

**City of Newburyport
Zoning Board of Appeals
June 11, 2013
Minutes**

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

1. Roll Call

In Attendance: Ed Ramsdell (Chair), Robert Ciampitti (Vice-Chair), Duncan LaBay (Secretary), Jamie Pennington, Howard Snyder, Richard Goulet (Associate Member), Jared Eigerman (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of May 28, 2013 Meeting

The minutes from the May 28, 2013 meeting were not available for approval.

3. Public Hearings (4 on the agenda)

2013 025

Address: 21 Cherry Street

Special Permit for Two-Family Use

Demolish existing structure and construct two-family residence in compliance with all dimensional requirements

This Hearing was continued from the May 28th meeting of the Zoning Board of Appeals. At that time, the applicant's representative, Attorney Mark Griffin, requested a continuance of the Public Hearing for 21 Cherry Street since the Board would be operating with a minimum number of members. The Board granted the request with no discussion and continued the item to today's date.

Mark Griffin Esq, Law Office of Mark W. Griffin, P.C., 11 Market Square, Suite 8, Newburyport, MA represented the applicant Redco Construction (Patrick Reddy, Principal). The applicant is seeking a Special Permit to demolish the existing single-family structure and construct a two-family home. The applicant is not asking for zoning relief but is asking for a special permit for the use. The existing house was built in 1962 and is owned by an estate. It is currently under contract for purchase, subject to getting this approval for use.

The proposed two-family residence will conform to all dimensional requirements in the R-3 Zoning District. Attorney Griffin presented elevations of the proposed structure. He presented the site plan and discussed the setbacks.

The original plan was somewhat different than the one that is being presented. The applicant reached out to the neighbors who were opposed and modified the plans. In response to the neighbor with concerns about blocking his solar panels, the structure was moved away from the street and set on an angle. In response to concerns about massing, the two halves of the structure have been offset and a planting strip has separated the two driveways. Another abutter was concerned about drainage and a grading plan was developed.

The applicant, Patrick Reddy spoke, indicating that he is a local resident, builder and developer. He has built homes in Newburyport. He believes the project he is proposing for Cherry Street will be a great addition to the neighborhood.

Attorney Griffin then reviewed the complaints they have received.

Complaint: Water and sewer systems

Response: A letter from City Engineer, Jon-Eric White, dated 5/28/2013, indicated that the proposed improvements will not adversely impact that capacity of the municipal utility systems – it will not overload the systems.

Complaint: Traffic and Sidewalks

Response: They are only adding one residence. A letter from Lieutenant Mark Murray, dated 5/28/2013, indicates there were no concerns that the project would cause any undue traffic congestion or unduly impair pedestrian safety.

Complaint: The neighborhood is almost all single-family, this will change the character of the neighborhood

Response: Within close proximity to the proposed project (300 foot diameter) there are several multi-family homes. Within the immediate vicinity, this will be the only two-family structure, but this is, by no means, a single-family area.

Complaint: Emergency Vehicle Access

Response: Letters from Police and Fire indicate there are no concerns

Complaint: Reduction in Property Values

Response: This concern goes against any sort of assessment of the project. They are going from an \$88,000 house to one that will clearly be more valuable.

Complaint: Set a precedent

Response: Every application is reviewed on its own merit. This is one of the few lots that does not require dimensional relief.

Attorney Griffin reviewed the Special Permit Criteria.

The requested use is desirable to the public convenience and welfare. The existing home is single-family and in need of significant work. It is a tired home on a street with otherwise attractive homes. The streetscape will be dramatically improved by the aesthetically pleasing design that the applicant proposes.

The requested use will not create undue traffic congestion or unduly impair pedestrian safety. Required parking will be provided and no significant increase in traffic will occur from the addition of one additional dwelling unit beyond what previously existed on the site.

The requested use will not overload any public water, drainage, or sewer system or any other municipal system. The addition of one dwelling unit beyond what previously existed will not tax the City's infrastructure. There are no special regulations for the use set forth in the Special Permit Table.

The use will not impair the integrity or the character of the district or adjoining districts nor be detrimental to the health or welfare. The R-3 Zoning District is primarily intended to provide for multi-family use (even more dense than two family), single- and two -family uses are also allowed in accordance with Section III-B of the Zoning Ordinance. The two-family use is allowed by special permit, while single family is by right.

