

**City of Newburyport
Zoning Board of Appeals**

March 22, 2011

The meeting was called to order at 7:15 P.M.

1. Roll Call

In Attendance: Ed Ramsdell, Duncan LaBay, Jamie Pennington, Rob Ciampitti (7:22pm)

Absent: Sean Leonard, Charles Ciovacco

2. Business Meeting

Chairman Ramsdell stated that three members are required to move forward with the business meeting.

a) Approval of Minutes

Minutes of March 8, 2011 Meeting

Mr. LaBay made a motion to approve the minutes as submitted.

Mr. Pennington seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

b) Minor Modification Request for 244 High Street

Gino Renaldi reported that he showed the dormer sketch to the rear abutters for 244 High Street and they agreed to the minor modification request and signed in favor.

Mr. LaBay made a motion to approve the modification.

Mr. Pennington seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

3. Public Hearings

3a) Philip Giunta c/o Mark Griffin, Esq.

282 Water Street

Special Permit for Non-Conformities: construct addition and attached garage with a non-conforming side setback and height

Chairman Ramsdell indicated that the special permit for non-conformities for 282 Water Street had requested to be withdrawn without prejudice.

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Mr. LaBay made a motion to allow the applicant to withdraw without prejudice.

Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Rob Ciampitti - approve

3b) Robert Germinara

1 Kent Street

Use variance: replace a two-sided existing (93.5"x68") free standing sign and two (75.8"x36") canopy signs

The notice of public hearing was read aloud for the record.

Mr. Robert Germinara spoke, as the owner/manager of Caldwell's Corner. He is replacing existing sign faces. When he went independent, he was threatened with a lawsuit by the prior brand to remove the branded name. He is trying to make a neighborhood gas station. Pre-existing non-conforming use dates back to 1957. He is trying to improve the sight to fit in with the neighborhood and make it more aesthetic.

Chairman Ramsdell opened the hearing to public comment.

In favor:

Shipley Mason, 278 Water Street, has known Mr. Germinara for 15 years. He has made a substantial effort to make a respectable service station for the local people. Only place where children can pump air in their bike tires without being charged.

In Opposition:

No one spoke in opposition.

Chairman Ramsdell closed the hearing to public comment.

Questions from the Board

Mr. LaBay asked if he was simply doing an exact refacing of the existing sign. **Mr. Germinara said this is for the freestanding large sign; the signs on the building were issued by Mr. Calderwood (the Building Commissioner).**

Mr. LaBay asked if the new sign is aluminum. **Mr. Germinara said Plexiglas and aluminum. Same lights as the old Irving sign.**

Mr. Ciampitti asked about the lighting as they had permitted non-internal illumination with a kind of gooseneck style. He also asked the hours of illumination.

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Mr. Germinara said the light bulbs are 100-watt incandescent bulbs because the way the lamps curve it illuminates better. The hours are 5am to 10pm. Realistically the lights go off as early as possible in the morning and on as late as possible at night.

Mr. Ciampitti asked if 3 Kent Street neighbors have contacted him.

Mr. Germinara stated that he has not had any problems with 1-3-5 Kent Street neighbors. He reserves the right to get deliveries between 10pm and 6am but will try to schedule them outside of those hours.

Mr. Pennington stated that he liked the Irving sign as the price per gallon was more visible. He prefers the sign toned down with black background and white numbers.

Mr. Ciampitti asked if the Board were to act in favor of the sign with the condition that the background be black with white numbers would that be a favorable resolution.

Mr. Germinara understood that the sign process was not done exactly the way it should have been but he would not like that to be a condition to grant the variance.

Mr. LaBay asked if it was temporary burlap or other material there. He noted that they are dealing with a sign in place needing special dispensation, similar to the Catholic church.

Mr. Ciampitti noted that the Immaculate Conception church did not have the issue of mitigating damages if they did not act quickly which makes Mr. Germinara's situation different. His preference is to the black background with white letters. He stated that with the four person board unanimity would be needed.

Mr. Germinara is concerned with the cost of coming before the board (\$1,000) and the additional cost to get the black background with white letters. Irving Oil had told him twice that they would unbolt and take the sign so he had to take action. He is concerned with losing the visibility if the price is not easily seen.

Mr. Pennington asked if there were any other updates planned for the sign.

Mr. Germinara planned to paint everything on the sign that is currently blue to black to fit in with the neighborhood better.

