

**City of Newburyport
Zoning Board of Appeals
September 10, 2013
Council Chambers**

The meeting was called to order at 7:09 P.M.
A quorum was present.

1. Roll Call

In Attendance:

Ed Ramsdell (Chair)
Duncan LaBay (Secretary)
Robert Ciampitti (Vice-Chair)
Jamie Pennington
Howard Snyder
Richard Goulet (Associate Member)
Jared Eigerman (Associate Member)

2. Business Meeting

a) Approval of Minutes

Minutes of August 27, 2013 Meeting

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

The motion passed unanimously.

Votes Cast:

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

(Mr. LaBay, Mr. Ciampitti, and Mr. Snyder abstained as they were absent at the August 27th meeting).

3. Public Hearings

2013 034

Address: 10 77th Street

Special Permit for Non-conformities

The petitioner seeks to demolish a pre-existing non-conforming single family home and rebuild.

Everett Chandler of Design Consultants, Inc., 68 Pleasant Street, Newburyport, appeared before the board on behalf of Susan Stone and Vernon Ellis, owners of 10 77th Street, to present their application for a special permit for non-conformities. This hearing was continued from the July 23rd meeting, where the petitioners were asked to first file for permits with the Conservation Commission. Mr. Chandler explained that the project went before the Conservation Commission on September 3rd and they have not yet received final approval, although the commission did not have any issues with the project as proposed. They are awaiting comments and a file number from the DEP and they are also waiting to hear back from the National Heritage and Endangered Species Program. The applicants are seeking to fully demolish an existing single family constructed around 1940. They will not need to appear before the Historic Commission due to the timeframe it was built. They will construct another single family home in its place with similar footprint. Lot coverage and front yard setback will improve. There is also a deck encroaching on an abutting property that would be removed. The proposed structure will be consistent with other recently constructed homes in the area. They will also be increasing the height of the structure slightly. They will be increasing the height 5'; from 28' to 33'. It remains below maximum requirements of 35'. There would only be a slight impact on neighbors views, some of them improving due to the slight angling of the proposed structure.

Chair Ramsdell opened the hearing to public comment.

In Favor:

Lucille Schiavone, 9 77th Street

Ms. Schiavone spent some time looking over plans and believes that the proposed project will not affect her property at all and will only enhance the neighborhood. The home will be slightly turned when rebuilt which should enhance her views and will be beautiful. She is in support of the project.

In Opposition:

Elizabeth Wik, 5 77th Street

Ms. Wik lives diagonally across from the applicant's property. She is not necessarily opposed to the project, but questioned why, when located directly in front of the dunes, does the proposed home have to increase in height to block her views. Mr. Chandler answered that they chose a shallower pitched roof and it is still conforming to height requirements. Ms. Wik again asked, not for legal requirements that can be met, but for another reason why, with unobstructed views, they propose to increase the height. Mr. Chandler then responded that with the proposed parking underneath, as well as requirements for new utilities, the height of the new structure needed to be increased slightly.

Ms. Wik asked what angle the house will turn and what angle she will be looking at. She currently looks at the diagonal corner. Mr. Chandler described the new positioning and pointed out to Ms. Wik that she will look more at the face of the home instead of corner. The structure will turn roughly 10 degrees toward her home.

Questions from the Board regarding Public Hearing #1:

Mr. LaBay asked about numbers on page 4 of 4 of the special permit application. He asked if the proposed plans would meet open space and FAR requirements. Mr. Chandler answered that the open space is increasing and FAR is remaining same.

His other question was on the height of the structure. Mr. LaBay asked if the existing home is on pilings. Mr. Chandler answered that the home is on fully enclosed pilings. The proposed height increase is in part due to different pilings being used. Tom Hughes of Hughes Environmental Consulting added that they cannot have utilities within flood plain and at least 50% of the increase is due to the proposed structure going on pilings.

Mr. Eigerman explained that he listened to audio tape from July 23rd meeting. He recalled the top floor to the peak of roof was 14'4", and asked if that dimension is the same. Mr. Chandler explained there were engineering issues with wind loading, and this plan was most manageable and cost effective. The 2nd floor eaves are at 8', but peak is at 14'. Mr. Eigerman summarized that the view would be the same whether it was a flat roof or proposed shallow peak.

Mr. Goulet brought up the driveway surfaces question from the last meeting and whether they had thought of alternatives to paving. Mr. Chandler answered that gravel, chip stone, or pea stone would be used and the Conservation Commission accepts all of these options. He noted that they would have a clamshell patio. They will definitely use a pervious material on the driveway. He also noted that they have no plan to touch city road that is on part of the property.

Mr. Eigerman had an inquiry about the gravel drive. He understands that the city is paved partially onto the property, but notes that the width of the gravel drive is wider than the garage and may not be necessary. Mr. Chandler answered that Conservation Commission was ok with this current plan and that they will also be increasing vegetation and indigenous grasses on the property.

Deliberations:

Mr. Pennington's major concern was the Conservation Commission review. He was happy that the applicants stayed on schedule with this their review. This solved his previous issues. With regards to height, he has seen many more drastic increases, but understands the concern of neighbors. They are rebuilding nearly the same house and he does not see it any more substantially detrimental.

Mr. Snyder abstained having not heard minutes from July 23rd.

