

**City of Newburyport
Zoning Board of Appeals
June 10, 2014
Council Chambers**

The meeting was called to order at 7:12 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair), present for hearings #1-5
Duncan LaBay (Secretary)
Jamie Pennington
Howard Snyder
Richard Goulet (Associate Member)
Libby McGee (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of May 27, 2014 Meeting

Mr. Pennington 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 – approve
Howard Snyder– approve
Richard Goulet – approve
Libby McGee - approve

Public Hearing #1 & #2:

2014 022

Address: 77 Lime Street

Special Permit

Convert existing six-family structure to a three-family through renovations and construction of an addition

2014 023

Address: 77 Lime Street
Special Permit for Non-Conformities
 Modification to pre-existing non-conforming structure

Lisa Mead of Blatman, Bobrowski & Mead LLC, 30 Green Street, presented on behalf of H&H Bros. Co., LLC, owners. Gus Harrington, of H&H Bros. and Everett Chandler, of Design Consultants were also present. The present structure is a six-family with 8 bedrooms. The structure is non-conforming in regards to front, side, and rear yard setback, lot coverage, and open space. The owners are proposing to remove later additions and add a new addition, which would total three units.

Special Permit

- The property is located in the RIII zoning district, where a three-family use is allowed by special permit
- The requested use is essential and/or desirable to the public convenience or welfare. The three-family use is allowed by permit in the district, and so has been determined by the city to be desirable. The proposed construction will also provide diversity of housing while not overusing the existing lot or overtaxing the neighborhood.
- The requested use will not create undue traffic congestion or impair pedestrian safety. The reduction from six-family to three-family will improve current conditions. There is parking onsite for two vehicles per unit and no need to park on the street. There are sidewalks in place, so pedestrian traffic will not be interrupted.
- The requested use will not overload public water, drainage, sewer, or other municipal systems. The structure currently has six units with eight total bedrooms. The proposed structure would create two three-bedroom and one two-bedroom unit, for a total of eight bedrooms. Water and sewer use will not be intensified. Stormwater runoff will be improved with less impervious surface.
- There are no special regulations for a three-family use which exist in the Ordinance.
- The requested use will not impair the character or integrity of the district, nor be detrimental to the health and welfare. Ms. Mead presented plans for the proposed construction noted the change from a six-family to a three-family is consistent with the neighborhood and will not impair its integrity or character.
- The requested use will not be in excess. The neighborhood will become slightly less dense with the proposed structure and is consistent.
- The proposed use is in harmony with the Ordinance as it is allowed by special permit and is consistent with the neighborhood.
- The proposed use shall not be conducted in a manner so as to emit dangerous, noxious, injurious, or otherwise objectionable pollution. The construction itself will not be any of the above and the structure will be used as a three-family residence when finished.

Special Permit for Non-conformities

The existing structure is non-conforming due to front, side, and rear yard setbacks, lot coverage and open space. The proposed structure will not add or exacerbate any existing non-conformities or the addition of any new non-conformities. Removing all other non-conformities. The project will eliminate rear, left side setback, lot coverage and open space. With the reduction of units,

parking spaces will be reduced from ten to six. The proposed change will not be substantially more detrimental to the neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Bill Harris, 56 Lime St

Mr. Harris was in favor of the project. His only question was regarding number of bedrooms and that had been addressed. He appreciated that the owner is sensitive of the historic nature of the structure, the frontage on Lime Street will be maintained, and there will be a reduction in number of units. He is pleased with the project.

In Opposition:

Stephanie Niketic, 93 High Street

Ms. Niketic was not for or against, but wanted the board to be aware that 77 Lime Street is on the National Register, built approx. 1800-1850. The applicant is known as preservationist.

Questions from the Board regarding Public Hearing #1 & #2:

None

Deliberations:

Mr. Snyder 's only concern was density and massing. This was alleviated during the presentation.

Mr. Ciampitti commented on the thorough and detailed presentation. He agreed that it is rare to see a historic structure renovation with a reduction in massing and scale. The proposed alteration will exacerbate non-conformities and increases open space. This is hard to do! He was prepared to support.

Mr. LaBay agreed. He commented that there were no neighbors appearing in opposition. Both Mr. Harris and Ms. Niketic noted the sensitivity of the owner to historic structures.

Mr. Pennington agreed. The presentation was well articulated. His only concern coming in was intense massing, and that was not the case. It will be a successful project in the way in the addition is distinct and not to be confused with the original historic structure. He was prepared to support.

Mr. Ramsdell concurred.

