

**City of Newburyport  
Zoning Board of Appeals  
April 23, 2019  
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)  
Maureen Pomeroy  
Edward Cameron  
Mark Moore

**Absent:**

Renee Bourdeau

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 4/9/19 meeting**

Mr. Ciampitti made a motion to approve the minutes and Mr. Cameron seconded the motion.  
The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve  
Robert Ciampitti – approve  
Renee Bourdeau – absent  
Maureen Pomeroy – approve  
Edward Cameron – approve  
Mark Moore – approve

**b) Request for Minor Modifications – 11 Coffins Court (2018-053)**

John Pelletier, owner presented the request. As the applicants rebuild the pre-existing non-conforming single-family home, they hope to achieve a net positive house as they work with an energy advisor. In order to achieve this, they are proposing two changes. First, they need to move the center hall stairs to one side. Second, they need to extend a rear screen porch the full width of the house. They will be decreasing the patio area for the pool, increasing impervious surface. The applicants submitted three letters from direct abutters in support.

There were no comments from the public and no questions from the Board.

Mr. Ciampitti agreed with the staff report that this is in fact a minor change. It is understandable and for positive reasons.

The rest of the Board agreed.

Mr. Ciampitti made a motion to approve the request for minor modifications and Mr. Moore seconded the motion.

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

**3. Public Hearings**

**2018      064b**

**Address: 193 High Street**

**Special Permit for Non-conformities**

*Remove existing later added shed/garage and construct new attached 3-bay garage*

The applicants requested a continuance to the next available meeting to have a full five-member Board present.

**Motion to continue application 2018-064b to 5/14/2019 made by Mr. Cameron, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – recused

Edward Cameron – approve

Mark Moore – approve

**2019      019**

**Address: 4-6 Bromfield Street**

**Special Permit**

*Partial demolition resulting in removal of greater than 25% of the external walls*

**2019      020**

**Address: 4-6 Bromfield Street**

**Special Permit for Non-conformities**

*Expand footprint and add additional floor resulting in an extension of a pre-existing non-conforming side setback and increase in lot coverage*

John Sava, architect, 19L Inn Street presented the continued application. The application has been before the Newburyport Historic Commission (NHC) and the applicants have worked with the Newburyport Preservation Trust (NPT) closely on the renovations. Essentially, they will be keeping 75% of external walls and extending the home in the rear 6'x26' for more livability. They looked at a

suggestion of a saltbox roof on the rear, but ultimately decided on Gambrel style. The character of the house will remain and they will retain shingle siding, windows, height, and beams. The owner has spoken with neighbors and they are happy to see house being brought back.

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

**In Favor:**

*Stephanie Niketic, 93 High Street and Newburyport Preservation Trust*  
*The NPT was at NHC advisory review. Tom Kolterjahn suggested the alternative idea to saltbox with a gambrel style. The applicants voluntarily sought advice NPT. This will be a nice addition to the streetscape.*

**In Opposition:**

*None*

**Questions from the Board:**

Chair Ramsdell asked about feedback from NHC on saltbox and roofline change. The applicants talked with chair of NHC and they are in favor of the new plans.

Ms. Pomeroy asked about materials to be used. Mr. Sava explained they are sensitive to materials. White cedar shingle, Pella windows, asphalt roof shingles would be used. The front entry will be subtler. The rear addition will be more contemporary with a deck.

**Deliberations:**

Mr. Moore commented on the meeting of the minds and thoughtful renovation.

Mr. Ciampitti commented on the careful and informed preservation and renovation. They utilized the wealth of information of NPT.

The rest of the Board agreed.

**Motion to approve application 2019-019 made by Mr. Ciampitti, seconded by Mr. Cameron.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Renee Bourdeau – absent  
Maureen Pomeroy – approve  
Edward Cameron – approve  
Mark Moore – approve

**Motion to approve application 2019-020 made by Mr. Cameron, seconded by Mr. Cameron.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Renee Bourdeau – absent  
Maureen Pomeroy – approve

Edward Cameron – approve  
Mark Moore – approve

**2019      027**

**Address: 263 Water Street**

**Variance**

*Variance for renovation of historic structure with small addition to original structure involving construction at 10.1 feet in elevation where 11.5 feet is required*

**2019      028**

**Address: 263 Water Street**

**Special Permit for Non-conformities**

*Renovation and construction of small addition on pre-existing non-conforming lot*

**2019      029**

**Address: 263 Water Street**

**Special Permit**

*Demolition of more than 25% of exterior walls of a later added addition to the rear and side*

A letter was provided requesting a withdrawal of the variance application. Rationale is cited in the letter that the structure is not subject to the MA Building Code requirements for construction in a floodplain because the house is an exempt historical structure.

