

**City of Newburyport
Zoning Board of Appeals
January 9, 2018
Council Chambers**

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

1. Roll Call

In Attendance:

Robert Ciampitti (Vice-Chair)
Richard Goulet (Secretary)
Maureen Pomeroy
Renee Bourdeau
Christopher Zaremba (Associate Member)

Absent:

Ed Ramsdell (Chair)

2. Business Meeting

a) Approval of Minutes

Minutes of the 12/12/17 meeting

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

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings

2017 082

Address: 14-16 Charles Street

Special Permit for Non-conformities

Construction of an addition in excess of 500 s.f. to a two-family home on a lot with pre-existing non-conforming lot frontage and area

The applicant requested to withdraw without prejudice.

Motion to withdraw application 2017-082 without prejudice made by Mr. Ciampitti, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 085

Address: 12 Purchase Street

Special Permit for Non-conformities

Construct an addition resulting in an extension of a pre-existing non-conforming side setback

Eric Primack presented the application. Jeanne Allen of JMA Architects was also present. The application was brought before the Board in October and continued as the Board and neighbors had concerns that included;

-A request to bump in the back addition to differentiate the existing house and new addition

The addition was bumped in approximately 1' to differentiate it from the original structure.

-A deck overlooking a neighbors' yard

A 6' privacy screen would be added to the deck.

-Materials used

Siding would be clapboard, 2 over 2 simulated divided lite windows, granite steps, attractive landscaping, and stone driveway to fit with the neighborhood.

Ms. Allen briefly described the updates.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

Tom Kolterjahn, 64 Federal Street and Newburyport Preservation Trust

Mr. Kolterjahn was not in opposition. He appreciated the architect listening and bumping in the rear addition. It definitely helps. The Board's encouragement was helpful. He did ask that the decision be clear and specific in materials so plans are followed and enforced if needed. As far as the clapboard, it would be helpful to know if they would be following the exposure of original house. He also thought window type should be specified.

Michael Cyros, 8 Purchase Street

Appreciated the deck changes, although would prefer no deck. He asked what materials would be used for the privacy screen and the height. Ms. Allen responded that the fencing material would be batten board or something solid and be 6' high.

Questions from the Board:

Ms. Bourdeau asked that the privacy screen be specified in the decision. The applicant had no issue with this.

Mr. Zaremba asked if the privacy fence would run the entire length of deck. It would.

Mr. Ciampitti asked about the clapboard reveal. Mr. Primack responded that the 4" reveal would be consistent with the historic aesthetic.

Ms. Bourdeau commented on feedback on sidewalk and tree ordinance. A new tree was recently planted and they are encouraged to protect it. Mr. Primack noted that the tree is not in prime condition currently and would be replaced if necessary. Ms. Bourdeau noted they needed to work with the City to coordinate this.

Mr. Zaremba asked if the driveway was gravel currently. It was and they intended to keep it that way.

Mr. Ciampitti asked if the windows were wood sash. They would be aluminum Harvey windows.

Deliberations:

Ms. Bourdeau listened to feedback and was comfortable approving with conditions.

The rest of the Board agreed.

Conditions;

1. The hardiplank siding on the new, rear addition shall have the same exposure/reveal as that found on the main portion of the home.
2. The windows shall be 2 over 2, simulated divided lite windows and shall match those used on the main portion of the home.
3. There shall be a 6' tall privacy screen/fence installed on the northwesterly end of the upper level deck so as to provide privacy for both the homeowner and for the abutting neighbors at 8 Purchase Street.
4. Throughout the duration of construction of this project the applicant shall protect the existing street tree. Should the tree be damaged from construction or otherwise, the applicant shall coordinate with the City of Newburyport Tree Warden to replace said tree at the expense of the applicant.

Motion to approve application 2017-085 with above conditions made by Ms. Bourdeau, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

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

2017 088

Address: 32 Union Street

Dimensional Variance

Split lot requiring variances for frontage and lot width

The applicant requested a continuance to the 2/13/18 meeting.

Motion to continue application 2017-088 to 2/13/18 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

2017 066

Address: 10 Ashland Street

Special Permit for Non-conformities

Modify pre-existing non-conforming structure for a two-family

2017 067

Address: 10 Ashland Street

Special Permit

Allow two-family use (#102)

Mr. Zaremba was unable to participate in the hearing, as he was not yet on the Board when the application was first heard. Mr. Ciampitti disclosed a potential conflict of interest, which was also submitted in writing to the Planning Office. He felt he could objectively and fairly serve.