Motion to approve application 2014-022 for a Special Permit 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 – approve
Howard Snyder– approve
Richard Goulet – non-voting
Libby McGee – non-voting

Motion to approve application 2014-023 for a Special Permit for Non-Conformities 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 – approve
Howard Snyder– approve
Richard Goulet – non-voting
Libby McGee – non-voting

2014 024

Address: 172 State Street

Dimensional Variance

Construct a four unit addition and renovate the existing structure for a five unit structure where frontage relief is needed

2014 025

Address: 172 State Street

Special Permit

Allow a five-family structure

2014 026

Address: 172 State Street

Special Permit for Non-Conformities

Modify pre-existing non-conforming structure where there is insufficient front yard setback

Lisa Mead of Blatman, Bobrowski & Mead LLC, 30 Green Street presented on behalf of Terrance & Caroline Monahan, owners. James Bourque, Project Manager, Scott Brown, architect and Everett Chandler, Engineer were also in attendance. The applicants proposed to remove a later addition on the back of the property and add four units to the rear of the existing structure, all with garages. The front structure is first period, also known as the Benjamin Cocker house, located in the B1 zoning district, currently being used for commercial offices. There is a pre-existing, non-conforming structure and two outbuildings that would be removed. Ms. Mead presented plans of the proposed addition.

Special Permit

- The requested use is listed in the table of use regulations in the Ordinance. A five-family use is allowed in the B1 zoning district by Special Permit.
- The requested use is essential and/or desirable to the public convenience or welfare. The use is allowed by Special Permit, and thus desirable by the city. Providing more and diverse housing close to the train is consistent with the city plan. This project will not result in overusing the lot or overtaxing the neighborhood. The re-use of the site will allow for the restoration of a historic structure.
- The requested use will not create undue traffic congestion or impair pedestrian safety. The project will provide more than two parking spaces for each unit. Traffic would be relatively consistent and not as unpredictable as a business. There are sidewalks along State Street for pedestrians.
- The requested use will not overload any water, drainage, sewer or other municipal system. There are 15 bedrooms proposed within the project. The possible 1650 (110 gallons per day, per bedroom) added to system will not have a detrimental impact to the systems. There will also be a stormwater plan that will be a part of the major site plan review.
- There are no special regulations for a five-family use which exist in the Ordinance.
- The requested use will not impair the integrity or character of the district. The project is consistent with the district, where there are a mixture of multi-families and commercial uses. They will be preserving the original structure so as not to impair the character and integrity of the neighborhood.
- The requested use will not cause an excess of that particular use that could be detrimental to the character of the neighborhood. The use is consistent with the area and not excessive.
- The requested use is in harmony with the purpose and intent of the Ordinance. A five-family use is allowed by permit and is consistent with the general area.
- The proposed use shall not be conducted in a manner so as to emit dangerous, noxious, injurious, or otherwise objectionable pollution. The construction itself will not be any of the above and the structure will be used as a five-family residence when finished.

Special Permit for Non-conformities

The existing structure is non-conforming in regards to front yard setback. There would be no intensification or extension of this non-conformity with the proposed project. The change of use will not be more detrimental to the neighborhood.

Variance

The structure is located on an interior lot. It is a pre-existing, non-conforming lot with regard to front yard setback. Many neighboring properties are also non-conforming, including; 168, 166, 147, 149, and 176 State Street. Interior lots where on the lots adjoin it and face it do not conform to the regulations, then a hardship exists. This applies to 172 State Street. The topography of the lot is also a hardship as it slopes upward from the street Lot frontage. The petitioner seeks a variance for frontage of a mere 12 feet and would be complying with all other dimensional requirements, and even improving side yard setbacks.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

William Harris, 56 Lime Street

This structure is dated approximately 1700, and is an early period house. There are many significant architectural features that survived intact when the house moved from Federal Street to the current location years ago. There are not more than a few dozen of these surviving structures. This configuration and architecture does not provide separation from the historic building. His main concern was that there be improved separation from the surviving early first period structure.

Ellen Hanick, 166 State Street

Ms. Hanick appeared not for or against the project. She asked for clarification on the number of bedrooms and parking spaces in the project. She was also concerns with neighborhood infill, the overall effects of multi-families, and a decrease in open space. Ms., Mead addressed her concerns.

Alan Papert, 174 State Street #4

Mr. Papert addressed concerns over the elevations and his loss of privacy.

