

**City of Newburyport
Zoning Board of Appeals
January 8, 2013
Minutes**

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

In Attendance: Ed Ramsdell (Chair), Duncan LaBay (Secretary), Jamie Pennington, Howard Snyder, Jared Eigerman (Associate Member), Richard Goulet (Associate Member)

Absent: Robert Ciampitti (Vice-Chair)

Approval of Minutes

Minutes of December 11, 2012 Meeting

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

The motion passed unanimously.

Ed Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

Richard Goulet – abstain (absent from 12/11/2012 meeting)

2012 047

Address: 14 Russia Street

Special Permit for Non-Conformities

Demolish existing structure and construct new 2 ½ story single family home

Chairman Ramsdell lives in close proximity to this property and preferred not to participate in this hearing.

This hearing was a continuation of the hearing on December 11, 2012.

The owner of the property is Kathy Brislin, 705 Wethersfield Road, Rowley, MA. Alfred Clifford, local builder, Newburyport, MA spoke on behalf of the owner. Acting Chairman LaBay indicated that there would be only four voting members and asked the applicant if they wanted to continue with the hearing. The applicant said that he did.

This project involves the demolition of the existing 2-story single-family home and construction of a new 2 ½ story single-family home. The Historical Commission held a public hearing on January 3, 2013 and voted to release the existing structure for demolition. The proposed new structure will be nonconforming in respect to the front and rear yard setbacks in addition to not meeting the minimum frontage requirement. The applicant provided a newly completed survey

of the property indicating there was 68' of frontage. These materials were entered as an exhibit. There had been a discrepancy between the deed and the survey. Given the new survey, there will not be an option for side-by-side parking on the side of the home; the design now provides for tandem parking.

Acting Chairman LaBay opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board:

Snyder confirmed that the first plan they saw had front footage of 75', the plan lost 7' with the new survey. The front setback remains the same. The side yard setback is the only change and it increases almost 2'.

Deliberations:

Mr. Eigerman said the only remaining question had been answered. The applicant has addressed the issues of the setback with the neighbor at 16 Russia Street and the applicant knows what he is doing with parking.

Acting Chairman LaBay indicated the applicant has done everything they asked; the neighbor at 16 Russia Street should be comforted to know the ZBA has done what they can.

Motion to approve Special Permit for Non-Conformities made by Mr. Snyder, seconded by Mr. Eigerman with thought to provide 3-4 season vegetative screen to screen both 12 and 16 Russia Street.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – recused

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Jared Eigerman –approve

Richard Goulet –recused because he was absent at first hearing (12/11/2012)

2013 001

Address: 5-7 Upland Road

Special Permit for Non-Conformities

Allow for the construction of a two family dwelling in the R2 zoning district

The petitioner is 5-7 Upland Realty Trust. Mr. George Haseltine, Trustee. Russell Pierce is the property owner. Lisa Mead, Attorney, Blatman, Bobrowski, & Mead, LLC, 30 Green Street, Newburyport, MA, represents George Heseltine and spoke at the meeting.

The property is located at 5-7 Upland Street in the R-2 zoning district. The petitioner is applying for a special permit to allow the construction of a two-family structure where a single family structure exists which use is said to be allowed by Special Permit in accordance with Section 5-D of the Ordinance. The property and proposed two-family structure comply with all dimensional requirements of the R-2 District. There are already two other 2 family homes (4-6 Upland; 10 Upland) on the road. The proposed cape style structure exists throughout the immediate neighborhood. The garages are 2-car garages with driveways 18' wide. Attorney Mead provided a copy of the GIS map with assessor numbers to the board. She also provided a corrected application. The actual square footage of both units together is 6248 sf (includes garages). Each property has 2684 sf of living space and 440 sf of garage space. Attorney Mead read though the "general conditions" for the issuance of special permit for two family use with an explanation of the Petitioner's compliance with each such requirement. She read from Section II of the letter she had sent to the Zoning board of Appeals, dated 12/13/2012.

Chairman Ramsdell opened the hearing to public comment.

In favor:

Bonnie Sontag, 10 Upland Street, Newburyport, MA Ms. Sontag indicated she is in favor of the massing, scale, height, and fit with the neighborhood. She asked about the legal standing of two parcels going to one. She wanted to be sure that the tree in front of the house could be saved. The existing house is lined up with #9, she asked about staggering the front. The architect working on the project indicated that the new structure is pushed back from the existing one and the goal is not to disturb any of the trees. If they need to push the structure back further, they will do so. Ms. Sontag asked about the driveway surface whether it would be impervious. The architect responded that while they do not know the exact surface they will use, what they are doing will drastically cut down on storm water. Ms. Sontag asked about screening between the proposed structures and the neighbors. The architect said that he would work with the different abutting properties to determine what screening would be most desirable.

Mary Hefron, 4 Upland Street, Newburyport, MA Ms. Hefron said she is in favor of the application – it is a beautiful plan. She asked if it was a condo or a 2-family home. The response was that these will be condominiums.

