

**City of Newburyport
Zoning Board of Appeals
May 22, 2012
Minutes**

The meeting was called to order at 7:10 P.M.
A quorum was present.

1. Roll Call

In Attendance: Ed Ramsdell (Chair), Duncan LaBay (Secretary), Jamie Pennington, Howard Snyder, Robert Ciampitti (Vice-Chair) – *arrived 7:15*

2. Business Meeting

a) Approval of Minutes

Minutes of May 8, 2012 Meeting

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

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Robert Ciampitti – *not present*

Howard Snyder – *did not vote*

b) Public Hearings (8 on agenda)

Chairman Ramsdell introduced new Board Member, Howard Snyder.

Public Hearing #1:

2012 008

Address: 3-5 Pine Street

Special Permit for Non-Conformities

Allow for renovation of an addition to the two-family residential structure where said renovations and addition will result in the extension of front- and side- yard setback non-conformities

Geno Ranaldi, Manager of 3-5 Pine Street Development, LLC

Lisa Mead, Attorney, Blatman, Bobrowski, & Mead, LLC, 30 Green Street, Newburyport, MA. represents Mr. Geno Ranaldi, Manager of 3-5 Pine Street Development, LLC

This is a continuation from the March 27, 2012 ZBA Meeting and the April 24, 2012 ZBA Meeting.

Lisa Mead, Attorney gave a presentation concerning progress since the last hearing on March 27, 2012. The applicant, Geno Ranaldi, is proposing improvements both to the structure and the site. The process of discussing the issues with the neighbors is on-going. Attorney Mead provided a sketch which demonstrated the following improvements:

- Front Entry Door: Reframe consistent with the homes on 7 Pine and 21 Marlboro respectively
- Front siding: Add shingles consistent with local homes such as 7 Pine
- Add shutters to the front to help break up the façade
- Add corbels under the overhang in the rear addition (similar to 21 Marlboro)
- Add fencing

The applicant is also proposing to include upgrades to the sidewalk and the driveway. The curtain of the sidewalk will be asphalt with brick to the entry. The driveway will be cobblestone pavers.

In addition, the applicant is proposing upgrades to the landscape and fence:

- Rear yard will be leveled and raised with stonewall and patio area
- There will be a brick paver sidewalk from front to back
- A drywell will be installed at the rear near the fence line
- A fence will be installed separating the driveway from the rear yard.

Attorney Mead indicated that the option is not available for the entire structure to be removed. The courts have shown great reluctance to order forfeiture of a property. Removal of the structure, Attorney Mead contended, is beyond the scope of the Zoning Board, and would constitute an abuse of the Zoning Board's discretion. In addition, she indicated that the pre-existing non-conforming structure on the property continues to be subject to the protections it had in advance of the applicants' modifications. Only the alterations to the home require relief from the Board. She also indicated that demolitions of these portions of the home should be ordered only as last resort.

Chairman Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

Leah McGovern, 21 Marlboro Street, Newburyport, MA

The three changes being proposed are contextual. 21 Marlboro Street was referenced – it is a Victorian. The Pine Street house in no way resembles the historic structure of the houses in the area. Scale, massing, fitting into the neighborhood: all of these should be considered without a special permit.

Bob Miller, 25 Marlboro Street, Newburyport, MA

He submitted a letter to the Board with a number of details. There were 2 sets of plans with the same set of dates. One was approved by the Building Commissioner; the other was the one that was built to. The building does not appear to have the 2.5 foot overhang as it does in both sets of plans. The intent is a huge part, but none of the drawings get rid of the non-conformities – solving this is of critical importance; this was built without appropriate authority.

Jason Weigold, 8 Pine Street, Newburyport, MA

Mr. Weigold submitted a letter to the Board. The Pine Group says that the structure is not more detrimental, he disagrees – a lot of potential has been lost. His office looks right on the new structure. The side looks like a warehouse on beautiful Pine Street.

