

**City of Newburyport
Zoning Board of Appeals
March 28, 2017
Auditorium**

The meeting was called to order at 7:15 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)

2. Business Meeting

a) Approval of Minutes

Minutes of the 02/28/17 meeting

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

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings

Public Hearing #1 & #2:

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)

This hearing was continued from the 02/14/17 meeting. Attorney Mark Griffin presented on behalf of the applicants. The main concerns from last meeting included; size, common wall separating units, and suggestion to review design with The Newburyport Preservation Trust. Scott Brown, architect, provided new plans. The applicants have complied with the common wall ordinance and collaborated with the Preservation Trust. The addition that was proposed at 1036 sf is now 876 sf. They removed 156 sf, for a net increase 740 sf. This is a modest addition to create the two-family. The applicants are compliant with lot coverage and under in open space. Mr. Brown went through new plans explaining how they respected privacy of the common lot line, parking spaces provided, and how entrances and egresses all affected the shape and size of the addition and the two intertwined units. Many architectural changes were made including windows, rooflines, and front elevation changes in collaboration with the Preservation Trust. Mr. Griffin went over the common wall ordinance compliance. Density was a concern of the Board. There was no neighborhood opposition. Blake Wilcox spoke briefly about the collaborative project with the neighborhood. Mr. Griffin reiterated the three elements of relief the applicants were asking for and went through criteria. He noted that the relief sought is not a variance, as they tried to stay within existing non-conformities.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Tom Kolterjahn, 64 Federal Street, Co-President of Newburyport Preservation Trust
Considerable collaboration since the applicants last appeared. He was now in support. The Trust is still concerned with increased amount of infill in Historical neighborhoods. In this case, it works.

Benjamin Greene, 28 Charles Street

In favor. Will improve the property and be a good addition to the neighborhood.

Blakelee Greene, 28 Charles Street

In favor. Seconded husband's comments.

In Opposition:

None

Questions from the Board:

Mr. Ramsdell asked if nothing else could be done with the proposed tandem parking spaces. Mr. Brown spoke about some of the design parameters that prohibited other options. Mr. Ramsdell asked with the addition if there was any concern with the massing of the addition with the resident in the shared half house. They were in favor.

Ms. Bourdeau commented on street trees. DPS recommended that a small or medium sized tree be added. Sidewalks will be replaced with brick.

Deliberations:

Mr. Goulet asked for clarification on the compliance with the common wall ordinance. Mr. Ramsdell helped to explain.

Mr. Ciampitti thanked the applicants for changes. Listening to the voice of the neighborhood and making changes swayed his opinion since the last meeting. Criteria for relief sought was met. Now very much in support.

Mr. Ramsdell agreed. He proposed that a condition that windows, measurements, materials, etc. in the submission must be finished before an occupancy permit can be issued.

Ms. Bourdeau agreed. Not a fan of infill. Massing improved. Appreciated changes.

Ms. Pomeroy also had concerns with the infill issue and was wrestling with her decision.

Mr. Goulet agreed with the infill issue and was in favor.

Mr. Ramsdell asked what the parking surface will be. It will be pervious; brick if all goes well, or at least crushed stone.

Condition to be included;

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found, upon recommendation of the DPS, that this project should include construction of a new sidewalk (applicant has stated that a new brick sidewalk will be installed) with resetting/adjustment of the granite curbing and the placement of a small to medium street tree in front. Sidewalk and tree should be coordinated with DPS and the Tree Commission.

Motion to approve application 2017-016 with condition above 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 2017-017 with condition above 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 #3, 4, 5:

2017 022

Address: 26 Tyng Street

Dimensional Variance

Modify existing single family and create a two-family on a lot with insufficient area

2017 023

Address: 26 Tyng Street
Special Permit
Permit for a two-family use (#102)

2017 024
Address: 26 Tyng Street
Special Permit for Non-conformities
Modify pre-existing non-conforming structure by renovating interior, removing portion of the rear and constructing an addition and converting to a two-family use

Attorney Lisa Mead presented the application on behalf of the applicants. The applicant is proposing to modify a single-family home into a two-family home by removing the rear garage addition (1987), replace the rear additions with a new addition, and restore the historic home by replacing missing wood clapboards, retaining the chimneys, installing black wood shutters, replacing windows with 6-over-6 divided light windows, and preservation of the front entryway through restoration or replacement of failing materials in-kind. Frontage, front yard setback and lot area are non-conforming. Constructed around 1800, the structure is listed as contributory to the Newburyport Historic District, but DCOD would not be triggered as demolishing the existing addition would only be 19% of all external walls. Appearance of the house from the street would not change. The architect on the project went through elevation and design in more detail. Ms. Mead went through criteria of relief sought. DPS has recommended resetting the brick sidewalk and planting one small street tree.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Tom Kolterjahn, 64 Federal Street, Co-president of Newburyport Preservation Trust
Concerns included; original intact features in this historic gem. Handed out conditions to protect these features that they hope would be adopted along with tonight's decision.

