

**City of Newburyport  
Zoning Board of Appeals  
January 23, 2018  
Council Chambers**

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)  
Maureen Pomeroy  
Christopher Zaremba (Associate Member)

**Absent:**

Renee Bourdeau

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 01/09/18 meeting**

Mr. Ciampitti 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  
Renee Bourdeau – absent  
Maureen Pomeroy – approve  
Christopher Zaremba – approve

**3. Public Hearings**

**2017      054**  
**Address: 92R Merrimac Street**  
**Dimensional Variance**  
*Construct a multi-family building requiring variances for lot area, open space, height, and front- and rear-yard setbacks*

The applicant requested a continuance to the 2/27/18 meeting.

**Motion to continue application 2017-054 to 2/27/18 made by Mr. Ciampitti, seconded by Mr. Zaremba.**

The motion passed unanimously.

**Votes Cast:**

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

**2017      089**  
**Address: 2 Storey Avenue**  
**Sign Variance**  
*Allow a free-standing sign*

This hearing is continued from the 12/12/17 meeting. George Asprogiannis, owner, Famous Pizza presented the application. He spoke about the importance and reasoning behind proposed signage for Storey Avenue traffic. Mr. Asprogiannis was less concerned with residents and traffic coming from High Street. He was concerned with a need for signage coming from the Storey Avenue direction. The driveway entrance used to be massive and has been made smaller to decrease cut through traffic. Traffic must now make a full stop to take the left turn, and he was concerned that without the proposed signage, cars would not have enough time to time. He also explained that 80% of his lunch patrons are workers who may not know where Famous Pizza is. Signage on the Storey Avenue side of the building would not be enough in the spring and summer with tree growth, blocking the signage from traffic. When the old free-standing sign went up at that location, business increased 20% and he did not want to lose business when they reopen. The new sign is low profile, away from residential neighbors. The applicant thought about an ‘enter’ sign in place of the full free-standing sign, as suggested by the Board to look into at the last hearing, but did not think that would work.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*None*

**In Opposition:**

*Tom Kolterjahn, 64 Federal Street*

Concerns included; residential district, far too many signs

Bob Solazzo, 7 Ferry Road also on behalf of Ray White, 5 Ferry Road

Concerns included; Lighting, trees cut down, no need for more signage

Bill Morrill, 1 Ferry Rd

Concerns included; sign location blocking sight lines, bright lighting, excess signage

**Questions from the Board:**

Mr. Ciampitti asked how the sign would be lit. The sign would be backlit and appear ‘shadowed.’ Similar to the UFP sign on Hale Street recently approved by the Board. In response to lighting comments, he responded that lights go off at the property at 11pm, and timers have not yet been adjusted. Security lights on the building would stay on. They never had adequate lighting in the parking lot previously.

Ms. Pomeroy clarified the height of the sign was approximately 5' x 3.5'. This was correct, and the sign would sit on a 27" wall. Ms. Pomeroy also clarified the 'shadow' lighting being proposed was backlit. Yes, other than letters, nothing on the sign would be lit.

Mr. Ramsdell asked if the applicant spoke with the building inspector about directional signage as suggested at the last hearing. Mr. Asprogiannis did not speak with the building inspector, and did not want just an 'enter' sign.

Mr. Zaremba asked if the sign needed to be lit at all if the lunch crowd is the main concern. Lit signage for those coming from Storey Avenue at night was desired. Mr. Ciampitti clarified if they absolutely need lighting on the Storey Avenue side. The applicant responded that they did.

Ms. Pomeroy clarified there is only one sign going up. Yes, only one sign is proposed.

Mr. Ramsdell brought up that the Planning Office Staff report was against more signage at this location and asked Ms. Newhall-Smith, City Planner to elaborate. She noted the office did not see the argument for hardship. The new safety issue brought up tonight could potentially be argued.

#### **Deliberations:**

Ms. Pomeroy still had issue with hardship argument. She also understood neighbor concerns on size and lighting. She might consider something smaller and not lit, but was not in support as presented.

