

**City of Newburyport
Zoning Board of Appeals
February 14, 2017
Council Chambers**

The meeting was called to order at 7:12 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Richard Goulet
Renee Bourdeau
Maureen Pomeroy (Associate Member)

Absent:

2. Business Meeting

a) Approval of Minutes

Minutes of the 01/24/17 meeting

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

The motion passed unanimously.

Votes Cast:

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

There was quick discussion of future meeting dates. Chair Ramsdell will not be in town 2/28/17. Ms. Bourdeau needed to confirm she would be available. Mr. Goulet and Mr. Ciampitti will be unable to attend the 3/14/17 meeting. This meeting will have to be rescheduled without a quorum.

3. Public Hearings

Public Hearing #1:

2016 075 Address: 24 Bromfield Street Special Permit for Non-conformities <i>Construct a one-story kitchen addition in the rear of the existing home</i>

This meeting was continued from the 11/1/16 and 1/10/17 meeting. Attorney Mark Griffin presented on behalf of the applicants. As a result of the last hearing variance criteria was needed. Mr. Griffin presented clear plans to the Board. The sunlight would not be affected in the neighboring yard. As a deeded half house in the R3 zoning district, they share a lot line with immediate neighbors in their south end neighborhood. A very small single story addition is proposed. The lot is non-conforming in lot area, frontage, front and side setbacks. The addition would add lot coverage to non-conformities at 36.2% where 30% is allowed. As far as hardship for the variance, shape and topography of the lot were argued as the lot is quite narrow. There is really no addition that could be added to meet setback requirements. The lot is also an interior lot surrounded by other non-conforming lots. The addition is aesthetically pleasing and designed to minimize impact on neighbors. The immediate adjoining neighbor appears to still be dissatisfied. The addition is not substantially more detrimental to the neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Mr. Goulet noted that 22 Bromfield Street supported the application.

In Opposition:

Attorney Lisa Mead spoke on behalf of Brian Gemme, 26 Bromfield Street

Concerns discussed were; exacerbation of their own non-conformity, creating their own problem, a rectangular lot is not unique, no other shared lot lines having protruding additions, failing to look at the purpose and intent of the ordinance.

Questions from the Board:

Mr. Ciampitti asked with respect to the Special Permit for Non-conformities and evaluating the impact of the neighborhood. Does the impact to an immediate neighbor outweigh the impact on the neighborhood as a whole? After some discussion, most agreed that the addition may be detrimental to a neighbor, but not the neighborhood as a whole.

Mr. Ciampitti clarified the renderings are current.

Mr. Goulet asked about drainage. The gutters would drain to a drywell.

Deliberations:

Mr. Goulet commented on the broader context of the neighborhood affected.

Mr. Ciampitti found it difficult. He did not agree with the lot shape and topography argument. He discussed the neighborhood impact versus neighbor. Applications are reviewed on a case by case basis, and someone should not be doomed because they own a half house. They should be able to do something modest even though it's a half house.

Ms. Pomeroy agreed with Mr. Ciampitti.

Ms. Bourdeau agreed with Mr. Ciampitti. The parties came together and could not come to a consensus. This is a modest addition. The variance argument is not strong. From the neighborhood perspective as a whole, the addition is not substantially more detrimental.

Mr. Ramsdell commented on the doomed half house comment. If you buy a half house, the other side of the coin is something could happen to the other side. Variance criteria of shape and topography does not hold, but the surrounding non-conforming lots could, although it is not a robust argument. If it moves forward, the sidewalk and tree ordinance would not be triggered.

Motion to approve application 2016-075 for a Special Permit for Non-conformities made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed.

Votes Cast:

Ed Ramsdell– approve
 Robert Ciampitti – approve
 Richard Goulet – approve
 Renee Bourdeau – approve
 Maureen Pomeroy - no

Motion to approve application for Dimensional Variance made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed.