Attorney Lisa Mead of Mead, Talerma & Costa LLC presented on behalf of the applicants. The applicants first withdrew application 2017-066 to modify the pre-existing non-conforming structure for a two-family. The plan is to create a two-family use on the corner of Ashland Street and Ashland Court. With previous iterations, there were driveway location concerns, bulk and massing concerns. Now the applicants hope to create the two-family from within the existing walls, with the driveway as it exists today. Aileen Graf, of Graf Architects presented the changes. With most changes happening inside walls, Ms. Graf went over the few exterior changes. The garage would have two doors, instead of one large door. On the Ashland Court side windows would slightly change in configuration and small cellar sashes would be added. On the Ashland Street side a window would be changed to a door. In the rear of the structure, there would be changes in window configuration and in the back of garage a single door would be added. The style of window would change to 6 over 6 across the structure. Ms. Mead commented that they have addressed bulk and massing with this solution.

Ms. Mead noted that at a previous hearing that she stated that other houses on Ashland Court had driveways in front of the house. A neighbors' counsel of neighbors said this was not true. Ms. Mead presented a photo of 15 Ashland Court and stated she was not misleading the Board.

Per DPD request brick sidewalks on Ashland Street and Ashland Court would be replaced. Ms. Mead reviewed Special Permit Criteria and justification. She stressed that there is a mix of housing types in this neighborhood and the proposed project would be consistent.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

Andy Simons, 25 Ashland Street

Lived at the property since 1993. Concerns include; housing trend in the neighborhood has been turning two-family properties back to single family, outdoor living will be in the front yard because wetlands are on the backside, infill and dense neighborhood.

Brooks Patterson, 19 Ashland Street

Mr. Patterson noted that 10 Ashland Street was built as a single family and intended to be a colonial reproduction. It is clearly visible from Merrimac Street and traveling down from High Street. The way it is situated has a unique impact on the street making it a cornerstone property. Concerns included; thoughtful development on Ashland Street, density, three new entryways which will become defining features, street facing patios, 7 new windows changing the façade greatly, no other patio in area in front yard, lot challenged by wetlands and topography.

Kevin Delahanty, 27 Ashland Street

Mr. Delahanty is a retired Navy veteran settled here after looking up and down east coast and falling in love with the architecture and preservation of the city and character of its neighborhoods. Concerns included; no backyard leading to front yard living, and changing the neighborhood.

Mr. Delahanty also submitted a letter from Robert and Elizabeth Groskin of 22 Ashland street. Their concerns included; squeezing a two-family onto an unsuitable lot, no homes in neighborhood and a ½ mile radius have patios in front of the house.

Tom Kolterjahn, 64 Federal Street, Newburyport Preservation Trust

Mr. Kolterjahn noted that in general he would not comment on something new and outside the historic district. His concerns included; the historic streetscape, and the bulk of properties in neighborhood are single family.

Pam Kipp, 11 Tremont Street

Ms. Kipp has been through a similar project on her street where she has lived since 1989. She explained that in 1986 before she purchased her home a developer wanted to knock down her barn and convert the property condos. The ZBA back then opposed the project. She stressed that project like this become a mess for the neighborhoods.

Linda Lambert, 58 Merrimac Street

Ms. Lambert was a concerned resident who has been following the City Council's changes to protect the flavor of Newburyport. This is a step in the wrong direction. City leaders are moving forward and she hoped the ZBA would deny this.

Frank Tagliaferri, 18 Ashland Street

Concerns included; density, congestion, and noted the saying "just because you can, doesn't mean you should."

Mary Gibney, 11 Ashland Street

Ms. Gibney lives in a home that was formerly a two-family converted back to a single-family. She supported the comments of her neighbors. She felt this was an out of town developer here to make money.

Ms. Gibney also submitted a letter of concerns from Jill Tierney, 13 Ashland Street.

Amy Patterson, 19 Ashland Street

Mr. Patterson's comments echoed neighborhood concerns. She felt the project was the wrong direction for the city and street. She did not understand the importance of converting this to a two-family.

Rob Germinara, 2 & 8 Ashland Street

Mr. Germinara is a 50-year resident of Ashland Street. His concerns included; two-family homes in the neighborhood are true two-family homes built in the 1800s, sidewalks would be required and were not optional. He stressed it was not up to neighborhood to bail out the developer and the ZBA has the discretion to turn this down.

Charles Tontar, 29 Jefferson Street, City Councilor

Councilor Tontar thanked developer for modifying plans, but said the neighborhood was not convinced. It is important that character be maintained.

