

**City of Newburyport  
Zoning Board of Appeals  
February 25, 2014  
Council Chambers**

The meeting was called to order at 7:09 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Robert Ciampitti (Vice-Chair)  
Duncan LaBay (Secretary)  
Jamie Pennington  
Richard Goulet (Associate Member)

**Absent:**

Howard Snyder

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of February 11, 2014 Meeting**

Mr. LaBay 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  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder– absent  
Richard Goulet – approve

**b) Request for minor modification to Special Permit for Non-Conformities – 12 75<sup>th</sup> Street**

No longer requesting a minor modification.

**c) Letter of support – Coastal Community Resiliency Master Plan**

The city is seeking a grant that will look at issues with coastal flooding and is looking for the board's to support. If nobody has objection, Ed will sign. No members voiced concerns.

**3. Public Hearings (6 on the agenda)**

**Public Hearing #1 & #2:**

**2013      054**

**Address: 37 Middle Street**

**Dimensional Variance**

Increase height of structure to 36.5' where 35' is allowed

**2013      055**

**Address: 37 Middle Street**

**Special Permit**

Convert mixed use building to multi-family (#103) with three residential units

BullDawg USA Realty I, LLC has asked for continuance to the March 11, 2014 meeting, as they have reached some agreements with Historic Commission and they need time to re-work plans.

Only three board members are available for that meeting and will vote only on another continuance.

**Motion to approve the request for a continuance to the March 11, 2014 meeting made by Mr. LaBay, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – recused

Howard Snyder– absent

Richard Goulet – approve

**Public Hearing #3:**

**2014      002**

**Address: 17 Ship Street**

**Special Permit for Non-conformities**

Rebuild pre-existing non-conforming single family home where the proposed structure will increase the non-conforming nature of the rear and left side setbacks as well as lot coverage

Mark Griffin, Esq. of Mark Griffin Law, 11 Market Square, Suite 8 presented on behalf of Kathi Rodrigues and Patricia Kurkul, owners. This hearing is continued from the January 14, 2014 meeting. The original application requested a Special Permit for Non-conformities where the applicants would re-build a pre-existing, non-conforming structure, intensifying the rear and side setbacks and lot coverage. The side setback would go from 5.7' to 3.2', rear setback would go from 12.8' to 8' and lot coverage would go from 37% to 42.2%. Other non-conformities would improve. At the last hearing, the board heard the proposal, gave feedback and expressed

concerns. Since then, revised plans have been submitted. The styles of windows, exterior materials, front door lights, and dormer have been updated, just to name a few. They sought to design a home that paid tribute to other homes in neighborhood. The applicants reached out to William Gould, who specializes in restoring historical homes. Mr. Griffin gave the board Mr. Gould's resume.

Chris Crump of CWC Design walked the board through the changes that were made. In the new plans they took off the shutters, took Victorian camper off, changed the paneled front door and lantern on the front of the house. They are now using 5" corner boards. The window sizing was the main change to 9 over 6 on the second floor and 9 over 9 on the first floor. They will use a simple header style. The dormer was also updated and would not be as 'broad', it would be more of a gable style. The dormer was also pushed in a bit and downsized, so it was not as massive. They would use clapboard siding and asphalt shingles on the roof, keeping as much integrity as possible.

William Gould of William Gould Architectural Preservation also spoke of the revisions. Mr. Crump hit on many of the main changes. They have updated the roof pitch and massing of the dormer. They incorporated a Nantucket-style dormer. Siding and windows were updated and shutters have been removed. They changed the front door, canopy, and updated the coach light to a lantern. Wood siding would be 4" as it is with the current home. They also added a granite front step.

Mr. Griffin summed up the changes and noted that they tried to tie in the revised plan with what exists on homes in neighborhood. The board will vote on whether it is substantially more detrimental to the neighborhood. He emphasized "substantially detrimental". The applicants have done a lot of work and proceeded in good faith to address concerns of the board.

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

**In Favor:**

*Anne McClelland, 19 Ship Street*

She is in support of the application and anxious to have a neighbor. Also, pleased with the parking plan.