Bret Butler, 3 Upland Street, Newburyport, MA Mr. Butler moved from Atkinson to Upland. He feels the proposed project will improve the neighborhood.

In Opposition:

Pat Levitt, 8 Upland Street, Newburyport, MA Ms. Levitt owns the property across the street from the proposed project. She is not necessarily in opposition to the project, but she is in opposition to the size of the project. She is intending to move to Upland when she retires. She would like to see 2 separate homes with daylight between them. The size of the proposed structure is out-of-character with surrounding homes. She objects to the enormous structure on the lot; none of the existing 2 family homes come anywhere near the footprint of this building. She doesn't believe it is consistent with the character of the neighborhood. She would rather see 2 separate houses with daylight between them.

Kathleen Shaw, 9 Upland Street, Newburyport, MA Ms. Shaw is opposed to the application.

Questions from the Board:

Mr. Eigerman asked about the driveways and options instead of 2 side-by-sides. The architect indicated there was a space for a living fence between the driveways. Mr. Eigerman asked why the houses were 2 mirror images. Attorney Mead said the design offered more privacy for the living sections.

Mr. Snyder said it made sense that the living areas were apart. He asked if they had pursued any other options. He asked about flipping living spaces and garages. The architect indicated they had looked at other options, ultimately they felt the current design was more in harmony with the neighborhood. Mr. LaBay asked that if, hypothetical, it were possible to obtain a variance, would they prefer 2 separate properties. The architect responded that yes, as a developer he would always prefer that, but the neighbors to the left and to the right would be impacted.

Mr. Goulet asked if the architect had looked at staggering. The architect responded that they did look at different alternatives. Mr. LaBay asked about the numbers provided on the application. He received confirmation that the size of the living space is 2648 sf.

Deliberations:

Mr. Pennington felt the applicant made the best with the limitations of the site and that the site can accommodate 2 homes. The design is respectful of neighbors. The 2nd floor has been made smaller by bringing the roofing down. The homes will not look as big as they are. He feels they meet the Special Permit criteria. He sees the benefits of the design and is quite comfortable with the application.

Mr. LaBay agrees with Mr. Pennington. The concept of a 2 family on a single lot makes more sense than going for a variance. The space is large enough to support 2 families. He referred to the concern with the appearance from across the street, 2648 sf living spaces plus garages is not a small building. How might we get to a lesser imposing set of buildings?

Mr. Eigerman said this situation is well-suited to a special permit than trying to "shoe horn" a variance. The set-backs are over 20', this does not raise as much concern as with the 10' set-back in other applications. In terms of perviousness – the driveway is a small percentage of the overall lot. The size of the homes and driveways is minimized because of the sloped roof with dormers. These are not monster homes.

Mr. Goulet agrees with his colleagues. He is concerned with the breadth of the façade but felt that it had been looked at. He said that overall this was an enhancement to the neighborhood.

Mr. Snyder felt that there had been a strong effort to mitigate the massing. He felt there was a strong effort in meeting the requirements of 2 family zoning. He didn't have an answer to the concern about providing more daylight.

Mr. Pennington felt the architect had already accomplished what he could; it looks like 2 smaller single family homes. Mr. Snyder asked Mr. Pennington about changing the front of the cape to 30' width as opposed to 33.5' width. Mr. Pennington said he supposed you could make that change, but the current proportions are nice.

Mr. Ramsdell indicated that he liked Mr. Eigerman's analysis. There is rationale for the layout proposed. He doesn't believe this is larger than some of the structures on the street. He is not sure that "tweaking" the design will do anything.

Motion to approve Special Permit for Non-Conformities made by Mr. Pennington, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

2013 002

Address: 68 Storey Ave

Use Variance

Replace existing free-standing sign

2013 003

Address: 68 Storey Ave

Use Variance

Permit a second sign on the façade of the building

The Zoning Board combined Public Hearings 3 and 4, but voted separately.

Mr. LaBay disclosed that he is a customer of the Bank, but can remain impartial.

Chairman Ramsdell disclosed that he is a customer of the Bank, but can remain impartial.

Mr. Goulet disclosed that is a customer of the Bank, but can remain impartial.

Chairman Ramsdell said he didn't believe that being a customer "trips" the notification component.

Charles Nutter, Woodman Associates Architects, 20 Inn Street, Newburyport, MA spoke on behalf of the Institute for Savings for these 2 applications.

With the first application, the applicant is proposing to replace the existing freestanding sign at the Institute for Savings. They are proposing a new location for the sign, moving it about 30 feet from the present location. He submitted the proposal for relocation to the board. He handed out pictures of the original sign they want to replace. The new sign will feature external illumination

and be constructed of a wooden panel with granite posts. The proposed sign is very similar to the existing freestanding sign located at the State Street office of the Institute for Savings. If approved, this sign will serve to reinforce the business' brand recognition and create a cohesive signage system for the company.

With the second application, the applicant is proposing to install a second sign on the Institute for Savings building, located above the first story sign band and the horizontal course of the building. The non-illuminated sign, which will feature individual gold-leaf letters in two lines of text, will measure 83.79" long with both lines of text measuring a total of 20.78" in height. The applicant is proposing this sign to alert bank customers of the lending services the Institute will now provide in this location.