Dana Hooper, 25 Marlboro St., Newburyport, MA

13 foot setback prior to construction – adding a big wall is hugely more detrimental

Anne Comeau, 4 Pine Street, Newburyport, MA

She submitted a letter to the Board. Comparing this structure to anything on Marlboro Street is out of context. Looks like a warehouse. As a property owner who has done a lot of work and followed all the rules, she is really offended that the developer claimed he did not know the rules, that there was a mix-up. This is something – it is a shame. We have Zoning Rules for a reason. “For-profit” developers should follow the rules. The structure should be razed. Make an example of this.

Matthew McDermott, 23 Marlboro St., Newburyport, MA

The proposal from the developer is not an alternative plan. He wants this fixed. The developer added more square footage so he could sell at a higher price.

Ned McClung, 4 Pine Street, Newburyport, MA

This is a misshapen structure and the mass is much larger than it looks in the pictures being shown.

Cliff Goudy, 21 Marlboro St, Newburyport, MA

All comments have been spot-on. He asked the Board to look at this as a way to establish a precedent, to find of repeated violations. At this point removing the violations is not a sufficient measure. The Board should take severe action.

Questions from the Board:

Mr. LaBay asked Building Commissioner, Gary Calderwood if he could help the board by providing a historical perspective.

Mr. Calderwood indicated the following:

- Tim Carey was Project Manager for Geno Ranaldi
- Ranaldi wants to avoid any Board that he can
- Mr. Calderwood went out to house with applicant to determine what could be done without going to Boards/Committees
- This was originally a very old house with a lot of water damage and rot

- The applicant asked Mr. Calderwood if he could cantilever the 1st floor, Mr. Calderwood said no
- The applicant asked Mr. Calderwood about extending the non-conformities in the front – Mr. Calderwood said no.

The zoning matrix Mr. Calderwood was provided didn't line up; he didn't see cantilever; he didn't suspect there would be one after he said no. The reason we are here is because the zoning laws are here, because when Mr. Calderwood went to look at the property he ordered them to stop work. They did things that Mr. Calderwood had told them not to do. They violated City Zoning Laws and Massachusetts Construction Laws.

Mr. Pennington asked what happened with the Historic Commission. Attorney Mead said that a decision was made to preserve parts of the structure: floor joists, walls, height in roof pitch. There was a subsequent letter from the historical commission that indicated not all the things that were supposed to be retained were indeed retained. Mr. LaBay asked if the plan submitted for the building permit was similar to what was shown to the Historic Commission. What the Historic Commission said and agreed to did not happen. Attorney Mead asked if any members came forward to complain. Building Commissioner Calderwood said that some of the stuff could not be retained and had to be replaced. It was a difficult house to try and reconstruct. He was not approached by anyone from the Historic Commission. Chairman Ramsdell asked how much of the original structure was still there.

Mr. Pennington asked the applicant if their proposal was to export soil except where the deck is and raise the grade to retain the water, put in dry well. He indicated they are proposing re-grading the back, not exporting. Dana Hooper was asked if the plan alleviates her water concerns. She indicated that she had been told that the dry well would act as a magnet. Another neighbor indicated the deck is so high it becomes an obstruction. Chairman Ramsdell asked the applicant if they thought what they were proposing would work. Mr. Ranaldi indicated that it was the nicest looking, most effective solution. No storm water analysis has been done.

Mr. LaBay indicated that Leah McGovern had provided a set of renderings representing alternative compromises. Attorney Mead indicated that there was no understanding of whether these renderings meet zoning requirements. These renderings also indicate a situation where they would have to tear down the existing structure and rebuild.

Mr. Ciampitti asked about the inventory of non-conformities. Chairman Ramsdell indicated they need to explore the Board's authority. The original structure is protected. If this came into the Zoning Board prior to activity, part of what the Board would have been able to discuss would have been non-conformities and they would have looked at if the proposals would have been more detrimental. If the applicant had come in advance, they could have looked at the impact of massing. Now it is being said that the Board has no right to be concerned about overall massing. Mr. Ciampitti asked how you reconcile the fact that alterations have already been done. The crux is that you are arguing that the applicant can go back and remove things as if it had never happened. Attorney Mead said the applicant could do anything except exacerbate an existing nonconformity.

Mr. Ciampitti asked the developer how is it that this happened. Mr. Ranaldi said that he was busy and assumed his project manager, Tim Carey, was doing the appropriate things. The applicant said he dropped the ball.

