

**City of Newburyport
Zoning Board of Appeals
City Council Chambers
December 10, 2019
Minutes**

1. Roll Call

Vice Chair Robert Ciampitti called a meeting of the Newburyport Zoning Board of Appeals to order at 7:03 p.m. Present were members Robert Ciampitti, Maureen Pomeroy, Mark Moore, Ed Cameron and Rachel Webb. Renee Bourdeau and Stephen DeLisle were absent.

2. Business Meeting

a) Minutes

Mr. Cameron moved to approve the minutes of the November 12, 2019, meeting as amended. Mr. Moore seconded the motion. The motion was approved.

b) Request for Minor Modification

56 Middle Street (2017-049)

Joe Jemmallo requested that he be allowed to widen the 17-foot parking area adjacent to the structure, which he said is not adequate for parking two cars side by side. He would like to remove the five-foot planting bed that is adjacent to the sidewalk and add Boston City pavers and a fence in its place. He said this would be beneficial in that it would remove a vehicle from the street. He added that two of the neighbors he has spoken with said they would not be opposed to the proposal.

Mr. Cameron said the proposal is more extensive than a minor modification and the area would look like a large driveway. He said the abutters should be notified and a more thorough review should take place. Ms. Webb was in agreement and said the shrub bed was a condition of the permit and was installed to provide privacy. Mr. Moore said he would be satisfied with the replacement of the planting bed with a fence, which could also provide an effective barrier. Ms. Pomeroy said the abutters should be notified and she would like for more detail on the fence to be provided. Mr. Ciampitti said the stakeholders were a part of the original application and should be notified about the proposed change.

Ms. Pomeroy moved to continue the Request for Minor Modification to the January 28, 2020, meeting with the conditions that the abutters are notified and additional information about the fence and its location is provided. Mr. Cameron seconded the motion. The motion was approved by a 5-0 vote.

c) Request for Minor Modification

35 Marlboro Street (2018-022)

Lisa Mead represented the applicant, who is requesting to construct a solid roof on a porch rather than the pergola that was approved. The roof would be slightly larger than the pergola, but it would not extent the non-conformity, would not increase the lot coverage and would not be visible from Marlboro Street. Ms. Webb moved to approve the Request for Minor Modification. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote.

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3. Public Hearings

Hebbelinck Real Estate LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC
193 High Street

2019-042 - Appeal of Notice of Violation from Zoning Enforcement Officer dated 5/6/19

Request to Continue

Continued from 8/13/19

Lisa Mead represented the applicant and requested a six-month continuance due to ongoing litigation. Mr. Moore moved to continue the public hearing to the June 9, 2020, meeting. Mr. Cameron seconded the motion. The motion was approved by a 5-0 vote.

Steven Lewis c/o Lisa Mead, Mead, Talerman & Costa, LLC

332 Merrimac Street and 7 Savory Street

2019-057 - Dimensional Variance

Ms. Pomeroy recused herself from the discussion. Lisa Mead represented the applicant, who is proposing to divide the property into two lots. The lots were historically separate and were merged in 1978. Both lots would require dimensional variances for frontage and lot size. The applicant does not intend to construct a residence on the Savory Street lot and would be willing to place a restriction on it.

The hearing was opened to comments from the public. No one spoke in support of the application. Doreen Olson, 5 Savory Street, said she would be opposed to the construction of any type of structure on the Savory Street lot unless it were an accessory structure to the residential use associated with the adjoining property and not for marine use. The restriction on marine use is currently not a part of the proposed conditions. She said the impervious parking area created on the lot has caused flooding and no additional impervious surfaces should be permitted. Attorney Mead responded that a variance would be needed because the lot would not meet the zoning requirements for any type of structure. She added the permit that had previously been issued for the construction of a garage has expired. Cliff Mathisen, 334R Merrimac Street, said he has spoken with the applicant about purchasing the Savory Street lot and asked if he would be able to merge it with his own property.

Ms. Mead requested an extension to allow the applicant to respond to the proposed change to the conditions. The Board members indicated they would be inclined to approve the variance if the conditions are acceptable to the neighbors. Mr. Cameron moved to continue the public hearing to the January 28, 2020, meeting. Ms. Webb seconded the motion. The motion was approved by a 4-0 vote with Ms. Pomeroy abstaining.

Jessica and Christopher Halpin

60 Marlboro Street

2019-058 - Special Permit for Non-Conformities

Eileen Graf described the plans to add a second story to an addition at the rear of the structure, which would result in the upward extension of a pre-existing non-conforming side setback. The footprint would increase from 8' x 10' to 14 x 10' but would not move closer to the property line.

