

**City of Newburyport  
Zoning Board of Appeals  
August 14, 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), Robert Ciampitti (Vice-Chair), Duncan LaBay (Secretary), Jamie Pennington, Jared Eigerman (Associate Member)

**Absent:** Howard Snyder, Richard Goulet (Associate Member)

**2. Business Meeting**

Chairman Ramsdell noted that Governor Patrick signed into law on August 7, 2012, a bill which enables permits in effect or existence at any time between August 15, 2008 and August 15, 2012 to be extended by a total of 4 years (an addition of two years to the previous extension and four years for permits issued during the past two years). This impacts all properties: commercial, housing, business expansions, universities, hospitals, and infrastructure projects.

**a) Approval of Minutes**

**Minutes of July 24, 2012 Meeting**

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

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve  
Robert Ciampitti – approve  
Duncan LaBay – approve  
Jamie Pennington – approve  
Jared Eigerman – abstain

**b) Public Hearings (3 on agenda)**

Chairman Ramsdell made one change to the agenda. He moved the hearing associated with 338 Merrimac Street to be first hearing, instead of second hearing, on the agenda.

## **Public Hearing #1:**

**2012      031**

**Address: 338 Merrimac Street**

**Special Permit for Non-conformities**

Rebuild existing porch and change flat roof to slight pitch

The application was for a Special Permit for non-conformities for the property owned by Richard and Kathleen Hordon. Mr. Hordon spoke about the application. He indicated that they want to remove and replace the porch and want to make the roof a better fit for the home.

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

### **In favor:**

A letter was signed from neighbors, Bruno and Susan Stachowske at 307 Merrimac Street which indicated they had no objections to the renovations being proposed.

There was no support from any member of the public present at the meeting.

### **In Opposition:**

None

### **Questions from the Board:**

Chairman Ramsdell had some book-keeping questions about the total dimensions of the home. It was concluded that the dimensions were 2138 square feet. There were no questions from the other Board members. Mr. LaBay said the application was clear.

### **Deliberations:**

Mr. Ciampitti said the application was more than appropriate. There have been many similar applications and he can support this one.

Mr. LaBay and Mr. Pennington concurred with Mr. Ciampitti.

Mr. Eigerman indicated that the application meets all criteria and does not have a detrimental impact.

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

The motion passed unanimously.

### **Votes Cast:**

Chairman Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – approve

Jared Eigerman – approve

## **Public Hearing #2:**

**2012      015**

**Address: 26, 30-32 Toppans Lane**

**Special Permit**

Construct and operate a 64 unit (74 bed) Assisted/Independent Living Facility (Use #108, Congregate Elderly Housing)

**Mr. Pennington recused himself.**

**This is a continuation from the May 22, 2012 the June 26, 2012, and the July 24, 2012 hearings.**

Jeff Rolof, Attorney representing Northridge Communities LLC, spoke and requested to withdraw the application without prejudice.

There were 3 affirmative votes to withdraw the application without prejudice.

**Votes Cast:**

Chairman Ramsdell – approve

Robert Ciampitti - approve

Duncan LaBay – approve

Jamie Pennington – recused

Jared Eigerman – abstain

**Public Hearing #3:**

**2012      032**

**Address: 26, 30-32 Toppans Lane**

**Special Permit**

Allow use of #108 (Congregate Elderly Housing) to construct and operate a 70-unit Assisted/Independent Living Facility with Memory Care

**Mr. Pennington recused himself.**

Jeff Rolof, Attorney representing Northridge Communities LLC, spoke. He provided an overview of the facility indicating there will be mostly one bedroom units, with some two bedroom units. There will be no kitchen facilities in the individual units. This will be congregate elderly housing and the plans submitted are sufficient for the proposed use.

Steve Sawyer, PE, Director of Engineering, Design Consultants, Inc, Newburyport, MA reviewed the site plan. In the previous application, they had proposed a one story structure. This is changing with the new application. In agreement for access off of Wallace Bashaw Way, the lot was divided into 4 different lots. Lot 3 will be conveyed to Anna Jaques Hospital for future use. Lot 1 will be for Northridge Communities, Inc. The building will be a stepped building. The west side will be one story with an interior court yard. To the east will be a two story

building, but, because of the ridgeline, it will be no different in height than the one-story building. Mr. Sawyer showed the new site plan. They have attempted to keep the existing vegetation. There is 15-20 foot level area for full-perimeter access by the Fire Department. Heavy vegetation will screen the building. He presented 3-D elevations of the buildings, created by the architect, from different perspectives. The service entry will be at the lower level. As mentioned in the previous application, 6 to 7 deliveries are expected per week by a box truck. All of these deliveries will come via Wallace Bashaw Way. There will be no additional traffic on Toppans Lane. The exterior will be shingles and clapboards with gables to break up the facade.

There will be no water or sewer brought up Wallace Bashaw Way. With this project, they will still bring water and sewer thorough Toppans Lane. The frontage of Lot 1 will be from Wallace Bashaw Way. Lot 4 and Lot 2 have frontage from Toppans Lane. Mr. Sawyer emphasized retaining plantings and not increasing the ridgeline.

Jeff Rolof, Attorney, request that the special permit only go to Lot 1. The location of the access drive has been locked down based on an agreement with Anna Jaques Hospital. The green areas on the site plan are protected, no-disturb, zones. He assured the board that Northridge will continue working to make effective screens for the Eramos' property. He referred to the Special Permit criteria. Is the proposed use and appropriate use? Yes, it is a desirable use and correlates well with the uses around it. There are no traffic congestion or safety concerns. Storm water will be subject to Planning Board review.

