

**City of Newburyport
Zoning Board of Appeals
May 14, 2013
Minutes**

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), Jamie Pennington, Howard Snyder, Richard Goulet (Associate Member), Jared Eigerman (Associate Member)

2. Business Meeting

Minutes of April 24, 2013 Meeting

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

The motion passed unanimously.

Votes Cast:

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

2013 019

Address: 3 – 5 Pine Street

Special Permit for Non-conformities

The petitioner requests amendment of a special permit issued by the Board on 7/9/2012, incorporating structural, architectural, and other aesthetic modifications into the project so as to address the grievances of neighbors who appealed said special permit to Land Court.

This application was continued from the April 23, 2013 meeting. Adam Costa, Esq. from Blatman, Bobrowski and Mead LLC, 30 Green Street, Newburyport, MA represented Mr. Gino Renaldi, 3-5 Pine Street Development, LLC at the meeting. The applicant is seeking a modification of a Special Permit granted in July 2012. On July 9, 2012, the Board voted to grant Mr. Renaldi a Special Permit. Subsequently, a challenge was waged to the Special Permit in Land Court, in an action brought by several neighbors; the Board was named as a co-defendant. Modifications were reviewed at the April 23, 2013 meeting. Attorney Costa said that at the April

23, 2013 meeting there was not enough information to take action on changes and enhancements which were conditioned as part of the original Special Permit application. These conditions referenced a set of architectural drawings.

Attorney Costa reviewed the modifications presented at the last meeting which resulted from meetings between Mr. Renaldi and the neighbors.

- Redesign southerly façade to include a recessed entryway. This modification will result in a reduction of approximately 24 sf in area on the first floor. In addition to the decrease in floor area, the proposed modification will add articulation and visual interest to the façade.
- Enclose the a portion of the front (westerly) façade of the home beneath the once-cantilevered overhang while also recessing/removing a portion of said façade so as to effect a reduction in building massing. This enclosure adds 28.9 sf of floor area to the structure, but the 125-foot setback of a portion of the same façade for a distance of approximately 17 feet reduces the overall floor area of the first and second stories by a combined 34.9 square feet.
- Remove the cantilevered overhang on the northern façade, which results in a flush exterior of the first and second floors of the structure (northerly façade).

Attorney Costa had prepared a supplemental memo, dated May 14, 2013 which he distributed at the meeting. This memo included an “Exhibit A” which provided a modified sketch of the house. He indicated that the original list of enhancements were not part of the settlement but the developer and the neighbors have been working together to address the concerns. Attorney Costa also distributed a new set of elevations for the 3-5 Pine Street structure.

He reviewed the suggested modifications to the original list of enhancements:

1. **Shingles added to the front, consistent with local homes:** The petitioner proposes to remove siding from the front of the home, replacing the same with typical clapboard siding with appropriate spaces so as to be consistent with nearby homes.
2. **Existing clapboard siding to be caulked and painted in appropriate fashion:** No modification to said condition is being proposed by the petitioner.
3. **Shutters added to the front and sides as noted on sketches:** The petitioner proposes that no shutters be added to the front or the side of the structure.
4. **Corbels added under the overhang rear addition:** Said condition is no longer applicable, as the rear cantilever has been removed.
5. **Fencing:** No modification to said condition is proposed by the Petitioner. Fencing will be provided as per the original drawing, such fencing to be natural wood, not PVC or the like, and unpainted.
6. **Rear year to be completed as set forth on sketched provided with a small deck leading down to an at grade patio:** No substantial modification to said condition is proposed by the Petitioner, except that the “small deck” referenced therein is proposed to be a three-(3)-foot landing as required by State building Code.
7. **Sidewalk:** Asphalt to the curtain and then brick to the entry: No modification to said condition is proposed by the petitioner
8. **Driveway:** Cobblestone pavers: At the request of one or more neighbors, the Petitioner proposes to use pea stones to aid in drainage.

9. Landscape and Fence:

- **Brick Paver sidewalk from back to front**
- **Fence separating driveway from rear yard**
- **Landscaping as shown on sketches**

No changes to said condition are proposed by the Petitioner.

Chairman Ramsdell opened the hearing to public comment.

In favor:

Robert Miller, 25 Marlboro St., Newburyport, MA. He is in support of the application with the conditions described.

Anne Comeau, 4 Pine St, Newburyport, MA If the drawings provided at the meeting are included with the approval, she is in support.

In Opposition:

None

Questions from the Board regarding Public Hearing #1:

Mr. Eigerman asked for clarification on how to use the documents provided.

Attorney Costa said it was the applicant's intention that the architectural rendering was to give a sense of the modifications with respect finding #3 of the Special Permit.

Deliberations:

Mr. Eigerman summarized the changes discussed: no shingles, no shutters, no corbels, pea stones instead of pavers. Otherwise finding #3 of the Special Permit stays intact.

Mr. Pennington said he was okay with the changes.

Mr. Ciampitti said he was okay with the changes, acknowledging that they are diminimous. He thanked everyone for working to try and find a common ground.

Mr. LaBay and Chairman Ramsdell agreed with the other Board members.

