

**City of Newburyport
Zoning Board of Appeals
June 09, 2015
Council Chambers**

The meeting was called to order at 7:11 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Robert Ciampitti (Vice-Chair)
Duncan LaBay (Secretary)
Jamie Pennington
Richard Goulet

Absent:

Libby McGee (Associate Member)
Renee Bourdeau (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of the May 26, 2015 Meeting

Mr. LaBay made a motion to approve the minutes and Mr. Ciampitti seconded the motion.

The motion passed unanimously.

Votes Cast:

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

b) Chair Ramsdell mentioned a possible meeting on July 21st with the Historical Commission to understand one another better.

3. Public Hearings (4 on the agenda)

Public Hearing #1:

2015 026**Address: 77 Lime Street****Special Permit for Non-conformities**

Modify an existing Special Permit for Non-Conformities by adding 123 s.f. to the second floor

This hearing was continued from the 5/12/15 and 5/26/15 meetings. Attorney Mead of Blatman, Bobrowski, Mead and Talerman represented the applicant. The original request was to modify an existing Special Permit for Non-conformities by adding 123 sq. ft. to the second floor. The applicant is withdrawing this request and has removed any work that was started. At the last hearing, it was noted that some of the window positions were different from what was permitted. The applicants are now seeking permission for the reconfiguration of windows. Ms. Mead went over the elevations and changes with the Board. She pointed out that few window changes are visible from the street. Ten windows overall were moved or removed.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Howard Fairweather, 4 Parsons Street

Mr. Fairweather has served on the Historic Commission and has been a resident for 40 plus years. He was surprised and pained by the approval of this project as he saw the building changing.

Tom Kolterjahn, 64 Federal Street

This home was gutted inside and outside. He asked the Board to reconsider future applications. He did not think they should be allowed to change the windows at this point.

Stephanie Niketic, 93 High Street

Ns. Niketic was present for the approval of original application. This did not happen as a restoration project; Trim, chimneys, windows, etc were removed. The missing windows are jarring to the eye. After the fact approvals mock our processes.

Bill Harris, 56 Lime Street

Federalist homes on Lime Street all have windows lining up. The Board is supposed to sparingly provide this kind of relief. He is angered and saddened driving by this rehab. This board has the power to tell them to put the windows back.

Elizabeth Harris, 56 Lime Street

Ms. Harris is part of a 'Next door Newburyport South End' chat group and one of the most striking discussions in this Lime Street rehabilitation. Residents are unhappy and disgusted.

Jack Santos, 10 Spring Street

Mr. Santos was embarrassed by the actions of board. He thought they should seriously consider not rewarding this developer.

Jeanette Isabella, 1 Lime Street

She applauds neighbors for their knowledge in the history of the building and what has happened to it. She is appalled with the project and sees it going on all over the city. Contractors show one set of plans and go and do another thing.

Mr. Ramsdell commented that if a resident sees something that has not been approved, the route to go is to inform the building code enforcement officer.

Questions from the Board regarding Public Hearing #1:

Mr. LaBay asked for a better understanding of the back-story of the changes. Ms. Mead responded that ten windows were either changed or removed and only three are visible from a public way. Functionality of the inside of the structure was the driving force for the changes. The window changes are not substantially more detrimental than original approval.

Mr. Goulet asked about the replacement of the entranceway that came up. Ms. Mead responded that it was in bad shape and is being replaced on the Lime Street side.

Mr. Ramsdell addressed a question to Mr. Harris on the importance of the alignment of windows. Mr. Harris responded that on Federalist structures, windows of the same width are one right above another. Length can sometimes vary. Mr. Ramsdell asked if an object that has the appearance of a window were in place, would that be sufficient. Mr. Harris responded that it must be a window.

Deliberations:

Mr. Ciampitti credited the speakers. He commented that 'next time' for him is now. He could not support something that rewards an applicant not being fully vetted. This is a very sensitive historical part of the City. He believed that the modifications are substantially more detrimental.

Mr. LaBay was pained to have to say that this was not what he thought we were approving a year ago.

Mr. Pennington was not pleased with the changes were being made. The window changes not visible to the public way were not big issue for him. He commented that fully vetted applications down to plumbing, etc. may not be feasible at the zoning level. He did not think the modifications were substantially more detrimental.

Mr. LaBay commented that it is not punitive on the Board's part to be troubled by ten windows that disappeared or changed. Minor modifications should come back to the Board before doing the work.

Mr. Goulet appreciated passion of those who spoke and his colleagues. He did not like to be blindsided. This is significant change. He would like to see the project stick to what was approved.

Mr. Ciampitti commented that ten windows is significant. It's not punitive, it's responsive.

Motion to approve application 2015-026 for a minor modification of a Special Permit for Non-conformities as amended made by Mr. Ciampitti, seconded by Mr. LaBay.

The motion did not pass.