Mr. LaBay understood that the meetings between the developer and the neighbors had not gone well. He asked, if there was more time, would they be able to come up with some compromises? There were questions from other Board Members concerning how the meetings with the developer went in trying to come up with a solution to the issue. It became clear that there was no compromise. The developer had stated with the position of doing things such as putting up shutters and the neighbors wanted to tear the house down. It would make sense for both parties to try and reach a middle ground.

Deliberations:

Chairman Ramsdell is not happy with the structure and how it got that way. Attorney Mead has indicated that, legally, a complete razing would not be possible. He would like to see changes to the structure. He was disappointed more progress was not been made since the last Board meeting.

Mr. Pennington indicated that this is not a design review board. The inflection point at which the building becomes ugly needs to be found. The “by-right” structure is not an appealing one. Mr. Ciampitti is in line with the thinking of his peers. The building doesn’t look right. What can the applicant do? What could happen “by right”? He encourages further dialog between applicant and abutters. He feels things could be further vetted.

Mr. LaBay said his colleagues have a better sense for the rights of the board. He questions the responsibilities they have as a Board to approve or deny. Mr. LaBay would vote against special permit application if had to do today.

Chairman Ramsdell said he has the inclination for the parties to do more. He indicated the inclination to go to the City solicitor to understand the authority that the Zoning board does have. He requested a continuance until the June 12, 2012 Zoning Board hearing.

Mr. LaBay indicated to the abutters the hope that they would work with the developer.

Chairman Ramsdell requested that both parties (developer and abutter) work towards moving to the middle. The big packet from the neighbors to the Board may not have been the right approach. He requested they really try to look at it again. He reiterated that the Zoning Board is not a design Board. He will ask the city solicitor what the authority of the Zoning Board of Appeals has. Is Attorney Mead’s representation of the law accurate?

Mr. Ciampitti doesn’t know the parameters. He indicated they will determine if city solicitor’s letter can be made public. Can there be penalties for violations short of razing the structure?

Motion to approve a continuance for the Special Permit for Non-Conformities to June 12, 2012 made by Mr. Ciampitti, seconded by Mr. LaBay .

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Robert Ciampitti – approve

Howard Snyder – *did not vote*

Public Hearing #2:

2012 012

Address: 38 Moulton Street

Special Permit for Non-Conformities

Raze existing structure and construct a new single family home

Michael and Carol-Ann O'Neill, property owners.

Chairman Ramsdell opened the hearing to public comment.

The applicant went to the Building Department: the Lot does not conform to 90 ft. frontage. They presented to Historic Commission which indicated that there was no significance in the current structure, they would be allowed to demolish it.

In favor:

None

In Opposition:

None

Questions from the Board:

Mr. LaBay said that it appears frontage is an issue along with the side set-back on B-side. 22 x 24 structure can have a 6 foot setback. He said pushing the front back appears to be in conformance.

Mr. Pennington said he couldn't resolve a discrepancy in matrix. Applicant explained the discrepancy to his satisfaction.

Deliberations:

Mr. LaBay indicated that a note in the folder indicated that the May 9 the historical commission determined that no public hearing was required. The proposed building seems to be in the spirit of what the Board typically approves. They are attempting to improve front setback. He has no issues and will vote for it.

Mr. Ciampitti asked about the materials the applicant was going to use- man-made materials or wood shingles? The applicant said they hadn't decided yet and the other homes in the neighborhood used all different materials. Mr. Ciampitti agreed with Mr. LaBay.

Motion to approve the Special Permit for Non-Conformities made by Mr. LaBay, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Robert Ciampitti – approve
Howard Snyder – approve

Public Hearing #3:

2012 013

Address: 17 Chapel Street

Special Permit for Non-Conformities

Construct a one-story second bay to the existing attached garage

AnneMarie and John Morris, property owners.

They are adding a garage to the existing garage. It is already paved in front.

Chairman Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board:

Mr. LaBay asked if they had spoken with the neighbor on the side where the addition is being proposed. The applicant said they have and that the neighbor is in favor.