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The hearing was opened to comments from the public. Harriet Turchin, 58 Marlboro Street, asked for clarification about the change in the footprint. Ms. Graf responded that the addition would expand in the direction of the existing deck, not towards the property line.

The members of the Board asked no questions of the applicant. Mr. Moore said the addition is a modest, well-planned one. Mr. Cameron said the proposal would not negatively impact the abutters. Ms. Pomeroy said the addition would not be detrimental to the neighborhood. Mr. Ciampitti said the application is modest and thoughtful.

Ms. Pomeroy moved to approve the Special Permit for Non-Conformities for 60 Marlboro Street. Mr. Cameron seconded the motion. The motion was approved by a 5-0 vote.

Steve French c/o Lisa Mead, Mead, Talerman & Costa, LLC

164-166 Water Street

2019-059 - Special Permit

2019-060 - Special Permit for Non-Conformities

Continued from 11/12/19

Lisa Mead represented the applicant, who is proposing to convert a mixed-use structure to a two-family use. She said the change in use would not be detrimental to parking or pedestrian traffic. A two-family use would be more in keeping with the neighborhood than a mixed use. The change from three to four bedrooms would only modestly impact the water and sewer lines. The applicant is also seeking a special permit for non-conformities. The existing garage would be removed and rebuilt on a larger footprint. The porch would be removed, which would improve lot coverage and the front setback. Ms. Mead said the proposal would not be detrimental to the neighborhood and would not create any new non-conformities or extend any existing non-conformities.

No one from the public spoke either in favor of or in opposition to the proposal.

Mr. Ciampitti said the applicant has met the burden for the change in use. Ms. Pomeroy said the changes to the exterior of the structure would improve its appearance and would not extend any existing non-conformities.

Mr. Cameron moved to approve a Special Permit for use for 164-166 Water Street. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote.

Mr. Cameron moved to approve a Special Permit for non-conformities for 164-166 Water Street. Mr. Moore seconded the motion. The motion was approved by a 5-0 vote.

Steven J. Lewis

2-6 Market Street

2019-062 - Special Permit

Nick Cracknell represented Steven Lewis, who is seeking approval for an 8,000 square-foot mixed-use development with five residential units in the B-2 district. Since the November 12 ZBA meeting, the flow of traffic has been reversed so that drivers enter from Market Street and exit onto Summer Street. The number of parking spaces has been reduced from six to five and the stalls have been made wider and deeper. The applicant is working with the neighbors to mitigate the impacts to their properties.

The hearing was opened to comments from the public. Linda Lambert, 58 Merrimac Street, commented on the development that is taking place around the site. She said a tunnel

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would be created if the heights of all structures in the area are allowed to be maximized. She said the lack variation in the heights of structures would not fit in with the character of the town. David Davies, 65 Purchase Street, said the proposal is friendly at the street level, which could set a precedent for Waterfront West.

The Board members were in agreement with the draft stipulations that were provided. An additional stipulation will be made that the applicant must return to the ZBA if the Planning Board requires any substantive changes to the plans.

Ms. Pomeroy moved to approve the Special Permit for 2-6 Market Street with the condition that the draft stipulations are adopted. Mr. Cameron seconded the motion. The motion was approved by a 5 to 0 vote.

Paul and Pat Henault c/o Lisa L. Mead, Mead, Talerman & Costa, LLC

7 Marlboro Street

2019-063 - Variance

Lisa Mead represented the applicant, who is seeking to modify a variance that was granted in 1990 to split one lot into two. The applicant is proposing to renovate and extend the one-story addition on the westerly side of the house. The roofline change would trigger the demolition delay ordinance and the NHC is reviewing the proposal. Several letters of support were submitted by abutters.

The hearing was opened to comments from the public. Kathleen Malynn, 14 Marlboro Street, said the proposed addition is historically correct and would be an improvement to the neighborhood.

The Board members had no questions for the applicant. Mr. Moore moved to approve the modification of the existing variance for 7 Marlboro Street with the condition that the applicant is to return to the ZBA if the NHC requires any changes be made to the plans. Mr. Cameron seconded the motion. The motion was approved by a 5 to 0 vote.

Chris Burke

9 Menut Circle

2019-064 - Special Permit for Non-Conformities

The applicant is proposing to add a second story to an existing home that is non-conforming with regards to the side setbacks. There would be no change to the footprint of the structure. The aluminum siding would be changed to vinyl.

No one from the public spoke either in favor of or in opposition to the proposal.

Mr. Cameron moved to approve the Special Permit for Non-Conformities for 9 Menut Circle. Ms. Webb seconded the motion. The motion was approved by a 5 to 0 vote.

The meeting adjourned at 9:42 pm.

Respectfully submitted,
Gretchen Joy
Note Taker