Terry Monahan, 172 State Street (Owner)

Mr. Monahan explained how he acquired the home with his mother's approval. It had been abandoned when he purchased it. He has now owned it for 28 years and has conserved many 1st period aspects. When he decided he would sell, he made agreement with those not wanting to destroy the place, but rather preserve and improve it.

Questions from the Board regarding Public Hearing #3, #4 & #5:

Mr. Pennington asked about the detachment of the old structure from the new and the thought process for this project. Ms. Mead explained that the owners were not interested in the 6C process, creating a subdivision plan, etc. It is a very expensive and lengthy process. She noted that attached dwellings are popular. Mr. Pennington also suggested more pronounced staggering of the units to avoid monotony. Scott Brown, architect, noted that compromises were made in reducing square footage. It would also cause an increase in construction cost and was an undesirable path.

Mr. LaBay asked about the ridgeline height of the garages. They would be a little less than 20 feet. One-story garages may help make the project more appealing. Mr. Brown noted that there is a 7-foot height difference from the garage to the structure. Mr. LaBay clarified that all five units have two-car garages. Mr. Brown noted that whether there was living space above the garages or not, he would propose the same roof.

Deliberations:

Mr. Pennington commented that this application was tough for him. He was for the use in the district. He was not crazy about the design of the project but commented that they are not a design board. He is ok with the variance justification.

Mr. Ciampitti commented that a project like this makes sense and allows a 1st period home to survive. He gave credit to the design team, as it was a tough spot to work with. He thought the units could use more staggering. It was pretty clear that preservation of front structure would take place and one could still detect the 1st period home from the new units. It is a less than perfect way to keep a 1st period home relevant useful. He commented that they will still have much work to do with the planning board.

Mr. LaBay commented that he was generally in the same place as his colleagues. He mentioned a recent project on Carter Street that had something visually more interesting. The variance was not an issue for him.

Mr. Ramsdell commented that the applicant made note of problems with the 6C process and that it is immensely difficult and expensive. Preservation side – new DCOD, what is being done here does not trigger it. He did have some concerns on spacing, but would be prepared to support.

Motion to approve application 2014-023 for a Dimensional Variance 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 – approve
Howard Snyder– approve
Richard Goulet – non-voting
Libby McGee – non-voting

Motion to approve application 2014-024 for a Special Permit 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 – approve
Howard Snyder– approve
Richard Goulet – non-voting
Libby McGee – non-voting

Motion to approve application 2014-025 for a Special Permit for Non-conformities 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 – approve
 Howard Snyder– approve
 Richard Goulet – non-voting
 Libby McGee – non-voting

2014 027
Address: 32-34 Woodland Street
Dimensional Variance
 Relief from minimum lot area and front yard setback requirements for a three-family residence

2014 028
Address: 32-34 Woodland Street
Special Permit
 Convert a two-family to a three-family

Lisa Mead of Blatman, Bobrowski & Mead LLC, 30 Green Street presented on behalf of Richard & Kathryn Clunie, owners. Everett Chandler, engineer on the project was also in attendance. Currently 32 and 34 Woodland Street are independent parcels approved via the granting of a variance in 1984. The applicants own both parcels and wish to combine the parcels back to one, and construct a third unit on the property. The property is located in the RIII zoning district. Currently, a deeded two-family structure is located on the property with the lot line running through the home. The third unit to be built would have significant one floor living space for the homeowner who now faces a health challenge and is planning for the future and her desire to remain at the property.

Special Permit

- The requested use is listed in the table of use regulations in the Ordinance. A three-family use is allowed in the RIII zoning district by Special Permit.
- The requested use is essential and/or desirable to the public convenience or welfare. The use is allowed by Special Permit, and thus desirable by the city. This project will not result in overusing the lot or overtaxing the neighborhood.
- The requested use will not create undue traffic congestion or impair pedestrian safety. The project proposes only one additional unit. There is onsite parking available both driveway and garage.
- The requested use will not overload any water, drainage, sewer or other municipal system. There will be three additional bedrooms in the new unit which will not overload any systems.
- There are no special regulations for a three-family use which exist in the Ordinance.
- The requested use will not impair the integrity or character of the district. The project is consistent with the district, where there are a variety of single and multi-families.
- The requested use will not cause an excess of that particular use that could be detrimental to the character of the neighborhood. The use is consistent with the area and not excessive.

- The requested use is in harmony with the purpose and intent of the Ordinance. A three-family use is allowed by permit and is consistent with the general area.
- The proposed use shall not be conducted in a manner so as to emit dangerous, noxious, injurious, or otherwise objectionable pollution. The construction itself will not be any of the above and the structure will be used as a three-family residence when finished.

