

**City of Newburyport
Zoning Board of Appeals
January 10, 2017
Council Chambers**

The meeting was called to order at 7:10 P.M.
A quorum was present.

1. Roll Call

In Attendance:

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

2. Business Meeting

a) Approval of Minutes

Minutes of the 12/13/16 meeting

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

The motion passed unanimously.

Votes Cast:

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

b) Request for minor modification to Dimensional Variance at 48 Boardman Street (2016-004)

Mr. Griffin appeared on behalf of the applicant to request a minor modification to an approved Dimensional Variance. He requested condition #3 be deleted from the variance decision, as it erroneously required the A&R plan to be filed showing buildings as built. An alternative as-built plan was accepted by the building commissioner.

Mr. Goulet made a motion to approve the minor modification to application 2016-004 and Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

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

c) Request for minor modification to Dimensional Variance and Special Permit for Non-conformities (2015-050, 051)

Attorney Mead appeared requested a minor modification to these applications for her property at 13 Purchase Street. The windows on the garage will be changing location.

Mr. Ciampitti made a motion to approve the minor modification to application 2015-050 and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

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

Mr. Ciampitti made a motion to approve the minor modification to application 2015-051 and Ms. Bourdeau seconded the motion.

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings

<p>2016 071 Address: 15-19 Williamson Ave Special Permit <i>Construct a two-family home (Use #102)</i></p>
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This hearing was continued from 11/29/16. Attorney Lisa Mead requested to withdraw the application.

Motion to withdraw application 2016-071 made by Ms. Bourdeau, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

2016 075**Address: 24 Bromfield Street****Special Permit for Non-conformities***Construct a one-story kitchen addition in the rear of the existing home*

This hearing was continued from 12/13/16. Andrew Sidford, 55 Marlboro Street presented on behalf of the applicants. The applicants are seeking approval for one story addition on the back of half house. The neighbor residing in the other side of the half house had concerns. In the time since the last hearing, the client met with the neighbor to modify design and size. The rear if the addition was minimized from 16 to 12', changing lot coverage 38.5 to 36%. They also changed to a shed roof to be less obtrusive. Mr. Sidford presented a map showing neighboring lots and the various lot coverages. As far as drainage, a perimeter drain to a drywell would be implemented. There was concern of blocking sunlight, but Mr. Sidford said the updated design would not shade the property.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Attorney Lisa Mead on behalf of Brian Gemme, 26 Bromfield Street

The neighbors directly abutting in the half house are against the addition. Concerns include zoning criteria, changing proposals, the addition being too close their home/yard, no engineered plan, and a self-created hardship.

Questions from the Board:

Mr. Ciampitti asked Mr. Sidford to discuss variance hardship. Mr. Sidford showed a map of neighboring properties and that the neighborhood is non-conforming. Mr. Ramsdell clarified that surrounding properties includes those across the street as well.

Deliberations:

The applicants requested to continue.

Mr. Ciampitti was inclined to allow a continuance to articulate the arguments for hardship. Ms. Bourdeau asked if they considered moving out of the 10' setback as the adjacent homeowner's opposition is part of the Board's considerations. Mr. Sidford said it would be worth looking at.

Motion to continue application 2016-075 to 2/14/17 made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

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

2017 005

Address: 496 Merrimac Street

Use Variance

Allow a two-family use (#102) by constructing an additional single family home on the lot

Due to client conflict, Mr. Ciampitti recused himself.