Attorney Mark Griffin, representing the Pattersons, 19 Ashland Street

Mr. Griffin stated his clients were opposed to the project. Their concerns included; massing, height, and driveway locations. Neighbors have objected since the first hearing to a two-family home, guiding toward development of single family. Adding the second unit makes a difference. Issues that remain include a driveway in the front yard is now a patio. It is an interruption to the streetscape just like the driveway would have been. The new "catwalk" is visible and unique. Attorney Griffin stressed they applicant may not be a candidate in this location, with these features for a two-family. Neighborhood and abutters are against the project, stressing is not an essential and/or desirable use. The ZBA have the ability to deny and they should.

Ms. Mead responded to some of the comments. She noted that there is a small deck addition, not a catwalk. The patio is not vertical, and would not interfere with the streetscape. She did not that the applicant would remove patio. She explained that one cannot put restrictions on swing sets and the like in someone's front yard. The new changes are much more in keeping with the neighborhood. The windows are not representative of the era as they are today; there is nothing colonial about the Ashland Court side. The changes would make its much more in character. She stressed the opportunity to create more diverse housing.

Questions from the Board:

Ms. Pomeroy asked if the applicant was willing to take patios off the table. Yes, they would. Ms. Graf explained that they would extend the back deck instead of a patio, and would move the door if that would help. There is an existing deck there today.

Deliberations:

Ms. Bourdeau appreciated all the public input. The majority of changes improved the home. An application for change in use change was in front of the Board. Initially she felt it was a good application

that met all dimensional requirements, creating more economic housing for families, and not intensifying neighborhood. She was now on the fence after hearing input from the public.

Mr. Goulet respected neighborhood comments. There was a balance of the City's master plan and creativity. Patios are not in the ZBA's purview. Architectural features make the project better. He was in support.

Ms. Pomeroy commented on the criteria and the fact that the project met more criteria than they usually see. The contractor addressed many concerns and there would be minimal changes to the outside. She was on the fence, but not seeing anything to hang her hat on opposition.

Mr. Ciampitti commented that the project checks a lot of compliant boxes, such as not intensifying or adding non-conformities. He has respect for the contractor's work and applauded the creative Herculean effort. He had to take into account the voices that actually live there with 16 residents commenting against the project he was not sure this project works.

Ms. Mead requested to withdraw the remaining application.

Motion to withdraw application 2017-066 without prejudice made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– absent
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

Motion to withdraw application 2017-067 without prejudice made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– absent
Robert Ciampitti – approve
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy – approve
Christopher Zaremba – non-voting

2017 084

Address: 34-36 Hancock Street

Special Permit for Non-conformities

Modify pre-existing non-conforming use by changing the lot size and dimensions

Mr. Ciampitti was not qualified to vote, as he was not present at the first hearing and did not yet listen to the recording and review minutes. Attorney Lisa Mead of Mead, of Talerman & Costa LLC presented

on behalf of the applicants. When the applicant last presented proposed a lot split with new lot on Chestnut street with a new single-family home that would “fill a missing tooth gap” on the streetscape. The Board agreed with the project and the use was compatible with the rest of the street, but they could not get to justifying the criteria. The applicants then withdrew the variance application and amended to a Special Permit. The lot would become a mixed-use condominium. There would be no extension of or new non-conformity and the proposed project would not be substantially more detrimental to neighborhood. There would be a fence run between the single-family and club for separation. Changes beneficial to neighborhood.

Scott Brown, architect went over plans for the single-family structure proposed. It is similar to a house ½ mile away by the same developer. The design is an appropriate fit for neighborhood in scale, massing and detail. Neighborhood letters of support were submitted. Attorney Mead reiterated that on historic insurance maps, there was a house in the rear of the Neptune club property.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Ms. Pomeroy commented on a the Staff Report note on the sidewalk needing to overlap onto private property in order to save trees. This would be a condition of the decision. There are two trees on Chestnut Street that the neighbors want to keep (and DPS is working with the applicant on pruning and saving them), so a sidewalk easement to the City would be needed to provide the minimum 24” of hardscape around the trees to ensure sidewalk accessibility.

Mr. Goulet asked about the Hancock Street sidewalk and fence. The sidewalk would be replaced with brick, and the fence with cedar clapboard hiding a metal fence with security gate.

Deliberations:

Ms. Pomeroy thought it a nice project with continuity for Chestnut Street with applied conditions.

Ms. Bourdeau thought this made sense and based on letters of support, no one in opposition, and the house fit the character of the neighborhood.

The rest of the Board agreed.

Conditions;

1. Prior to the issuance of a Building Permit, the applicant shall consult with the City of Newburyport Tree Warden as to the creation of a plan to prune and remove any dieback from the two large trees located in the Chestnut Street right-of-way at both the eastern and western property lines to promote their health. The applicant shall provide written evidence from the Tree Warden that illustrates such a plan has been discussed and agreed upon to the Building Commissioner with a copy of same provided to the Office of Planning & Development

2. The applicant shall provide a minimum of 24" of hardscape around said trees to ensure sidewalk accessibility; this hardscape may extend onto the applicant's property.

