

**City of Newburyport
Zoning Board of Appeals
August 13, 2013
Council Chambers**

The meeting was called to order at 7:13 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 (Associate Member)

Absent:

Howard Snyder
Jared Eigerman (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of July 23, 2013 Meeting

Mr. Labay made a motion to approve the minutes as submitted and Mr. Pennington seconded the motion.

The motion passed unanimously.

Votes Cast:

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

3. Public Hearings (2 on the agenda)

Public Hearing #1:

2013 038 Address: 24 Hancock Street Special Permit for Non-conformities

The petitioner seeks to rebuild garage and convert to living area and add small one and two-story additions to a pre-existing non-conforming home.

This application was continued from the July 23, 2013 meeting. Juli MacDonald, owner and principal of GreenBridge Architects, 334 Main Street, Amesbury, MA represented Sarah & Joshua Pike, Owners. Board members asked owners and architect to explore options adding a second parking space to the property. Ms. MacDonald passed out updated plans to the board as she explained that they chose to present the least intrusive option. They proposed adding a curb cut on the east corner of the property as well as adding a gate to an existing fence. This provides a second parking space for the property when needed. At this time, they intend to keep the second parking space grass.

Chair Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #1:

Mr. Ciampitti asked whether they had consulted with DPS on approval necessary to make the additional curb cut. Ms. MacDonald answered that they spoke with DPS and they didn't foresee any issues, mostly because the property is not on a corner, so visibility will not be an issue. She noted they will need to seek a permit for the curb cut. Mr. Ciampitti then asked who had been tasked with seeking the permit. Ms. MacDonald answered that it will be part of the construction permit process and they did not yet obtain a permit. Mr. Ciampitti lastly asked if they anticipated leading with this so that additional construction vehicles would benefit from the space. Ms. MacDonald answered yes; having that space available will be helpful.

Deliberations:

Mr. Pennington commented that this new proposed plan is a fine solution to the board's request to add a second parking space to the property. Having the second parking space grass is an adequate solution, and overall, he is happy with the amended plans. Mr. LaBay concurred.

Mr. Ramsdell commented that in the future if it is decided to change the space from grass, he hopes that the owners choose a permeable option.

Motion to approve the application for a Special Permit with amendment as submitted by the applicant adding a second, singular parking space as shown in new plans 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

Richard Goulet – approve
Howard Snyder– absent
Jared Eigerman – absent

Public Hearing #2:

2013 041

Address: 10 Oak Street

Special Permit for Non-conformities

The petitioner seeks to modify a pre-existing non-conforming structure and construct an addition.

Attorney Adam Costa appeared on behalf of Lisa Mead, both of Blatman, Bobrowski & Mead LLC, 30 Green Street, Newburyport, MA. Mr. Costa represented George Haseltine and Julianne McCullough, both Trustees of The Oak Street Realty Trust. The property is adjacent to 12 Oak, which recently appeared in front of the board seeking a special permit for similar work. The owners of 10 Oak are seeking a special permit for the modification of a pre-existing non-conforming property. The property consists of 11,600 sq ft., including approximately 66 feet of frontage with a single family home which was built in or around 1900. The owner has been before Historic Commission and has received the appropriate authority to demolish a portion of the rear of the structure in order to put on the proposed addition. Mr. Costa shared plans with the board members and explained that the owners plan to put on a rear addition consisting of living space and a deck. A 23 ft. x 23 ft. garage at the rear of the structure is also proposed. The new structure will not exacerbate the current front yard non-conforming setback. However, the proposed structure will encroach on the side-line setback, currently at 7ft, and after construction will be between 4.4 ft. and 4.7 ft., due to a request by the Historic Commission to differentiate the old and new structures. The Historic Commission suggested to ensure a differentiation, there be some sort of demarcation or articulation between the original structure and proposed garage. A reference to the Zoning Ordinance and the case of Gale vs. City of Gloucester, 80 Mass App 331 (2011), was made regarding the applicant seeking a Special Permit. The Appeal Court in Gale determined that where there is a single or two family structure, if the Board finds that no substantial detriment will result from the extension or alteration, then the analysis ends there, regardless of any new encroachments on the dimensional requirements. Mr. Costa distributed renderings/sketches to the board of what the structure will look like once modified, including the requests from the Historic Commission. Mr. Costa also noted that there is a shed on the property of no historic value, which will be removed to accommodate a paved driveway. They intend to pave a portion of the driveway and quickly convert to a more permeable surface. A concern envisioned was adequacy of access on the side of the property. Mr. Costa remarked that the side access is significantly more than other properties and adequate for maintenance and emergency access. There is a good distance between the home and the home on the adjacent property. The owners intend to live in the structure and their commitments will hold true because of this.

Chair Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. Labay questioned on page 4/4 of the application, the existing and proposed square footage. On page 4/4, the total existing ground square footage is 583 sq. ft. and the proposed is 1418 sq. ft. He points out that on page 2 of the attached Vision appraisal, the legend shows square footage of 2339 to be gross area and includes the basement, porch, and unfinished areas, not just living area. Mr. Labay points out that this understates the increase in living area. Mr. Costa agreed with Mr. Labay that they should update the existing total square footage on page 4/4 of the application to be the actual living area of 1188 sq. ft.

Mr. Costa commented that Mr. Haseltine had time to meet with neighbors and keep them abreast on plans. He had a generally favorable response amongst neighbors. Mr. Haseltine owns the adjacent property as well. Mr. Costa also made note of a stockade fence along the neighbor's property line that is not in great shape that they will replace. They will likely need to remove another fence, but that runs along the property line shared with the owner's property at 12 Oak Street.

Mr. Ramsdell inquired how quickly and where the driveway will transition to a permeable surface as they work in from the street. Mr. Haseltine answered that the driveway is likely to transition where the old and the new separate. They are quite expensive and he did the same thing on his neighboring property at 12 Oak. The driveway surface will transition around 30-40 feet in from the street. Mr. Ramsdell commented that they like to see as much permeable surface as possible, so there is not concern over where water will go.

Deliberations:

Mr. Ciampitti commented that this was a responsible application with great detail. The owners are doing a good job and have a vested interest in the property. He credits owners and attorneys for their detail and presentation. The proposal appears to be in scale and architecture with neighboring properties.

Mr. Labay commented that the board does recognize the encroachment on the side A setback, but they do respect the request to separate the old and new structures from the Historic Commission.

Motion to approve the application for a Special Permit made by Mr. Labay, seconded by Mr. Ciampitti.

The motion passed unanimously.

Votes Cast:

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

Comments on changes to Zoning Ordinance

Mrs. Kate Newhall-Smith of the Planning Office spoke with the board regarding proposed changes to the Zoning Ordinance. She is asking for input from board members in the form of additions, comments, or emphasis on particular parts of a list emailed to the board earlier in the day. Please send input to Kate via email by Friday, August 23, 2013. Kate emphasized the importance of the board input to get essential re-writes/changes moving.

Adjournment

Motion to adjourn made by Mr. Ramsdell, seconded by Mr. Ciampitti at 7:49 PM.

The motion passed unanimously.

Votes Cast:

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

Respectfully submitted, Katie Mahan - Note Taker