This hearing was continued from the 12/13/16 meeting. Attorney Mark Griffin presented on behalf of the applicants. The applicants are proposing to another single-family home on the lot. There was discussion at the last meeting about the application being improperly filed as a single family. It was suggested that the applicants go to the Planning Board and proceed with the VI-C process as well as request a use variance for a two-family use. The VI-C application had a favorable reception from The Planning Board as they had a restoration plan and preservation restriction prepared for the existing house. The Historical Commission will be meeting this week on the agenda plan. The Newburyport Preservation Trust has been on property to assist. The lot is narrow with wetlands and woods, influencing the placement on the new structure. The applicants have been to Conservation Commission and have tacit approval. A side setback of 15.3' is requested where 20' is required. They have removed a bay of the garage. They are requesting relief for frontage and lot width as well. They have letters from Police, Fire, and DPS that they have no problems with the proposal. As far as variance hardship, shape and topography were argued. The property is also surrounded by non-conforming properties as listed in the memorandum submitted to the Board. The new structure will be modest, aesthetically pleasing, and will not impede light, air or views of abutting properties. The real value here is preventing future demolition of the existing home with a preservation restriction.

Chair Ramsdell opened the hearing to public comment.

In Favor:

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

He has seen the property and is working with the applicant on preservation restrictions. He is concerned with small historic properties in the City.

Terry Tuxbury, Property Manager at 500 Merrimac Street

Property owners are in favor.

Roland Hamel, Coral Lane, Seabrook, NH

He grew up on the property and supports the project.

Jim Farrell, 28 Spofford Street

He was in favor and as a 4th generation Newburyport resident, he was happy to have a modest house built. A lot of time and effort was spent on this project and keeping roots in the City. The front house has historical value.

Katie Accardi, 481A Merrimac Street

She is a neighbor and friend. It is important for this family to stay in Newburyport and it's hard to stay in this community. She was happy with historical preservation in the plans.

Karen Damon

There is a lot of emotion behind the project. They want to preserve this house from their grandmother and intend to live in the back house. She thanked the Board.

Mr. Goulet noted that written support was submitted for 481A Merrimac Street, 487B Merrimac Street, and 500 Merrimac Street.

In Opposition:

None

Questions from the Board:

Ms. Bourdeau asked what is happening to the existing home. It would be maintained; a preservation restriction would be placed on front home and sold.

Mr. Ramsdell asked if there was anything floating around that would require modifications from the other Boards. Mr. Griffin did not believe so.

Deliberations:

Mr. Goulet believed variance criteria was met, particularly lot shape and topography, but also non-conforming surrounding properties. The other Board's decisions seem to be nearly complete.

Ms. Bourdeau was happy to see the two-family and VI-C process happened. She was willing to support with the preservation restriction and neighbors in support.

Ms. Pomeroy echoed comments of members.

Motion to approve application 2016-079 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – recused

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy - approve

Motion to approve application 2017-005 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – recused

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy - approve

2016 090
Address: 114-118 Merrimac Street
Parking Variance
Variance for parking

2016 091
Address: 114-118 Merrimac Street
Special Permit
Allow mixed use (#405) for two residential and one commercial unit

Mr. Ciampitti recused himself. The hearings were continued from the 12/13/16 meeting. Ben Legare, 128 Ferry Road, Salisbury presented the application. The applicant is proposing to construct a mixed-use structure with one commercial space on the first floor and two small residential units on the second floor. Prior to demolition, the mixed use consisted of two commercial and one residential unit. Mr. Legare researched the property and concerns. It seemed the two major concerns were; 1. Building height/not blocking view from rail trail, and 2. Parking. The proposed structure is designed to the exact same square footage and non-conformities. Mr. Legare decided on two smaller 690 s.f. residential units as he thought it desirable for those seeking a home or single occupants. He studied street parking over a period of time and concluded that there was ample street parking available for the proposed use. The proposed structure would not be substantially more detrimental to the neighborhood because as he would be rebuilding essentially the same building and cleaning up a currently vacant lot.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Stephanie Niketic, 93 High Street

Ms. Niketic has followed this property over the past few years. This seems reasonable and is a good use of the land. Her concerns included enforcement of the rendering and depiction of height and measurements.

Doug Danzey, Listing Agent

Mr. Legare had the best proposal for this land. He would be making good use of an otherwise vacant piece of land.

In Opposition:

Lela Wright, 4C Winter Street

Concerns included public safety and variance justification for parking.