The project will not cause an excess of that particular use that could be detrimental to the character of the neighborhood. The immediate neighborhood on the sides of the locus is composed of single-family residential homes. Across the street there are two-family and multifamily homes. One additional two-family use in the neighborhood will not be excessive.

The proposed use is in harmony with the purpose and intent of the Zoning Ordinance as the R-3 Zoning District is intended for single family, two family, and multifamily use. The proposed construction will fit in with the character of the neighborhood through its design and the respect it shows with regard to massing and building placement.

The proposed home will not emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive, or other hazard, noise, vibration, smoke, dust, odor or other form of environmental pollution. The residential use will comply with all applicable public health and safety code requirements.

Both the existing and the proposed structures meet the zoning requirements for their respective uses.

Attorney Griffin asked Steven Sawyer, Design Consultants Inc., 68 Pleasant Street, Newburyport, MA to discuss drainage. Mr. Sawyer indicated that typically, at this stage in the process they do not get into a lot of detail on the drainage. However, he did provide a grading plan. The building is gabled and gutters will be provided to deflect water to the rear. They are adding pavement for the driveway and storm water will flow into a rain garden. The design that he is proposing represents improvement by reducing the flow onto abutting properties.

Attorney Griffin continued with his discussion on the Special Permit Criteria. The R-3 Zoning District provides for multi-family use. They are asking for multi-family with no relief requested. There are two-family dwellings plus single-family dwellings in the neighborhood. A letter from the Fire Department indicates there will be no environmental pollution.

Attorney Griffin requested that the Zoning Board of Appeals grant the Special Permit for use.

Chairman Ramsdell opened the hearing to public comment.

In favor:

John Chiungos, 417 Middle Street, West Newbury, MA

Mr. Chiungos owns 4 Arlington Street in Newburyport. He spoke about 6 Arlington Street in Newburyport that the applicant had gutted and rehabbed. The work was done without impact and the applicant built a beautiful home. This home was built with minimal disturbance.

Chris Cronin, 50 Federal Street, Newburyport, MA

Mr. Cronin said that Pat (the applicant) has brought a great value to the remodeling of his old home. He did an amazing job. He is a great guy and does great buildings.

Michael Arnold, 16 Highland Avenue, Newburyport, MA

Mr. Arnold indicated that the applicant is a good builder. He is respectful and diligent.

Cheryl Caldwell, Relator, Federal Street Newburyport, MA

Ms. Caldwell indicated she has had a chance to work with Pat (the applicant) on many properties. Pat takes a great deal of pride in his work. He wants his projects to fit in a community.

In Opposition:

Mary Lou Johnston, 19 Cherry Street, Newburyport, Massachusetts

Ms. Johnston has lived next to the property for 40 years. The total square footage being proposed is 4 times what the current house is. This has brought the house closer to hers. Most of the soil from her land has disappeared. There will be 2 parking spaces instead of 1 and removal of trees. Cherry Street is narrow and in winter it becomes dangerous.

Mary Webber, 15 Cherry Street, Newburyport, Massachusetts

Ms. Webber indicated she has two quick stories:

1. They have had sewage in their basement twice and the City has provided no help. The Health Department hangs up on them when they call.
2. When the structure of a house changes in the area, they get flooded.

Ann Webber, 15 Cherry Street, Newburyport, Massachusetts

Ms. Webber is definitely in opposition of the application. It will impact the character of the neighborhood. Over 30 years there have been many problems as Mary Lou Johnston has indicated. There are old clay pipes on the street. There are no sidewalks. You are taking a structure and changing it. She is sure the applicant is a wonderful man and builds beautiful homes. They have had to call the City to come pump them out a couple of times a year. There

will be an environmental impact associated with building on Cherry Street and she asked the Board to deny the application.