Deliberations:

Mr. LaBay indicated that this seems like a reasonable request. The front set-back is in keeping with the neighborhood. This is a totally reasonable request.

Mr. Ciampitti indicated that this is a modest request and does not intensify existing non-conformities.

Chairman Ramsdell indicated he agrees with his colleagues.

Motion to approve the Special Permit for Non-Conformities made by Mr. Ciampitti, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Robert Ciampitti – approve

Howard Snyder – approve

Public Hearing #4:

2012 014

Address: 205-209 Water Street

Special Permit for Non-Conformities

Construct an addition of over 500 sf by connecting two separate homes to create a single family dwelling on non-conforming lots with non-conforming lot coverage as well as rear and front setbacks

John G. Morris c/o Mark Griffin, Esq.

Chairman Ramsdell opened the hearing to public comment.

In favor:

David Hobbs, 203 Water St, Newburyport, MA

Mike Sullivan, 41 Summit Place, Newburyport, MA

Neighbor, 266 Water St., Newburyport, MA

In favor. This is a beautiful project. A lovely addition in keeping with the architecture of the homes in the area.

Neighbor, 180 Water St, Newburyport, MA

Now a couple of old houses, this will be better for the neighborhood, better for Newburyport

In Opposition:

None

Mark Griffin, Esq. spoke on behalf of John Morris. The existing structure at 209 Water Street, owned by Morris, is a single family home located on the water near Joppa Park and Hale Park. The property at 205 Water Street is to be purchased by Mr. Morris and is also a single family home which directly abuts 209 Water Street. Both properties are in the agricultural Conservation Zoning District. Single family use is permitted in this District. The location of the property within the district is something of an anomaly since there is no agriculture or conservation type use in the near area and there has not been any for many years. The district runs along Water Street all the way to Plum island turnpike; it is comprised of many residential homes on many lots which are smaller than the subject lots. The district's dimensional requirements are onerous and more suited to the kind of land which is normally associated with containing a family farmhouse on a working farm.

The proposal is to connect the homes at 205 and 209 Water Street by creating a 2 story connection which will combine both structures. The 12x15 ft. connection will comprise approximately 332sf of additional gross floor area and will only increase lot coverage by less than 2%. Mr. Morris intends to convert the home at 205 Water Street to comprise a larger living and dining area which 209 Water Street does not currently provide. The new connection will be largely unobtrusive, being set back from the front building lines and lower than the roof lines between the buildings. The addition will not impact the light, air, or views of the neighbors.

205 Water Street currently has no parking spaces off the street. Once Mr. Morris acquires this property this will no longer be an issue since parking will be onsite at 209 Water Street. 209

Water Street will also no longer be occupied separately as only the Morris family will reside there. This project will reduce the overall impact on the area by decreasing the intensity of the use of land and freeing up public parking spaces.

Scott Brown, Architect for the project, presented. He indicated the proposal is a substantial improvement on what is there now. He presented a rendering of the resulting structure which demonstrated the tremendous improvement to both properties. John and Michelle Morris are simply trying to expand their living space. They are confined in their current space. The 1st floor has a width of 18 feet. They have spoken to people in the neighborhood and have signatures from 20 of the neighbors which support the project. 201 Water Street did not sign in support of the addition. The reason is that this property is owned by a trust controlled by Michelle and John Morris. In addition to presenting depictions of the 2 homes and the addition connecting them, he also presented a depiction of the front of 205 Water Street where there is a proposed new shed dormer and also new entrance to a proposed boat storage area.

Questions from the Board:

Mr. Snyder asked if there would need to be access to the boat storage area through public parking. The applicant answered that it was just winter storage and there would just be occasional use.

Mr. LaBay followed up on the questions about the changes to 205 Water Street. He assumed that these changes could be done by right and that this is why they were not addressed in the application. This assumption was confirmed.

Mr. Ciampitti asked about the historic yellow cottage that sits on the property. The Attorney indicated it is not part of the lot. He asked if the external renovations to the siding, etc. were in keeping with historical integrity. The answer was affirmative.

