

**City of Newburyport
Zoning Board of Appeals
September 11, 2018
Council Chamber**

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)
Maureen Pomeroy
Edward Cameron

Absent:

Renee Bourdeau

2. Business Meeting

a) Approval of Minutes

Minutes of the 08/14/18 meeting

Ms. Pomeroy 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
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve

b) Request for Minor Modification – Hillside Center (2016-SPR-03 and 2016-SPR-04)

This request was continued to 10/9/18 due to one member recusing himself and one absent.

Mr. Ciampitti made a motion to continue the request for minor modification to 10/9/18 and Ms. Pomeroy seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – recused

c) Request for Permit Extensions – Atria Senior Living (2017-073 and 2017-075)

Attorney Roelofs submitted a memo requesting a six-month extension.

Mr. Ciampitti made a motion to approve the request for permit extension and Mr. Cameron seconded the motion.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

d) Request for minor modification – 18-20 Ashland Street (2015-054 and 2015-055)

Frank Tagliaferri, owner of 18 Ashland Street presented the request. Lots 18-20 Ashland Street were split in 2015, and Mr. Tagliaferri purchased 18. Since the project, all stipulations have been met with the exception of trees being planted. Since the house was built, and utilities put in, they are looking to change the tree layout. They would still put in five trees and have worked with DPS and the Tree Commission on placement. Also, a hedge between the properties at 18-20 Ashland Street was approved, but they have since found that the grade is too great and they would like to change to a fence.

Chair Ramsdell asked if they spoke to neighbors. They had sent out emails to all abutters and neighbors and received both positive and neutral responses. No opposition was received. Chair Ramsdell asked if there was any feedback on the fence replacing the hedge. The fence would not be visible from the street and Mr. Tagliaferri did not receive any specific feedback on this. Chair Ramsdell asked for clarification on which abutters were notified. Mr. Tagliaferri used the whole list of neighbors communicating on the recent 10 Ashland Street application. He received 12 responses back.

Chair Ramsdell was wrestling with where the threshold is of minor modification and full hearing with abutter notice. Trees are not a concern, but vegetation turning into fence could be. Mr. Tagliaferri noted that they intend to plant in front of fencing.

Mr. Cameron asked if 20 Ashland Street was ok with this change. This property has renters, as it is still not sold. He did not hear back from the owner.

Mr. Ciampitti commented that because the fencing was a specific condition of the permit, the Board puts lot of scrutiny into the public part of process. He was also wondering whether the Board should rise to having a hearing and make sure everyone has a voice.

The Board decided that this request should be brought back for a full hearing to allow for appropriate legal notice.

Ms. Pomeroy made a motion to deny the request for minor modification and Mr. Ciampitti seconded the motion.

The motion did not pass.

Votes Cast:

Ed Ramsdell– deny

Robert Ciampitti – deny

Renee Bourdeau – absent

Maureen Pomeroy – deny

Edward Cameron – deny

3. Public Hearings

2018 028

Address: 1 Inn Street, Unit 7

Appeal

Appeal of the denial of a request for issuance of a cease and desist letter by the Zoning Enforcement Officer dated 4/6/18 for noise and vibration in excess of what is allowed under the Zoning Ordinance due to operations associated with the property located at 35 Market Square

This hearing is continued from 8/28/2018. The applicant requested a continuance.

Motion to continue application 2018-028 to 9/25/18 made by Mr. Cameron, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

2018 044

Address: 23 Overlook Street

Special Permit for Non-conformities

Demolish and reconstruct a pre-existing non-conforming single family home

Attorney Lisa Mead of Mead, Talerman and Costa, 30 Green Street presented the application. She noted that this property was formerly known as 11 Overlook Street. The single story cottage, built in 1920 is located in the R3 district and PIOD. The lot is non-conforming with lot area, and side yard setback. The owners intend to demolish the existing cottage and replace with two-story home. Permits for this exact project were issued 6/16/15 as well as order of conditions from Conservation Commission and Historical Commission demolition permit. The then owner did not begin work. The current owners bought in September 2017 and were unable to start construction right away. An order of conditions was extended in July. The Special Permit extension request was not in on time and new permit is needed. This is the exact same proposal as 2015. Side setback would be improved. The home would go from two bedrooms to three. There are no new non-conformities or exacerbations of existing non-conformities. The proposed home would not be in the flood plain. For these reasons, the proposed reconstruction will not be substantially more detrimental to the neighborhood.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Chair Ramsdell confirmed with the applicants that this proposal is identical to what was approved in 2015.

Ms. Pomeroy asked if there would be two-car garage. The applicant responded that there would be no garage, but parking underneath the living space. There would be sufficient parking. Ms. Pomeroy asked how many bathrooms the home would have. The existing home has one bathroom and the proposed home would have 1.5.

Deliberations:

Mr. Ciampitti remembered this application from 2015. There was no opposition to this project and criteria were met.

The rest of the Board agreed.

Motion to approve application 2018-044 made by Mr. Ciampitti, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve

2018 045

Address: 79 Parker Street

Variances

Construct light industrial building and include tap room with food service (Use #501) therein, include entertainment use (Use #407) and meeting space (Use #421) on the property, requires side setback relief for light industrial building, and relief for required parking spaces distance from use on site

2018 046

Address: 79 Parker Street

Special Permit

Allow accessory retail use (#604) in light industrial building/brewery

The applicant requested a continuance.