Andy Morris, 23 Cherry Street, Newburyport, Massachusetts

Mr. Morris is in strong opposition to the demolition and building of a two-family home. He said turning a single-family into a two-family sets a poor precedent. He believes there are better solutions. He has 18 Solar panels on his roof. A study done by KW Management indicates the proposed structure will prevent sunlight from hitting his solar panels. He indicated that he will lose 2 months of production and it will cost him about \$2000.00. In 2006 something similar was proposed on Cherry Street. Many people have signed a petition to have the current application denied. Neighbors overwhelmingly opposed the project proposed in 2006. They are asking that the 2013 permit be denied (he provided the Board with a copy of the petition which has been signed by 118 people). He took a sampling of 65 homes (8% not home). 9 homes of the 65 did NOT sign the petition. 78% of the homes have signed the petition. This project is strongly opposed as indicated by the signatures. He provided a copy of a map for the board indicating which homes had signed the petition. He said that if the permit is allowed, it sets a bad precedent and will change the entire character of the neighborhood.

Charles Carroll, 25 Hill Street, Newburyport, Massachusetts

Mr. Carroll is opposed to any increase in multi-family dwellings in the neighborhood. He is Chairman of the Back Bay Neighborhood and owner of a large lot on Purchase Street. He finally built a house there and set it on the lot in a way so you could not do anything else on the lot.

Michael Mansir, 4 Quill Road, Newburyport, Massachusetts

Mr. Mansir owns the property diagonally behind Cherry Street. This project is just for profit. There will be dump trucks. He requests that the Board reject the proposed project.

Robert Cronin, 126 Merrimac Street, Newburyport, Massachusetts

Councilor Cronin is the Ward 3 Councilor for the City of Newburyport. He is not questioning the quality of the work, he is questioning the scope of the work. He is also concerned about the impervious surface. There is a lot of run-off on the Street. He has a work order with the Department of Public Services to do work to help with drainage. The project being proposed does not fit with the neighborhood. The neighborhood opposition to the project is consistent with historical opposition.

June Morris, 23 Cherry Street, Newburyport, Massachusetts

Ms. Morris wishes the best for the Packers (current owners of 21 Cherry Street). The person proposing the project seems like a wonderful person. However, there is no way that constructing a building, that is 4 times as big and will enable 2 more cars, makes sense for the neighborhood.

Kathy Larkin, 53 Hill Street, Newburyport, Massachusetts

Ms. Larkin indicated that the builder is proposing a two-story duplex. She would support something smaller. She spoke about the law of unintended consequences and how changes to other properties have impacted their property. Every February they have to dig a trench to deal with the runoff from the neighbors' properties. She is very concerned about the impact of this new home from a water perspective.

Resident. Purchase Street, Newburyport, Massachusetts

The clay pipes on Cherry Street are the cause of excess water in his basement. The development being proposed is consistent with the 2006 proposal. The 2006 proposal was denied. Consistent government is good government.

Resident, 39 Hill Street, Newburyport, Massachusetts

This resident indicated that their property is directly behind Cherry Street. She read a letter that her mom, Dr. Helen Spurling, wrote. They will lose privacy and this project will lower the value of their property. This change will affect the residents and change the town.

Gregory Earls, 25 Milk Street, Newburyport, Massachusetts

Councillor Earls is the Ward 2 Councillor for the City of Newburyport. Councillor Earls has received many letters about this project from residents and he has driven by the location. The proposed project is out of scale. Parking is an issue. In reality tandem parking does not work. There will be more cars on the street. This street is already very tight and having more cars will make things worse. He can see why the neighbors are upset by this proposed project.

Laurie Spurling, 39 Hill Street, Newburyport, Massachusetts

Ms. Spurling referred to what her mom had said previously – this project creates issues. They are located in back of the proposed project. This will change the character of the neighborhood. Her son is a volunteer fireman with the Newbury Fire Department. He indicated that going down Cherry Street is tough, especially in the winter.

Amy Anderson, 17 Cherry Street, Newburyport, Massachusetts

Ms. Anderson said that the current house at 21 Cherry Street is an eyesore and it would be lovely to have a new house there. When it rains, water goes down the Street. Parking is an issue. The height if the proposed building is an issue. If it were a single-family house, there would be no problem.

Elizabeth Filipancic, 51 Hill Street, Newburyport, Massachusetts

Ms. Filipancic said they purchased their house in 1996 because of the neighborhood. She has 3 children and has made the house a home. She can't even take a left turn on High Street. She shares the concerns that have been raised.