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

**In favor:**

**Lisa Mead, Attorney, Blatmen, Bobrowski, & Mead, LLC, 30 Green Street, Newburyport, MA representing Anna Jaques Hospital**

Attorney Mead indicated that the Hospital and Northridge have reached an agreement and the plan presented by Northridge accurately depicts the agreement.

**In Opposition:**

**James Connolly, Attorney, Law Offices of Connolly & Connolly, 51 Green Street, Newburyport, MA spoke on behalf of the Eramos**

Attorney Connolly indicated that the Eramos' are not really against the proposal. They request that the Board make a special condition, as part of the approval process, which indicates the green area on the site plan has to remain.

**Ginny Eramo, 28R Toppans Lane, Newburyport, MA**

Ms. Eramo agreed that this is an appropriate use of the property and she does support the viability of Anna Jaques Hospital and Toppans Lane. She asked Northridge if they could move the building a little further away from the edge of her property. She is concerned there will be impacts on her property value.

**Tom Smith, 36 Toppans Lane, Newburyport, MA**

Mr. Smith indicated that the plan presented is a much better plan. The compromise that was made was growing the building to two stories. He is happy to see the intention is to add screens. He would like to see a commitment to screening to be part of the agreement. He supports getting rid of the access from Toppans Lane.

**Sarah Holden, 34 Toppans Lane, Newburyport, MA**

Ms. Holden said this plan is much better. She agreed with Mr. Smith's point about screening. Her only question now is with the utilities. She would like to better understand what is going to happen with the utilities. Mr. Sawyer explained to her that there would be an easement. Ms. Holden asked about the vegetation that would have to be moved. Mr. Sawyer said there would be some movement of the vegetation.

**John Neale, 39 Toppans Lane, Newburyport, MA**

Mr. Neale asked about future roadways. Attorney Rolof said that there would be a drive associated with Lot 2 and that Lot 2 would be divided into 3 lots. Mr. Neal asked Northridge is they were a developer or an operator. Attorney Rolof indicated that they were both. Mr. Neale also asked about the facility smoking policy. Attorney Rolof said there is a "no smoking" policy at Northridge facilities.

**Peter Larson, Zero Margerie Street, Newburyport, MA**

Mr. Larson suggested that the Board delay decisions until the questions that have been posed can be answered by the applicant.

**Questions from the Board:**

Mr. LaBay asked if Northridge thought that Lot 4 would be a property for sale. Attorney Rolof said yes.

Mr. Ciampitti had no questions.

Mr. Eigerman had questions about water and sewer. He indicated that it was premature to try and wrestle with the issues now, but that these are not closed issues and will be addressed. He asked for clarification that these would be individual dwellings and not a nursing home.

The current use permit being applied for is for Lot 1. There is an aesthetic/impact concern of the abutters. He asked if that will be addressed in the site plan review. The answer was that yes, the Planning board, will drill down in these areas. Attorney Connelly made a request about the buffer areas.

Mr. LaBay indicated that he was ready to make a decision. He said that there was still an incomplete proposal for Lot 2, but felt that many of the neighborhood issues had been resolved.

**Deliberations:**

Mr. Eigerman said that based on the testimony, the application appears to meet the criteria for the Special Permit Use application. Details associated with the site plans will be for the Planning Board. However, he would like to hear the response to Attorney Connelly's suggestion from his colleagues.

Chairman Ramsdell said that the Board does have the authority to incorporate Attorney Connelly's suggestion as a condition of their decision. Mr. Eigerman indicated that the only discord is with Ms. Eramo and that Northridge appears to be working in good faith with her. He asked if Northridge was prepared to lockdown the green-shaded areas on the site plan and move forward.

Mr. Ciampitti said that he greatly appreciated the efforts of Anna Jaques, the neighborhood, and Northridge in bringing forth a dramatically different plan. This is an appropriate location for the facility. He is in support of the application with the condition of protecting the shaded areas. Mr. Ciampitti said the existing vegetation should remain in the areas indicated on the site plan. Steve Sawyer said the applicant would actually like to supplement some of these areas. It is the spirit of any approval that these areas are to remain protected. Mr. Ciampitti said that this is a sizably better application, and intends to support it. He thanked everyone again for their efforts. Mr. LaBay said that he did not have a lot to add to what his colleagues have stated. This application is very different from the first application and addresses the pieces that were non-starters with the prior application. He echoes his colleagues in keeping the vegetation intact. He is willing to support the application. Chairman Ramsdell agreed with his colleagues as well. He too thanked everyone for their efforts. He reminded people that there will be another extensive round of reviews.

**Motion to approve the Special Permit made by Mr. Ciampitti, subject to the condition that areas depicted in green on the site plan will remain as vegetative areas, and that these areas are subject to supplement by the applicant, seconded by Mr. Eigerman.**

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington– recused

Jared Eigerman – approve

**Adjournment**

**Motion to adjourn made by at 8:15 p.m.**

The motion passed unanimously.

The motion passed unanimously.

**Votes Cast:**

Chairman Ramsdell – approve

Robert Ciampitti – approve

Duncan LaBay – approve

Jamie Pennington – recused

Jared Eigerman – approve

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