Questions from the Board:

Ms. Mead commented that this is the first time the applicant is hearing comments from the Preservation Trust. The applicant has a list of conditions to be included that include many of the requests. Windows will not be saved, however will remove and give them to the Preservations Trust. Interior staircase will also not be saved, but can be given to the Trust.

Mr. Ciampitti asked Mr. Kolterjahn his thoughts. He was disappointed with not saving the windows and staircase, but will gladly take them. Mr. Ciampitti clarified the new energy code and changes to windows. A replication of a simulated divided light would be used.

Ms. Bourdeau was not convinced the windows had to be removed because this was a renovation/restoration project. There was discussion on preserving the existing original windows, the need for replacement, and a balance between the two.

Mr. Goulet thought this discussion could have happened before now.

Mr. Ciampitti agreed, but wanted to hear more as it was such an important feature. He brought up Historic exemptions, preservation.

Mr. Ramsdell asked how long it would take to reach some agreement.

Ms. Bourdeau asked for clarification on remaining chimneys.

Ms. Mead asked for a continuance to the 4/11/17 meeting to meet with the Newburyport Preservation Trust on the window issue.

Motion to continue applications 2017-022, 2017-023 and 2017-024 to 4/11/17 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 #6:

2017 025

Address: 166 Northern Blvd

Dimensional Variance

Create living space in attic, exceeding maximum allowable floor area ratio

Attorney Lisa Mead presented the application on behalf of the applicants. The applicant is proposing to create living space in the existing attic space of the single-family home. The property is located on Plum Island and thus subject to the Plum Island Overlay District regulations. The property is currently under construction to build a single-family home with two bedrooms and 2.5 bathrooms. The applicant would like to add one bedroom in the attic space. The applicant is seeking a dimensional variance to increase the FAR from 23.5% to 31.96%, exceeding the maximum FAR of 25%. FAR exceeds limits in many other lots in the area; Ms. Mead went through the specifics. The hardship argued for the variance was that surrounding lots are also non-conforming. The home is modest and the third bedroom is already within constructed space.

Chair Ramsdell opened the hearing to public comment.

In Favor:

60th Street, 2 Northern Blvd

In favor. Adding a bedroom in attic space will not charge the exterior.

In Opposition:

None

Questions from the Board:

Mr. Goulet noted that (6) letters of support were submitted from neighboring residents.

Ms. Bourdeau asked if the house is constructed yet. It is not other than pilings.

Ms. Pomeroy clarified the number and locations of the bedrooms and bathrooms. Ms. Mead clarified that the impact on the sewer system is calculated through the number of bedrooms and not bathrooms.

Ms. Bourdeau clarified that the building could be constructed as is, with no bedroom on the third floor was struggling with the applicants staying within constraints. Ms. Mead argued that the applicants could turn two bedrooms on the first floor into three without going over FAR, but would prefer to add the third bedroom to the third floor.

Mr. Ramsdell was having an issue with the FAR. Ms. Mead argued that if the issue is to prevent overuse of services, the FAR is not working in this instance.

The applicants argued marketability of a two bedroom and best use of the space.

Ms. Bourdeau argued that if it is a marketability issue, they could change the bedrooms from two to three.

Mr. Ciampitti clarified that the dormer on the plans is part of the project regardless. It would be looking into an empty attic if there is no bedroom added. Mr. Ciampitti thought looking at this structure, unchanging, it is different from other requests. Abutters and neighbors are in favor, which is a rarity on Plum Island.

Deliberations:

Mr. Ramsdell commented on the sensitivity of Plum Island. The window in the attic was part of the structure design and put there for a reason. The staff report view is convincing. He still has an issue with FAR and the fragility of Plum Island over time.

Ms. Bourdeau thought the issue is self-imposed. The applicants are building new construction and she would perhaps view an existing home asking for the same relief differently.

Ms. Mead commented that if the issue is not overloading systems, it would not work in this instance as the building permit is already for three bedrooms.

Mr. Ramsdell commented that they were here tonight and trying to go about it in the right way. DPS did recommend that one tree be planted.

Ms. Pomeroy asked if a new buyer could come in and split the third bedroom into four. The applicants were willing to condition that this could not happen.

Conditions to be included;

- No further change or subdivision to the attic space.
- Bedrooms in the structure limited to a maximum of three.

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that, on recommendation of DPS, this project should add a small “island friendly” tree to the front or rear of the structure. There are no existing sidewalks and none are recommended.

Motion to approve application 2017-025 with above conditions made by Mr. Ciampitti, seconded by Ms. Boudeau.

