

**City of Newburyport  
Zoning Board of Appeals  
May 2, 2017 (Rescheduled from April 11, 2017)  
7:00pm  
Auditorium**

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)  
Richard Goulet  
Renee Bourdeau  
Maureen Pomeroy (Associate Member)

**Absent:**

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of the 04/25/17 meeting**

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

The motion passed unanimously.

**Votes Cast:**

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

**b) Request for Minor Modification – 2 Storey Avenue (2017-079 and 2014-080)**

Chair Ramsdell brought up the staff report and suggestion that there is enough complexity to the minor modification request that this should perhaps be brought up at a full hearing. Ms. Pomeroy agreed saying that the roof and trash storage were major concerns of abutters and included in the modifications, so notification may be preferable. Mr. Goulet was concerned with roof changes and wanted abutters to have the opportunity to review.

There was discussion that abutters were in favor of the minor modifications, but there were no letters submitted or neighbors present. It was decided that the hearing be continued to the next meeting on 5/9/17, to allow time for the applicant to deliver changes, in hand, to abutters that were originally notified via legal notice.

Ms. Bourdeau made a motion to continue the request for minor modification to 5/9/17 with a condition that the applicant provides abutter signed notifications and Mr. Goulet seconded the motion.

The motion passed unanimously.

**Votes Cast:**

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

**c) Request for Minor Modification – 7 School Street (2015-028)**

The applicant would like to make minor changes on the sun porch on the rear left corner of the structure. Elevations were presented showing new windows and a door. Ms. Pomeroy brought up a comment from the staff report on how the conditions are coming along with the property at 9 School Street as the original applications were linked. The conditions are moving quickly.

Ms. Bourdeau made a motion to approve the request for minor modification and Ms. Pomeroy seconded the motion.

The motion passed.

**Votes Cast:**

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

**3. Public Hearings**

**2017      010**

**Address: 146-148 Merrimac Street**

**Dimensional Variance**

*Construct a four-unit residential building on a lot with an existing office building requiring variances for open space, height, and front and rear yard setbacks*

**2017      011**

**Address: 146-148 Merrimac Street**

**Special Permit**

*Allow a four-unit residential building (Use #103)*

This application was continued from the 02/28/17 meeting. Attorney Griffin, Finneran & Nicholson, 30 Green Street presented the application. Scott Brown, architect and Steve Sawyer, engineer were also present. Plans have been revised to address Board concerns that included; drainage, reducing paved surface, density and massing of the building, and profile. The driveway was reduced significantly, footprint of the structure reduced, and drainage plan reworked. Having made these changes, they reduced dimensional non-conformities like open space and lot coverage. Mr. Griffin noted that the

project would still be subject to the storm water management ordinance, and would need a permit from DPS.

Scott Brown presented changes to the project, comparing pre-and post-change elevations. They reduced massing and height, added permeable walkways and patios, reduced pavement for parking, and presented a landscape concept that included rain gardens.

Steve Sawyer presented the updated storm water plan. The low impact design rain garden would hold treat and infiltrate storm water.

Mr. Griffin concluded that the project was in compliance with open space, suggesting it was not too dense. Lot coverage was met, which also demonstrated it is not too dense. Mr. Griffin reiterate Special Permit and Variance criteria from the last hearing. He noted that the staff report contained a list of conditions that the applicant was willing to comply with.

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

**In Favor:**

*None*

**In Opposition:**

*Marion Spark, 126 Merrimac Street*

*Concerns included; changes since original plans are minor, more infill in the City, height will block views and decrease property value, flooding, landscaping will add to blocking views, pedestrian safety, scope is too large.*

*Faith Delaney, 140 Merrimac Street*

*Concerns included; parking, pedestrian safety, height and views blocked, too dense, unique congested public way.*

*Michael Bielby, 151 Merrimac Street*

*Concerns included; blocked Views, character of City changing.*

*Paul Bevelacqua, 126 Merrimac Street #3*

*Concerns included; height and views, confusion with mean versus peak height and residents not understanding the structure may be taller than they think.*

*Jeanette Isabella, 1 Lime Street*

*Concerns included; quality of life in the City and infill.*

*Joseph Burns, 126 Merrimac Street #5*

*Agreed with neighbors.*

**Questions from the Board:**

Mr. Ramsdell asked about the location of a spiral staircase on the structure. Mr. Brown noted it is where it is shown in drawings.