Deliberations:

Mr. Ciampitti indicated that this is a unique, creative and very modest piece of new construction in rendering 2 homes to one. He likes the fact that it is alleviating a parking issue. The presentation was creative and elegant. He liked it and is in support.

Mr. LaBay agreed with Mr. Ciampitti.

Chairman Ramsdell agreed with his colleagues that this is a modest change.

Motion to approve the Special Permit for Non-Conformities made by Mr. Pennington, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Robert Ciampitti – approve

Howard Snyder – approve

Public Hearing #5:

2012 015

Address: 26, 30-23 Toppans Lane

Special Permit

Construct and operate a 64 unit (74 bed) Assisted/Independent Living Facility (Use #108, Congregate Elderly Housing)

Mr. Pennington recused himself.

Northbridge Communities LLC

Chairman Ramsdell opened the hearing to public comment.

In favor:

Marc Griffin, Attorney, representing the estate of Doris Rindler

There have been numerous potential buyers. Northbridge has met with neighbors. What we have now is a use that meshes with the Hospital and Wallace Bashaw Jr. Way. This is the best use of the property. Northbridge has gone above and beyond the call of duty. There is very little traffic impact on the street. The Rindlers want to see the property developed in a responsible manner.

In Opposition:

Sarah Lucas, Newburyport, MA

Would like to see this as open space

Lisa Mead, Attorney representing Mark Goldstein, Executive Vice President and Chief Financial Officer at Anna Jaques Hospital

The hospital is not opposed. However, there is no traffic report that says no adverse impact on Toppans Lane. Concern about traffic access and what it might do to the integrity of the neighborhood. Access would preferably be on Wallace Bashaw Jr. Way

Mark Goldstein, Executive Vice President and Chief Financial Officer at Anna Jaques Hospital

Would like to work an option off Wallace Bashaw Jr. Way. The best use of the property would provide more parking for the Anna Jaques Hospital. He feels as if there is a plan that could be developed. He is not supportive of the plan with access from Toppans Lane.

Mike Sullivan, Summit Place, Newburyport, MA

Concerned about the open space. He would like to see the area to the side as open space. The open space needs to be locked down. Would like there to be a solution that protects the abutters.

Tom Smith, Toppans Lane, Newburyport, MA

He has 3 issues. He is not, in principal, opposed. However, there are a number of details that need to be worked out. First, the special permit being requested for the property doesn't exist yet. Second, the traffic. Third, sewer capacity – he is concerned about the cost and who will pay.

Marcia Foley, 206 Low Street, Newburyport, MA
Concerned about buffer and drainage issues

Ginny Eramo, 28R Toppans Lane, Newburyport, MA
Thankful for one story structure. Toppans Lane is congested, if they kept open space, it would be good.

Tom Jones, 130 Low Street, Newburyport, MA
The input of the larger community helped in the development of the medical center. He would like to work with the principals to achieve a solution.

Ann Smith, 36R Toppans Lane, Newburyport, MA
Wallace Bashaw Jr. Way has helped with the ambulances. There will be more trucks, delivery vehicles, fire trucks. With Alzheimer's patients you have to worry about loud noises – what about the helicopters that take off and land at Anna Jaques,

Sarah Holden, 34 Toppans Lane, Newburyport, MA
Northridge has had meetings with the neighbors. She is concerned about the open space and how it will get developed.

Kate O'Connell, 45 Toppans Lane, Newburyport, MA
She agrees it is a decent project but does not want access from Toppans Lane. Traffic is a huge problem. She wants to see options for open space.

Molly Ettenborough, 35 Toppans Lane, Newburyport, MA
She approves of the plan Northridge has presented but feels a few more things need to be worked out. She feels access from Toppans is not the best thing.

Wendy Nowokowski, President Northridge Communities provided an overview of the company. Northridge develops, owns and manages quality senior living communities throughout New England. The community they are proposing developing in Newburyport is a memory care residence. This will be a 64-unit, 74 bed assisted living unit to accommodate residents with Alzheimer's disease and other related dementias. The average age of the residents is 83. The residents are primarily widowed women.

