

**City of Newburyport
Zoning Board of Appeals
October 10, 2017
Auditorium**

The meeting was called to order at 7:15 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Richard Goulet (Secretary)
Maureen Pomeroy
Christopher Zaremba (Associate Member)

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 09/26/17 meeting

Ms. Pomeroy made a motion to approve the minutes and Mr. Zaremba seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – approve

3. Public Hearings

| | |
|---|------------|
| 2017 | 061 |
| Address: 36 Elmira Avenue | |
| Variance | |
| <i>Allow a second residential unit on the lot</i> | |

| | |
|---|------------|
| 2017 | 062 |
| Address: 36 Elmira Avenue | |
| Special Permit for Non-conformities | |
| <i>Rebuild two-car detached garage intensifying the pre-existing non-conforming rear yard setback</i> | |

2017 063
Address: 36 Elmira Avenue
Special Permit
Allow a two-family use (#102)

This hearing was continued from the 9/26/17 meeting. Michael and Eric Kent presented the application. The applicant handed out updated plans. They had initially proposed a detached garage with in-law suite, but the Board had no variance hardship to grasp onto. They are now proposing to attach a 24x24 in-law addition to the rear of the existing home and will no longer require a variance.

Today, an issue arose where the Planning Director, Andy Port believed that the fairly new ordinance with regards to “common wall connectors” would apply in this case. The Building Inspector and applicant argued that this ordinance only applies to two and multi-family properties, not in-law apartments. The ordinance is not completely clear whether or not it is intended to apply to in-law apartments.

The Board discussed the situation. They felt it might be best to go to the City Solicitor on this as they rely on both the Planning Director and Building Inspector for opinions, and they are conflicting in this situation.

The applicant was frustrated with the situation, and felt he was being faulted in a possible miscommunication between City officials.

Mr. Ciampitti commented that the Board was also faced with last minute opinions from City officials.

Chair Ramsdell opened the hearing to public comment.

In Favor:

A resident asked if a tentative approval might be granted so as not to hold up the applicants.

Mr. Ciampitti, Ms. Pomeroy and Mr. Goulet leaned toward wanting to make a decision tonight taking into account both opinions.

Mr. Ramsdell was a bit nervous to go forward in the face of a recently written zoning change from City Council.

Another resident reminded the Board that this is a relatively new ordinance that was thought out and put into place. It may be careless to rush into this decision. He thought written opinion of legal council would appropriate. Mr. Ramsdell was sold on this comment.

The applicant requested a continuance.

Motion to continue applications 2017-061 and 2017-062 and 2017-063 to 10/24/17 made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

2017 066
Address: 10 Ashland Street
Special Permit for Non-conformities
Modify pre-existing non-conforming structure for a two-family

2017 067
Address: 10 Ashland Street
Special Permit
Allow two-family use (#102)

The applicant requested a continuance, as Ms. Boudreau was not present. Ms. Bourdeau is expected to be present at the 11/14/17 meeting.

Motion to continue applications 2017-066 and 2017-067 to 11/14/17 made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

2017 071
Address: 19-21 Merrill Street
Dimensional Variance
Construct an addition exceeding allowable lot coverage

2017 072
Address: 19-21 Merrill Street
Special Permit for Non-conformities
Construct a three-story addition extending the pre-existing non-conforming side setback and exceeding 500 sf

This hearing was continued from the 9/26/17 meeting. Attorney Griffin presented the application. Revised plans were submitted and after revisions, the application no longer requires a lot coverage variance. An amended Special Permit for Non-conformities application reflected new proposed dimensions. Non-conformities include side setback and an addition of over 500 s.f.

Aileen Graf, architect spoke to the revised plan. A big change was the removal of a single car garage and moving some of the removed lot coverage to the rear addition. They now meet lot coverage

requirements. The goal of the design was to keep massing down. Exterior elevations were presented. A gambrel roof was used to achieve volume on the third floor. There would be small dog house dormers on each side. Single double hung windows would be used except over the sink and dining area. The total square footage in this plan is 2204 s.f. to the previous plan of 2171 s.f. It is a small increase in square footage with the slight footprint gain on the first floor and decrease of massing on the top level.

Attorney Griffin commented that the Board was concerned with lot coverage variance and shed dormer. Lot coverage was improved, and no longer requires a variance and they eliminated the shed dormers. This is an extension and alteration of a single-family structure and it is an adaptive re-use of a Historical structure. They are in the DCOD but it is not triggered. They have five letters from neighbors in favor. The application is not substantially more detrimental to the neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

*Judy Magill, 5 Merrill Street
In favor*

*Mike Prendergast, 12 Merrill Street
In favor and glad the house will be worked on.*

In Opposition:

*Stephanie Niketic, 93 High Street
Ms. Niketic asked if owner comes in for a garage later on if it would be a variance situation. Yes, it would be.
Ms. Niketic also commented that Linda Miller of the Newburyport Preservation Trust thought the design had improved. She also noted that the Trust has a general concern with any project that more than doubles in size in a dense neighborhood. We are losing this type of modest housing and it is going to change the City.*

Griffin responded commenting that many of the homes on Merrill Street are close to or exceeding the proposed square footage. Regardless of age of the home, the applicants are entitled to alter or extend their home.