Ms. Bourdeau noted the effort made toward variances with open space, etc., but the height remains an issue.

Mr. Ramsdell questioned Ms. Spark as to what an approximately 4' difference from what would be allowed by right might have on property value. She did not know.

Ms. Bourdeau asked what the new square footage of each unit would be. Unit #1 would be 2100 sf, #2 and #3 would be 2300 sf, and #4 would be 2164 sf.

Ms. Pomeroy asked for reiteration of the shape and topography hardship explanation. It was noted that one can still find hardship by surrounding non-conforming properties. The property is unique in that it has two front lot lines, is narrow, sloped toward river, topography/soils are not as permeable, requiring storm water management and rain gardens as proposed.

**Deliberations:**

Ms. Bourdeau had an issue with the Special Permit for 4 units, as she thought they could come down to meet setbacks and not require a variance.

Mr. Ciampitti agreed. Massing in its location is very large. He was hopeful it would be scaled down more.

Mr. Goulet was hoping units would have been downsized.

Ms. Pomeroy agreed, but appreciated efforts.

Mr. Ramsdell agreed as well.

Attorney Griffin requested to continue the application.

**Motion to continue applications 2017-010 and 2017-011 to 6/13/17 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

**2017      021**

**Address: 7 Butler Street**

**Special Permit for Non-conformities**

*Construct second story addition in rear and increase height of existing roof*

This application was continued from 2/28/17. The applicant is proposing to construct a second story addition over the rear portion of the structure and increase the height of the existing roofline by four feet, which will increase the headroom of the existing ½ story to a full story. Utilizing the existing footprint and respecting the privacy of neighbors were big concerns. Time was taken to inform neighbors and feedback has been positive. Letters of support were submitted. The Historical Commission reviewed and approved the project as submitted.

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

**In Favor:**

*None*

**In Opposition:**

*Stephanie Niketic, 93 High Street*

Concerns included; increasing from 1140 sf to 2100 sf, the original “workers cottage” use of the home, and suggested that a modest one story addition would be more suitable.

**Questions from the Board:**

Mr. Ciampitti asked about the existing chimneys. They would be keeping the front chimney and removing the back one. There are no fireplaces. He also clarified that all materials to be used were approved by the Historical Commission.

Mr. Ramsdell understood concern over the workers cottage, but commented that the NHC found it acceptable. The Newburyport Preservation Trust were against roofline changes and brought up past changes approved by NHC, that they now wish they had not approved.

**Deliberations:**

Mr. Ciampitti shared the sentiment of the Chair. The Preservation Trust against the decision of the NHC is tough. He has faith in NHC and felt compelled to follow. Thoughtful conditions are attached and it is a relatively modest request.

Mr. Goulet agreed with his colleagues. He noted the 23 neighbors who signed in favor of the project.

Ms. Bourdeau agreed. It was surprising and uncommon that the Trust disagreed. The addition is modest.

Ms. Pomeroy agreed.

Conditions;

Prior to Issuance of Occupancy Permit;

- Wood clapboarding shall be used on the original and new portions of the structure.
- Wood windows (mullions, sash, casing) shall be used throughout the property.
- The roofline of the new addition shall be at the same height or lower than the roofline of the front portion of the house.
- All windows shall be two over two.
- No reflective coatings shall be applied to the windows and no tints shall be used.
- The applicant shall ensure that the upward extension of the front portion of the house shall be constructed such that façade of the house is proportionate. The window head height and interior ceiling shall be the same distance from the finished floor on each story. The applicant has been advised that if the façade loses its proportion, that it will need to be corrected so that the proper proportions are presented to the street.
- A blind window shall be installed on the front elevation as shown on Sheet A-1 West Elevation of application.
- Gable returns shall not present slopes or roof elements (shingles). All gable returns shall be constructed as shown on Sheet A-5 Roof Return Detail, Window & Door Schedule of application.