Deliberation:

Chairman Ramsdell stated that he wished the conditions had been such that Mr. Germinara could have come before the board as a normal course but understood why this happened. He stated that he was not as hung up on the color of the numbers. However, if that were to stop this then he could issue the variance with the provision of the change in color of the numbers if possible.

Mr. LaBay is not predisposed to vote in favor or against tonight. He agreed with colleagues that black background with white lettering is better than what was presented. He would continue to allow applicant to come back to address how it can be issued.

Chairman Ramsdell stated that if the board wanted to do that that might be the way to go. The sign is already up, it does not deny the use of the sign, and he could come back again.

Mr. LaBay stated that at that point there may also be a fifth member present and procedurally that might be better.

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Mr. Ciampitti stated that if the applicant felt that if it was not too costly to commit to getting the letters as a reasonable option instead of postponement as at least one or two of the members feel that is a turning point. Asked to know what Mr. Germinara wants to do.

Chairman Ramsdell clarified that if it is continued then the signs stay up and he would be asked to get the letters and inform the board. If he commits to getting the letters and finds he cannot do so reasonably, he could come back to the board and it would be handled in the Business Meeting.

Mr. Pennington stated that he did not see a problem approving if Mr. Germinara committed to getting black background with white numbers.

Mr. Ciampitti stated he would vote for approval either way but prefers the black background.

Mr. LaBay agreed with Mr. Pennington.

Mr. Germinara asked what his timeframe would be to get the work done.

Chairman Ramsdell stated April providing he can get the white numbers, that the board would have him come back, and as long as he was able to get the letters he would be okay and requested to install them by a certain period.

Mr. Germinara stated if the board would do that he would see to getting white on black.

Mr. LaBay asked if sixty (60) days was a fair timeframe.

Mr. Germinara felt it was adequate.

Mr. Ciampitti made a motion to approve with the single condition of reversing the coloring of pricing letters to white and background to black.

Mr. LaBay seconded the motion.

The motion passed unanimously.

Votes cast:

Chairman Ramsdell – approve

Mr. LaBay – approve

Mr. Pennington – approve

Mr. Ciampitti – approve

**3c) James C. Bourque, Inc. Mark Griffin, Esq.
3-5 Andrew Turbide Lane
Special Permit: construct in-law apartment within attached garage**

The notice of public hearing was read aloud for the record.

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Attorney Mark Griffin representing Brian and Mary Ellen Zampell stated that Andrew Turbide Lane is off Merrimack Street and the lot consists of 43,000 SF in R2, the existing single family complies with dimensional regulations. Raze the single family and construct new dwelling on a lot where only 10,000 SF is required and they have 43,000 SF. New construction will comply with all zoning regulations. Want to build new in-law apartment in attached garage, 700 SF with one dedicated parking space. Have sufficient setback, lot coverage is well under, and height is under. Separate dwelling unit occupied by Zampell parents will comply with blood relation requirement for in-law apartments. The abutter most affected has submitted a letter in support. Architect Scott Brown spoke to the design.

Mrs. Zampell stated that they have family that visits from Texas and she expects her parents to come and live there.

Attorney Griffin stated that they do meet all criteria for in-law apartment. He respectfully requested board give approval.

Chairman Ramsdell opened the hearing to public comment.

In favor:

No one spoke in favor.

In Opposition:

No one spoke in opposition.

Chairman Ramsdell closed the hearing to public comment.

Questions from the Board:

Mr. Ciampitti asked about the impact of in-law use, specifically how the parking will be addressed. **Attorney Griffin responded that they are building a two (2) bay garage with three (3) driveway parking spaces and this is compliant with zoning.**

Mr. Pennington asked how the windows at the stair and bedroom correspond to the elevation; aesthetically it is beautiful and just wondered if he was missing something.

Mr. Scott stated that they do not – it was an idea added after the elevation drawing.

Mr. Ramsdell asked if the in-law apartment would be continuously occupied, from the time it is built would someone be residing in it.

Attorney Griffin replied that the intent is for Mrs. Zampell's parents to occupy it and that if/when the use is discontinued they would comply with the law.

Deliberation

Mr. Pennington stated he is prepared to approve.

Mr. LaBay had no issues.

Chairman Ramsdell was happy to move forward.

Mr. Ciampitti said it was a responsible plan.

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Mr. Pennington made a motion to approve.

Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Rob Ciampitti – approve

Adjournment

Motion made to adjourn by Mr. LaBay.

Motion seconded by Mr. Pennington.

Motion unanimously approved.

Meeting adjourned at 8:15pm.

Respectfully submitted, Lynn Kinsella - Note Taker