Attorney Adam Costa of Mead, Talerman and Costa LLC, 30 Green Street presented the application. This home is one of the few first period houses still in existence and is in poor condition. The property is pre-existing non-conforming with regard to lot area (5,233 s.f. where 400,000 s.f. are required), frontage (82' where 300' are required), lot coverage (15.5% where 3% is required), front setback (5' where 50' is required), side A setback (49.4' where 50' are required), side B setback (.5' where 50' are required), and rear setback (6' where 50' are required). The applicants are requesting a DCOD special permit as they intend to demolish more than 25% of exterior walls. They would not add any new non-conformity. Lot coverage would increase from 15.5% to 18.8%, and side B setback would decrease from 49.4' to 39.3'. Overall, a fairly modest addition of square footage would be added increasing a 1440 s.f. home to 1960 s.f. Additions to each side of the home would include kitchen expansion, mudroom, and a third bedroom. The additions would not be substantially more detrimental to the neighborhood. It is necessary to modify the structure in light of its condition.

David Keery, architect presented elevations. A historic brick gable end from the original structure remains in good shape and the goal is to keep it exposed. One addition would house an entry mudroom 12x12' on the first floor and a bedroom on second floor. The other side of house addition would be an upward extension of an unfinished pantry. A roof deck would be added. He added that a later dormer section would be coming off, making the back of the building more modern, with a lot of glass.

Attorney Costa added that the applicants have been mindful of zoning, conservation and historical implications. The size and scope by today's standards are modest and this is a reasonable request. Review from NHC and Conservation Commission has also been sought.

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

**In Favor:**

*None*

**In Opposition:**

*Walter Long, 265 Water Street*

*Mr. Long's property abuts on the West side. His concerns included the close proximity of the larger addition to his property and home. It will leave a dark and narrow alley between the two houses and will block window in Master bedroom with river views. It really changes the character of the two houses. He is willing to compromise, but surprised by plans. He really admired the time, effort and resources the applicants are putting into restoration.*

**Questions from the Board:**

Mr. Moore asked for clarification on the addition closest to the abutter. He also asked if there had been any discussion with the neighbor on removal of trees. They had not discussed, but there is some concern with the health of trees and a potential need to remove.

Chair Ramsdell asked if the railing around the roof deck was above ridgeline. No, it is not. He also asked if the larger addition on West side was structurally needed to preserve the house in any way. No, it is not a structural necessity, but there is a reason this house has not been improved to date. It is an undersized house by today's standards at 1400 s.f. and only two bedrooms.

Mr. Cameron asked if the plans the NHC reviewed included the back of the home with windows. There were a few changes made in the last few weeks that need approval. They are no longer proposing an attic window and the window to right of the deck has changed with regard to location slightly or they will need to remove it in kitchen design.

Chair Ramsdell asked if the paver patio exists now. It does exist now.

**Deliberations:**

Mr. Ciampitti summed up the Special Permit applications and the standards of being substantially more detrimental to the neighborhood than existing conditions. Mr. Long's comments were noted. This is a very tight knit neighborhood. There are few of these first period homes that exist today and preservation ought not mean paralysis. He was moved by historic preservation of the structure and stewardship. He did have great empathy for neighbor, but felt this was a modest request.

Mr. Cameron disagreed to some degree. He felt the addition made it tight between these two houses, with substantial impact to the abutter. He had less of a problem with the addition on the other side.

Ms. Pomeroy respected preservation, but thought it detrimental to the neighborhood in some way. The size of the addition is a concern. She might be more in favor if more discussion between the applicant and abutter had occurred.

Mr. Moore applauded the applicant's efforts. The intensification of non-conformities was troubling and had impact on the neighbor.

