

**City of Newburyport
Zoning Board of Appeals
October 25, 2016
Council Chambers**

The meeting was called to order at 7:12 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Duncan LaBay (Secretary)
Richard Goulet
Renee Bourdeau
Maureen Pomeroy (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of the 08/23/16 meeting

Mr. LaBay made a motion to approve the minutes and Mr. Goulet seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – non-voting
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – non-voting

Minutes of the 09/13/16 meeting

Mr. Goulet made a motion to approve the minutes and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – non-voting
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

Minutes of the 09/27/16 meeting

Mr. LaBay made a motion to approve the minutes and Mr. Goulet seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – non-voting
Maureen Pomeroy – non-voting

b) Request for 6 month extension of variance – 18-20 Ashland Street

The applicant is requesting a 6 month extension as the contractor has been unwell and another contractor must be found.

Mr. LaBay made a motion to approve the request for an extension and Mr. Goulet seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – non-voting

3. Public Hearings

2016 077

Address: 10 Independent Street

Dimensional Variance

Renovation of existing structure encroaching on side yard setback and construction of free-standing garage within required front and rear setback

2016 078

Address: 10 Independent Street

Special Permit for Non-conformities

Modify pre-existing non-conforming structure by removing and replacing rear addition

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman, 30 Green Street, presented the application. The applicant is proposing to remove an existing single-story rear addition and replace it with a two-story addition on the pre-existing, non-conforming two-family home and also to construct a free-standing, two-car garage. The existing two-family use will remain. The residential structure is non-conforming in lot area, lot coverage, front, side, and rear yard setback. With the proposed addition, the rear yard setback and lot coverage would be intensified. They would be removing less than 25% of the exterior walls, and would not need demolition relief under the DCOD. There would be no new non-conformities and the project would not be substantially more detrimental to the neighborhood. The addition is nearly entirely to the rear of the lot.

Scott Brown, architect, presented the design to the Board, including slight changes made since filing plans.

As far as hardship for the variance, there are other non-conforming properties surrounding the property. It is also an odd shaped lot. The replacement of the rear addition would not be substantially more detrimental to the neighborhood.

As far as sidewalks and trees, DPS commented that there is no space for new trees. Sidewalks are ok, but could use patching. The applicant would replace with brick sidewalk.

Ms. Mead submitted letters of support from 11, 13, 15, 17, 19 Fair Street and 46 Liberty Street.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Kathleen Schoonmaker, 6 Independent Street

Concerns are unclear plans, building addition and height, and garage size.

Tom Kolterjahn, 64 Federal Street, Co-President of Newburyport Preservation Trust

Concerns are saving historic interior features, scale and size. Also concerned with changes presented tonight on the roof - should it have come before the Historic Commission?

Pat Force, 17 Fair St #B

Concerned with garage height, massing, and materials.

Stephanie Niketic, 93 High Street

Concerns are the process and unclear plans, the large addition and garage affecting light and privacy.

Questions from the Board:

Mr. LaBay asked for clarification on measurements of the rear addition and how much closer to the neighboring property it would be. Mr. LaBay was also interested in the back and left side elevations of the garage that were not provided. There was discussion with the architect on the need for the width of the garage.

Mr. Goulet asked about the garage height. Mr. Brown commented that this the lowest garage he has seen designed in this City. Mr. Goulet also asked where parking is currently. Parking is now where the garage is proposed.

Mr. Ramsdell explained that part of the Board's decision is based on the impact of the structure on the neighborhood. Plans on the same overlay would be easier to understand and see changes.

Mr. LaBay commented that written records are important for the file. Existing conditions versus proposed.

Ms. Bourdeau brought up what she saw as a discrepancy in the roofline in the packet versus presented.

Mr. Ciampitti echoed comments of the Board. The neighborhood and lot are sensitive.

The applicant requested a continuance to the 11/15/16 meeting.

Motion to continue application 2016-077 to 11/15/16 made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – non-voting

Motion to continue application 2016-078 to 11/15/16 made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – non-voting

2016 079

Address: 496 Merrimac Street

Dimensional Variance

Construct a single family home on a lot with insufficient frontage and lot width and with a side setback of 5.4' where 20' is required

Mr. Ciampitti recused himself due to conflict of interest.

Mr. Ramsdell opened the hearing to clarify some confusion with the application. The applicant is requesting to construct a second single family home on the lot. The attorney (Mark Griffin) indicated they will be applying to the Planning Board for a VI-C Special Permit. The applicant has not applied for a Use Variance for a two-family use through the ZBA, which the Chair and Planning Office believes is needed. The attorney interpreted and argued that “use” is related to the structure and not the lot. There would be two single-family homes on one lot, not two units in one dwelling. There was discussion of the interpretation and whether or not to continue or deny the application. Ultimately, a continuance was granted.

