

**City of Newburyport  
Zoning Board of Appeals  
July 10, 2012  
Minutes**

The meeting was called to order at 7:15 P.M.  
A quorum was present.

**1. Roll Call**

**In Attendance:** Ed Ramsdell (Chair), Duncan LaBay (Secretary), Jamie Pennington, Howard Snyder, Richard Goulet (Associate Member)

**Absent:** Robert Ciampitti (Vice-Chair)

**2. Business Meeting**

**a) Approval of Minutes**

**Minutes of June 26, 2012 Meeting**

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

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Howard Snyder - approve  
Richard Goulet – approve

**b) Public Hearings (4 on agenda)**

**Public Hearing #1:**

<b>2012      025</b> <b>Address: 259 High Street</b> <b>Special Permit for Non-Conformities</b> Construct an in-law apartment in the basement of the dwelling
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John and Ann McKay

Brian Cafferty spoke representing John and Ann McKay.

He made the following points:

- 1) The proposed project is in character with the neighborhood (R-2 district)

- 2) There will be no alterations to the footprint; the apartment will be inhabited by a family member; the size is 650 s.f. well under the 950 s.f. limit; it will be built in compliance with Health and Safety regulations.
- 3) Meets 12-A requirements; no adverse impact on the community; there is plenty of room for parking; they can fit 6 cars: 2 in garage, 4 in driveway
- 4) There will be no aggravation to the utilities. The entire family lived in this house before, now a family member is returning to live in the apartment. The impact will be no more than when the family was living there with children.

**Chairman Ramsdell opened the hearing to public comment.**

**In favor:**

**Diane Brown , 257 High Street, Newburyport, MA**

**In Opposition:**

**None**

**Questions from the Board:**

Mr. LaBay indicated that his questions were primarily associated with the paperwork that accompanied the application. Page 4 of 4 of the application form shows the house has a 25 foot setback on the front, a 25 foot setback on the back and a 10 foot setback on each side.

The applicant indicated they were NOT expanding the footprint.

There was discussion about the measurements and they did not seem to be correct. Mr. LaBay indicated that whether the application was approved or denied, the numbers should be accurate. Mr. Snyder indicated that future changes would be dependent on these numbers so they should be accurate.

The applicant agreed to supplement the application with accurate numbers

Mr. Pennington asked about the total square footage and whether the basement is currently finished. The applicant said the apartment would be 650 square feet. The basement is not currently finished, so the total square footage of the house will go up by 650 s.f..

Mr. Pennington asked if they were showing all the walls on the proposed floor plan. The applicant indicated they were.

**Deliberations:**

Chairman Ramsdell indicated that all the changes were interior to the building and did not impact the footprint. He asked the board if they want the numbers to come back to them before they finalize the application.

Mr. Snyder indicated that approval should be provided on condition of providing correct numbers. He was in support of holding the final vote until the paperwork was straightened out.

Chairman Ramsdell said he was okay with the applicant submitting the corrected paperwork to the Planning Office.

Mr. Snyder agreed that if that was an option, it was acceptable.

Mr. Pennington was okay with the proposal as well.

Mr. LaBay indicated that the application represented an appropriate use of the property and that it will not add aggravation to the neighborhood.

Mr. Pennington agreed, and also said that having the parking already on site provided them with a leg up. Mr. Snyder agreed with his colleagues.

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

The applicant was instructed to get the correct numbers/paperwork to the Planning Department within two weeks. Chairman Ramsdell will sign off once he has reviewed that paperwork.