Timothy Loring, 26 Hill Street, Newburyport, Massachusetts

Mr. Loring has been there for 20 years. His mother-in-law has been there for 90 years. They do not support the application and hope the Board will handle this application as they have handled things in the past.

Michelle Holt, 16 Cherry Street, Newburyport, Massachusetts

Ms. Holt purchased her property in 2007. They had to dig 16 feet down and put in drainage. Every spring they get a collection of water. They are the lowest point. They are concerned with increased runoff and increased traffic. There are also people with special needs who reside in the neighborhood.

Andy Morris, 23 Cherry Street, Newburyport, Massachusetts

Mr. Morris spoke again. He spoke about the assertion that there would be a minimal amount of extra cars. He said that's bunk. What has been presented is a best-case scenario. This is a street that is 16 feet wide. The applicant has presented a "best case" scenario.

David Woodger, 22 Cherry Street, Newburyport, Massachusetts

Mr. Woodger said he was originally in support of the project by now he is against the project. Everyone has made good points. Traffic and drainage are issues.

The following residents sent letters/emails to the Zoning Board of Appeals in opposition to the Project:

Resident	Address
Gerald and Sandra Griffin	6 Cherry Street, Newburyport, MA
Karen and Jeffrey Blaustein	4 Bricher Street, Newburyport, MA
Jan and Andy Morris	23 Cherry Street, Newburyport, MA
Kenneth and Anne Webber	15 Cherry Street, Newburyport, MA
Cheryl Burkinshaw	5 Cherry Street, Newburyport, MA

Attorney Griffin addressed the concerns raised by residents at the meeting:

1. **Siting of the property:** the abutter will still have reduced access to solar. Newburyport has not enacted an ordinance that protects solar access.
2. **Drainage:** there has been a lot of discussion about drainage. The drainage does not have anything to do with this property. There are no facts substantiating the claim that the addition of one dwelling will create additional runoff. There will be no additional runoff.
3. **Sewer Issue:** This is an infrastructure issue and will exist with whatever is built on the site. You can't prevent construction on the basis of existing infrastructure
4. **Design:** Looking at the character of the houses in the neighborhood, it is actually an eclectic neighborhood. He showed pictures of houses in the neighborhood. There is no one consistent design in the neighborhood. Saying that the house is out of character is not accurate.
5. **Precedence:** This is a multi-family zone. Until it is changed from an R-3, each application has to be taken on its own merit.
6. **Tandem Parking:** Land Court has not supported decisions with this argument.

Attorney Griffin summarized saying the Board had heard a lot of concerns but not a lot of facts.

Questions from the Board regarding Public Hearing #1:

Mr. Pennington asked the Design Engineer, Steve Sawyer about the run-off.

Mr. Sawyer said that customarily they do not provide the Zoning Board of Appeals with a pre-and post-runoff study. If the ZBA would like they can provide them with this, but based on the background, the site itself is not very intense. The Board could condition the approval on pre-and post- calculations being provided. Everett Chandler, Design Consultants Inc., said they are proposing "guttering" both sides, reducing run-off from the roof by about 1/3. There are no drainage controls on the existing structure. Mr. Sawyer added that this site is below the gutter line on Cherry Street. There is no run-off that goes to Cherry Street.

Mr. Ciampitti asked if the impact on runoff could be proved or disproved with calculations. Mr. Sawyer responded “yes.” Mr. Chandler said that if they do calculations and they show that the current size of the drainage mediation structures is not sufficient, the size could be increased.

Mr. Eigerman asked about 39 Hill Street, the lot that sits in back of the proposed project. Mr. Chandler indicated that the setback is about 60 feet. He said there are several trees between the properties; this is a fairly wooded piece of the neighborhood.

Mr. Snyder looked at the situation presented by Attorney Griffin. He asked about the acreage of the site relative to it being a two family. Mr. Chandler said that 12,000 sf is the requirement for a two family and they have 13,000 square feet, so it meets the requirements.

In an R—3 zone, you can have up to 10 units per acre. Mr. Snyder asked if some of the other multi-family dwellings are of greater density than what the applicant is proposing. Mr. Chandler responded “yes” there are a number of higher density uses in the area. Mr. Snyder asked if this is the only lot that could do this without securing relief. Mr. Chandler said no, there were some others that could do this as well. Mr. Snyder talked about surface drainage. Is it illegal for post-development run-off to exceed pre-development runoff? He verified that they are working to reduce the run-off from what exists today.