**Motion to approve application 2017-021 with above conditions made by Mr. Ciampitti, seconded by Ms. Bourdeau.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – approve

Maureen Pomeroy - approve

**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. The project proposed will remove a later addition and replace with two smaller additions. Criteria and evidence was presented at the last meeting as well as conditions to be included in the Board's decision. The outstanding item was on windows. Originally the applicants were proposing to remove and replace windows with true divided light, aluminum windows. The Newburyport Preservation Trust requested to meet with the applicants and discuss the possibility of restoring the windows. The applicant determined they would restore and keep windows in place. As far as the sidewalk and tree ordinance; one small tree should be planted in front of the house, and the applicant will replace the sidewalks with brick.

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

**In Favor:**

*Tom Kolterjahn, 64 Federal Street*

*Appreciated the effort of the Board to make collaboration with the developer happen. He was very much in favor now.*

**In Opposition:**

*None*

**Questions from the Board:**

Ms. Bourdeau asked about conditions and who is involved in determining what windows might need replacement. The applicants would be using someone associated with the Trust and do not think it will be an issue.

**Deliberations:**

Mr. Ciampitti liked the collaborative work. Evidence of hardship and criteria for Special Permits was justified.

The rest of the Board agreed.

Conditions;

- keep all of the chimneys,
- siding will be kept and where it needs to be replaced will be done so with wood clapboards with reveals to match.
- black wood shutters will be re-installed on the home.
- preserve the corner boards and cornices.
- restore and/or replace in kind as noted on the plans, the front entry and rail above.
- restore and/or reuse the existing windows. Applicant may use the windows which are being removed from the rear of the house as replacements for any window on the main part of the house which cannot be restored or are rotted or are beyond repair. Additionally, Applicant may need to replace existing windows which are rotted or ruined beyond repair with other period windows, should the need arise.
- use Lime mortar in any masonry repair or restoration.

**Motion to approve application 2017-022 with above conditions made by Mr. Ciampitti, seconded by Ms. Bourdeau.**

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 2017-023 with above conditions made by Ms. Ciampitti, seconded by Mr. Bourdeau.**

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 2017-024 with above conditions made by Mr. Ciampitti, seconded by Ms. Bourdeau.**

The motion passed unanimously.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve

**2017      030**

**Address: 20 Highland Avenue**

**Special Permit for Non-conformities**

*Construct a second story addition resulting in an upward extension of a pre-existing non-conforming side setback*

Janis Smallman presented the application. The applicant is proposing a small addition over a sunroom that would house a bathroom.

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

**In Favor:**

*None*

**In Opposition:**

*None*

**Questions from the Board:**

*None*

**Deliberations:**

Mr. Ciampitti commented on the modest request. No neighbors in were opposition.

The rest of the Board agreed.

**Motion to approve application 2017-030 made by Mr. Ciampitti, seconded by Ms. Bourdeau.**

The motion passed unanimously.

**Votes Cast:**

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

**2017      031**

**Address: 114-118 Merrimac Street**

**Parking Variance**

*Allow two parking spaces where four are required*

**2017      032**



**Address: 114-118 Merrimac Street**

**Special Permit**

*Allow a two-family use*

Mr. Ciampitti recused himself. Attorney Mark Griffin presented the application. This is the property where Mr. India used to sit, along with a laundromat and residential unit. The owner is grandfathered and has a right to rebuild in the same footprint with the same uses. In consultation with the Planning Department and coming before the ZBA, the message received is that anything of significant impact on this particular property should not be encouraged. This brought the applicant to propose a two-family use. The intersection must be handled with care and the applicant paid close attention to site lines, entering and exiting site. Using pre-existing dimensional requirements, they either keep them or improve them. There is sufficient room to park four cars tandem, but would be hazardous. They propose two spaces to include a parking turnaround on site. One space would be assigned to each unit. The lot itself is small and challenging. One unit would be 900 sf and the other 1000 sf. The applicant will comply with DPS sidewalk recommendations and would also add planning office proposed conditions to the decision. Mr. Griffin went through Special Permit Criteria as submitted.