3. Prior to obtaining an occupancy permit for the residential structure, the applicant shall provide an easement to the City to allow public access along any portion of the sidewalk that extends onto private property. Such easement shall be submitted to the Office of Planning & Development for review prior to recordation at the South Essex Registry of Deeds.

Motion to approve application 2017-084 with above conditions made by Ms. Pomeroy, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – absent

Robert Ciampitti – non-voting

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy – approve

Christopher Zaremba – approve

2018 001

Address: 13 North Atkinson Street

Special Permit for Non-conformities

Modification to pre-existing non-conforming two-family by removal and reconstruction of two-family

Attorney Lisa Mead of Mead, Talerman & Costa presented on behalf of the applicants. Plans with minor change were handed out to Board. Patrick Reddy of Redco Construction and Aileen Graf, of Graf architects were also present. The applicant is proposing to demolish the existing two family structure and construct a larger two family structure in its place. The new structure will meet all of the R2 dimensional controls for a two-family building with the exception of the frontage (70' where 120' are required) and side yard setback (11.5' and 10.3' where 20' are required), which are pre-existing non-conformities. There would be no addition of new non-conformities. Side setbacks are actually improving slightly. The project is not substantially more detrimental to the neighborhood.

Ms. Graf presented proposed elevations. The structure would be gambrel style from the front and a gable edge. Units would split down the middle. As the structure extends back, it steps in. Each unit would be 3 bedrooms and 2400 s.f. The lot can support this slightly larger structure with only 18% lot coverage. It is similar to the structure next door in that it is built into the lot. The design respects the narrowness of the lot and visual impact from street. A retaining wall and stockade fence along the right side property line is proposed.

Letters of support from neighbors were submitted; 12, 19, 14 North Atkinson Street.

Vice-Chair Ciampitti opened the hearing to public comment.

In Favor:

Janet Goldsmith-Crump, 8 Tracy Street

Ms. Goldsmith-Crump's property abuts the project. Her family has lived at 8 Tracy Street since 1951 and he grandfather helped build the existing house at 13 North Atkinson Street making the project unnerving.

She was concerned with driveway along the property line and runoff from the neighborhood. She also wanted clarification on the survey the applicant had done, as it seems as if she has more property than previously thought. She noted she was not a fan of the stockade fencing.

There was some discussion on the stamped surveyed plans and the developer coordinating with the neighbor as the project nears when the property is staked.

In Opposition:

None

Questions from the Board:

Mr. Goulet asked about addition of hard surface added and the mitigation of drainage. Mr. Reddy would install drywells that could be conditioned if needed. Mr. Goulet asked about the driveway surface proposed. He had planned on pavement as pea stone was not ideal. Mr. Goulet suggested pervious pavers. There was also discussion of pitching the driveways to flow to dry wells and grassy areas within the lot.

Ms. Pomeroy noted that the “addition in excess of 500 s.f.” box was not checked on the application. Ms. Mead revised this and checked the box. Ms. Pomeroy also asked if the materials would be constructed of the same materials as the house. Yes, they would be hardiplank with 4” exposure, simulated divided lite windows, and composite trim.

Deliberations:

Ms. Pomeroy was surprised more abutters were not present. It is a visually appealing project. She was in support as it fits in with the neighborhood and there was abutter support.

Ms. Bourdeau agreed. The owner was willing to work with neighbors on adjustments with drainage and fence as conditions.

Mr. Goulet agreed. The project is not substantially more detrimental to the neighborhood.

Mr. Ciampitti and Mr. Zaremba also agreed.

Conditions;

1. The applicant shall erect a fence, preferably not a stockade-style and more similar to a split-rail style, along the southwesterly property line.
2. The applicant shall install the following measures to control storm water on the site:
 - a. Collect roof run-off in gutters that lead into drywells, and
 - b. Grade/pitch the two driveways so that storm water flow is directed toward the pervious lawn areas in the front and the rear of the home.
3. The applicant shall coordinate the timing of the site survey and subsequent staking of the property with the abutter at 8 Tracy Street so as to allow the abutter an opportunity to witness such work to enable a better understanding of the location(s) of the property line(s).

Motion to approve application 2018-001 with above conditions made by Ms. Bourdeau, seconded by Mr. Zaremba.

The motion passed unanimously.

Votes Cast:

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

The meeting adjourned at 9:44pm

Respectfully submitted, Katie Mahan - Note Taker