

**City of Newburyport  
Zoning Board of Appeals  
May 10, 2016  
Council Chambers**

The meeting was called to order at 7:11 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Robert Ciampitti (Vice-Chair)  
Duncan LaBay (Secretary)  
Richard Goulet

**Absent:**

Jamie Pennington  
Renee Bourdeau (Associate Member)

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 04/26/16 meeting**

Mr. Goulet made a motion to approve the minutes and Mr. LaBay seconded the motion.

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – approve  
Duncan LaBay – approve  
Jamie Pennington – absent  
Richard Goulet – approve  
Renee Bourdeau – absent

**3. Public Hearings**

**Public Hearing #1-5:**

<p><b>2016      005</b> <b>Address: 4 Hillside Avenue and 15, 16, 17, 18, 19 Cottage Court</b> <b>Special Permit</b> <i>Construct Multi-family homes with bonus units and with reduced separation between buildings; and construct a private parking lot</i></p>
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**2016 040**

**Address: 4 Hillside Avenue and 15, 16, 17, 18, 19 Cottage Court**

**Dimensional variance**

*Variance from front yard setback where front porch encroaches on Cottage Court and Hillside Avenue*

**2016 006**

**Address: 12-14 Cottage Court**

**Special Permit**

*Construct a private parking lot*

**2016 007**

**Address: 18 Cottage Court**

**Dimensional variance**

*Construct a lodging house with insufficient lot area, side and front setback*

**2016 008**

**Address: 18 Cottage Court**

**Special Permit**

*Permit for a ten room lodging house (Use #106)*

Request to continue to 06/28/16.

**Motion to continue applications 2016-005, 2016-006, 2016-007, 2016-008 and 2016-040 to 06/28/16 made by Mr. Goulet, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve

Renee Bourdeau – absent

**Public Hearing #6-8:**

**2016 009**

**Address: 114-118 Merrimac Street**

**Dimensional Variance**

*Modify previously granted variances for height, side yard setback, and rear yard setback to change the egress and parking and correct a scrivener's error*

**2016 010**

**Address: 114-118 Merrimac Street**

**Special Permit for Non-conformities**

*Modify previously granted Special Permit for Non-conformities to change the egress and parking and correct a scrivener's error*

**2016      011**

**Address: 114-118 Merrimac Street**

**Special Permit**

*Modify previously granted Special Permit for a two-family use (#102) to change the egress and parking and correct a scrivener's error*

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman presented on behalf of the applicants. This hearing was continued from the 1/12/16, 2/23/16 and 3/22/16 meetings. Since the last meeting the parking configuration changed. The Traffic Safety Advisory Committee (TSAC) and Board commented on the safety of pulling out on Merrimac Street. Any discussion with MA DOT has been on hold. The architects redesigned the underneath of the building to accommodate parking for three cars with room to pull out onto Merrimac Street head first, taking a right turn only. Due to soil conditions, this was the only other option. The applicants met with the City Marshall, DPS, and TSAC where it was decided this design was preferred. A couple of considerations included 1. Cars pull out head first. 2. Warning sign light when garage opens. The sidewalk is wide, allowing sufficient sight line to vehicles pulling out. Mr. Amaral, DPS Deputy Director and TSAC sent a letter that the sign should be closer to the intersection on the edge of the building. A variance for parking would be needed as there would be space for three cars instead of the required four. The changes slightly affect the outside of the building. A window and door are swapped on the front elevation and the back of the building no longer has a garage door. The sign would be LED and 7' above grade. The property is oddly shaped due to a land taking by the Commonwealth, and is bordered by a railroad embankment and State roadway. The soil conditions are also a hardship due to a high water table. The applicants would be improving on-site parking, as the site has never offered it.

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

**In Favor:**

*James Brugger, 4 Savory Street*

*Mr. Berger has been following the project since earlier meetings. Adding a residential building will benefit the City and is an innovative use of an odd shaped property. The applicant has worked very hard to meet the needs of various parties. Public benefits include cleaning up the lot, adding two units of housing, adding revenue to taxes. The rail trail views will not be terribly affected. He also appreciated the downsizing to three parking spaces.*

*Chris Currier, 18 Munroe Street*

*The builder took on a challenged piece of property. Open space or restaurant/commercial use would have much more traffic. The applicant seems to have done a good job in planning. The project seems harmonious with Newburyport.*