Jim McConnolly, Storeybrooke Drive

Concerns included poor location, traffic, future parking garage and NED plans exacerbating the problem. He appreciated the height and conformities.

Mark Wright

Concerns included safety and parking issues.

Questions from the Board:

Mr. Goulet asked if there was a proposed roof deck. Yes, out of view of the rail trail with egress stairs on the back of the structure. Height of deck rails are about 2' cable rails. Mr. Goulet also asked about power

poles on the site. Mr. Legare said there is one holding a city street light. He is proposing down lighting off the building for the street. The other pole could also be addressed.

Ms. Bourdeau commented that the building itself seems to address concerns, but the applicant was a little naïve to think parking would not be an issue. Spaces need to be addressed.

Deliberations:

Mr. Goulet commented that it was commendable to get the proposal where it is on this difficult lot. Public safety and parking aspects are still concerns.

Ms. Bourdeau wanted to see demonstrated that there is parking available. After that, pedestrian safety and traffic hazards would need to be addressed.

Ms. Pomeroy had the same concerns. Parking is a definite aspect that needs to be addressed. She also brought up that there is no crosswalk to Winter Street.

There was discussion about parking and pedestrian safety and the need for more data. Mr. Ramsdell suggested approached the City's TSAC group.

The applicant requested a continuance.

Motion to continue application 2016-090 to 2/14/17 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

Motion to continue application 2016-091 to 2/14/17 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 001

Address: 175-177 Storey Avenue

Dimensional Variance (Lot 1)

Variance for lot frontage to allow a lot split on a lot with two existing homes

2017 002

Address: 175-177 Storey Avenue

Dimensional Variance (Lot 2)

Variance for lot frontage to allow a lot split on a lot with two existing homes

Attorney Lisa Mead presented on behalf of the applicant who is proposing to divide the property located at 173-175 Storey Avenue. Currently the property includes two single-family structures and consists of 88,619 square feet of area with 220.86 feet of frontage along Storey Ave. This property was created in 2015 via a lot split to separate the residential uses from the veterinary use located at 177 Storey Ave. This proposal, if approved, will create two separate residential lots, with each existing home on its own parcel. The home on lot 2 would then be demolished and relocated on the lot. The hardship argued was lot shape and topography. There are wetlands at the rear of the property.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Charles Ciavacco, 4 Lt. Leary Drive

He was not in opposition was concerns with the new structure being 3200 s.f. and the rented unit

Steve Jane, 2 Melvin Court

Concerned with stream, residence issues, conservation, flooding, and overdevelopment.

Mark Tremontana, 4 Melvin Court

Concerned with development continuing and flooding from stream.

Attorney Mead addressed concerns.

Questions from the Board:

Mr. Ciampitti asked if there was any movement to ANR. The applicants have started with ZBA first, but that would be needed next.

Ms. Mead commented that any clear cutting was in conformance with conservation and deemed able to cut down.

Mr. Goulet asked for a brief description of ANR. This is the division of land with the same ownership. Planning will make the formal division, subject to ZBA relief.

Deliberations:

Ms. Bourdeau was sensitive to abutters comments. Tree cutting is outside ZBA jurisdiction. Speaking to the lot split, the footprint increase is within zoning requirement. There are already two dwellings. From a use standpoint, this does not create any more hardship on the property. She was willing to support.

Mr. Ramsdell commented that they are approving minor frontage variances. If anything changes on lots it will come back. Cutting is not zoning issue. Anything on property would be an enforcement issue with

building inspector. Concerns raised were not necessarily relevant to the application. This is a reasonable division of the property.

Mr. Goulet and Ms. Pomeroy agreed. This is the first step in a process to come.

Mr. Ciampitti commented the issues raised were not in ZBA consideration for these applications. The decision must be made in a narrow analysis.