**In Opposition:**

*Linda Miller, 20 Ship Street*

She verified that the board had received two letters she submitted. The applicants are requesting equitable relief from Newburyport's zoning regulations. Ms. Miller and her co-signers argues that the owners of 17 Ship Street have acted in bad faith and have "unclean hands." They immediately applied for demolition of the home. The purpose of the demolition delay is to give owners a chance to reconsider preserving the home, which they did not do. The demolition delay also gives the owners the opportunity to receive free expert advice from the Newburyport Historic Commission (NHC). They argue that the owners may also shorten the delay period if they find a purchaser willing to preserve the home. They did not do this. The NHC found this home to be a rare and nothing beyond repair. It would be a tragedy to lose it. They also note in the letter that NHC members reached out to the applicants unsuccessfully to review alternative

plans for the home. The applicants have left the home open to elements and did not temporarily repair or cover broken windows. Demolishing and rebuilding this home will be substantially detrimental to the neighborhood, will harm property values, and will impair the integrity of the neighborhood. It is one of just 317 historic buildings in the Newburyport National Register Historic District that have been built before the year 1790. The needless demolition would harm our entire community. She and the letter's co-signers ask that the board deny the special permit or any other equitable relief for any new building.

*Tom Kolterjahn, 64 Federal Street*

If the applicants really wanted to pay tribute to the neighborhood, they would keep the home and restore it. He pointed out that the applicants did not bother to winterize the home and have left it open to the elements all winter.

*Raymond Dodge, 20 Ship Street*

Agreed with Linda Miller's statement.

*Stephanie Niketic, 93 High Street*

She stated that you cannot save the integrity of a building you tear down. If you replace a building, don't try to mimic/reproduce it. The demolition delay ordinance is meant to help protect historic homes and give owners a chance to find alternatives. These owners applied immediately for demolition and left the home unprotected for two winters. The applicants are determined to tear down a structure on a pristinely historical street.

*Reginald Bacon, 21 Strong Street*

He noticed and appreciated the thought and effort to the revised plan but it's still a reproduction. He would prefer a natural and authentic building. There will be negative consequences to the public good.

*Bill Harris, 56 Lime Street*

He stated that this is an unusual situation. Experts that live across the street in 2012 when home was for sale, thoroughly reviewed and sought to improve it. The quote to renovate was \$225,000. This is a feasible cost to save the home and a real opportunity to save a building of historic value. Mr. Harris passed out some numbers on a major boom in alterations and new constructions. He noted that the owners left the windows open through all this. He stressed that when you put a reproduction in a historic neighborhood, it will be spotted. This will in fact be a major precedent. These changes to plans are nothing like what could and should be done. They are overbuilding on a small lot and losing a treasure, needlessly. He asked the board to look out for welfare of the city and the character of the neighborhood.

*Rita Mihalek, 27 Charter Street*

She stated that everything has been said. It would be a tragedy to lose a 1750s house.

*Jerry Mullins, 7 Parsons Street*

He explained that the home would like an antique house on historic streetscape. In reality it will be modern and will need repairs in 30 years. Please do not approve something so out of character.

**Questions from the Board regarding Public Hearing #3:**

Mr. Ciampitti asked Mr. Harris for clarification on the matrix of numbers he passed out to the board earlier. He summarized the handout and explained to the board that the preservation market is booming and the applicants could easily make their money back if they were to sell to someone willing to preserve the home

Mr. Ciampitti asked Linda Miller about her reference of gunstock versus stick structure. Ms. Miller clarified that gunstock post is post and beam. Chris Currier stated that the home is currently not true gunstock.

Mr. Pennington asked how much the eve on the front façade was raised. The building height was increased 5' and the eve increased 2.5'.

Mr. Pennington also asked what the existing ceiling heights are. They are 6'6 on the first floor and 6'1 on the second floor.

Mr. Ramsdell asked Mr. Harris about the declining home values with a new construction. Mr. Harris explained that studies show inconsistent architecture harms a neighborhood. Buildings appreciate faster in a National Historic District when it is authentic.

Mr. LaBay asked if the height is median or ridgeline. There is a 5' increase. 29'9" on the staff report (ridge) 19'7" on original app (median) 24'4" proposed (median).

**Deliberations:**

Mr. Pennington does not feel the board can prevent demolition, as they are not a Historic Commission. They must focus on the criteria they have. From a zoning standpoint, it is not more detrimental with concern to massing. They have made significant improvements by decreasing the front setback and adding parking. He appreciated the commentary and genuine appreciation of historic buildings. He noted that the applicants could have gone more modern, but went with more of a replica. A trained eye will not be fooled. Authenticity does not mean exactly the same. The reduced Nantucket-style dormer is more contextual. He also believes that the newer home would be a "green" option.