**In Opposition:**

*Tom Kolterjahn, 64 Federal Street*

*Concerns included; too high, block public view of rail trail, residential use does not appear to make sense, traffic hazards made worse, MA DOT will eventually re-work the intersection, TSAC did not fully endorse.*

*Lela Wright, 4 Winter Street*

*The intersection would become more dangerous. The sidewalk is not 4' wide. Cannot support.*

*Stephanie Niketic, 93 High Street*

*She asked if MA DOT made a decision on an access permit as previously planned. Mr. Ramsdell noted that they do not like to make decisions until local decisions are made. It is her understanding that a MA DOT permit is needed for the Merrimac Street curb cut. She also has safety concerns.*

*Jeanette Isabella, 1 Lime Street*

*It is a mystery how the project got this far. She felt bad for the owners working on something that never should have been considered. She was against the project.*

*Jim McCauley, Storybrooke Drive*

*Concerns included parking, intersection safety. Please reject and end project*

*Mr. LaBay noted two letters in opposition from 21 Strong Street and Councilor Cronin.*

*Ms. Mead noted the Board already granted a variance and special permit. Mr. Ramsdell responded that it was conditioned with curb cuts and MA DOT approval.*

*Steve Sawyer, Design Consultants Inc. went over parking changes in detail and stated that this is a better situation. There is a warning light and right turn only. Mr. Amaral/TSAC's concern was with turning into, not out of the garage, which is already approved.*

**Questions from the Board:**

Mr. Ramsdell commented that the approved plan had a one-way tandem driveway.

Mr. LaBay asked about the LED traffic light size and location. The sign would be 21" in height, 18" away from building, 7' off ground, side mounted onto the building. Mr. LaBay noted that Councilor Cronin commented in his letter that a motorist would rarely see such a sign and it would add to the confusion. The applicant defended that many garages have these, for example in Boston.

Mr. Goulet asked if the sign would be visible from both ways. Yes, it would be. He also asked where "9 vehicular movements" came from in the presentation. A trip generation calculation provided this number for a two unit.

Mr. Ciampitti asked how the sign would be triggered. Likely, the sign would be triggered by magnetic loop. Mr. Ciampitti also asked Mr. Kolterjahn about the "reconfiguration of the intersection at some point." He responded that it was his understanding that MA DOT would review the intersection in the next several years. Ms. Niketic also commented on having seen emails between Andy Port and MA DOT with discussion of this real plan.

**Deliberations:**

Mr. LaBay commented that back in the beginning he was able to get to "yes" with no traffic exiting on Merrimac Street. He had a problem allowing traffic onto Merrimac Street, was troubled reducing parking from 4 to 3 spaces. He could not support as presented.

Mr. Goulet was also comfortable with previously approved traffic pattern. Cars going out on to Merrimac Street are a concern.

Mr. Ciampitti was conflicted by this. He was sensitive to private property rights. He commented that it would be human nature to turn left onto Merrimac Street toward downtown. He was not confident or comfortable that this plan would work.

Mr. Ramsdell agreed.

Ms. Mead commented that every single use requires parking.

Mr. Ramsdell commented that there is a feasible solution somewhere, possibly with parking offsite. Mr. Ciampitti would have likes to see a shorter building. Mr. Goulet was concerned with vehicle movement onsite and height. Mr. LaBay would be more interested in seeing a single family or business where parking would not be onsite.

**Motion to approve application 2016-009 made by Mr. LaBay, seconded by Mr. Goulet.**

The motion did not pass.

**Votes Cast:**

Ed Ramsdell– no  
Robert Ciampitti – no  
Duncan LaBay – no  
Jamie Pennington – absent  
Richard Goulet – no  
Renee Bourdeau – absent

**Motion to approve application 2016-010 made by Mr. LaBay, seconded by Mr. Goulet.**

The motion did not pass.

**Votes Cast:**

Ed Ramsdell– no  
Robert Ciampitti – no  
Duncan LaBay – no  
Jamie Pennington – absent  
Richard Goulet – no  
Renee Bourdeau – absent

**Motion to approve application 2016-011 made by Mr. LaBay, seconded by Mr. Ciampitti.**

The motion did not pass.

**Votes Cast:**

Ed Ramsdell– no  
Robert Ciampitti – no  
Duncan LaBay – no  
Jamie Pennington – absent  
Richard Goulet – no  
Renee Bourdeau – absent

**Public Hearing #9:**

**2016      022**

**Address: 9 School Street**

**Dimensional Variance**

*Modify existing dimensional variance to allow the construction of a 12'x20' detached garage*

Request to continue to 06/14/16.