Motion to continue applications 2018-045 and 2018-046 to 10/9/18 made by Mr. Ciampitti, seconded by Mr. Cameron.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve

2018 047
Address: 197 Low Street
Special Permit
Allow an in-law apartment

Chris Crump of CWC Design Inc., Newburyport presented the application. The existing structure is totally conforming. The applicants are looking to put an in-law addition on their home. It would also be conforming and under the 700 s.f. regulation. The existing driveway in front of house provides parking. There would also be a two-car garage below for the house. The applicant's parents to would be living with the family. Conservations Commission approved the project last month.

Chair Ramsdell opened the hearing to public comment.

In Favor:

The applicant's father, who would be living in the in-law explained he wants to downsize and sell his property in Newburyport.

In Opposition:

None

Questions from the Board:

Chair Ramsdell clarified that the applicants were only here for the in-law apartment special permit. The home meets all setbacks.

Mr. Cameron asked what was needed from Conservation Commission. They approved infringement into a wetlands buffer area due to the home's proximity to wetlands.

Deliberations:

Mr. Ciampitti commented on the complete application that complies with criteria. It is a reasonable, modest request.

The rest of the Board agreed.

Chair Ramsdell commented that the project does not trigger the tree and sidewalk ordinance.

Motion to approve application 2018-047 made by Mr. Cameron, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve
Robert Ciampitti – approve
Renee Bourdeau – absent
Maureen Pomeroy – approve
Edward Cameron – approve

2018 048

Address: 18 Auburn Street

Special Permit for Non-conformities

Construct a farmer's porch increasing the pre-existing non-conforming front setback

Henry Burton of Burton Construction presented the application. The applicants are proposing to add a farmer's porch to the existing home. They currently have a building permit to rehabilitate the home. Does not meet front yard setback. This would improve the appearance of the home and provide covered egress.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

None

Questions from the Board:

Mr. Ciampitti asked the applicants to speak to material choices. The rehabilitation has begun and they are using composite decking materials, fiberglass roof, and vinyl siding.

Mr. Cameron commented on the improvement of the look of the house. Previously the front entrance had been boarded up and a side entrance created.

Mr. Ciampitti asked how the Board felt about materials to be used. Ms. Pomeroy commented on her preference of wood siding versus vinyl. The applicant commented that the building rehabilitation permitted is 90% done. Chair Ramsdell concurred with siding concern, but in this case where it is already in progress, it is difficult to change.

Deliberations:

Ms. Pomeroy commented that that they were only looking at the porch addition, which is minor. She would have liked wood siding.

Mr. Ciampitti commented that there was no neighborhood objection.

Motion to approve application 2018-048 made by Mr. Cameron, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

2018 049

Address: 34-36 Hancock Street

Special Permit for Non-conformities

Modify pre-existing non-conforming structure by constructing a 8'x16' three season porch

Rick Cole of RC Builders and Direction of Neptune VFA presented the application. Mr. Cole presented the request to add an addition for smoking and egress. The addition would be 128 s.f. A house is being built behind the VFA and the builder is in favor. There is also an 8' fence between the properties. The addition would have double hung windows, a commercial grade door; siding would be red cedar 12" exposure, architectural roof shingles. The addition would be 15' high.

Chair Ramsdell opened the hearing to public comment.

In Favor:

None

In Opposition:

Robert Ellis, 28 Chestnut Street

Concerns included; smoking in the addition, very dense neighborhood, additional noise.

Eric Abramo, 21 Chestnut Street

Concerns included; noise, smoking, new house behind not yet occupied.

Bob Safion, 40 Marlboro Street

Concerns included; Noise, neighborhood tolerance.

Brian Potter, 31 Hancock Street

Concerns included; Young children, increased noise level, smoking exposure.

Maura Abramo, 21 Chestnut Street

Concerns included; Reiterate same concerns as neighbors on noise extension, smoking

Candace Cochran 30 Hancock Street

Concerns included; Noise, parking, one step too far.

Questions from the Board:

Mr. Cameron was interested to hear feedback from Mr. Cole. Mr. Cole reiterated that there is 6-8' fencing around the property and the addition would not be visible unless from second floor of neighboring properties. A smoke dissipater would be installed in the addition. There would be no added noise and the addition would be insulated. They are working to beautify with brick sidewalks and curbs and hanging to picket fence from chain link. It is a 129-year-old club that has always been in a residential area.

A neighbor asked the nature of insulation for noise and whether the windows could open. The windows would 4x4 double hung Anderson windows. Entrance on Marlboro Street side would be a commercial grade door. Windows can open.

Ms. Pomeroy asked if the applicants had an opportunity to speak with abutters in person and noted that this is encouraged so concerns could be addressed. They had not. It sounded like many questions and strong feeling were felt on issues. Further dialogue could help. Chair Ramsdell agreed that this can make for better process.

Mr. Cameron commented neighbors expressed tolerance of club. Neighbor opposition speaks. Smoking and noise concerns seem to be most concerning for neighbors. Maybe working with neighbors on these concerns and getting together they could find common ground.

The applicant requested a continuance to 10/9/18 to allow time to work with neighbors on concerns.

Motion to continue application 2018-049 to 10/9/18 made by Mr. Cameron, seconded by Ms. Pomeroy.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Robert Ciampitti – approve

Renee Bourdeau – absent

Maureen Pomeroy – approve

Edward Cameron – approve

The meeting adjourned at 8:40pm

Respectfully submitted, Katie Mahan - Note Taker