Motion to approve application 2017-001 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-002 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 003

Address: 4 Ferry Road

Dimensional Variance

Lot split resulting in one conforming lot and one lot requiring relief for lot area, front yard setback, and rear yard setback

Nick Cracknell of Keystone Planning and Design presented on behalf of the applicants. The applicant is proposing to split the existing lot into two, single-family house lots with frontage for proposed Lot 1 on Ferry Road and frontage for proposed Lot 2 on Moseley Avenue. A local design team was brought together for this project. One of the goals is to restore a historic barn on the property. The property located in the R2 zoning district is surrounded by three parks. Neighborhood context and non-conformities of neighborhood lots were discussed. The character and defining elements were explained and included a brick chimney, brick foundation shelf, projection dormers. The long edge of the roof on Moseley Avenue will match the streetscape. A set of stipulations was drafted in collaboration with neighbors. Alternatives to this project were discussed. Zoning allows without variance multiple alternatives. Renderings of the project were presented.

The hardship argued was lot shape as well as the corner lot provision; it is a wedge shaped, corner lot, with two street addresses, two curb cuts, surrounded by three parks. previous applications. He noted that nothing is shared between the two structures/lots, so the VI-C process is not the best solution here.

Mr. Ramsdell commented that conversion to two-family would require relief and is not allowed by right.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Duncan LaBay, 4 Ferry Road

Susan LaBay, 4 Ferry Road

Charles Ciavacco, 4 Lt. Leary Drive

In Opposition:

James Wingfield, 7 Moseley Avenue

Concerned with abutting home right next to property blocking sun and safety at the three roads location.

Stephanie Niketic, 93 High Street

Not opposed, bit concerned with lot divisions and developer performance issues.

William Morrill, 1 Ferry Road

Concerned with possibility of further subdivision.

Mr. Kutcher addressed comments on developer performance and reference made to his Lime Street project.

Mr. LaBay commented that it is the expectation Mrs. LaBay will continue to live on lot 1, then the second lot would be developed. Lot 2 would not realistically sit for a period of time.

Questions from the Board:

Mr. Ramsdell addressed the light issue. The gap between the sunroom and house seems to be 80-90' away, 15' high. The second driveway does exist, but will change to be used for the residential structure.

Mr. Ciampitti asked if the stipulations would be adopted as written. Yes, the intent is to offer them for protection and improvement. There was discussion of timing and completion of the project. Mr. Cracknell noted that the stipulations go with the land.

Deliberations:

Ms. Bourdeau commented on the preservation restriction. She felt the neighbor would not notice much difference in terms of sun.

Mr. Goulet's only reservation was buttoning up stipulations.

Mr. Ciampitti felt timing added to stipulations was important. It was meaningful to hear from neighbors and worth consideration. This was a solid application, very respectful in scale. It is sensitive to both the macro and micro community.

Ms. Pomeroy appreciated keeping with older homes in the neighborhood. Stipulations provide continuity.

Motion to approve application 2017-003 with stipulations made by Ms. Bourdeau, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy - approve

2017 004

Address: 158 Old Point Road

Special Permit for Non-conformities

Demolish and reconstruct pre-existing non-conforming single family home

Bill Barrett represented the property. The existing single family dwelling is in a cul de sac. Rear, front and both side setbacks are non-conforming. They are proposing to demolish and rebuild with no new non-conformities with slight changes. The project will not be more detrimental to the neighborhood. The existing structure is a safety issue for the community.

Chair Ramsdell opened the hearing to public comment.

In Favor:

BJ Magnani, 160 Old Point Road

Concerned with elevations.

Terri Frascone, 156 Old Point Road

Concerned about measurements used and her lot size decreasing in documents submitted to the Board.

Mr. Ciampitti commented that the Board relies on instrument surveys and that accuracy questions are for land court.

In Opposition:

None

Questions from the Board:

None

Deliberations:

Mr. Ciampitti commented that improving current conditions can be supported. It was a modest request that met criteria.

The rest of the board agreed.

Motion to approve application 2017-004 made by Ms. Bourdeau, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

The meeting adjourned at 11:25pm

Respectfully submitted, Katie Mahan - Note Taker