Mr. Ciampitti explained procedural advice and the possibility of a continuance to speak with the building inspector and Planning Office further. Mr. Ramsdell suggested this sign as it stands would not pass, even with additional photos in the Spring as the applicant suggested bringing back.

The applicant requested a three-month continuance if possible.

#### **Motion to continue application 2017-066 to 04/24/18 made by Ms. Pomeroy, seconded by Mr. Ciampitti.**

The motion passed unanimously.

#### **Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

**2018      004**

**Address: 9 Basin Street**

**Special Permit for Non-conformities**

*Construct a second story addition intensifying the pre-existing non-conforming side setback.*

Bill Barret, 1 Jackson Way, Newbury presented the application. The applicant is looking to extend the home upward, not outward completely within the existing footprint. The property is non-conforming in lot area, frontage, and side yard setback. No new non-conformity would be added. The south side setback would be extended upward, but would not exceed existing height. The FAR (floor area ratio)

would be 24.9% and conforming. The improvements would not be substantially more detrimental to the neighborhood.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*Bill Kilmartin, 9 Basin Street*

*Explained the reasoning behind the expansion with family visiting on weekends and the need for more room.*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. Zaremba clarified that the home is three bedrooms currently and staying three bedrooms, just changing location. This was true.

Ms. Pomeroy asked if they would consider a deed restriction on keeping the home three bedrooms in future. The applicant was amenable, although it was explained that maximum zoning only allows three bedrooms.

**Deliberations:**

Mr. Ciampitti commented on the reasonable request. It is a rare application on Plum Island with no opposition. The proposed changes are not substantially more detrimental to the neighborhood and he could support.

Ms. Pomeroy agreed. This is a reasonable request keeping the home three bedrooms. There was also no opposition and no new non-conformities being added. All criteria were met.

Mr. Zaremba and Mr. Ramsdell agreed.

**Motion to approve application 2018-004 made by Mr. Ciampitti, seconded by Mr. Zaremba.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

**2018 005**

**Address: 4 Chapel Street**

**Special Permit**

*Allow a two-family use*

Al Clifford presented the application. The applicants proposed to build a two-family structure on a vacant lot at 4 Chapel Street. The lot is located in the R2 zone where a two-family is allowed by Special Permit. The applicant went through Special Permit criteria;

1. The use requested is listed in the table of use regulations or elsewhere as in the ordinances requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.
2. The requested use is essential and/or desirable to the public convenience or welfare. Diverse housing would be created.
3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety. There would be sufficient parking on site and sidewalks in place.
4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare. Impact on public utilities would be negligible.
5. Any special regulations for the use, set forth in the special permit table are fulfilled. There are no special regulations in this case.
6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. The use would be consistent with a mix of single-family and multi-family structures.
7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. The use will be consistent with the neighborhood and not cause an excess of two-family homes.
8. The proposed use is in harmony with the purpose and intent of this ordinance.
9. The proposed use shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

The large lot of over 24,000 s.f is unusual in the City. It is large enough to support a multi-family, but a two-family is far more in keeping with the neighborhood. The proposal meets all dimensional requirements. Plans and rendering were presented showing the offset configuration of the structure for better use of the long, deep lot. At the streetscape it gives the look of a single-family home to blend with the neighborhood. The 1.5 story structure makes for a smooth transition in the neighborhood. Architecture in the area is mixed, so for this project they proposed crossed style patterns with a craftsman style home. The applicants would provide fencing and vegetation to neighbors as a buffer. The rear of the lot is a wooded area with no invasion of privacy to neighbors. The applicants have visited with many neighbors and submitted signatures in favor of the project.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*James Wright, 25 Howard Street*

*Appreciated the hard work and effort of the applicant.*

*Dave Lemoine, 1 Chapel Street*

*Appreciated the 1.5 stories and appearance as a single family.*

*Brice McDougall, 7 Chapel Street*

*Mr. McDougall asked a clarifying question of whether the renderings tonight were what will be built. This was true. He was in support.*