Variance

The project requires a dimensional variance; relief from minimum lot area and front-yard setback requirements for a three-family residence. A hardship exists where after combining the two parcels that were divided in 1984 and re-establishing a newly formed lot. Proposed lot area is 14,886 square feet where 20,000 square feet is required. Front yard setback is proposed at 10 feet where 20 feet is required. The lot slopes south, providing further topographical hardship.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Ms. Mead handed out copies of 13 letters of support signed by neighbors.

In Opposition:

Frederick Taintor, 10 Dexter Street

Mr. Taintor made note that he must have been outside the area of neighbors to be notified. He commented that there are sidewalks on both sides of Dexter Street, except in front of that property. There are no two-family homes on Dexter Street or Beacon Street. Diagonally on woodland there is a multi-family. He was not generally opposed. This is a fairly significant addition with a contradiction in one-floor living, by having second story living space. He did not see the topographical justification for the variance. It is too big a house on too small a lot. He was not concerned with expansion, but with the density.

Questions from the Board regarding Public Hearing #6 & #7:

Mr. LaBay asked for clarification on the two parcels being rejoined. Ms. Mead explained the situation and relief needed once more.

Mr. Pennington commented on the number of deeded half houses in the city. This was a true two-family, true to the property line.

Mr. LaBay asked if the reasoning behind the 1983 variance was know. Ms. Mead answered that it was unclear.

Mr. Snyder asked for clarification on the variance and hardships that exist. Ms. Mead explained the topographical hardship where the front of house slopes up. The initially looked into digging the parking into the front slope, but it was not feasible. The topography required them to use the empty area on the side near Dexter Street.

Mr. Pennington asked if there would be any renovations on the existing structure. Ms. Mead answered no, just the connector to the new structure.

Mr. Goulet clarified that they are constructing the connector for purposes of avoiding the 6C process.

Ms. McGee asked if they had any images of slope. Mr. Chandler answered no, but there is a 4-5 foot rise in slope.

Mr. Snyder asked if there were any conditions with approval in the previous variance. Ms. Mead answered that it was an old decision and even if there were conditions; the current owners have the right to re-join them.

Ms. McGee asked which side the Clunie's reside on. Ms. Mead answered on right side. Ms. McGee asked if they had looked into adding onto the current structure. Ms. Mead answered that they would have to convert everything on 1st floor and accommodate wider doors, hallways, etc. It did not make sense financially to convert.

Deliberations:

Mr. Pennington commented that there was something off about this application and it was the least successful to him compared to the rest of the applications this evening. He was sympathetic to the needs of the applicants.

Mr. LaBay commented that 11 properties required notification of the project and all 11 were in support. He also commented that it would be a lot of house for the lot.

Ms. McGee agreed with her colleagues. Her concerns are on massing. She asked the ceiling height on the 2nd floor and it was answered that it is 19.5 feet.

Mr. Snyder's concerns were massing, character, and volume on the site. Though letters of support from neighbors offsets his concerns. He is sympathetic to the applicants as well.

Mr. Goulet's concern was separation.

Mr. Pennington commented that the more he heard, he has less of a problem with massing, but more with the structure fitting in with the neighborhood. He would like to see more spacing and consistency.

Ms. McGee commented that from a design perspective there are other ways to make the project more appealing.

After some discussion it was decided that the applicants would continue the application for the next meeting in order to address some of the concerns of the board.

Motion to continue application 2014-027 for a Dimensional Variance and application 2014-028 for a Special Permit to June 24, 2014 made by Mr. Snyder, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
 Robert Ciampitti – absent
 Duncan LaBay – approve
 Jamie Pennington – approve
 Howard Snyder– approve
 Richard Goulet – approve
 Libby McGee – non-voting

2014 029

Address: 384 High Street

Dimensional Variance

Relief from minimum lot area, frontage, and side yard setback requirements for a two-family residence

2014 030

Address: 384 High Street

Special Permit

Convert a single family to a two-family (use #102)

2014 031

Address: 384 High Street

Special Permit for Non-Conformities

Modify pre-existing non-conforming structure where there are insufficient front and side yard setbacks

Lisa Mead of Blatman, Bobrowski & Mead LLC, 30 Green Street presented on behalf of Debra Torris, owner. Scott Brown, architect and Everett Chandler, engineer were also in attendance. This lot is located on the corner of Plummer Avenue and High Street. The applicants are proposing to add a garage with a one-bedroom residence above. They propose to remove an existing shed. They intend to re-side the house to make it more consistent with the neighborhood.

