. 3 par. 9 given the lack of applicable provisions in the NZO and therefore no relief is needed for the installation of same. However, a review of their location and placement may be reasonably reviewed by the City and in this instance such a review may occur between this Board and the Planning Board as part of Site Plan Review.

As you note in the Application submitted for the development on Hillside Avenue and Cottage Court, the purpose of the private parking is to provide parking for the adjacent net zero development. Similarly the purpose of the solar canopies is to provide power for the adjacent development as well as the residence located on the Property. The Property consists of 14,370 square feet of area and but for the front setback on the existing structure

is conforming in all other respects. The use "Private Parking" has no minimum dimensional controls but for the size of the spaces. The parking spaces will be laid out to the southern end of the Property and will be adjacent to Route One and another property of the Applicants which is also proposed for Private Parking. The location of this parking lot is away from any other abutting residential property in the neighborhood closer to Pond Street and is separate from the last house on Cottage Court by the residential structure at 12-14 Cottage Court. The Applicant is making no other changes to the existing conditions, namely the residential structure and the four (4) parking spaces which serves same.

### **Special Permit for Private Parking**

A Private Parking use is allowed in accordance with section V-D of the Ordinance with a Special Permit from the Board. In accordance with Section X-H(7) of the NZO, I note the following, required "general conditions" for the issuance of a special permit for the proposed use together with an explanation of the Applicant's compliance with each such requirement:

1. The use requested is listed in the table of use regulations or elsewhere in the ordinances [as] requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.

As noted above, the Property is located in an R3 zoning district where a Private Parking use is allowed by special permit.

2. The requested use is essential and/or desirable to the public convenience or welfare.

The use as Private Parking is allowed by special permit in the R3 district and therefore, by its very nature, has been determined by the City to be desirable. The R3 district is the most densely zoned district in the city. Private Parking is consistent with a dense district insofar as taking advantage of lots which may not meet dimensional requirements but which could provide for small pocket parking areas to serve the more densely developed lots is a valid and consistent planning tool. The proposed Private Parking is desirable as it provides for the development of the proposed net zero community adjacent to it, by not using valuable green space for the purpose of parking but providing for parking as required in the NZO. In this instance this additional space on the Property will serve a dual use that of parking and green energy production such a combination is desirable for the public welfare by helping to eliminate the reliance on fossil fuels and thereby reduce carbon emissions.

3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The creation of Private Parking will not create undue traffic congestion or unduly impair pedestrian safety. The proposed parking is adjacent to Route One and directly across the private way from the proposed residential development. There will be access to and from Route One on the private way to the parking area thereby limiting some of the traffic which

would otherwise use Pond Street to access the Property. Consolidating the parking for the Property will enhance traffic and pedestrian patterns and provide a more efficient and safer development. The Applicant will be providing a Traffic Report to support this criteria.

4. 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.

The proposed Private Parking will have no impact on water and sewer usage. All storm water runoff and treatment will meet the required storm water regulations. As a result, the public systems will not be overloaded and nothing about the Proposed Parking use on site will pose a hazard to the public health or safety.

5. Any special regulations for the use, set forth in the special permit table are fulfilled.

There are no special regulations for the Private Parking use which exist in the NZO.

6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.

As has been previously stated, the location of the Private Parking is to the South of the residential neighborhood not near any of the existing residences and is separated by the closest residence the two family located on the Property. Further, the Private Parking is adjacent to Route One. There is nothing which is proposed on the Property which will impair the integrity of the district or adjoining districts. Again, to the contrary of being detrimental to the health or welfare, the compact parking lot in a separated manner from the nearest neighborhood is beneficial to the health and welfare of the community.

7. 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.

There will not be an excess of Private Parking uses in the neighborhood. Currently, other than what is being proposed by the Applicant on another proposal, there are no other Private Parking uses in the neighborhood. Further, the Applicant is creating Private Parking of a size sufficient ONLY to serve the uses being proposed on the surrounding parcels. The Applicant is not proposing to create an excess of spaces for Private Parking. The addition of a Private Parking use will not cause an excess of this particular use in the neighborhood.