Chairman Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #3:

Mr. Snyder said the new location for the sign makes sense. He asked if the ZBA votes in favor of this, will the applicant have to go to the Planning Board?

Chairman Ramsdell asked about the free-standing sign. Mr. Nutter indicated it is a replica of the one on State Street in Newburyport and one in Salisbury.

Mr. Goulet asked if they had looked at utility interferences. Mr. Nutter indicated they had and that it was a wide open landscaped area in which the free-standing sign would be placed.

Deliberations:

Mr. LaBay thinks that the free-standing sign is in keeping with what exists now and has no problem with moving it to the East.

Mr. Snyder agreed that the free-standing sign is in keeping with what currently exists.

Mr. Pennington is supportive of the free-standing sign.

Chairman Ramsdell asked about the free-standing sign, would the applicant like to have permission to put it up as they applied for it?

Mr. Snyder asked if they would have to go back to the Planning Board because of the location of the free-standing sign.

Mr. Nutter said that the Planning Board had said the free-standing sign was not in their purview.

Motion to approve the Use Variance for the replacement of the free-standing sign with the new free-standing sign at the location presented in Exhibit 1 made by Mr. Snyder, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve

Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder – approve
Richard Goulet –approve

Questions from the Board regarding Public Hearing #4:

On the sign proposed for the facade of the building, Mr. Snyder asked who will see it. It will primarily be seen by the cars coming up Low Street. He asked about the size of the letters. The applicant indicated that 2 feet is not the size of the letters but the size of the rectangle drawn around the sign.

Deliberations:

Mr. LaBay said the lending office sign on the 2nd floor of the building; he views it as unnecessary clutter on a newly designed building.

Mr. Snyder agrees with Mr. LaBay about the sign on the side of the building. It seems a bit high. Could it be lowered? What would it look like in line with the Institution for Savings sign?

Kimberley Rock, Executive Vice President, Institute for Savings addressed some of the questions raised. They have looked at different placements of the lending sign on the building. They tried to find what looks best. What they have proposed is very similar to signs they have at two other offices. They plan on having 3 lenders in that office. They want to attract new customers to this beautiful new building.

Mr. Snyder said that they are advertising a service and they want to attract customers, but the advertising can only be seen when coming up Low Street.

Mr. Pennington feels that the lending sign looks like an afterthought and feels strange.

Mr. LaBay said his issue is different. He brought up the concept of signage for branding as opposed to signage for advertising. He proposed potentially putting a lending sign off of the main free-standing sign.

Mr. Eigerman said that if they took the sign off the second floor, then people might make the mistake and think the whole building was a lending building. He likes Mr. LaBay's distinction between branding and advertising.

Mr. Pennington said he is more inclined to support hanging the lending sign off of the free-standing sign.

The applicant felt that you increase clutter when you add signs to the main signs.

Mr. Goulet agrees with his colleagues.

Chairman Ramsdell wasn't supportive of adding the lending sign to the free-standing sign – he agrees with the applicant.

Ms. Rock said that the Rowley Office has the same exact signage they are proposing. She said it is tasteful.

Mr. Eigerman asked if there were single stories elsewhere in the city where there is a second floor tenant and there are signs? It doesn't bother him in principle.

Ms. Rock said the Anna Jaques Hospital has signage on the second floor.

Mr. Pennington said that from an architectural perspective, he feels like the sign is an afterthought. It isn't awful, but it feels like an after-thought.

The applicant asked if there is something that prohibits advertising.

Chairman Ramsdell said that he doesn't personally see this as advertising that crosses the line.

Mr. Goulet asked if the façade sign is marketing or advertising? It is institutional looking.
Mr. Eigerman said he supports the sign. He said it is tasteful; it doesn't set a bad precedent.
Mr. Pennington indicated the danger of voting down the application is that it would preclude the applicant from coming back for 2 years with other designs.
Mr. Snyder said he is on the fence, if the applicant could come back with some alternatives, he might be more favorable.
Ms. Rock said they could mock up something on building and leave it standing for 2 weeks for the board to see.
Mr. Snyder said he would go look at the bank in Rowley and the one on State Street.
Ms. Rock said when they went to the Planning Board initially, they had 1 lender, now they have 3 people. How do they get people to the lenders? They want a sign up so people know they can actually go in and apply for a mortgage.
Chairman Ramsdell asked if the Planning board had seen the lending sign proposal. The lending sign was not presented to the Planning Board.

Motion to continue the hearing for the Use Variance related to the lending sign on the façade of the building to 2/12/2013 made by Mr. LaBay, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder – approve
Richard Goulet – approve

Adjournment

Motion to adjourn made at 9:10 p.m. by Mr. Goulet seconded by Mr. Pennington.

The motion passed unanimously.

Ed Ramsdell – approve
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder – approve
Richard Goulet – approve
Jared Eigerman - approve

Respectfully submitted, Jennifer Lamarre - Note Taker