Mr. LaBay addressed Attorney Griffin. He said that Attorney Griffin went through the checklist associated with the Special Permit for Use. Mr. LaBay asked for clarification on why it was desirable and essential. Attorney Griffin responded saying it was based on the City’s Master Plan. The City is trying to avoid having only single-family homes; the City wants to provide a diversity of housing stock at all levels of affordability. Mr. LaBay then asked, “So the goal is to provide a wide range of housing options?” Attorney Griffin responded “yes”

Mr. LaBay said he could understand the “desirable” but was still questioning the “essential”. Attorney Griffin responded that changing the use from a single family to a two family is essential, and referred back to the R-3 district. He argued that it is essential to use the multi-family district.

Deliberations:

Mr. Eigerman said he is a non-voting member. He synthesized saying that drainage was the #1 issue on the street. He said the ZBA has the power to condition approval based on calculations and performance. The condition on Cherry Street is not going to change, this is a problem.

Mr. Ciampitti said that they could condition a permit based on performance with great difficulty. It seems backwards. The infrastructure issues have existed long before and may continue to exist long after. Placing a performance condition after the fact does not accomplish what they want it to. Mr. Sawyer said you could require something like a site plan review. With this process, they would move to the next stage and you could condition based on the results of this type of review – that would have some teeth. Mr. Ciampitti said that the Planning Board review and the site plan review would be done before a building permit was issued. Attorney Griffin clarified that the standards being discussed were more restrictive than those that exist.

Mr. LaBay and Mr. Pennington asked questions and received information concerning the height of the proposed structure.

Mr. Pennington said he has thought a lot about development and neighborhoods. There were errors in the way this neighborhood was built historically. The design being proposed improve things as there is greater sensitivity to topography, He believes the applicant is being penalized for keeping the natural grade in the back and keeping it is a good thing.

Chairman Ramsdell says he understands the drainage problems on the street but he is not sure this project impacts them. The performance condition makes him somewhat uncomfortable. The applicant does meet all the zoning requirements, they could build as a one family by right and they are within the zoning requirements for a two family. On the precedent question, the board does not set precedent. Each application is looked at separately. Hopefully, there is consistency. Resistance to the project may be because of fit as well as change.

Mr. Snyder said he has some opposition to it being a two-family. The appearance of the structure is what is of concern – the size of it. It has a larger appearance but could build a single-family by right at the same size.

Mr. Eigerman amplified the point about the performance condition. He said the applicant is volunteering to be subject to more stringent requirements but the neighbors have a lack of faith because they have been burnt in the past.

Mr. Pennington said he is comfortable with a process akin to site plan review and thinks it is a good idea and also to have a peer review is a good idea.

Mr. LaBay said that he thinks the drainage can be dealt with. This is a difficult one, he is attempting to try and find reasonableness. He looks at this and we're moving from 1031 sf to 5776 sf. He asked the attorney about essential; he doesn't think you can say it is essential. Traffic, safety, congestion. This is a narrow neighborhood, with narrow streets. He has never seen a petition signed by so many people in addition to two City Councillors attending the hearing. The drainage can be fixed; this isn't the issue.

Mr. Pennington has a different view. It is hard to be objective when the project is this close to your house. The energy in the neighborhood is amazing. Why is the City Council not looking at rezoning the neighborhood? Unfortunately, the City does need multi-family structures. This neighborhood is a candidate, and is close to the commuter rail station. If done well and correctly. Builders do not usually agree to provide the level of detail that the currently one is agreeing to do – this is a testimony to the project. The project is headed in the right direction. There is no legal basis to deny the application. We are a legal board.

Chairman Ramsdell said the application is an application for a Special Permit for Use; it is not a review of what the building looks like.

Mr. LaBay said that is why he brought up the traffic, safety, and congestion, which he feel are the only legal bases for denial.

Mr. Snyder made a motion to approve the Special Permit for use for 21 Cherry Street under the condition that a drainage study be done prior to issuing a building permit and that the study demonstrates that the proposed development in no way increases the run-off, motion seconded by Mr. Pennington.