Motion to approve the application for a Special Permit made by Mr. Pennington, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder– approve

2013 022

Address: 3 Belcher Street

Special Permit for Non-conformities

Extend garage and construct a second floor for an in-law apartment

2013 023

Address: 3 Belcher Street

Special Permit for Non-conformities

Permit an in-law apartment (Use #109)

Joseph Sullivan, Esq, Law Office of Joseph P. Sullivan, 246 High Street, Newburyport, MA represented the applicants, Carol and Jason Beuparlant, 3 Belcher Street, Newburyport, MA, at the meeting. Attorney Sullivan indicated that he is aware there are some possible technical issues with an abutter and wants to request an extension for 2 weeks. He is hoping to come in with the same application and have some modifications.

Chairman Ramsdell thought it might be reasonable for the Board to have a discussion. He indicated that the current ordinance is set up so anyone can look at a plan and say “that is the frontage” for purposes of describing the Lot. Belcher St, while not constructed, is a proper street. He believes Belcher is technically the front: this does not cause anything to be conforming or non-conforming.

A more substantive issue is the in-law apartment planned for over 700 feet. The Building Inspector said the Board might be able to waive or acknowledge the additional space. A recent land court case indicates any new non-conforming application requires a variance unless local ordinance permits that it be done under Special Permit and the City of Newburyport’s ordinance does not permit that it be done under Special Permit. It would appear that this would require either require a variance or not be more than 700 sf.

Mr. Eigerman talked about the frontage issue and indicated it probably does not matter which street you choose. On 1/20/2012, the definition of picking frontage was actually amended. You just need to find the subdivision plan with Belcher St. He told the applicant to look at Hallock vs. Chatham Zoning Board of Appeals (2/21/2013) 14-016-12. You have to have a variance to create a new non-conformity.

Attorney Sullivan summarized that it appears there are these two issues (1-frontage and 2-variance vs. special permit) as well as the abutter’s concern.

Mr. LaBay indicated that if the in-law unit were 700 sf or less, it would not trigger a variance. Mr. LaBay asked what the process would be if this changes form a Special Permit to a variance. Chairman Ramsdell said if the applicant goes with a variance, they would have to re-advertise. If there is a need to move from a Special permit to a variance, the community needs to know you’ve gone to a different threshold.

Motion to continue the hearing for the application for a Special Permit until the May 28, 2013 Zoning Board of Appeals Meeting made by Mr. LaBay, seconded Mr. Snyder. (2013 022)

The motion passed unanimously.

Votes Cast:

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

Motion to continue the hearing for the application for a Special Permit until the May 28, 2013 Zoning Board of Appeals Meeting made by Mr. LaBay, seconded Mr. Snyder. (2013 023)

The motion passed unanimously.

Votes Cast:

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

2013 024
2 Woodwell Avenue
Special Permit for Non-conformities
Upward extension of a pre-existing non-conforming single family structure to allow for a full third story; and tear down existing porch and rebuild

Everett Chandler, Design Consultants, Inc., 68 Pleasant Street, Newburyport, MA represented the applicants, Murray and Lynda Berkowitz, 2 Woodwell Avenue, Newburyport, MA.

Mr. Chandler indicated that the original structure was either built in 1649 or in the 18th century. The applicants would like to increase the pitch of the roof.

The non-confirming lot is deficient in area and does not meet lot shape requirements of having a square 80% of the required footage fitting entirely within the lot for the R-2 zone for a single – family use. The existing non-conforming structure has insufficient front, side, and rear yard setbacks. No non-conformities will be intensified by the construction of the proposed structure nor will the upward extension result in any new ones. The renovation of the home will improve the unsightly deteriorated exterior of the structure while maintaining the general overall look and feel of the home thereby preserving the character of the neighborhood. The renovation of the home will be consistent with the nature of the homes in the neighborhood and will not result in any new non-conformities relative to the building. Additionally, the improvement in landscaping that will be part of this project will also greatly improve the street scape of the entire neighborhood. The applicant is seeking a Special Permit for non-conformities to bump the roof up to add some head room to the third story. The applicant went before the Historical Commission on May 2nd for a roofline change and received a determination that the building is historically significant, but released for demolition based on the submitted plans.

Chairman Ramsdell opened the hearing to public comment.

In favor:

Murray Berkowitz, 2 Woodwell Avenue, Newburyport, MA Mr. Berkowitz is the applicant and indicated he was in favor of the application.

Richard Luca, 7 Union Street, Newburyport, MA Mr. Luca is a neighbor and indicated that he is in favor of the application. It looks fine to him; things are going in the right direction.

In Opposition:

None

Questions from the Board regarding Public Hearing #4:

Mr. Pennington said he was curious about the deed. Mr. Chandler indicated that a portion of the parcel was conveyed out but the description was never updated.

Mr. Pennington asked if they had been in front of the historical Commission. Mr. Chandler said that they had been in front of the Historical Commission on two occasions and that they agreed with the plans presented.

Mr. Goulet asked about the big tree in the backyard.

Mr. Eigerman asked questions about the ridge height.

Deliberations:

Mr. Snyder said the proposed addition was in character with the neighborhood and, because of the way the house is facing, the visual impact is reduced.

Mr. Pennington, Mr. Ciampitti and Mr. LaBay agreed.

Chair Ramsdell said he had spoken with one of the Historical Commission members and they indicated they were pleased.

Motion to approve the Special Permit made by Mr. LaBay, seconded by Mr. Pennington.

The motion passed unanimously.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder– approve

Adjournment

Motion to adjourn made by Mr. Goulet, seconded by Mr. Snyder at 7:55 PM.

The motion passed unanimously.

Votes Cast:

Respectfully submitted, Jennifer Lamarre - Note Taker