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

**Public Hearing #2:**

**2012 026**

**Address: 230 Northern Boulevard**

**Special Permit for Non-conformities**

Allow a height increase on a pre-existing non-conforming structure

**Eivind G. Lange, III and Mary G. Puma**

Ed Dickson, DGT Survey Group and Tom Hughes, Hughes Environmental Consulting, 44 Merrimac Street spoke on behalf of the applicants, Eivind G. Lange, III and Mary G. Puma

The application has already been reviewed and approved by the Conservation Commission. Mr. Dickson showed the existing site plan to the board. There is currently a 1 story building with a garage and basement in the rear. They are proposing removing the garage structure and putting a 2 story building up on piers. They are increasing the height of the building and, because it is in the Plum Island Overlay district, they required a Special Permit for non-conformities.

He showed some elevations of the proposed structure to the board. The front porch will remain. The rear porch will be torn down. There will be a hip roof. The ceilings are 8 foot height. There is a no access attic and no vaulted ceilings – an effort was made to keep height at a minimum.

He showed photos of the existing structure and discussed how things would change. He showed some site photos. Many of the homes in the area have already gone through a reconstruction. The front setback will stay the same; the side setback will increase. The footprint of the proposed structure is smaller than that of the current structure. The height of the new structure is 30.8 feet. The FAR is slightly more than the current structure, but still conforming. They are reducing some of the living space. The proposed stair tower falls within the footprint. Mr. Hughes indicated it is close to 5 feet above grade; they have to be at least 4 feet.

**Chairman Ramsdell opened the hearing to public comment.**

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board:**

Mr. Pennington asked where they were with the conservation commission. The applicant indicated that the plan had been approved by the conservation commission. Mr. Pennington asked about the lot coverage. The applicant indicated it stayed the same – about 16%. Mr. Pennington also inquired about the calculation of mean roof height.

Mr. Goulet asked if the proposed structure was within the original footprint. The applicant indicated that if you do not consider the deck part of the footprint, then the footprint is increased. Mr. Snyder had no questions.

Mr. LaBay indicated that the applicant used the term motel to describe the current structure. He asked if there had been any thought given to demolishing the current structure and starting over. The applicant indicated that it would have cost more and there would have been more opposition. Mr. LaBay indicated that it seemed like a very awkward design. The applicant said that it would be a significant upgrade to the area.

Chairman Ramsdell had questions about the page 4 of 4. There was discussion with the applicant about the square footage.

**Deliberations:**

Mr. Pennington indicated that this was a tough one for him. This is an unusual building; some of the stuff is not as bad as it originally seemed, but he is still struggling with it. Mr. Hughes asked if he could address Mr. Pennington's concerns. He said they were trying to add non-motel-like features to the structure; they were adding height but decreasing non-conformities. They tried to keep the increase in height to a minimum. This was the best they could do short of tearing it down and rebuilding.

Chairman Ramsdell indicated we are not in the design business; this does not fall in the parameters.

Mr. Goulet said that it does meet the letter of the law; this is a tough building.

Mr. LaBay agreed with Chairman Ramsdell. The proposed building appears to meet the letter of the law. He can't vote "no" and expect it to be withheld by a higher court.

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

The motion passed with 4 votes.

**Votes Cast:**

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – No

Howard Snyder – approve  
Richard Goulet –approve

**Public Hearing #3:**

**2012      027**

**Address: 1 Brown Street**

**Dimensional Variance**

Relief of side and rear yard setbacks for the construction of a garage

**Alexandra and Thomas Fremont-Smith**

Mr. Fremont-Smith gave a history of the property at 1 Brown Street. It was originally built as the Newbury Town House in 1830. In 1851 this section of Newbury was annexed to the City of Newburyport. Subsequently this property was sold to the City of Newburyport and converted into the Brown High School. Later the structure was adopted for residential use as a multi-family home. And, finally, the structure became a private residence.

The proposed structure would be a replacement for an historic structure. Record plans indicate there were two structures to the rear of the property as of January 1924. Brick and granite foundation walls of the previous garage structure remain.

The conditions affecting this lot are size and shape. The property suffers from irregular lot lines which converge at the rear of the site, making it impossible to replace the structure in a conforming manner. The lot is not believed to have been altered in many decades and was certainly not altered under current ownership. The proposed garage would be in keeping with the neighborhood; numerous such structures exist in the subject neighborhood.