Chair Ramsdell commented on impact on the neighborhood. The more problematic addition is immediately adjacent to the neighbor.

Attorney Costa noted the applicants had given thought regarding the addition, and have not had much ability for redesign. Light, air and breathing room barely exists today. There may be some room for minor changes, but they have constraints with Conservation Commission and NHC as well.

The Board agreed that minor tweaks might change mindset of the Board.

The applicants requested a continuance to the next available meeting.

**Motion to withdraw application 2019-027 without prejudice made by Ms. Pomeroy, seconded by Mr. Moore.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Renee Bourdeau – absent  
Maureen Pomeroy – approve  
Edward Cameron – approve  
Mark Moore – approve

**Motion to continue applications 2019-028 and 2019-029 to 5/14/19 made by Ms. Pomeroy, seconded by Ms. Cameron.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Renee Bourdeau – absent  
Maureen Pomeroy – approve  
Edward Cameron – approve  
Mark Moore – approve

**2019      032**

**Address: 1 Upland Road**

**Special Permit for Non-conformities**

*Demolish existing garage and porch and reconstruct two car garage with storage area above on same footprint resulting in and upward extension of a pre-existing non-conforming front yard setback*

Tim Ford, builder and designer presented the application. The applicants are proposing to take down an existing one-car garage and build new two-car garage. The property is a corner lot at Upland Road and Adams Street. A small addition to the back of the garage would be used as a potting shed. They would be adding 700 s.f. of new living area to the house, making the proposed house 2400 s.f.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. Cameron asked if there were any abutter letters. They did not submit any letters.

**Deliberations:**

Mr. Ciampitti commented on the modest proposal. Neighbors were notified, but none appeared in opposition, which gives a sense of comfort. The changes did not appear to be substantially more detrimental to the neighborhood.

The rest of the Board agreed.

**Motion to approve application 2019-032 made by Mr. Ciampitti, seconded by Mr. Cameron.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

**2019      034**

**Address: 47 Storey Avenue**

**Special Permit**

*Allow outdoor café seating (Use #503) and drive through (Use #504)*

Tony Capachietti, Project Manager of Hayes Engineering, Wakefield MA appeared on behalf of the applicants along with a Chipotle Project Design Manager.

Chair Ramsdell opened and explained that a great deal of what is being asked for are things that will be dealt with by ZBA on some level, but on a higher level at Planning Board Site Plan Review. Things are apt to change and they would potentially have to come back to ZBA with changes. The Chair proposed the applicants give an overview tonight and the Board would provide some feedback, then continue the application and have site plan review in May.

Mr. Capachietti agreed with approach. What they hoped to come away with are these uses appropriate for the area. The application centers on the former Papa Gino's, which would be converted into a Chipotle. The proposed drive through use would actually be a pick up window. Patrons would order and pay with the Chipotle App/online and simply pick up at the drive through window. This would minimize queuing and traffic associated with a traditional drive through window. There would be a one-way traffic flow around the building. The drive through use is appropriate for the area; Wendy's, McDonalds, and Dunkin Donuts have drive through windows to name a few. The applicants are also proposing an

outdoor seating area, adding landscape to the area. Drainage and landscape details would be worked out in site plan review.

Mr. Capachietti presented a brief overview of the site. He explained they are proposing to remove a portion of the rear of the building and would replace the roof of the structure. The site appealed to Chipotle as it is a smaller site, and they have the ability to use the shell and redevelop and improve the site.

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

**In Favor:**

*None*

**In Opposition:**

*Richard Kaplan, Port Plaza Realty Trust, SBK Associates*

*Mr. Kaplan submitted a comprehensive letter with concerns including drainage impacts. He and the applicant's representatives chatted before the hearing and the applicant's will address Mr. Kaplan's concerns.*

**Questions from the Board:**

Chair Ramsdell commented that both uses seem reasonable for the area and he did not foresee any inherent use problem.

The rest of the Board agreed.

The applicants requested a continuance.

**Motion to continue application 2019-034 to 5/28/2019 made by Mr. Cameron, seconded by Ms. Pomeroy.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

Mark Moore – approve

**The meeting adjourned at approximately 9:08pm**

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