**Motion to continue application 2016-022 to 06/14/16 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 – absent

Richard Goulet – approve

Renee Bourdeau – absent

**Public Hearing #10-11:**

**2015      023**

**Address: 15 Howard Street**

**Special Permit**

*Demolish existing single family home to allow for construction of a new single family home*

**2015      030**

**Address: 15 Howard Street**

**Special Permit for Non-conformities**

*Rebuild pre-existing non-conforming home where the construction will exceed 500 s.f.*

Attorney Mark Griffin represented the applicants. This hearing was continued from the 04/04/16 and 04/12/16 meetings. The Board needed time to digest the application. At the last meeting it was determined that the Board would not retain a consultant to review the application. Since then letters of support have come in from the neighborhood, including; 17 Howard, 13 Howard, 1 Chapel, 14 Howard. Only one letter of opposition had been submitted. The lot is not just small, but the way it is designed, site access would prove quite difficult. The significance of the Historic structure is debatable.

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

**In Favor:**

*Dave Lemoyne, 1 Chapel Street*

*Normally would not be in favor but has seen and been inside this home. It seems like a reasonable request to rebuild for a modern use for a modern family. He is not happy with a vacant structure next door. This would enhance the neighborhood.*

**In Opposition:**

*Tom Kolterjahn, 64 Federal Street, Co-President Newburyport Preservation Trust*

*This is exactly the type of property the DCOD was meant to protect. The NHC gave detailed advice and provided letters. There are many small, perfectly livable homes under 1000 sf. His recommendation would be an addition to the rear of the house. We must save this historic structure. DCOD discusses remaining market value and reasonable use. This property has both.*

*Stephanie Niketic, 93 High Street*

*Saying there is no reasonable use due to size is not a good reason.*

*Constance Preston, 18 Atwood Street*

*Has a small home that was preserved and added onto.*

**Questions from the Board:**

None

**Deliberations:**

Mr. Ciampitti commented that making the house work in a modern way is challenging. He could not get past “no market value” and “no reasonable use.”

Mr. LaBay was not moved by the testimony that there was no substantial market value or reasonable use.

Mr. Goulet commented that DCOD aside, limited historic are features left. He agreed with his colleagues.

Mr. Ramsdell agreed with his colleagues as well.

Mr. Griffin asked to withdraw the applications.

Mr. LaBay was hesitant coming this far and not coming to an outcome. Mr. Ramsdell was a little reticent refusing something traditionally allowed. Mr. Griffin commented the applicant does not own the property and they do not want to hold that against future applicants.

**Motion to accept request for withdrawal without prejudice applications 2016-023 and 2016-030 made by Mr. Ciampitti, seconded by Mr. Goulet.**

The motion passed.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve

Renee Bourdeau – absent

**Public Hearing #12-13:**

2016	034
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**Address: 33 Jefferson Street**

**Dimensional variance**

*Construct an addition that would encroach upon front and side setback*

**2016      035**

**Address: 33 Jefferson Street**

**Special Permit for Non-conformities**

*Construct a second story over a pre-existing non-conforming structure*

The applicants presented a small addition to a single family with two bedrooms and one bathroom. A simple addition/alcove would be added exacerbating the front and side setbacks. Side setback would go from 5'8" to 4'5" and front setback from 21'2" to 20'8". They would keep the majority of the same footprint.

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

**In Favor:**

*Sharon Bresnahan, Jefferson Street*

*She was there to see plans and what was involved, but was in support of her neighbor.*

*Charlie Tontar, 29 Jefferson Street*

*He was in support.*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. LaBay asked if they had contacted neighbors. The applicant said he had mentioned the project, but did not go over in detail with neighbors. Mr. LaBay noted that the project would bring the side setback to about 5.5' short and the front about 5' short.

Mr. Ramsdell went over hardship with the applicant. One cannot build a second story on something that is not there. The location of the home and shape of the lot creates a hardship.

**Deliberations:**

Mr. LaBay could get to 'yes' with the lot shape hardship and immediate abutter in support.

The rest of the Board agreed.