The motion passed.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – no

Renee Bourdeau – approve

Maureen Pomeroy – approve

Public Hearing #7 & #8:

2017 026

Address: 158-160 State Street

Dimensional Variance

Split lot requiring variances for frontage, lot area, and lot coverage

2017 027

Address: 158-160 State Street

Special Permit

Allow multi-family use (#103) for a three-unit townhouse

Nick Cracknell represented the applicants. The project would require site plan approval from the Planning Board if successful with the ZBA. A new and updated list of stipulations was submitted to the Board to be approved along with the project. The applicant and local design team is proposing to split the lot into two parcels and construct a three-unit townhouse structure on the rear parcel. There is an existing two-family structure on the front lot, which will remain. For the proposed multi-family on lot 2, the applicants are seeking variances for frontage, front and rear yard setbacks. Variance requests could have been avoided through the VI-C process with the Planning Board, but they chose this route in order to protect the original Historic structure that will remain a two-family as is. An alternative plan was shown as an example of an allowed project without variances that would be more intense. The owners of the property intend to keep the Historic structure and remain there. Mr. Cracknell and the team worked with the neighborhood on input for the project. The property is located in the B1 district near the R2 and R3 district lines. Mr. Cracknell went over other non-conformities within the B1 district. The property was split into two lots for most of its existence; it was merged in 2003. Plans were presented to the Board. Hardships argued was lot shape and topography, being situated in the B1 district, and housing a Historic structure. The lot is also surrounded by other non-conforming lots. Mr. Cracknell went thought Special Permit criteria as well. Mr. Cracknell addressed a few issues raised by the Planning Office; 1. There are no dimensional controls for a two-family in the B1 district, so R2 controls were used, as it nearly abuts that district. 2. Addendum submitted, no longer applicable. 3. Sidewalk recommendation from DPS included concrete sidewalks. The applicants would prefer to brick the sidewalks, but will ultimately do what DPS decides. 4. Common wall requirements were met, as explained. 5. No context in the surrounding neighborhood for developing in the back.

Chair Ramsdell opened the hearing to public comment.

In Favor:

A letter of support was submitted – Jeff Letourneau, State Street

Tom and Barbara Pelsue, owners, 158 State Street

Purchased Historic home and restored over time. Have worked hard and love their home. This project will enable them to stay in their home.

Tenant, 160 State Street

Aging in place is so important, in favor of the development.

Brendan Pelsue, 158 State Street

Son of owners, would like to see them age in place. Increased livability for the neighborhood.

Sandra Sadowski, Port Sheet Metal, 156 State Street

Supports the project and will improve the neighborhood.

Dan Bowie

Spent 20 years on Planning Board here; spoke about VI-C and how this project seems to work better as proposed.

Bill and Sandy Sally, State Street had to leave, but were here in support.

Tom Kolterjahn, 64 Federal Street, Co-president of the Newburyport Preservation Trust

Project looks good. The Trust is very interested in the Preservation restriction on the Historic house.

In Opposition:

Mary Beth Ring, 164 State Street

Impressed with Mr. Cracknell and working with neighbors. Not looking forward to development so close. Needs to be more effort in informing people about such development.

Questions from the Board:

Ms. Bourdeau clarified with the Board that updated plans with garage were submitted.

Mr. Ramsdell asked if they had considered a two-unit instead of three-unit structure. Two units would not be economic for all parties.

Deliberations:

Mr. Ciampitti commented on the thoughtful detail of the project. Conditions would need to be adopted and cover many concerns.

Mr. Ramsdell commented on the density of the project. Another unit would be too much; he would be able to support.

Ms. Bourdeau had a hard time supporting the lot split because most times it is for financial reason. There is support for the project. Ms. Ramsdell did comment that this process is sometime cleaner than the VI-C process.

Ms. Pomeroy was concerned with infill, but appreciated the project

Mr. Goulet agreed.

Conditions to be included;

-Include list of revised stipulations dated 03-28-17.

-In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found, upon recommendation of DPS, that this project will require replacement of the existing bituminous sidewalk - (the applicant has stated a full depth brick sidewalk will be installed). DPS did not recommend requiring the addition of any trees.

Motion to approve application 2017-026 with above conditions 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

Motion to approve application 2017-027 with above conditions 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 #9 & #10:

2017 028

Address: 157 Crow Ln

Special Permit for Non-conformities

Extension of a pre-existing non-conforming side setback

2017 029

Address: 157 Crow Ln

Special Permit

Permit an in-law apartment (#109)

Jon-Eric White presented the application. They are proposing to add a handicap accessible in-law apartment of a modest 616sf. The location and size of the in-law was affected by a pool and garage on the property. Neighbors were ok with the addition and in-law apartment. One neighbor had concerns on the in-law remaining an in-law. Mr. White would comply with City ordinances on in-law apartments.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Thomasine and Charlie Woundy, in-laws

Very happy Jon-Eric and Thomasine have offered to do this for them.

In Opposition:

None

Questions from the Board:

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Deliberations:

Mr. Ciampitti thought it the in-law request appropriate in this instance.

The rest of the Board agreed.

Note that the sidewalk and tree ordinance would not be triggered.

Motion to approve application 2017-028 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 2017-029 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

The meeting adjourned at approximately 10:45pm

Respectfully submitted, Katie Mahan - Note Taker