

**City of Newburyport  
Zoning Board of Appeals  
May 28, 2019  
Council Chambers**

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

**1. Roll Call**

**In Attendance:**

Ed Ramsdell (Chair)  
Maureen Pomeroy  
Edward Cameron  
Mark Moore

**Absent:**

Robert Ciampitti  
Renee Bourdeau

**2. Business Meeting**

**a) Approval of Minutes**

**Ms. Pomeroy made a motion to approve the minutes of the 5/14/19 meeting. Mr. Cameron seconded the motion and the motion passed unanimously.**

**Votes Cast:**

Ed Ramsdell - approve  
Maureen Pomeroy - approve  
Edward Cameron - approve  
Mark Moore - approve

**2. Executive Session**

Pursuant to M.G.L. C. 30A Section 21, to discuss strategy with respect to litigation in the matter of Hebbelinck Real Estate LLC v City of Newburyport Zoning Board of Appeals (193 High Street), as an open meeting may have a detrimental effect on the litigating position of the public body.

Cancelled for this evening.

**3. Public Hearings**

**2019      022**

**Address: 3 Vernon Street**

**Dimensional Variance**

*Adjust lot lines requiring relief for side and rear setbacks*

**2019      023**

**Address: 10 Auburn Street (Lot A)**

**Dimensional Variance**

*Adjust lot lines requiring relief for lot area, side and rear setbacks, and parking*

**2019      024**

**Address: 10 Auburn Street (Lot B)**

**Dimensional Variance**

*Adjust lot lines requiring relief for lot area, lot coverage, front, side and rear setbacks, and parking*

**2019      025**

**Address: 1 Vernon Street**

**Dimensional Variance**

*Adjust lot lines requiring relief for lot area, lot coverage, and front and rear setbacks*

**2019      026**

**Address: 12 Auburn Street**

**Dimensional Variance**

*Adjust lot lines requiring relief for lot area, lot coverage, and front and rear setbacks*

Charles Griffin, Newburyport County Gaol owner, presented supplemental information for the joint application with 12 Auburn Street to modify lot lines inside the jail complex and protect the Gaol building, landscape and granite walls with a perpetual Preservation Restriction (PR). The property is held in different ways.

The site visit is complete. The proposal preserves the lawn with the main building on its own lot instead of an accessory to a duplex. A perpetual PR on all property would preserve the 1825 materials. A minor lot line change at the rear corner behind the trees on lot 2 at 12 Auburn Street is a 200 square foot easement for HVAC. Mr. Griffin presented design plans, footprints and elevations for two future alterations: adding a porch and adding a shed attachment to the Gaol building. He spoke to zoning administrator Jennifer Blanchet who supported including plan notations for specific materials that could and could not be used. He presented two additional design proposals to remove portions of the stone wall. One wall opening would allow access to the garden. The other wall opening faced the Bartlett Mall and would serve as a window to allow a view of the jailhouse building from outside the stone wall.

Nick Cracknell, Keystone Planning & Design, 12 Pickard Street, Amesbury, reviewed variance criteria. He described lot line adjustments, designs for the four future alterations, and the PR details. The porch is a connector building on the back of a non-historic structure. The stable and 10 foot granite walls are historic. The Bogart's house at 12 Auburn Street is outside the wall but inside the lot lines, resulting from a 2010 subdivision that built the Bogart's house. There

was no minimum lot width at that time. The lot width is non-compliant now. Other lot lines in the courtyard are pre-existing or were established under Section VI.C in 2004. The lines were either in compliance or granted relief to support the project. Cross easements exist between lots at 12 Auburn and the jailhouse. The existing subdivision plan has three lots in common ownership. When the house was conveyed to the Bogart's, it was known that lot lines fracturing the jail yard would be a future concern. He proposed separating the rear of the jail yard and tying it into 3 Vernon Street where the Griffin's reside. He reviewed the four future alterations. There are 11 pre-existing dimensional non-conformities and an additional 11 or 12 proposed. The existing four lots become five lots. He explained the variance table and hardships for each proposed lot. Highlights included dimensional variances approved a couple of years ago for 5 and 7 Vernon Street, that Lot 5 requires the most dimensional relief with four pre-existing non-conformities and four more proposed, and that the new Lot 3 created at 10 ½ Auburn Street has a new non-conformity for lot area predicated on steep slopes moving down to the street and 10-foot high walls. A driveway access easement, if needed, is requested. A dimensional variance is requested for the rear yard, which backs up to protected open space. The accessory building is very large with complex maintenance requirements. Changing the use of the building in the future to a museum or a residence is under consideration.