Special Permit

- The requested use is listed in the table of use regulations in the Ordinance. A two-family use is allowed in the R2 zoning district by Special Permit.
- The requested use is essential and/or desirable to the public convenience or welfare. The use is allowed by Special Permit, and thus desirable by the city. This project will not result in overusing the lot or overtaxing the neighborhood.
- The requested use will not create undue traffic congestion or impair pedestrian safety. The project proposes only one additional unit. There is onsite parking available and sidewalks along High Street.
- The requested use will not overload any water, drainage, sewer or other municipal system. There will be three additional bedrooms in the new unit which will not overload any systems. They will incorporate gutters and a dry well for stormwater.
- There are no special regulations for a two-family use which exist in the Ordinance.

- The requested use will not impair the integrity or character of the district. The project is consistent with the district, where there are a variety of single and multi-families. This is a modest unit above a garage.
- The requested use will not cause an excess of that particular use that could be detrimental to the character of the neighborhood. The use is consistent with the area and not excessive.
- The requested use is in harmony with the purpose and intent of the Ordinance. A two-family use is allowed by permit and is consistent with the general area. Infill design techniques will be utilized.
- The proposed use shall not be conducted in a manner so as to emit dangerous, noxious, injurious, or otherwise objectionable pollution. The construction itself will not be any of the above and the structure will be used as a two-family residence when finished.

Ms. Mead passed out new design plans to the board that were established after working with a neighbor on privacy concerns.

Special Permit for Non-Conformities

There will be no new non-conformities and no substantial detriment will result from the extension or alteration of the existing structure. The proposed use is consistent with the area.

Variance

A Dimensional Variance is sought for relief of minimum lot area, frontage and side yard setback requirements. Lot area is proposed at 10,763 square feet where 15,000 square feet is required. Frontage is proposed at 209.3 feet where 120 feet are required. Side yard setback is proposed at 0 feet where 20 feet are required.

A hardship exists in that this is a corner lot, surrounded by other non-conforming structures. The lot is also a bit misshapen, like parallelogram.

This project will exceed open space requirements. They have been working diligently with neighbors. And even agreed with one neighbor that they will not convert into condominium. Although the board would have no say in that matter.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Clifford Raskin, 53 Plummer Avenue

Mr. Raskin commented that this will fit the neighborhood well. He is in support.

In Opposition:

Stephanie Niketic, 93 High Street

Mr. Niketic was not against the project. This is a 1920 craftsman style home. Changes to historic structures can really affect the character and integrity of a neighborhood.

Questions from the Board regarding Public Hearing #8, #9 & #10:

Mr. LaBay asked whether the craftsman style of the existing home was considered with the addition and whether it follows suit. Mr. Brown explained that the addition would be slightly different, yet replicate some detail. Mr. LaBay was concerned that the design did not match up.

Mr. Pennington on the other hand thought this was the most compatible design. It is consistent with the existing structure, but not identical. He appreciated the improvements working with neighbors on privacy.

Mr. Snyder was surprised by the metal spiral staircase on the design plans.

Ms. McGee asked about the dormer on the first plans. Mr. Brown explained that after working with the abutter, they revisited the design. They did not want the addition to appear as if it had a third floor living space.

Deliberations:

Mr. Pennington commented that this application would be easy for him to approve. Good rationale. Good aesthetics.

Mr. Snyder commented that an attached garage with studio apartment was a reasonable request. And that the dimensional variance request was understandable.

Mr. LaBay appreciated the applicant working with the abutter. This is more of an accessory apartment to him than a two-family. As for the dimensional variance, the corner lot justification is what struck him.

Mr. Ramsdell agreed. He commented that the architect should be congratulated. The project mimics the original structure, but does not imitate.

Motion to approve application 2014-029 for a Dimensional Variance made by Mr. Pennington, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – absent
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder – approve
Richard Goulet – approve
Libby McGee – non-voting

Motion to approve application 2014-030 for a Special Permit made by Mr. Pennington, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – approve
Libby McGee – non-voting

Motion to approve application 2014-031 for a Special Permit for Non-Conformities made by Mr. Pennington, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – approve
Libby McGee – non-voting

Adjournment

Motion to adjourn made by Mr. Snyder, seconded by Mr. Goulet at 9:56 PM.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – absent
Duncan LaBay – approve
Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – approve
Libby McGee - approve

Respectfully submitted, Katie Mahan - Note Taker