

Minutes of the
Newport Zoning Board of Review

A meeting of the Zoning Board of Review was held on Monday, August 21, 2023, in the Innovate Newport Conference Hall, 513 Broadway at 6:30 p.m.

PRESENT: Sam Goldblatt, Chair
Russell Johnson, Secretary
David Riley
Bart Grimes
Nicole Shevory, Alternate

Girard Galvin, Assistant City Solicitor
Nicholas Armour, Zoning Officer

ABSENT: Wick Rudd, Vice-Chair
Susan Perkins, Alternate

The minutes of the following meetings were approved:

- April 24, 2023 – Regular Meeting
- May 22, 2023 – Regular Meeting
- June 26, 2023 – Regular Meeting

The following withdrawal requests were considered and accepted:

- 0 Carroll Avenue

The following request for an additional 12-month extension was considered and accepted:

- 108 Catherine Street

The following requests for an additional 5-year extension were considered and accepted as a communication, but was directed to submit a new application for re-consideration of the 5-year request for a special use permit to continue operating a guest house:

- 16 Old Fort Road

DECISIONS

A motion to adopt the staff reports, plans and applications as the Board's findings of fact on items listed below on the Summary Calendar section of the agenda was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

App. #2023-Jul-002 PETITION OF BRUCE BARTON, applicant and owner, **41 Toppa Blvd.**, TAP 11, Lot 572, (R-10A Zone) for a dimensional variance to construct a trellis in the rear yard, located 8' from the north side yard property line (10' required), increasing the lot coverage from 19% to 21.26% (20% permitted).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-007 PETITION OF BROOKE EATON, applicant and owner, **26 Third Street**, TAP 16, Lot 234, (R-10 Zone, Historic Overlay) for a special use permit and dimensional variance to install an AC condenser located 3' from the west (right) side property line (10' required).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-013 PETITION OF CHRISTOPHER DUNN AND MARY CUMMINGS, applicants and owners, **13 Chestnut Street**, TAP 12, Lot 220, (R-10 Zone, Historic Overlay) for special use permits and dimensional variances to construct a rear deck, located 2'6" from the left (west) side property line, increasing the lot coverage from 42% to 45% (20% permitted).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-014 PETITION OF MARK AND RHONDA SILVA, applicants and owners, **7 Alpond Drive**, TAP 41, Lot 357, (R-40A Zone) for a dimensional variance to construct an in-ground pool, increasing the lot coverage from 9.5% to 10.7% (10% permitted).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Attorney J. Russell Jackson to prepare the draft decision.

App. #2023-May-007 Corrected PETITION OF MARK ROTELLA, applicant and owner, **33 Garfield Street**, TAP 7, Lot 280, (R-10 Zone) for a special use permit to remove a rear deck, located 7' from the rear property line, and construct a new, two-story addition at the rear of the existing residence, increasing the lot coverage from 23.6% to 23.7% (20% permitted).

Applicant Mark Rotella was present. Board Member Grimes asked a clarification question regarding the rear setback.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jun-010 PETITION OF PEREGRINE GROUP, LLC, applicant and owner, **50 Memorial Boulevard**, TAP 29, Lot 193, (R-10 Zone), for a special use permit and variances to demolish an existing, non-conforming medical building, and construct a multi-family development, consisting of four detached two-family townhouse structures, requiring a variance to the number of principal residential buildings per lot, and increasing the lot coverage from 16% to 21% (20% allowed).

The applicant was represented by Attorney Russell Jackson. Mr. Jackson provided a summary of the application. Exhibit 1 Traffic Report and Exhibit 2 Bronk Report were accepted.

The Board asked questions regarding the driveway entrance, traffic, and type of housing units. Mr. Jackson stated that the applicant is not altering the existing curb cut, that traffic entering and exiting the property would significantly decrease with the change from medical office to residential use, and the dwellings will be 2- to 3-bedroom market-rate condominiums.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that a performance bond or surety on the project for the implementation of the landscaping and stormwater plans be approved by staff prior to the issuance of the first building permit, that the project be started and substantially completed within 24 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Attorney Jackson will prepare the draft decision.