8. The proposed use is in harmony with the purpose and intent of this ordinance.

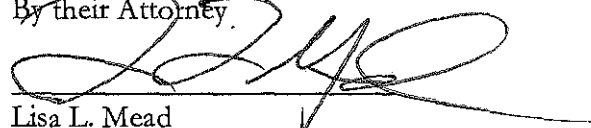
Once again, the Private Parking use is allowed by special permit in the R3 District. Given the location of the Property and the uses surrounding it, its location in reference to the surrounding neighborhood and the proposed uses on adjacent properties, makes it in harmony with the purpose and intent of the ordinance as it is consistent with the surrounding uses in this area of the district.

9. 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.

The construction and thereafter use of a Private Parking lot will not itself create hazardous materials and transmissions. Indeed the covering of the spaces will be a benefit to the community overall. Proposed construction will be completed in a manner that is not dangerous, noxious or injurious, and it will not emit, noise, vibration, smoke, dust or odor or other form of environmental pollution

As a result the Applicant requests a Special Permit under section X-H (7) for the use of Private Parking on the Property.

Respectfully submitted,  
Hillside LLC,  
By their Attorney.



Lisa L. Mead

cc: Client

**12 COTTAGE CT****Location** 12 COTTAGE CT**Assessment** \$326,900**Mblu** 35/ 122/B / /**PID** 2067**Owner** CAREY RICHARD F & MELISSA A  
T/E**Building Count** 1**Current Value**

Assessment			
Valuation Year	Improvements	Land	Total
2015	\$326,900	\$0	\$326,900

**Owner of Record****Owner** CAREY RICHARD F & MELISSA A T/E**Sale Price** \$50,000**Co-Owner****Certificate****Address** 12 COTTAGE COURT  
NEWBURYPORT, MA 01950**Book & Page** 10173/0108**Sale Date** 09/29/1989**Instrument** 1A**Ownership History**

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CAREY RICHARD F & MELISSA A T/E	\$50,000		10173/0108	1A	09/29/1989

**Building Information****Building 1 : Section 1****Year Built:** 1869**Living Area:** 1659

Building Attributes	
Field	Description
STYLE	Condominium
MODEL	Res Condo
Grade	Average +10
Occupancy	0
Interior Wall 1:	Drywall/Sheet
Interior Wall 2:	
Interior Floor 1	Pine/Soft Wood
Interior Floor 2	Carpet
Heat Fuel:	Gas
Heat Type:	Forced Air-Duc
AC Type:	Central

**Building Photo**

(http://gis.vgsi.com/newburyportma/Parcel.aspx?Pid=2067)  
 \00\03\61.jpg)

**Building Layout**



Ttl Bedrms:	5 Bedrooms
Ttl Bathrms:	2 Full
Ttl Half Bths:	0
Xtra Fixtres	
Total Rooms:	8 Rooms
Bath Style:	Average
Kitchen Style:	Average
Kitchen Grd	
Grade	Average +10
Stories:	2.5
Residential Units:	2
Exterior Wall 1:	Aluminum Sidng
Exterior Wall 2:	
Roof Structure	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Cmrcl Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

UBM[613]

FUS[628]

BAS[670]

TQS[481]

Building Sub-Areas			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	670	670
FUS	Upper Story, Finished	628	628
TQS	Three Quarter Story	481	361
UBM	Basement, Unfinished	613	0
		2392	1659

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land****Land Use**

Use Code 1021  
Description CONDO  
Zone R3

**Land Line Valuation**

Size (Acres) 0  
Depth 0  
Assessed Value \$0

**Outbuildings**

Outbuildings	Legend
No Data for Outbuildings	

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**14 COTTAGE CT****Location** 14 COTTAGE CT**Assessment** \$321,900**Mblu** 35/ 122/A / /**PID** 2066**Owner** PRESTON KATHLEEN**Building Count** 1**Current Value**

Assessment			
Valuation Year	Improvements	Land	Total
2015	\$321,900	\$0	\$321,900

**Owner of Record**

**Owner** PRESTON KATHLEEN  
**Co-Owner**  
**Address** 14 COTTAGE CT  
 NEWBURYPORT, MA 01950

**Sale Price** \$325,000  
**Certificate**  
**Book & Page** 23321/0413  
**Sale Date** 08/30/2004  
**Instrument** 00

**Ownership History**

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
PRESTON KATHLEEN	\$325,000		23321/0413	00	08/30/2004
LIGHT ELAINE M	\$134,000		16363/0075	00	05/26/2000
TOBIAS ANN L	\$0		10173/0046		09/29/1989