*Michael Bennett, 6 Chapel Street  
Approved of the project.*

**In Opposition:**

*Tom Kolterjahn, 64 Federal Street*

*Mr. Kolterjahn was not in opposition, but wanted to raise the issue of R3 dimensional controls being used in the R2 zone. Mr. Ramsdell explained what was explained in the Staff Report that; MGL chapter 40A, section 6 - this allows for the protection of a vacant single or two-family lot having at least 5,000 square feet of area and 75 feet of frontage to be protected from changes to dimensional requirements for a period of five years from the zoning change. While this parcel is now located in an R2 zoning district due to an amendment passed by the City Council a few months ago, the fire occurred when the parcel was in the R3 district and thus construction of a two-family home may meet the requirements for a two-family structure in the R3 zoning district since it used to be located in the R3 zone.*

**Questions from the Board:**

Mr. Ciampitti asked what materials would be used. Natural materials would be used.

Ms. Pomeroy asked about similar uses as two-family in the neighborhood. Neighbors noted other in-law apartments and two-family uses in the neighborhood

Ms. Pomeroy asked about DPS comment. Ms. Newhall-Smith noted that she has not heard back from DPS and that the applicants would work with DPS on the street tree and sidewalk ordinance.

Mr. Zaremba noted a potential driveway curb cut issue with DPS. The applicants would work that out with DPS and potentially come back to ZBA for a minor modification if needed.

**Deliberations:**

Mr. Ciampitti commented on the well-presented application. Special permit criteria were met and the neighborhood was in support.

Ms. Pomeroy agreed. The one hang up she had was the common wall connector and whether the garage wall was counted as part of the residential structure. Mr. Zaremba was also hung up on this.

Mr. Ramsdell commented that it appears the overlap dimensions meet the requirements. It does not appear the common wall connector absolutely needs to be the residential units. This could be argued both ways.

Mr. Ciampitti spoke about the common wall connector and how great liberties had been taken in the past with breezeway and porches connecting the two dwelling units. The garage did not hinder him, as it is heated indoor space.

Mr. Ramsdell commented on the reasonable sized connector in this case.

Mr. Zaremba came around to being in support after hearing from colleagues.

Ms. Newhall-Smith that the Planning Office believes that the intent of the adoption of the 'common wall connector' definition was meant to prohibit two- and multi-family structures from being connected via garage space. However, the definition does not expressly prohibit connections via garages. Neighbors seem to be in favor. She did want to hear what DPS has to say about the proposed curb cuts for the driveways. It is well designed, neighbors happy, and she could see getting around the common wall.

Ms. Pomeroy also agreed that the size of the garages could sway her thoughts on the connector.

Conditions;

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that, as a recommendation had not been received from DPS that the applicant should coordinate with DPS to comply with the ordinance.

**Motion to approve application 2018-005 with above condition made by Mr. Ciampitti, seconded by Mr. Zaremba.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

**2018 002**

**Address: 3 Wright's Court**

**Special Permit**

*Allow an in-law apartment*

Attorney Mark Griffin, of Finneran and Nicholson, 30 Green Street presented the application. The property at 3 Wrights Court is new construction in a recent subdivision off Toppans Lane in the R2 district. The proposal is to create an in-law apartment above the garage bays of the attached garage. The space is already built; there is nothing above and beyond being built. The apartment would be 697 s.f., which is under the 900 s.f. limit. The lot is over 26,000 s.f. and this apartment would not overburden such a large lot or add much density. The in-law apartment would house the homeowner's mother, who is moving from New Jersey. There is sufficient parking dedicated to the unit, which will have use of one garage bay. All safety and building codes will be met.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*Karen McCloskey, 3 Wrights Court*

*In favor and looking forward to having her mother with them from New Jersey.*

**In Opposition:**

*Tom Smith, 36 Toppans Lane*

*Concerns included; 20' vegetated boundary in HOA and part of Planning Board decision as well as new stairway attached to the garage. Scott Brown, architect explained that the stairway is a secondary*

*means of egress. This does not enter the 20' vegetated boundary. There was discussion of stairways being allowed to extend into a setback.*

**Questions from the Board:**

Mr. Zaremba asked if the house is already built. Yes, it is. The only change is the egress staircase.