Fixing lot lines between the structures and the jail yard preserves the resource over time for potential adaptive reuse and separate ownership, and provides a permanent PR on the historic landscape, buildings, and perimeter walls, with the exception of the proposed additions to the left of jail house and the added porch. The proposal would prevent a dead building with no practical reuse under current zoning. First floor iron bars can be removed and stored on the property. The second floor bars have to stay. A language change on pages 5 and 27 is that the PR is in perpetuity instead of 30 years.

Chair Ramsdell opened the hearing to public comment.

**In Favor:**

*Tom Kolterjahn, 64 Federal Street, co-president of the Newburyport Preservation Trust (NPT), said the trust is strongly in support.*

*Stephanie Niketic, 93 High Street, was in support.*

**In Opposition:**

*None*

**Questions from the Board:**

Chair Ramsdell asked if the applicant returned to the Newburyport Historical Commission (NHC) on June 10<sup>th</sup>? Mr. Cracknell said yes. He received a strong recommendation from the Planning Director to secure the NHC approval before finalizing plans. Mr. Cameron asked if the presentation document was part of the PR and whether the NHC had seen the document? Mr. Cracknell said yes. The NHC received the document at the same time as the ZBA. He asked for conditional approval. Chair Ramsdell said there were no problems with the lot line adjustments.

He was uncomfortable with the additions' materials specificity on what materials could and could not be used in order to avoid returning to the board. Ms. Pomeroy asked if the variance for no parking at 10 ½ Auburn Street is new? Mr. Cracknell said yes, to avoid going through 10 Auburn Street. Mr. Griffin hoped there would be parking on Auburn Street in the future. Ms. Pomeroy asked to clarify whether there was no new parking? Mr. Cracknell said there was no new parking. The PR would prevent cutting into the lawns for future parking.

**Deliberations:**

*Mr. Cameron was in support. Comprehensive materials specifications were helpful. Should the process be a conditional approval pending the PR approval or should the Board wait for the NHC's decision on the PR? Chair Ramsdell was in support. He preferred to continue the vote to June 25 in order to process the large number of variances. This was the largest number of variances in a project to come before the Board. He preferred that the document attached to the vote reflect the Board's decisions rather than deferring to the NHC decisions. Ms. Pomeroy was uncomfortable approving a variance on a lot whose end use was unknown. A single-family home could need three or four parking spaces. Mr. Cracknell said the objective was to create a principal use allowed in R3. Ms. Pomeroy said the more restrictive leeway on variances made details important. Mr. Moore agreed. Chair Ramsdell said a continuance would enable more details to be finalized and provide a cleaner record.*

**A motion to continue application 2019-022, 23, 24, & 25 to June 25 was made by Ms. Pomeroy. Mr. Cameron seconded the motion and the motion passed unanimously.**

**Votes Cast:**

Ed Ramsdell - approve  
Maureen Pomeroy - approve  
Edward Cameron - approve  
Mark Moore - approve

**2019      034**

**Address: 47 Storey Avenue**

**Dimensional Variance**

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

This application is continued from 4/23/19.

The applicant requested a further continuance.

**A motion to continue the application 2019-034 to June 25 was made by Ms. Pomeroy. Mr. Moore seconded the motion and the motion passed unanimously.**

**Votes Cast:**

Ed Ramsdell - approve  
Maureen Pomeroy - approve  
Edward Cameron - approve

Mark Moore - approve

**The meeting adjourned at approximately 8:34 PM.**

**Respectfully submitted, Linda Guthrie – Note Taker**