Votes Cast:

Ed Ramsdell– approve
 Robert Ciampitti – approve
 Richard Goulet – approve
 Renee Bourdeau – approve
 Maureen Pomeroy - no

Public Hearing #2 & #3:

2016 090 Address: 114-118 Merrimac Street Parking Variance <i>Variance for parking</i>
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2016 091 Address: 114-118 Merrimac Street Special Permit <i>Allow mixed use (#405) for two residential and one commercial unit</i>
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Mr. Ciampitti recused himself from the applications.

This application was continued from the 1/10/17 meeting to allow the applicant to think about design and parking options. Ben Legare from Downeast Investments, LLC presented the application. Mr. Legare re-iterated the project plans to rebuild with once commercial unit and two residential units. New designs were presented that improved parking slightly by redesigning the building plans. An engineer studied how parking would work and incorporated two spaces with a turnaround. As far as building design, they mimicked the shape of the old building and included divided light windows, clapboard, wood trim, and other details fitting in with the Newburyport feel. There would not be a roof deck and there would not be any blockage of views from rail trail. Mr. Legare performed his own parking study, which he presented on maps. The commercial space would be a one-room office for himself, and two small residential units. Mr. Legare went through Special Permit criteria.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Arthur Allen, Asap Construction

Mr. Allen was in favor and expressed that it would beautify the area.

In Opposition:

None

Questions from the Board:

Ms. Pomeroy clarified the office space size. It would be approximately 11'x13', one room. She also asked about the driveway. Curb cuts would be needed from DPS. Mr. Legare expressed that he was making the best of a bad situation.

Mr. Goulet asked about the residential space, beyond the office. The building area was decreased from previous plans from approximately 3100sf to 2100sf. Mr. Goulet also asked about ingress and egress. There would be a vestibule, and the office would be on the right.

Mr. Ramsdell asked about parking. There are now two spaces provided with five spaces required. Two residential spaces may not be supported by the need for parking.

Ms. Bourdeau asked about pedestrian access. There are currently no crosswalks in place at the intersection, but assumed there would be in the future when the State looks at the intersection. There would be limited people coming and going. Mr. Legare thought this use would be better for the lot, though the owners are grandfathered into re-building exactly what was there previously. There may not be a perfect solution.

Deliberations:

Mr. Goulet had concerns with sightline issues that this design satisfies. There would not be a lot of vehicular movement on and off the site and the design is sensitive to height. Parking remains an issue.

Ms. Bourdeau was fine with size of building. Parking and access to off-site parking/pedestrian safety was a major concern. Mr. Legare noted there will be pedestrians whether this design is approved or they rebuild what was there.

Ms. Pomeroy commended the developer for his work thus far. She had remaining concerns with pedestrian safety.

Mr. Ramsdell commended them also, but still thought two residential and a commercial space are too intense for the lot and the corner.

Mr. Ramsdell noted that if the application were approved, sidewalks and curbing needs to be replaced per DPS.

Ms. Bourdeau commented that this plan is less detrimental than what could be built by right. She would select this option if given the two.

Mr. Ramsdell commented that it is not the role of the Board to support price point.

Motion to approve application 2016-090 made by Mr. Goulet with conditions, seconded by Ms. Bourdeau.

The motion did not carry.

Votes Cast:

Ed Ramsdell– no
Robert Ciampitti – recused
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

Motion to approve application 2016-091 with conditions made by Mr. Goulet, seconded by Ms. Bourdeau.

The motion did not carry.

Votes Cast:

Ed Ramsdell– no
Robert Ciampitti – recused
Richard Goulet – approve
Renee Bourdeau – approve
Maureen Pomeroy - approve

Public Hearing #4 & #5:

2017 014

Address: 7 Brooks Court
Dimensional Variance

Construct a one-story addition in excess of required maximum lot coverage

2017 015

Address: 7 Brooks Court
Special Permit for Non-conformities

Construct a one-story addition that will extend the pre-existing non-conforming front and rear setbacks

Attorney Mark Griffin presented the application on behalf of the owners. The applicants are proposing a single story addition. The property is in the R2 zoning district and was built in 1929. The property is non-conforming in area, frontage, front, side and rear setbacks. With the addition, a new non-conformity is creating with lot coverage; it will go from 20.6% to 26.8% where 25% is allowed. David Lauze, owner and contractor, went over plans for the addition. It will be a single story addition with a dormer. Part of the house is currently not on a foundation, so they will be fixing and expanding that area, creating a better entrance and adding 192 sf total. It is a very modest addition.