**Deliberations:**

Mr. Zaremba commented on the reasonable project.

Ms. Pomeroy concurred that it met criteria and was within the confines of the existing home.

Mr. Ciampitti agreed and noted the stairway for safety and code is not an encroaching factor on setbacks. The building wall is outside of setback and vegetative buffer. This was a careful and thoughtful application.

Mr. Ramsdell agreed. He noted an uncovered staircase is treated as a patio. He appreciated the vegetative boundary being brought up by neighbor.

Ms. Pomeroy noted the copy of the plan the Board had does not depict the stairwell and should be submitted.

Mr. Ramsdell commented that the project did not trigger the sidewalk and tree ordinance.

**Motion to approve application 2018-002 with condition to add updated plan depicting external stairs made by Mr. Zaremba, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

**2018      003**

**Address: 1 Marlboro Street**

**Special Permit for Non-conformities**

*Remove existing rear addition and replace with a two-story addition, which will extend the pre-existing non-conforming lot coverage*

Attorney Mark Griffin of Finneran and Nicholson, 30 Green Street presented the application. The property is located on the corner of Marlboro Street and Water Street in the R2 zone and is pre-existing non-conforming with respect to lot area, front setback, side setback, lot coverage. The applicants are proposing the removal of an existing single story addition on the rear of the home and replacing it with a larger two-story addition. The structure is listed as contributing to the Newburyport Historic District, however the DCOD was not triggered in this case. They are also not triggering the addition of over 500 s.f. Special Permit, as they will be adding only 391 s.f. of additional space. The applicants submitted letters of support from abutting homeowners. Elevations of existing versus proposed conditions were



presented. The addition fits in with the historic home and does not alter roof pitch of the existing home. Lot coverage is the only non-conformity that would be extended (26.2% to 30.4%). The property is going to continue to be used as a single family. The project will not be substantially more detrimental to the neighborhood and neighbors in favor with this addition that fits in with the neighborhood. The addition is going to allow the homeowner's father to live with them, without needing an in-law apartment. Attorney Griffin also noted that wooden clapboard siding and the same window style as the existing structure would be used on the addition.

**Chair Ramsdell opened the hearing to public comment.**

**In Favor:**

*Michael Callahan, 1 Marlboro Street*

*Mr. Callahan explained that this addition will allow for a downstairs bathroom and room for his disabled veteran father. He noted that his wife researched historical compliance and was involved in the design of the addition.*

**In Opposition:**

*Tom Kolterjahn, 64 Federal Street*

*Mr. Kolterjahn was not in opposition. He noted that wooden clapboards with exposure to match the existing home and windows matching the existing style would be great. He loves this building. The addition appears modest and the hip roof seems appropriate. He did note that plans do not appear to have dimensions. Attorney Griffin noted the floorplans have measurements.*

**Questions from the Board:**

Mr. Ramsdell commented it is nice to have measurements on elevations.

Mr. Zaremba clarified the first floor floorplan in the addition.

Ms. Pomeroy asked about consistency with wood clapboard and windows as conditions on the decision. The applicants were amenable.

Mr. Ramsdell asked if the applicant could submit elevations with measurements as a condition. The applicants were amenable.

**Deliberations:**

Mr. Ciampitti commented that Special Permit criteria was met and it is sensitive to the historical consistency. There was also no opposition to this modest request.

Ms. Pomeroy agreed. She also commented on the applicant's willingness to add conditions to the decision.

Mr. Zaremba agreed. This will be an improvement.

Conditions;

- Revised elevations showing actual dimensions of the structure and its components (windows, doors etc.) shall be submitted to the Planning office prior to the start of any construction.
- Materials and colors shall match those in the historic structure.
- Window design and size shall match that in the historic structure.

-The reveal in the siding shall match that on the historic structure.

**Motion to approve application 2018-003 with above conditions made by Ms. Pomeroy, seconded by Mr. Ciampitti.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Christopher Zaremba – approve

**The meeting adjourned at 9:27pm**

**Respectfully submitted, Katie Mahan - Note Taker**