The proposed building consists of a one-story building and will house 64 private rental apartment units and common areas totaling approximately 48,000 square feet. The common areas include living rooms, dining rooms, a kitchen and an activities center. The architecture incorporates local shingle style elements. The site will include extensive landscaping and walking paths which integrate with outdoor patios, courtyards, and building porches for residents use.

The building is situated at the rear end of the property near the existing medical center and Anna Jaques Hospital. Access will be provided from the 26 Toppans Lane address. The access drive will meander along the northern portion of the property for approximately 800 feet. The drive will follow existing topography and will be located to minimize disturbance to existing vegetation.

The parking is proposed on the north side of the building adjacent to Anna Jaques Hospital parking lot.

There is a letter from the fire department indicating access is accessible for fire vehicles. The project will not create undue traffic congestion or unduly impair pedestrian safety. The maximum number of residents will be 74 and the residents will not drive. The largest contributor to traffic trips will be the facility employees. However, the maximum number of employees at the site on the largest shift is estimated to be 20. The evening shift will be substantially less than 20 and is estimated to be 4-6 employees.

The proposed facility is projected to generate a total of 221 daily trips during the weekday, with only 9 trips during the morning peak hours.

The requested use will not overload any public water, drainage, or sewer system or any other municipal systems. There are no sewer capacity issues on Toppans Lane or Low Street.

Storm water will be infiltrated to groundwater and will not affect the municipal storm drain systems on Storey Avenue or storm drain systems on abutting properties.

Chairman Ramsdell indicated that the applicant is asking for permit for use. The Board can look at components of the Project as they impact use. The major activity for this project will be in front of the Planning Board.

Jeff Rolof, Attorney representing Northbridge Communities, indicated they were presenting a concept this evening so the Zoning Board could review things in a meaningful way. Other details will be subject to design review. The Planning Board is the next review. A thorough traffic study will be presented to the Planning Board. With respect to the open space, Lot 2 has a ½ house concept that would change to be a residential house in the future.

Attorney Mead indicated that the Zoning Board does not approve concept plans.

Questions from the Board:

Mr. Ciampitti asked Attorney Griffin about Wallace Bashaw Jr. Way. Attorney Griffin indicated that Wallace Bashaw Jr. Way is not public. The only access right now is Toppans Lane. Mr. Goldstein indicated that part of Wallace Bashaw Jr. Way is a City road and part is owned by Newburyport Medical Center and part is owned by the Anna Jaques Hospital. The hospital feels the current proposal might not be the best use.

Chairman Ramsdell asked if the hospital's primary concern is with access rather than the facility itself. The answer was yes.

Tom Jones indicated that in 1993, Anna Jaques was not allowed to use Toppans Lane. Chairman Ramsdell indicated that access seems to be important. He understands the attorneys have been working to get this resolved. He asked if it made sense in continuing the hearing in one month. The Northridge attorney wants to keep moving but doesn't want to put pressure on the Zoning Board; he had no objection to a continuation of the hearing, but wanted to understand the additional information that may be required at that hearing.

Deliberations:

Chairman Ramsdell said they would like to see a traffic study although it doesn't have to be full-blown. They would also like to have an understanding from DPS on sewer and water. The data used in the traffic analysis was from 6 years ago when there wasn't a middle school at the location where it is today. There have also been 3 additional houses built on Toppans since that data was collected.

Mr. LaBay said there was a lot of input from many people on the concept site plan. There are significant questions about the impact on Toppans Lane. He felt that the plans were still very preliminary. He also mentioned the fact that there will be delivery vehicles which will increase congestion.

Mr. Ciampitti said that the alternative access does not appear to be available to the applicant yet. Mr. Snyder needed greater clarification on the operation or use of the facility. He agreed that the traffic study needed to be updated using current data, and issues associated with wastewater need to be clarified.

Mr. LaBay pointed out an odd statement on page 3 where it mentions Storey Avenue and should say Toppans.