The motion passed with four votes.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – no
Jamie Pennington – approve
Howard Snyder– approve
Jared Eigerman – non-voting
Richard Goulet – non-voting

2013 030

Address: 7 Carleton Ave

Dimensional Variance

Request for a dimensional variance to allow a two-family use on a property with a non-conforming lot area and lot coverage

2013 031

Special Permit

Request for a special permit to allow a two-family use (#102)

2013 031

Special Permit for Non-Conformities

Allow an addition to convert a single family to a two family on a property with pre-existing non-conforming rear and front setbacks

The applicants, Robert and Joan Hankard, 7 Carleton Drive, Newburyport, MA represented themselves at the meeting. All three hearings concerning 7 Carleton Drive were handled together for public comment, questions, and deliberations. Votes will be taken separately for each hearing.

The applicants spoke about their proposed project. They will convert a single-family home to a two-family home. A master suite will be added to the existing structure along with the expansion of living room and an exercise room. An attached 2-car garage will be added. A separate unit will be added above the garage and over the exercise room with 2 bedrooms, a living room, a kitchen and 2 bathrooms. The new construction results in a lot coverage of 32.2% that exceeds the allowable 30%.

The existing house consists of 2 bedrooms. They will add a bedroom to the existing house and create a second unit with two bedrooms. There will be a total of 5 bedrooms in the structure. The addition will not have a detrimental effect on the sewer system. The new structure will be built using Energy Star appliances and low flow plumbing fixtures. The public systems will not

be overloaded and nothing about the increased use on site will pose a hazard to public safety or health.

The second unit to be built will be used by their disabled son who has been totally blind since birth. Their son's living arrangements over the past 5 years has been that someone lives with him to assist in cooking, transportation, and skills, enabling him to be more independent. These living arrangements have ended and they feel they need to provide the same living conditions here in Newburyport. They want to change the use to allow their son to be able to live in a two-bedroom apartment with a person around his own age.

It was not known at the time they purchased their home how their son's needs would change and now, after many different living arrangements, they find this arrangement is the most productive in terms of his well-being and independence. District R-3 is zoned for single-family, two-family, and multi-family homes. The applicant provided a map in the application indicating all the existing two-family homes on the surrounding streets. Although the new construction results in a slightly higher lot coverage than what is allowed, they are maintaining 58% open space, which they indicated is much more than their abutting neighbors. There are many existing two-family structures surrounding their property.

The addition of one housing unit will not create undue traffic congestion. Their proposal includes parking for at least two vehicles per unit. There will be no need to park cars on the street as there will be ample room provided onsite

The applicants provided 16 letters of support from abutters to the Board. The letters of support came from the following neighbors:

Abutter	Address
Jesse Streb	18 Collins Street, Newburyport, MA
Constance Burzynski	16 Collins Street, Newburyport, MA
William Gureczail	14 Collins Street, Newburyport, MA
Patricia Baikewic	12 Collins Street, Newburyport, MA
Dick Schneider	10 Collins Street, Newburyport, MA
Larry Dixon/Edith F Coy	8 Collins Street, Newburyport, MA
Borja Alvarez de Toledo	4 Collins Street, Newburyport, MA
JeanMarie Mars	3 Carleton Drive, Newburyport, MA
Susan and Dennis DesAutels	5 Carleton Drive, Newburyport, MA
Florric Johnson	11 Carlton Drive, Newburyport, MA
Richard Wayne	10 Carlton Drive, Newburyport, MA
Donna Anderson	51 Woodland Drive, Unit 1, Newburyport, MA
Magen Goldsmith	51 Woodland Drive, Unit 2, Newburyport, MA
Roger Blazon	51 Woodland Drive, Unit 3, Newburyport, MA
Thomas and Johanna Schwartz	51 Woodland Drive, Unit 4, Newburyport, MA
Paul and Janet Kolman	4 Carleton Drive, Newburyport, MA

Chairman Ramsdell opened the hearing to public comment.

In favor:

William Gurczail, 14 Collins Street, Newburyport, MA

Mr. Gurczail said that his yard and the applicant's yard are back to back. On Woodland Street, there is a big huge house that is now condos. He provided a history of the area. His only request is that they deal with the tree. They have done a beautiful job in the past renovating their house. The applicants have agreed to take the tree down.