Questions from the Board:

Mr. Ciampitti commented his concerns were put to rest.

Deliberations:

Mr. Ramsdell commented that this application does not appear to trigger the tree and sidewalk ordinance.

Mr. Ciampitti commented that the applicant did a nice job working with neighbors and the Newburyport Preservation Trust to address architectural concerns. The application does not appear to be substantially more detrimental to the neighborhood. He also noted that they are no longer requesting a variance.

Mr. Goulet commented that the applicant responded appropriately to comments.

Mr. Ramsdell concurred and was happy with changes.

Ms. Pomeroy appreciated the changes from the original application.

Motion to approve the request to withdraw application 2017-071 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

Motion to approve application 2017-072 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

2017 077
Address: 2 Storey Avenue
Sign Variance
Allow a free-standing sign

This application was continued from the 9/12/17 meeting. The applicant was not present. After discussing, the Board decided to dismiss the application for lack of sufficient information.

Motion to dismiss application 2017-077 for lack of sufficient information without prejudice made by Ms. Pomeroy, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – approve

2017 078
Address: 17B Fair Street
Special Permit for Non-conformities
Construct a two-story addition over the existing kitchen on a pre-existing non-conforming lot

The applicant requested to withdraw the application.

Motion to withdraw application 2017-078 without prejudice made by Ms. Pomeroy, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
 Robert Ciampitti – approve
 Richard Goulet – approve
 Renee Bourdeau – absent
 Maureen Pomeroy – approve
 Christopher Zaremba – approve

2017 080

Address: 36 Liberty Street

Use Variance

Allow a change of use from single-family to two-family (#102)

Randall Murphy presented the application. The applicants proposed to keep the existing structure intact with minor external changes. A portico on the front of the home was to come down. A small shed off the back was also to be removed. After some research, the applicant suggested that the current use is mixed use as of 1983. There was a unit used for a residence, and the other for small businesses. The applicant would like to go to a two-family. He commented there is ample parking available. He argued variance hardship was that the majority of structures in the neighborhood are multi-family structures.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Stephanie Niketic, 93 High Street

Mr. Niketic was concerned with the hard to understand application, zoning matrix, lack of existing versus proposed presented, insufficient variance hardship argument.

Questions from the Board:

Mr. Ramsdell asked the applicant to elaborate on the variance hardship under state law. The applicant commented that aside from the neighbors, all are multi-family structures.

Mr. Goulet commented that he would like to see site plan and elevations.

Mr. Ciampitti commented that he would like to see more detailed drawings, a parking configuration, and dimensions on plans.

Mr. Ramsdell would like to see existing and proposed conditions, and would like the applicant to take another look at hardship justification.

Ms. Pomeroy commented that representations of both existing and proposed are beneficial for the Board and public.

The applicant requested a continuance.

Motion to continue application 2017-080 to 11/14/17 made by Ms. Pomeroy, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Christopher Zaremba – approve

2017 081

Address: 14 Johnson Street

Dimensional Variance

Construct attached two-car garage requiring relief for a 15' setback where 20' is required

William Clary, owner, presented the application. The applicants are proposing to add a two-car garage to the existing structure. The lot is slightly odd in shape, on a hill and is prone to water issues. Attaching the unit is more convenient, but also the best location with the issues on the lot. The applicants submitted letters of support from neighbors.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Elizabeth Clary, 14 Johnson Street

Building Contractor

He re-built the house for the previous owner after the foundation started slipping down the clay hill. 10' clay, There is a 10' elevation drop from front to back of the property, with the lower portion acting as a pond for half the year. Due to topography, there are not a lot of options for building the garage.

In Opposition:

None

Questions from the Board:

Mr. Ramsdell commented the applicants met the hardship criteria.

Mr. Goulet asked what is existing driveway was constructed of. The driveway against the left side of the house is paved up to the house. He asked if the proposed garage would have footings. The building commented that the garage was engineered for the soil conditions. The footings will have special coatings, waterproofing, and crushed rock.

Deliberations:

Mr. Ramsdell commented that the application does not trigger the sidewalk and tree ordinance.

Ms. Pomeroy commented they are doing what they can with the existing conditions. Slope and topography of the lot were well-argued hardships.

The rest of the Board agreed.

Motion to approve application 2017-081 made by Ms. Pomeroy, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

The meeting adjourned at 9:10pm

Respectfully submitted, Katie Mahan - Note Taker