Votes Cast:

Ed Ramsdell – no

Robert Ciampitti – no

Duncan LaBay – no

Jamie Pennington – approve

Richard Goulet – no

Libby McGee – absent

Renee Bourdeau – absent

Public Hearing #2:

2015 030

Address: 40 Merrimac Street

Special Permit for Non-conformities

Modify previously granted Special Permit for Non-Conformities to allow minor exterior changes

Richard Nylon presented on behalf of the applicant. This application is for minor modifications to the approved 2013 application for the Merrimac Street Ale House. Mr. Leone was also present and the architect was out of the country. There are no new non-conformities being added. They have spoken to direct neighbors and don't believe they have issues. The changes include the following;

1. Mechanical pad would move from the rooftop to the ground. AC condensing units would sit on a cement pad.
2. Change a 2nd story window to double hung window.
3. Added gutters to front and rear of building to use rain barrels.
4. Chimney moved about 5-6 feet to accommodate interior layout and hoods in kitchen.
5. Awning over loading dock was added.
6. Outdoor stairway was added, but not necessary for emergency egress.
7. Mechanical vents for restrooms were added.

Chair Ramsdell opened the hearing to public comment.

In Favor:

David Murphy, 40R Merrimac Street

He worked on changes with Mr. Leone and supports the modifications.

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. Goulet asked about the awning for loading dock, chimney and the materials used. The awning would be fabric and the chimney would be brick.

Mr. Ramsdell commented the moving of mechanicals from roof to ground was his only concern, but it seems the neighbors are ok with this change.

Deliberations:

Mr. Ciampitti commented that after hearing the changes, they appear to be very minor. It was powerful that the business abutter is in support and worked with the developer.

Mr. Goulet agreed. These are minor, positive changes.

Mr. Pennington, Mr. LaBay and Mr. Ramsdell agreed.

Motion to approve application 2015-030 for a Special Permit for Non-conformities made by Mr. Ciampitti, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell – approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Richard Goulet – approve
Libby McGee – absent
Renee Bourdeau – absent

Public Hearing #3:

2015 031

Address: 11 Overlook Street

Special Permit for Non-conformities

Demolish pre-existing non-conforming single family home and reconstruct resulting in a footprint expansion

Attorney Lisa Mead of Blatman, Bobrowski, Mead and Talerman, presented of behalf of the applicants. The property is located in the R3 and PIOD at the end of 70th Street and has been owned by the applicants since 2003. The lot size is 9750 sq. ft. Currently a one story cottage, built around 1920 sits on the property along with a couple of outbuildings. The plan is to remove the cottage and reconstruct. The applicants have received permission from the Historical Commission and will need to appear before the Conservation Commission. The project would improve two dimensional requirements; front and side yard setback. Reconstruction will increase

bedrooms from 2 to 3 and the living area from 680 to 1299 sq. ft; very modest in size. Since it is in a flood plain, the height will be raised to 30'1". Parking would be located underneath. The project would not be substantially more detrimental than what already exists.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Peter Kreisky, 24 Basin Street

Mr. Kreisky's house overlooks the property. He is happy that it will be demolished and have a better looking home in its place. Deck is beyond the 20 ft setback. His main concern was that the plan shows a maple tree, but he does not see how that tree could remain with the planned deck. He would like to see the tree saved and deck moved back to permit future growth of the tree. Ms. Mead commented that she did not think the Conservation Commission would approve the removal of the tree.

Questions from the Board regarding Public Hearing #4:

Mr. Pennington asked about the siting of the house and if they had considered moving it toward the center of the property. Ms. Mead answered that wetlands really determined the site. The house was placed in consideration of what was to happen with the Conservation Commission. Mr. Pennington asked if there was space for two cars under the structure and whether there was parking under the deck also. Ms. Mead answered that two parking spots would be located under the house, and no parking under the deck would exist.

Deliberations:

Mr. Ciampitti commented that they are very sensitive and attentive to the PIOD. With respect to the abutter, this seems appropriate for a SPNC. Conservation Commission will still have to review. He could support.

Mr. LaBay and Mr. Goulet agreed.

Mr. Pennington commented that the structure is appropriate, but the siting did not seem optimal.

Mr. Ramsdell could support. The neighbor could go to the Conservation Commission for the concerns on the Maple tree.

Motion to approve application 2015-031 for a Special Permit for Non-conformities made by Mr. Goulet, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve
Richard Goulet – approve
Libby McGee – absent
Renee Bourdeau – absent

Public Hearing #4:

2015 032
Address: 260, 268, 270, 274 & 276 Merrimac Street
Dimensional Variance
Permit a variance for density bonus unit with modified mitigation and modify a 1997 parking variance

Attorney Mead requested a continuance to the next meeting on June 23rd. The applicants are re-thinking after initial site plan review in case of adjustments.

Motion to continue application 2015-032 for a Dimensional Variance made by Mr. Pennington, seconded by Mr. Goulet.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Richard Goulet – approve
Libby McGee – absent
Renee Bourdeau – absent

Adjournment

Motion to adjourn made by Mr. LaBay, seconded by Mr. Ciampitti at 8:44 PM.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Duncan LaBay – approve
Jamie Pennington – approve
Richard Goulet – approve
Libby McGee – absent
Renee Bourdeau – absent

Respectfully submitted, Katie Mahan - Note Taker