Mr. LaBay appreciated Mr. Pennington's reasoned approach. He echoed some of what he said, where we are not a Historical Commission and can see how he got to a decision. In looking at numbers, the smallest of changes are in reality quite large because of the small size of the lot. They are also planning to increase the building height by 5', which is significantly more detrimental. On that, he cannot support the application.

Mr. Goulet agreed more with Mr. Pennington. They have added improvements to parking and the front setback. He commended those who spoke on the preservation and the applicants for taking the time to revise plans.

Mr. Ramsdell commented on the difficult decision at hand. All have emphasized that this is the ZBA and not the Historic Commission. The applicant did what was legally required of the Historic Commission. He is very much in favor of historic preservation, but also the law. Zoning is a bit flexible, but you can only bend so far. With respect to Mr. LaBay, most code requirements don't fit the city. To echo Mr. "the boxes are checkable."

**Motion to approve the application for a Special Permit for Non-conformities made by Mr. Pennington, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Duncan LaBay – deny  
Jamie Pennington – approve  
Howard Snyder– absent  
Richard Goulet – approve

**Public Hearing #4:**

**2014      009**

**Address: 16 Jackson Street**

**Special Permit for Non-conformities**

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

Jason Tate of Tate Construction, Newbury, presented on behalf of Charlie and Amy Woundy. There is currently a growing family living in the home. There is a flat roof on the 1<sup>st</sup> floor and they would like to add a master bedroom and bath on 2<sup>nd</sup> floor. The side setback is not met by 3'.

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

**In Favor:**

*Linda Donato, 12 Jackson Street*

She expressed she is in favor of the application.

*John Donato, 12 Jackson Street*

He described the family in the home as multi-generational and growing. The view of the new addition does not look like it would be a problem for abutters. He has no problem with it.

**In Opposition:**

None

**Questions from the Board regarding Public Hearing #4:**

None

**Deliberations:**

Mr. Ciampitti commented that this is a complete application as well as modest and appropriate. He has no objections.

Mr. LaBay agreed. He also noted the lack of opposition from abutters and those who appeared in support.

Mr. Ramsdell concurred.

Mr. Pennington agreed.

Mr. Goulet agreed.

**Motion to approve the application for a Special Permit for Non-conformities made by Mr. Ciampitti, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

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

**Public Hearing #5 & #6:**

<p><b>2014      010</b> <b>Address: 88 Ferry Road</b> <b>Special Permit for Non-conformities</b> Allow an upward extension of pre-existing non-conforming rear and side yard setbacks</p>
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<p><b>2014      011</b> <b>Address: 88 Ferry Road</b> <b>Special Permit</b> Permit an in-law apartment</p>
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Justin Mosquera, owner of 88 Ferry Road presented the application. He has lived in the 2,000 sq. ft. house for about 2.5 years. He is from New Jersey and would like family up for extended visits for many reasons. He proposes to add a garage and in-law apartment. There would be a kitchen and bathroom for his mother who would be visiting a couple months out of the year. She would also have the option to live there permanently. There is currently a small driveway and it is a hassle parking on the street and on the lawn. He reviewed plans with neighbors and they had favorable reactions. He passed on a letter of support signed by neighbors. The garage will be nice and will increase appeal of home and neighborhood.

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

**In Favor:**

None

**In Opposition:**

None

**Questions from the Board regarding Public Hearing #5:**

Mr. Goulet asked the applicant to speak about the trees that may be lost. Mr. Mosquera said that they love the trees. Some neighbors have seen trees fall on their properties and are happy to see these three particular trees go. He also noted that his daughter's windows are near trees and in measurable storms, they have the girls sleep elsewhere.

Mr. Pennington asked if they are aware of the restrictions of an in-law apartment. He said that they are aware and that he also doesn't want anyone else living in his home. It would only be family.

Mr. LaBay asked about the apartment being on the 2<sup>nd</sup> floor of the building. Mr. Mosquera said they are designing the stairwell with an outlet and chair. His mother is currently only 60.

**Deliberations:**

None

**Motion to approve the application for a Special Permit for Non-conformities made by Mr. Ciampitti, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

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

**Motion to approve the application for a Special Permit made by Mr. Ciampitti, seconded by Mr. Goulet.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder– absent



Richard Goulet – approve

**Adjournment**

**Motion to adjourn made by Mr. LaBay, seconded by Mr. Pennington at 8:41 PM.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder– absent

Richard Goulet – approve

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