Roger Blazon, 51 Woodland Drive, Newburyport, MA

Mr. Blazon indicated he has no objection to the project – he is just here to support the applicants

In Opposition:

Resident, 19 Carlton Drive, Newburyport, MA

This Newburyport resident said that he purchased the house about 10 years ago when he had small kids. What the applicants are proposing is a large house. It does not belong in the neighborhood.

Lisa Omeara, 19 Carlton Drive, Newburyport, MA

Ms. Omeara was concerned that the applicant had not spoken to them; they live only 4 houses down. The applicant apologized and indicated they had just spoken to the people listed on the abutters list from the Planning Office. Ms. Omeara also asked why they had done renovations in the past and are now proposing something new. She stated that this is a neighborhood of single-family homes.

Chairman Ramsdell said that people have the right to change their minds.

The applicant indicated that they had always intended on adding a first-floor bedroom. They didn't do it previously because they did not have the money.

Questions from the Board and Deliberations regarding Public Hearings #2, #3, and #4:

Mr. LaBay spoke to the Dimensional Variance. He asked the applicant if they were aware of the legal grounds by which the Board could grant the Variance. There are specific requirements and the applicant must address all the requirements.

Mr. Eigerman said the applicant was close on coverage, off by only 158 sf. He told the applicant if they could comply, it would obviate the need for a variance. He also asked about the two-family versus in-law unit. Is 900 sf not enough? He discussed, with the applicant, the requirements for a Special Permit versus a variance.

Mr. Pennington talked about having a first-floor master bedroom and the availability of homes in Newburyport, with a first-floor master. He asked the applicant if they could cap at 30% coverage. He discussed the possibility of doing an in-law unit.

Mr. Eigerman indicated he is trying to figure out a way to minimize what is "normal" to the neighborhood. He feels they are off by 157.5 sf. He said Special Permits could run with special applicants rather than the land.

Chairman Ramsdell said he had never seen this done, but it is possible for the permit to run with the applicant as opposed to with the property. How to do this with the least impact on the neighborhood? He said if they can get rid of the dimensional variance, it would make life simpler. They would have to redraft the plans. He also told the applicant they might want to talk with the Planning Department and get a clear understanding of what a dimensional variance requires.

Mr. Ciampitti understands the unique circumstances and feels the applicant is very close, there just needs to be a few tweaks. He asked the applicant to step back, see if they can shave off some sf in the plan – it would streamline the application. They can maybe collect some guidance from the Planning Office.

Chairman Ramsdell said that getting rid of the Dimensional Variance is not the magic bullet but it does get rid of a tough obstacle.

Mr. LaBay said that this is an application that needs both a lawyer and an architect. There are issues and he suggested that they might need additional assistance. He wanted them to take a close look at the massing. The proposed structure resembles a motel on a small lot. They need to think about what they are building and if this property can support what they need to do.

Chairman Ramsdell said that he thinks what the applicants are hearing from the Board is that the Board is trying to be helpful but they can't tell them what to do. He agreed with Mr. LaBay that this application might need some professional help.

Mr. Eigerman suggested: 1 - get it down to 30% coverage; 2 - do an in-law versus a special permit or make the application for a special permit specific to the applicant; 3 - rework the façade, possible with the help of an architect.

Mr. Pennington said he is optimistic that they are not that far off and may be well served to request a continuance. The building inspector can also work with the applicant to let them know what they can do by right.

Chairman Ramsdell agreed with Mr. Pennington. He said that if they decide to go for an in-law unit, they could change the Special Permit for a two-family to a Special Permit for an in-law and submit a new plan.

Mr. Ciampitti made a motion to continue the Dimensional Variance hearing (2013 030) to July 23, 2013, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

Jared Eigerman – non-voting
Richard Goulet – non-voting

Mr. Ciampitti made a motion to continue the Special Permit Hearing (2013 031) to July 23, 2013, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

Mr. Ciampitti made a motion to continue the Special Permit Hearing (2013 032) to July 23, 2013, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

Adjournment

Motion to adjourn made by LaBay, seconded by Mr. Pennington at 10:10 P.M.

The motion passed unanimously.

Votes Cast:

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

Respectfully submitted, Jennifer Lamarre - Note Taker