

**City of Newburyport
Zoning Board of Appeals
November 29, 2016
Council Chambers**

The meeting was called to order at 7:14 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Duncan LaBay (Secretary)
Richard Goulet

Absent:

Renee Bourdeau
Maureen Pomeroy (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of the 11/01/16 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 – absent
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy - absent

b) Request for Modification – 38 Harding Avenue (2016-042)

The owner is proposing to change the design of an addition. They would be adding a front dormer. Abutting neighbors at 31 & 32 Harding Avenue are in favor.

Mr. LaBay clarified drawings and where the dormer would be added and that the use of space has not changed.

Mr. Ciampitti commented that it is a modest request with support from neighbors. The Board agreed.

Mr. Ciampitti made a motion to approve the request for modification 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 – absent
Maureen Pomeroy – absent

c) Request for Modification – 58 Liberty Street (2016-053)

John Whitcomb, owner began the project approved in June and as they began excavating, it was found that the foundation was crumbling. The project engineer suggested a supportive cross wall. The owner wishes to go up to the first floor level instead of covering with a bulkhead, etc. Living space would be increased by approximately 50 sf.

Mr. Goulet commented this was an unforeseen challenge and not significant change.

Mr. Ciampitti made a motion to approve the request for modification 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 – absent
Maureen Pomeroy - absent

3. Public Hearings

2016 071

Address: 15-19 Williamson Ave

Special Permit

Construct a two-family home (Use #102)

2016 082

Address: 15-19 Williamson Ave

Dimensional Variance

Lot split requiring a variance for insufficient area and frontage (Lot 1)

2016 083

Address: 15-19 Williamson Ave

Dimensional Variance

Lot split requiring a variance for insufficient area and rear setback (Lot 2)

This hearing was continued from 9/27/16. Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman, 30 Green Street, presented on behalf of the applicants. Back in September, the applicants proposed a two-family structure on the lot. After hearing feedback from the Board and neighbors on

instead doing a lot split with two structures, they continued in order to explore this option. The Historical Commission has given permission to remove the existing structure in the middle of the property. Lot 1 is proposed to be a single family home on a lot with insufficient lot area and frontage. Lot 2 is proposed as a single family needing a variance for lot area and rear setback. Architectural drawings were presented. This project would create lots of similar size to the neighborhood. The hardship argued is the unusual shape of lot.

As far as the sidewalk and tree ordinance, DPS provided feedback that sidewalks are not needed and recommended trees to be planted along the frontage.

Chair Ramsdell opened the hearing to public comment.

In Favor:

The parents of the owner spoke in favor.

In Opposition:

None

Questions from the Board:

None

Deliberations:

Mr. Ciampitti commented that the hardship basis was argued. He noted that there was no opposition present. The architectural rationale was explained and sensitive to the neighborhood. This application was very favorable with less massing and scale and although it backs up to a shopping center, sensitivity was given.

Mr. LaBay and Mr. Ramsdell commented on the backstory of the applications. Mr. LaBay was happy with the new request. This property also backs up to a shopping center and was happy to make use of the land.

Mr. Goulet agreed the scope of the project fits in with the neighborhood.

Ms. Mead asked to continue request for the Special Permit to 01/10/16, just to make sure there are no appeals.

Motion to continue application 2016-071 to 01/10/17 made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Richard Goulet – approve

Renee Bourdeau – absent

Maureen Pomeroy - absent

Motion to approve application 2016-082 made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve
Duncan LaBay – approve
Richard Goulet – approve
Renee Bourdeau – absent
Maureen Pomeroy - absent

Motion to approve application 2016-083 made by Mr. LaBay, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

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

2016 076

Address: 5 Hancock Street

Dimensional Variance

Construct a free-standing garage with office above which encroaches on the front yard setback and exceeds lot coverage

This hearing is continued from 10/11/16.

The applicants requested to withdraw without prejudice.

Motion to withdraw without prejudice application 2016-076 made by Mr. Goulet, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

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

This hearing is continued from 10/25/16. Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman, 30 Green Street, presented on behalf of the applicants. At the last meeting the Board asked that the applicants go back and work on several issues. Changes since the last meeting include reducing the garage from 26'x20' to 24'x20' and reducing the height 7", removing a cupola and adding a wood roof. Four elevations of the garage were submitted and existing conditions versus proposed were presented. Scott Brown, architect, presented the changes made since the last hearing.

As far as the Special Permit for Non-conformities, it was argued that the application was not substantially more detrimental to the neighborhood. They would reduce a non-conformity from the rear yard and would not be encroaching any more on side yard. For the variance, the hardship argued was lot shape and that the lot is surrounded by non-conforming lots.

Mr. Ramsdell notes a letter submitted by 17B Fair Street.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Misza Tymowski, 8 Independent Street

Concerns included; addition encroaching further toward their property, height of new addition, intensifying the use of space, clocking sunlight and air, lot coverage increase, driveway area increase. Also concerned that greater than 25% of the outside walls would be demolished.

Kathleen Schoonmaker, 6 Independent Street

Concerned with changing the visually intact historical street, height of the addition, and garages are not typical of the neighborhood.

Tom Kolterjahn, 64 federal street, Co-Chair of Newburyport Preservation Trust

The Trust opposes the project in its current form – major additions, size and massing are too great. He noted that neighbors supporting the project do not even live on the street. The most impacted are here and against the project. This could have been a better project in the end if they worked with neighbors ahead of time.