**Motion to approve application 2016-034 made by Mr. LaBay, seconded by Mr. Ciampitti.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell— approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve



Renee Bourdeau – absent

**Motion to approve application 2016-035 made by Mr. LaBay, seconded by Mr. Ciampitti.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve

Renee Bourdeau – absent

**Public Hearing #14-15:**

**2016      036**

**Address: Parker Street (Lot A1)**

**Special Permit**

*Permit two-family use (Use #102)*

**2016      037**

**Address: Parker Street (Lot A2)**

**Special Permit**

*Permit two-family use (Use #102)*

Paul Haverty of Blatman Bobrowski, Mead and Talerma presented on behalf of the applicants, Ed and Joseph Hill. The lots were formerly part of Oak Hill Cemetery. The applicants plan to construct a two-family on each lot. There would be a single entrance with driveway easements to each building. Buildings would be oriented toward the driveway easement. Existing mature tree vegetation would remain. They have obtained an Order of Conditions for the Conservation Commission. All dimensional requirements are met, they only need ZBA approval for two-family use. The use is desirable and would not be substantially more detrimental to the neighborhood. A list of supporting abutters was submitted.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board:**

Mr. LaBay asked if these were two lots cut out of the larger parcel and if there was a pond in the back. Yes, they were and there is a pond much farther back. There are no plans for the rest of the parcel as of now.

**Deliberations:**

Mr. Ciampitti commented on the innovative use of a portion of the parcel. The applicants have already been before the Conservation Commission, are working on a drainage culvert, will have singular access and egress. There was no opposition present.

Mr. Goulet agreed. Units meet common wall connector criteria.

Mr. Ramsdell agreed. The applicants are simply asking for two-family use. They meet all other criteria.

Mr. LaBay agreed. This is a creative use of the parcel and a reasonable request.

**Motion to approve application 2016-036 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 – absent  
 Richard Goulet – approve  
 Renee Bourdeau – absent

**Motion to approve application 2016-037 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 – absent  
 Richard Goulet – approve  
 Renee Bourdeau – absent

**Public Hearing #16-17:**

**2016      038**  
**Address: 4 Moulton Street**  
**Dimensional Variance**  
*Allow reconstruction of two-family where original construction lacked relief*

**2016      039**  
**Address: 4 Moulton Street**  
**Special Permit for Non-conformities**  
*Modify pre-existing non-conforming use*

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman presented on behalf of the applicant, George Haseltine. The applicant plans to demolish and rebuild an existing two-family structure in the R2 district. Attorney Mead states that the home was originally constructed as a single-family structure and in 1978 a building permit was issued allowing the construction of additions and a renovation into a two-family home despite the lot being non-compliant with the dimensional regulations for a two-family structure. At the time of this conversion the two-family use was allowed by right. The new structure

would be pulled fully within the property lines, but would need relief for front and side setbacks as well as frontage and lot area. The lot has an odd shape restricting the siting of the structure. There would be a garage and driveway at the back of the property. Some dimensional setbacks would be improved. The project would not be substantially more detrimental to the neighborhood.

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

**In Favor:**

*Andrew Masia, 3 Moulton Street*

*He was generally in favor, but concerned with a magnificent oak tree. He also requested any HVAC be in the rear of building. He wished it would be slightly smaller, but was overall happy that it was remaining a two-family.*

*Dan Leblanc, 5 Moulton Street*

*He was in support. This will be good for the neighborhood.*

*Three letters of support were submitted to the Board.*

**In Opposition:**

*None*

**Questions from the Board:**

Ms. Mead responded that the Oak tree mentioned is a City tree, but the applicant will have an arborist trim if the City is ok with it. HVAC would be placed in the rear.

Mr. LaBay was a little concerned with the size at 2240 sf in each unit, it is almost double in size.

Ms. Mead stressed existing conditions would be improved. There would also be more square footage due to the third floor. Mr. Haseltine also stressed he was sensitive to ceiling heights and keeping a low profile.

**Deliberations:**

Mr. LaBay would be happy with a little less house, but can support. Dimensional variance hardship with lot shape was pushing it, but the property has been used in this fashion for 40 years.

The rest of the Board agreed.

**Motion to approve application 2016-038 made by Mr. Goulet, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve

Renee Bourdeau – absent

**Motion to approve application 2016-039 made by Mr. Goulet, seconded by Mr. LaBay.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – absent

Richard Goulet – approve

Renee Bourdeau – absent

**The meeting adjourned at 9:55pm**

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