Mr. LaBay asked if the last meeting on July 23rd was a continuance. The board cleared this up saying there was no testimony at the July 9th meeting. Mr. LaBay is where Mr. Pennington is on his deliberations. He thought this time the project was better prepared and presented now that they have appeared before the Conservation Commission. He recognizes the abutters concern of the increase of roof height, but also understands the need for the increase. He does not see the plans as more detrimental and is ok with them.

Mr. Ramsdell agreed as well. Height is always of concern, but legal requirements are the root cause for this situation.

Motion to approve the application for a Special Permit made by Mr. Pennington, seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

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

2013 044

Address: 30 Bromfield Street

Special Permit for Non-conformities

The petitioner seeks to construct a 1-story (13'6" x 18') detached garage that does not meet the required side and rear yard setbacks.

It was first noted by Mr. Ramsdell that this application should have been for a variance, not a Special Permit for Non-conformities. There is a letter from the building commissioner in the packet explaining this.

Alan Amos appeared before the board on behalf of he and his wife, Carolyn Amos, owners of 30 Bromfield Street. They wish to build a 1 car garage – 13'6" x 18' detached garage. Permission had been granted to previous owners, but Mr. & Mrs. Amos are proposing slight changes in size and positioning on the property. The owners realized three problems that they had to overcome with the previously approved design. The first was the offset of the garage to the current driveway. Maneuvering to back up and turn car around would be a challenge. The second problem was the plans showed the new garage too close to a geothermal well, and they would like to move it further away. The third problem to overcome was to avoid stacked parking. By moving the garage slightly over, it allows for a 2nd car to park to the left of the garage door without blocking the entrance. The owners also stated that they have a letter with signatures of neighbors supporting the project after showing them plans.

Chair Ramsdell opened the hearing to public comment.

In favor:

Karen Carter, 28 Bromfield Street

Karen explained she would be most impacted by the new garage. She is in favor and said it was partially her idea to move the garage slightly. She really does not use the part of her property that the garage would be next to. She again stated she was fully in favor.

Robin & Paul Fitton, 32 Bromfield Street, Unit B

Robin Fitton said she is looking forward to a nice view of new structure instead of less pleasing scenery. She is in support of the project.

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. Goulet asked if the owners had taken into consideration the several trees that would need to be removed for the project to continue. Mr. Amos explained that the trees are Norway maples that are in distress. One has been struck by lightening and others are diseased. The neighbors were happy upon hearing the trees would be coming down. They plan on planting something more appealing.

Mr. LaBay noted the attempt to avoid stacked parking. With the second car in the driveway, it will still make turning around difficult. Mr. Amos responded that they understand thus, but it is better than the alterative of stacked parking.

Deliberations:

Mr. Pennington appreciated the cooperation on the new application and preparation.

Mr. Ramsdell explained he was in the neighborhood and did not think there was a conforming structure within eyesight. It is a good plan for where they are located.

Motion to approve the application for a Special Permit made by Mr. LaBay, seconded by Mr. Snyder.

The motion passed unanimously.

Votes Cast:

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

2013 045

Address: 14 Briggs Avenue

Special Permit for Non-conformities

The petitioner seeks to construct a 14' x 16' sunroom over an existing deck.

Phillip Cerbone presented on behalf of Kimberly Chambers, owner of 14 Briggs Avenue. The owner is proposing to build a 14' x 16' Champion all season sunroom on an existing deck on a

pre-existing non-conforming lot (rear set back). The proposed sunroom will add 224 square feet of living space.

Chair Ramsdell opened the hearing to public comment.

In favor:

None

In Opposition:

None

Questions from the Board regarding Public Hearing #2:

Mr. Goulet asked if the sunroom is a manufactured structure. Mr. Cerbone answered yes, it is a Champion sunroom. It is pre-manufactured and elevated and secured onto the deck.

Mr. Pennington asked if they must build a roof frame connector. Mr Cerbone answered that the ridge will go back onto existing structure and overlay the roof.

Mr. Snyder asked if this is going over the existing structure. Mr. Cerbone answered yes, and with many support systems in place. He also noted he has been in the construction business for 25 years and is familiar with this type of project.

Deliberations:

Mr. Snyder believes this project is an improvement.

Mr. Ciampitti does not believe that this will be detrimental. He believes it satisfies the application requirements. He is in support of the project.

Mr. LaBay agreed.

Mr. Ramsdell also agreed. This project adds a non-conformity to the rear setback but does not seem to impact neighbors much. Mr. Cerbone noted that the neighbors think it's a great idea and also there are no homes directly behind the house that the project would impact.

Mr. Pennington added that it seems like a very rational proposal.

Motion to approve the application for a Special Permit made by Mr. LaBay, seconded by Mr. Pennington.

The motion passed unanimously.

Votes Cast:

Ed Ramsdell– approve

Duncan LaBay – approve

Robert Ciampitti – approve

Jamie Pennington – approve
Howard Snyder– approve
Richard Goulet – non voting
Jared Eigerman – non voting

Motion to cancel the September 22nd ZBA meeting due to no scheduled hearings made by Mr. Pennington and seconded by Mr. LaBay.

The motion passed unanimously.

Votes Cast:

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

Adjournment

Motion to adjourn made by Mr. LaBay, seconded by Mr. Ciampitti at 8:00 PM.

The motion passed unanimously.

Votes Cast:

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

Respectfully submitted, Katie Mahan - Note Taker