The argument for variance was lot shape and topography. The property is also surrounded by other non-conforming properties. As for the Special Permit for Non-conformities, the addition is not substantially more detrimental to the neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

David Suuronen, 6 Brooks Court
Mr. Suuronen had no objections.

In Opposition:

None

Questions from the Board:

Mr. Goulet asked about materials used for the exterior. Hearty plank siding and new asphalt roof would be added.

Mr. Ramsdell confirmed 1.8% excess in lot coverage.

Deliberations:

Mr. Ciampitti commented the rationale of the Special Permit for Non-conformities and hardship were argued and well presented. No opposition was present.

The rest of the Board agreed.

Motion to approve application 2017-014 made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-015 made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed unanimously.

Votes Cast:

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

Public Hearing #6 & #7:

2017 016

Address: 26 Charles Street

Special Permit for Non-conformities

Construction of an additional dwelling unit over 500 sf attached to existing building, resulting in an extension of a pre-existing non-conforming side setback

2017 017

Address: 26 Charles Street

Special Permit

Construction of an additional dwelling unit to an existing single family home creating a two-family use (#102)

Attorney Mark Griffin presented the application on behalf of the applicants. The property holds a deeded half-house in the R3 zoning district built in 1850. The applicant is proposing to construct an addition to the existing half-house to create a second living unit. The 1,200 square foot, two-story addition is proposed to be located off the rear of the existing structure. 26 Charles Street has been used as a single family and 24 Charles is used as a three family. 26 Charles is in a state of disrepair and vacant and was recovered by a bank in foreclosure. The property is compliant as to off street parking. Scott Brown, architect, spoke about the construction and configuration and being sensitive to the other side of half house, keeping the addition 6' away. The addition contains some but not all of 2nd smaller unit. He presented the rendering from street view and commented that it is not obtrusive to the streetscape or façade.

Special Permit and Special Permit for Non-conformities criteria was presented. This addition will not be substantially more detrimental to the neighborhood in any way. It will be a tremendous improvement with the second unit well integrated into it. He also added that sidewalks would be replaced and in brick.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Resident, 24 Charles street

Main concern was privacy, but seems to be addressed.

In Opposition:

Stephanie Niketic, 93 High Street

Ms. Niketic presented her own concerns as well as those of the Newburyport Preservation Trust. This is a deeded half house addition enlarging the house by almost 100%. The rendering does not show what is seen in plans head on. A historical home will be misshapen and not symmetrical. It would be better restored to original condition. Adding another dwelling unit is infill and greedy developing. If it is to be allowed the Trust believes the addition could be less obtrusive to the streetscape.

Questions from the Board:

Ms. Bourdeau asked about square footage of the units. The back unit would be 1400sf and the front would be 1700sf. The existing house is 1736sf and would be 2800sf total with the addition.

Mr. Ramsdell brought up that City Council passed an ordinance in June 2015 that addressed two- and multi-family structures and how the units needed to be attached. The site plan does not show that "the shared length of the common wall between the existing unit and the proposed unit is no less than 50% of the longest dimension of the rectangle in which the footprint of the larger unit exists." Scott Brown showed a diagram in how they meet this and Mr. Griffin noted the ordinance is not very clear. He argued that this project resembles what is depicted as "acceptable" in the Ordinance versus "unacceptable."

Ms. Bourdeau commented that 24 Charles Street is a three-family with similar square footage. The existing space at 26 Charles Street could presumably be a two-family. It is not significantly out of character with what is on the street.