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

**In Favor:**

*None*

**In Opposition:**

*Lela Wright, 4C Winter Street*

*Concerns included; public safety.*

*Mark Wright, 4C Winter Street*

*Concerns included; public safety.*

*Stephanie Niketic, 93 High Street*

*Concerns included; the two-year period to rebuild under grandfathered use. The building inspector granted an extension.*

**Questions from the Board:**

Mr. Ramsdell commented that the staff report from planning still indicates traffic concerns. He asked why his use is most viable. The applicant responded that whether there is a one or two unit, the vehicles will exit in the same manner.

**Deliberations:**

Mr. Goulet agreed that the applicant has done a lot of work to downsize the structure. By right use will cause more havoc than proposed two family.

Ms. Bourdeau was concerned with pedestrian safety. Proposing a single family with two parking spaces, she might be more inclined. She could not support.

Ms. Pomeroy appreciated efforts on the building, but was struggling with public safety. There is higher potential for injury with by right use.

Mr. Ramsdell was hung up on the parking variance.

Mr. Legare spoke about his investment and the proposed project.

Attorney Griffin requested to withdraw the applications without prejudice.

**Motion to withdraw application 2017-031 without prejudice made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion did not pass.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – recused  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve

**Motion to withdraw application 2017-032 without prejudice made by Ms. Bourdeau, seconded by Ms. Pomeroy.**

The motion did not pass.

**Votes Cast:**

Ed Ramsdell– approve  
Robert Ciampitti – recused  
Richard Goulet – approve  
Renee Bourdeau – approve  
Maureen Pomeroy – approve

**2017      033**

**Address: 5 Neptune Street**

**Special Permit for Non-conformities**

*Demolish an existing 12'x18' garage and rebuild a new 16'x20' garage with guest room above*

Kevin Daily, owner presented the application. The existing garage is not usable and dilapidated. They propose to remove and rebuild a bit larger, with a guest room above. He spoke to abutters who are in favor.

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

**In Favor:**

*None*

**In Opposition:**

*Stephanie Niketic, 93 High Street*

Concerns; already altered this house in 2015 with a raised roof and dormers, now adding guest room, out of character, infill, worried about room rental.

Tom Kolterjahn, 64 Federal Street, Co-President Newburyport Preservation Trust  
Believes NHC wished they never approved the 2015 alterations due to roofline change.

**Questions from the Board:**

Ms. Bourdeau asked what the intended use is. The applicant has three older children that would visit. Intent is not to rent. She asked the number of bedrooms in the existing house. There are 2. She asked if they would still construct garage if it could not house a bedroom.

Mr. Ciampitti asked if there would be a bathroom as well. Yes, there would be.

Ms. Pomeroy clarified floor plans.

Mr. Ramsdell commented that the Board does not have purview in interior, but it helps with context.

**Deliberations:**

Mr. Ramsdell commented that the staff report had conditions associated with the space that it is not to be used for an in-law or rental.

Ms. Bourdeau was not struggling with garage, but with the room above and future use.

Mr. Goulet clarified that the conditions go with the property.

Mr. Ciampitti thought this application should be viewed separate from its past in order to be objective. With conditions, he was ok with this.

Ms. Pomeroy was struggling with more living space on property.

Mr. Goulet was ok with the conditions.

Mr. Ramsdell thought he could support with conditions.

Conditions;

-The garage, including the room above it, must not be used for a residential unit, in-law apartment, Airbnb or similar use and shall not be further altered or subdivided.

**Motion to approve application 2017-033 with above conditions made by Mr. Goulet with above conditions, seconded by Mr. Ciampitti.**

The motion passed.

**Votes Cast:**

Ed Ramsdell– approve

Robert Ciampitti – approve

Richard Goulet – approve

Renee Bourdeau – no

Maureen Pomeroy – approve

**The meeting adjourned at 10:30pm**

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