**Building Information****Building 1 : Section 1**

**Year Built:** 1869  
**Living Area:** 1790

Building Attributes	
Field	Description
STYLE	Condominium
MODEL	Res Condo
Grade	Average +10
Occupancy	1
Interior Wall 1:	Plastered
Interior Wall 2:	
Interior Floor 1	Pine/Soft Wood
Interior Floor 2	Carpet
Heat Fuel:	Gas

**Building Photo**

(<http://images.vgsi.com/photos/NewburyportMAPphotos/\01\00\03\63.jpg>)

Heat Type:	Forced Air-Duc
AC Type:	None
Ttl Bedrms:	3 Bedrooms
Ttl Bathrms:	1 Full
Ttl Half Bths:	1
Xtra Fixtres	
Total Rooms:	6
Bath Style:	Average
Kitchen Style:	Average
Kitchen Grd	
Grade	Average +10
Stories:	2.5
Residential Units:	2
Exterior Wall 1:	Aluminum Sidng
Exterior Wall 2:	
Roof Structure	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Cmrcl Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

**Building Layout**

BAS[797]

TQS[481]

UBM[599]

FUS[632]

WDK[72]

Building Sub-Areas			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	797	797
FUS	Upper Story, Finished	632	632
TQS	Three Quarter Story	481	361
UBM	Basement, Unfinished	599	0
		2509	1790

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land****Land Use**

Use Code 1021  
Description CONDO  
Zone

**Land Line Valuation**

Size (Acres) 0  
Depth 0  
Assessed Value \$0

**Outbuildings**

Outbuildings	Legend
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# BLATMAN, BOBROWSKI, MEAD & TALERMAN, LLC

ATTORNEYS AT LAW

30 GREEN STREET  
NEWBURYPORT, MA 01950  
PHONE 978.463.7700  
FAX 978.463.7747

LISA L. MEAD  
Lisa@bbmatlaw.com

*Concord Office*  
9 DAMONMILL SQUARE, SUITE 4A4  
CONCORD, MA 01742  
PHONE 978.371.2226  
FAX 978.371.2296

*Millis Office*  
730 MAIN STREET, SUITE 2B  
MILLIS, MA 02054  
PHONE 508.376.8400  
FAX 508.376.8440

November 5, 2015

Gary Calderwood  
Building Inspector  
City of Newburyport  
60 Pleasant Street  
Newburyport MA 01950

RE: 12-14 Cottage Court (the "Property")  
Denial Request

Dear Gary;

Reference is made to the above captioned matter. In that connection, this firm represents Hall and Moskow Corp., (the "Applicant") which are developing the Property. The Property is located in the R-3 zoning district and it currently consists of a pre-existing non-conforming structure which is a two family use. The Property is non-conforming due to front setback, 20 feet is required and 10.5 is provided. The two family use is non-conforming as the current R-3 requires a Special Permit for a two family use and the use was created prior to said change in the Newburyport Zoning Ordinance ("NZO").

The Applicant intends to add an additional use to the Property, namely, private parking. As a result, a Special Permit for the private parking use is required under section V-D and X-H(7). It should be noted that no special permit under section IX-B(2) is required given that the Applicant is not modifying the current non-conforming use or lot but rather adding a new use to the same lot. Additionally, Major Site Plan Review under Section XV-C(a) of the NZO is required given that there is the creation of ten or more new parking spaces.

General Laws c. 40A sec. 3 par. 9 governs the installation of the ground mounted solar panels throughout the Property given the lack of applicable provisions in the NZO and therefore no relief is needed for the installation of same.

As a result the Applicants will require:

- a Special Permit under section V-D and X-H(7); and

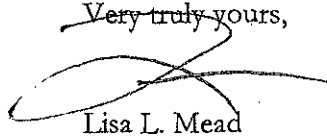
**RECEIVED**

NOV 06 2015  
CITY OF NEWBURYPORT  
BUILDING DEPARTMENT

- Major Site Plan Review under Section XV-C(2)

Please let me know if you have any questions.

~~Very truly yours,~~

A handwritten signature in black ink, appearing to be "Lisa L. Mead", written over the crossed-out text.

Lisa L. Mead

cc: Client