Motion to approve a continuation of the hearing for the Special Permit for Non-Conformities to June 26, 2012 made by Mr. Snyder, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – recused

Robert Ciampitti – approve

Howard Snyder– approve

Public Hearing #6:

2012 018

Address: 23 Low Street

Dimensional Variance

Relief from frontage, lot width, and side-yard setback requirements for the construction of a lumber wholesale business

Public Hearing #7:

2012 019

Address: 23 Low Street

Special Permit for non-conformities

Alteration of pre-existing non-conforming structures to accommodate a new lumber wholesale business; alter pre-existing non-conforming sign

Public Hearing #8:

2012 019

Address: 23 Low Street

Special Permit for Use

Allow Use #418/Wholesale and Use #604/Accessory Retail Industry

Timberline Enterprises, LLC, c/o Lisa Mead, Attorney, Blatman, Bobrowski, & Mead, LLC

Chairman Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

The applicant will operate a wholesale lumber business at 23 Low Street accompanied by an incidental retail business. Redevelopment of this location involves razing 1 structure, preserving 2 existing structures and constructing 4 new structures. The buildings will be used as follows:

- 1 building (existing) will be used as a wholesale store for the incidental sale of materials
- 1 building (existing) will be used as a gatehouse and yard office
- 1 building (new) drive-through storage building
- 1 building (new) drive-through storage building
- 1 building (new) three-sided material storage building
- 1 building (new) three sided material storage building, a portion providing an enclosed storage facility

Variances are required for the four new buildings being proposed. Along the easterly side of the location, immediately to the south of the existing building, the three-sided building will be

constructed to be situated 20.6 and 24.7 feet from the easterly boundary. Along the westerly side, the drive-through materials storage buildings will be constructed so as to be situated 20.5 and 30.6 feet from the westerly boundary. A 50 foot side yard setback is required in the 1-1B zoning district. The new structures will be no closer to the boundaries than the existing structures. The 4 new structures are not grandfathered as those that exist today.

The buildings located on-site are pre-existing nonconforming structures. Where these structures will be altered to accommodate the new wholesale business operation and incidental retail, a special permit is required. A special permit is also required for alterations to a pre-existing nonconforming sign at the site. Although the existing structures will not be expanded beyond their existing footprints, the change of use is therein accompanied by a new dimensional criteria. The 70' x 70' structure's side-yard set-back, though satisfied now at more than the 20 feet required for the current marine uses, will not be met once the requirements rise to 50 feet as applicable to wholesale use. Consequently a variance is required for the 50 foot side-yard setback requirements applicable once the use of the structure is changed.

The applicant will operate a wholesale lumber business at 23 Low Street accompanied by an incidental retail business. Incidental retail sales frequently accompany wholesale operations. The applicant wishes to make available on-site products often used by contractors who are purchasing lumber and materials. The products being offered will not be actively marketed to the general public nor will the incidental retail operation be competitive with hardware stores, home improvement centers, or similar establishments. Selection will be contractor not consumer oriented.

A traffic impact and access study was done by MDM Transportation consultant. Robert Misho, with MDM summarized the results of the study, indicating that the project as a whole will not result in either undue traffic congestion or danger to pedestrian safety. It is anticipated that only contractors and other consumers on-site for lumber purchases will visit the incidental retail facility.

The project involves conversion of an existing use to another different, but no more intense use as it relates to public water, drainage, sewer system, or any other municipal system. No additional demand will be placed on the City's infrastructure.

Questions from the Board:

Mr. Pennington asked about the parking component. Is it tied to vehicles related to employees as opposed to the wholesale customers. No requirement for incidental retail parking.

Mr. Snyder asked about traffic volumes generated by delivery of materials. He also asked about vendor delivery to site with 65 foot long vehicles. The applicant indicated that the computer modeling took that into account. He asked if they had anticipated contractor with truck trailers. Yes, they had anticipated that.

There were questions about the storage areas and whether they were open to air.

Deliberations:

Mr. Pennington felt the presentation was good.
Mr. Snyder felt the use was appropriate for neighborhood and site.
Mr. LaBay felt that the use falls within typical requirements.

Motion to approve the Dimensional Variance made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Motion to approve the Special Permit for non-conformities made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Motion to approve the Special Permit for Use made by Mr. LaBay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Adjournment

Motion to adjourn made at 11:44 p.m.

The motion passed unanimously.

Votes Cast:

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

Respectfully submitted, Jennifer Lamarre - Note Taker