The applicant requested to continue the application to the 12/13/16 meeting.

Motion to continue application 2016-079 made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – recused
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

2016 080

Address: 15 Howard Street

Special Permit for Non-conformities

Square off the footprint of the existing home extending the pre-existing non-conforming side setback; and an increase of over 500 s.f. on a parcel with non-conforming area and frontage

Kelsey Hubacker, property owner, presented the application. She and he husband are first time homebuyers and thrilled to be part of the City. The home is already pre-existing non-conforming and they would like to put a modest addition on the rear of the home, while preserving the Historic nature and small footprint. Ms. Hubacker’s builder explained that the existing addition would be squared off with a small bump out off the back. The upstairs would be renovated to accommodate living space (three bedrooms, one bath). The applicants have Historical Commission approval.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Tom Kolterjahn, 64 Federal Street

Mr. Kolterjahn thanked the ZBA for saving this modest house and complimented the new homeowner. One suggestion/comment made was if possible, the addition might look better with peak roof..

Stephanie Niketic, 93 High Street

Ms. Niketic echoed Mr. Kolterjahn.

In Opposition:

None

Questions from the Board:

None

Deliberations:

LaBay echoed the comments of audience members. It was a pleasure to see this application.

The rest of the Board agreed.

Motion to approve application 2016-080 made by Mr. Ciampitti, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve

Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – non-voting

2016 081

Address: 5 75th Street

Dimensional Variance

Variance for lot size and frontage

Mr. Ramsdell opened with hearing as well. The Board received comments from DPS and Conservation Commission on the ability to build on the property – and it appears to be unbuildable. Those items raise question as to whether or not there is anything to apply for here with the ZBA.

Attorney Paul Magliocchetti of Haverhill presented on behalf of the applicant. With regard to water and sewer hookup, it should be discussed outside the Board. A lack of hookup should not prevent applying for dimensional permits. As far a Conservation Commission, it comes down to “chicken or the egg.”

Mr. Ramsdell commented they wish to place the structure on specific place on the lot and until seeing the Conservation Commission, they could not possibly know where it may be allowed to be placed. Mr. Magliocchetti argued that he has spoken with an environmental engineer who stated there is consistent vegetation across the lot and location would not be constricted.

Mr. LaBay commented the attorney had a compelling argument and the Board allowed the applicant to proceed with their presentation.

The applicant has owned the property since 1970s and it was deemed a buildable lot. It has been a vacant, undeveloped parcel since it was plotted in 1924. The applicant proposed to build a single-family home of modest size and request minimal dimensional relief. Hardship argued is that (1) surrounding lots of similar shape have homes and are also non-conforming. The applicant also argued that this was purchased in 1973 as buildable lot.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Ellen Monez, 6 75th Street

Concerned with new structure, zoning laws and protecting the integrity of the Island. Water and sewer systems are fragile.

Helen O'Brien, 9 75th Street

Concerned with zoning law, PIOD, not a grandfathered lot, construction would cause a safety threat, increase of population and density and the erosion crisis.

Maureen Adams, 9 75th Street

Corned with undevelopable land, no water and sewer hookups, density and overuse.

Letters of opposition were submitted from neighbors at 224 Northern Blvd and 10 75th Street.

Jeremy Shaw, 4 75th Street

Concerned with dimensional controls, loss of sea grass, undevelopable land, and a street plagued with construction.

Richard, 8 77th Street

Reiterated neighbor concerns and well as concerns with pilings, erosion, grass, and construction impact.

Mark Consoli, 3 75th Street

Concerned with height, footprint, driveway, decks, water and sewer, PIOD purpose.

Questions from the Board:

Ciampitti asked if the owner had an opportunity to tie in to water and sewer and have a betterment imposed. Reverend DeLoach, owner, spoke about the history of his property and attempts to build. The property size fell just short of the 5000sf needed to stub water and sewer.

Mr. Ramsdell asked for a hardship recap. Mr. Ramsdell also asked for elevations and proposed parking. Neither could be provided at this time.

Deliberations:

Mr. Ciampitti appreciated the application and was glad we heard from neighbors. This Board would have nothing more to do until more is known from Conservation Commission and water/sewer.

Mr. Ramsdell was not prepared to vote affirmative tonight,

There was discussion of a 90-day continuance, but after sensing disapproval from Board members the applicant requested to withdraw without prejudice.

Motion to withdraw application 2016-081 without prejudice made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – non-voting

The meeting adjourned at 9:50pm

Respectfully submitted, Katie Mahan - Note Taker