Stephanie Niketic, 93 High Street

Read a letter of opposition. Concerned that the applicant is a developer enlarging the building to exploit the two-family use. Abutters made excellent arguments. Size, scale, massing, and volume would be substantially more detrimental.

Ms. Mead responded to the opposition.

Questions from the Board:

Mr. Ciampitti asked Mr. Haseltine if there was anything he wanted to clarify. He did. The units are approximately 1940 sf and 1510sf. They would be saving the original stairs, chimneys and fireplaces. The reason the proposed rear addition must be two stories is to accommodate a second staircase for access. There was clarification on entries.

Mr. Ramsdell was troubled by the south elevation. The applicants were willing to take a look the design, but reiterated it would blend on back of house with screening and other landscape elements.

Deliberations:

Mr. LaBay appreciated input of neighbors. The architect has provided explanation and background getting to the design. He had no issues architecturally, but was not sure it belonged here in this neighborhood with closeness of abutting properties.

Mr. Ciampitti thanked those that offered detailed thoughts and opinions. Mr. Brown and Mr. Haseltine are known to be attentive and honorable. This is a challenging project. He was on the fence with the streetscape, particularly the garage and impact of the addition. He was less troubled by the height of the rear addition.

Ms. Mead asked for any other feedback on any redesign to satisfy neighbors and the Board.

Mr. Goulet appreciated the challenges and willingness to save chimneys and stairs. He was less bothered by house than the garage.

Mr. Ramsdell was troubled by the massing of the addition and would like to see some delineation.

Ms. Mead requested to continue to 12/13/16.

Motion to continue applications 2016-077 and 2016-078 to 12/13/16 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 – absent
Maureen Pomeroy - absent

2016 084

Address: 268 Merrimac Street

Sign Variance

Allow a free-standing sign to indicate entrance to residential units

Attorney Lisa Mead, 30 Green Street, presented on behalf of the applicants. The applicants would like to add a way finding sign for the new residential development in the WMD district and Towle overlay district. The sign would consist of granite worked into the landscape. Sign area, including the granite would be 14 sf, and the sign alone would be 4.9 sf. It would be very modest with backlit letters. They will also have to modify site plan review. The variance hardship argued was the shape of the lot. The quality and character are consistent with the neighborhood. The granite would be repurposed and is from a Gloucester quarry.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Goulet clarified the height above ground is 32”.

Mr. Ramsdell asked is the lettering was stencil cut into the box and if there would be a filter of some kind diffusing light. There would be a translucent acrylic panel to even the glow. Mr. Ramsdell asked if they had considered halo lighting. It was explained that for this application it is too commercial. This is subtle with the approach is that the granite be the sign.

Deliberations:

None

Motion to approve application 2016-084 made by Mr. Goulet, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Richard Goulet – approve

Renee Bourdeau – absent

Maureen Pomeroy – absent

2016 085

Address: 39 Summit Place

Dimensional Variance

Relief for side yard setback and frontage to allow a two-family use in the existing structure

2016 086

Address: 39 Summit Place

Special Permit

Allow a two-family use (#102)

Attorney Lisa Mead, 30 Green Street, presented on behalf of the applicants. Scott and Catherine Jackson live in the property built in 1955 in the R2 district. It has been used as a two family, however is listed as an in-law in assessor cards. It is a solid 2 family after a 1988 building permit and addition. Ms. Mead provided background on the family and reason for the addition. The building department has no file on this property. Side yard and frontage are insufficient. The owners would like to rent out the front home and just want to make it legal. They would not be selling, changing, etc.

Ms. Mead went through the criteria for Special Permit for use and argued the variance hardship is topography in this case. The property has a significant drop to the rear. The property is also bordered on two sides by a school, and one by the street.

The applicants have worked closely with neighbors and even have an agreement/covenant to allow no development in the rear of the property.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

None

Deliberations:

Mr. LaBay commented this is another historical curiosity where the paper trail starts this evening. Applicants make a persuasive argument and it is a reasonable request.

The Board agreed.

Motion to approve application 2016-085 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 – absent
Maureen Pomeroy - absent

Motion to approve application 2016-086 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 – absent
Maureen Pomeroy – absent

2016 087

Address: 366 Merrimac Street

Special Permit for Non-conformities

Reconstruct front portion of building resulting in upward extension of a pre-existing non-conforming side yard setback

Tim DeCoteau, Land Use Consultant presented on behalf of the applicants. The applicants had come before the Board in 2012 for an upward expansion that was never built. Existing conditions include a commercial, steel building sitting over the property line. Adding onto this steel building would compromise the structure and it really needs to be rebuilt in order to expand. Mr. DeCoteau read a letter from the applicant's attorney on criteria for the Special Permit for Non-conformities. There would

be no intensification or new non-conformity. The use would remain the same – it has been a family owned business for 60 years and space has become inadequate over time. The project would not be substantially more detrimental to the neighborhood. A more beautiful building will be constructed. Elevations and drawings were presented.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Goulet asked what the proposed use of first floor would be. It would used for parts, receiving, and a showroom – essentially the same as now, but offices would be moved upstairs.

Deliberations:

Mr. Ciampitti commented on the nicely rendered and detailed materials. It would be a wonderful addition to Merrimac Street and the architecture is appropriate. The project must still go through major site plan review.

Mr. Goulet thought the application was nicely done and the project fits in with surroundings.

Mr. LaBay commented this is a good tribute to the family business.

Mr. Ramsdell agreed.

Motion to approve application 2016-087 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 – absent

Maureen Pomeroy - absent

The meeting adjourned at 9:40pm.

Respectfully submitted, Katie Mahan - Note Taker