Under X-11 6. Variances (1) of the City of Newburyport Zoning ordinance it states: “The following circumstances may be construed as establishing a basis for determining that a hardship exists within the meaning of this section.” Under section X-H6. Variance D (2) it states that “In case of corner lots where on all other corners of the intersection there are buildings or uses that do not conform to the regulations prescribed by the chapter for the district in which said lot is located and where said lot faces one (1) or more said uses.” Neither home on with side of the subject property (on State Street and Brown Street) conforms as setbacks. Relief sought is desirable and without substantial detriment to public good. The proposed structure has been designed to be in keeping with the architectural styles in the neighborhood.

Mr. Fremont-Smith submitted letters of support from his abutters.

**Chairman Ramsdell opened the hearing to public comment.**

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board:**

Mr. Snyder asked why Mr. Fremont-Smith is locating the garage where it is. Shouldn't it be closer to the house? Functionally it seems not to be in the right spot. Mr. Fremont-Smith said he thought it was the best use of the land, putting it back, out of site. The structure was last seen in this location in 1929.

Mr. Goulet asked about the trees behind the house and whether they were significant. The applicant answered that they were.

**Deliberations:**

Mr. LaBay was in favor. He noted the lack of opposition and the support of the immediate neighbors. Once again, he indicated the ZBA is not the style police, but he does find that this proposal is exceptionally well done. It preserves the streetscape, and put things back to where they were historically. The improvements to the lot and structure over the past 5 years have been amazing.

Mr. Goulet had originally considered asking about a single car garage, but considers this a good plan.

Chairman Ramsdell agreed with what had been said. He presumes materials used will be similar to those in the present structure.

Mr. Pennington agreed. He thought the proposed structure was exceptionally attractive. He said that there is a real argument to be made because of the odd lot shape.

Mr. Snyder agreed with all the other members. He was a little unsure of the location. He liked the fact that the streetscape was being preserved, more than the fact that there was an historical aspect to the location of the proposed structure.

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

The motion passed unanimously.

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

**Public Hearing #4:**

2012 028

Address: 97-99 Lime Street

Special Permit for Non-conformities

Construction of a 5' x 13' addition

**Cindy and Stuart Johnson**

Andrew Sidford, Architect, spoke on behalf of the applicants Cindy and Stuart Johnson. This house is a typical Lime Street House. What is atypical is the large piece of land. They want to make a modest addition on the side with a small roof change; all abutters are in favor. This will be hardly noticeable when finished. The addition is to be added to the north side of the residence next to the existing entry. The purpose of the addition is to add storage and closet space on the first floor as well as a new basement bulkhead in the rear of the addition. The bulkhead would replace the existing which is small and steep and sits in front of the side door by the street. The new location would allow access to the basement from the yard which currently does not exist. Although modest in size, the addition sits within the setback which is the reason for the application. The addition's size and location would not make the property more detrimental than the existing.

Chairman Ramsdell opened the hearing to public comment.

**In favor:**

**None**

**In Opposition:**

**None**

**Questions from the Board:**

Mr. Snyder asked the applicant to describe the diagram better. The closet, bulkhead, and the small entryway were described.

The home is listed as two numbers on the plot plan, but it is a single family house.

Chairman Ramsdell asked if it is legally a single family. The applicant indicated that it was.

**Deliberations:**

Mr. Pennington said this was a de minimis change. And it was totally in keeping with the current structure. All other board members agreed with Mr. Pennington.

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

The motion passed unanimously.

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet –approve

**Adjournment**

**Motion to adjourn made at 8:30 p.m.**

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Duncan LaBay – approve

Jamie Pennington – approve

Howard Snyder – approve

Richard Goulet – approve

**Respectfully submitted, Jennifer Lamarre - Note Taker**