Mr. Goulet was hung up on the math of the 50% and what length was to be used in this situation.

Ms. Pomeroy was also having trouble with the math. She also noted they are creating a two-family by adding 1400sf to support a 2nd family. Mr. Brown commented on the difficulty there would be trying to create a two-family in the existing space.

Deliberations:

Mr. Ciampitti commented that if 47.7' is used as the longest dimension, the connector wall being 20' – it fails on the fails on 1st piece of 2nd prong of the ordinance.

Ms. Bourdeau commented that the addition is huge and not needed to fix the house, whether the 50% ordinance is addressed or not.

Mr. Ramsdell was bothered by both the ordinance and the size of the addition.

Mr. Goulet was still hung up on the math interpretation and agreed the addition is too large.

Ms. Pomeroy agreed with the issues brought up.

Ms. Bourdeau suggested the applicants may want to approach the Newburyport Preservation Trust.

The applicants requested a continuance to the 3/28/17 meeting.

Motion to continue application 2017-016 and 2017-017 to 3/28/17 made by Ms. Pomeroy, seconded by Ms. Bourdeau.

The motion passed unanimously.

Votes Cast:

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

Public Hearing #8 & #9:

2017 018
Address: 10 Longfellow Drive
Dimensional Variance
Allow a 15' side setback where 20' is required

2017 019
Address: 10 Longfellow Drive
Special Permit for Non-conformities
Construct an attached garage and second floor addition resulting in an upward extension of pre-existing non-conforming front and side setbacks and an increase of over 500 sf

Arthur Allen, Feather Tree Real Estate presented that application. The applicant is proposing to construct an attached garage with a room on the second floor to the existing, non-conforming single family home. The lot is non-conforming in lot area, frontage, front and west side setback. The east side setback would be a new non-conformity going from 39' to 15' where 20' is required. Most lots in that area are non-conforming. The applicants are following suit to improve the neighborhood and modernize the property. They have spoken to neighbors and received good feedback.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Ciampitti asked about materials. They would be using wood frame, vinyl siding, asphalt shingles, vinyl trim, matching neighborhood.

Mr. Goulet asked if the porch with columns is new. Yes, there is currently a landing.

Deliberations:

Ms. Bourdeau commented on lack of opposition present and the modest request.

Mr. Ramsdell commented it was modest and garage is kicked back.

The rest of the Board agreed.

Mr. Ramsdell noted that the tree/sidewalk ordinance would not be triggered.

Motion to approve application 2017-018 made by Ms. Bourdeau, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Motion to approve application 2017-019 made by Ms. Bourdeau, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

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

Public Hearing #10:

2017 020

Address: 40 Parker Street

Use Variance

Covert about 19,400 sf of existing building to a brewery and allow a tap room (Use #501)

Steve Sanderson, owner of Riverwalk Brewing presented the application. They are looking to move to the new 40 Parker Street location. The footprint of the building would not change. The majority of the building would be used for production with a small retail/tap room area. There are 163 parking spots at the location, surpassing requirements. Amy Bentley, Architect was also present.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Mark & Tracy Richey, 40 Parker Street

They felt this was a great opportunity and a good fit. Metro Rock, also in the building often has events.

In Opposition:

None

Questions from the Board:

Mr. Ciampitti asked about licensing if successful here. There are licensing steps that lie ahead. Mr. Ciampitti asked about parking and if there were exclusive spaces or if they were floating. Some spaces are dedicated for employees and customers and the rest are shared.

Mr. Goulet asked about the long walkway. The brewery would have a separate entrance with a corridor viewing the production area.

Deliberations:

Mr. Ciampitti commented this is in line with other requests. It is modest and a continuation of the dynamic use of the building.

The rest of the Board agreed.

Motion to approve application 2017-020 made by Mr. Ciampitti, seconded by Ms. Bourdeau.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy - approve

The meeting adjourned at 10:06pm

Respectfully submitted, Katie Mahan - Note Taker