App. #2023-Jun-013 PETITION OF MICHAEL AND DANETTE WALSH, applicants and owners, **125 Gibbs Avenue**, TAP 11, Lot 379, (R-10 Zone), for a dimensional variance to demolish an existing single-family dwelling, and construct a new single-family dwelling, with a lot coverage of 23.7% (20% allowed).

General contractor Nicholas Biti of Eagle Associates, LLC, represented the application. Owners Michael and Danette Walsh were also present. Mr. Biti provided a summary of the application. There were no questions from the Board.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-004 PETITION OF MARK AND STACY GEDDIS, applicants and owners, **419 Broadway, Unit 5**, TAP 06, Lot 79, (R-10 Zone) for a special use permit and dimensional variance to construct a new deck and exterior stairs from the 3rd floor unit, increasing the lot coverage from 28% to 30% (20% permitted).

Applicant Stacy Geddis was present. There were no questions from the Board.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-006 PETITION OF CHRISTOPHER AND RAMONA STADLER, applicants and owners, **24 Walnut Street**, TAP 12, Lot 081-4, (R-10 Zone, Historic Overlay) for a special use permit and dimensional variance to install a hot tub, increasing the lot coverage from 46% to 48% (20% permitted).

Applicant Chris Stadler was present. There were no questions from the Board for the applicant.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-008 PETITION OF JANET HEALY, applicant and owner, **108 Kay Blvd.**, TAP 11, Lot 719, (R-10A Zone) for a dimensional variance to construct a front porch and an in-ground pool, increasing lot coverage from 17.9% to 22.9% (20% permitted).

Applicant Janet Healy was present. Board Member Grimes asked Ms. Healy to clarify the scope of the project as the application package also shows a second-floor addition. Ms. Healy stated that the second-floor addition is within the footprint of the first floor and does not add lot coverage. The Board asked clarification questions regarding the pool dimensions and pool house.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-012. PETITION OF 77 BRIDGE STREET LLC, applicant and owner, **0 Bridge Street (75 Bridge)**, TAP 16, Lot 060 (R-10 zone, Historic Overlay), for a variance to the dimensional

requirements for permission to construct a new two-story single-family dwelling with lot coverage of 23% (20% allowed).

The applicant was represented by Attorney Jay Lynch. Architect Madeline Melchert was also present. Objector Stephanie Schmidt of 15 Marsh St was present.

Mr. Lynch stated that since the last application that had been denied, the applicant has removed the detached garage from the proposal and reduced the size of the proposed house. The new proposal meets all setback requirements. The Board asked Ms. Melchert how much the project had been downsized. The proposed lot coverage had been reduced from 32% to 23% since the last application.

Mr. Goldblatt made a motion to entertain the new petition on the grounds that it is substantially different from the previous petition, seconded by Mr. Riley. The motion was unanimously approved.

Ms. Schmidt withdrew her opposition as she was actually there in opposition to 0 Second St, not 0 Bridge St.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley. The motion was unanimously approved.

Attorney Lynch will prepare the draft decision.

App. #2023-Mar-003 Corrected PETITION OF JEREMIAH & HEATHER LYNCH, applicants and owners, **0 Second Street**, TAP 16, Lot 206, (R-10 Zone, Historic Overlay) for dimensional variances to demolish an existing garage and construct a new single-family dwelling, located 5' from the south (left) side property line and 3' from the north (right) property line (10' required for both) and 5' from the rear property line (20' required), with a lot coverage of 44% (20% permitted).

The applicant was represented by Attorney Russell Jackson. Applicant Jay Lynch, architect Madeline Melchert, and real estate expert Jim Houle were present. Objectors Stephanie Schmidt of 15 Marsh St and Andrew Segal and Karen Weber of 74 Bridge St were present.

Mr. Jackson provided a summary of the proposal. Mr. Lynch resides in the property directly to the west of the subject lot and is proposing to construct this new dwelling for his mother-in-law. The proposed dwelling will be ADA compliant and meet flood zone requirements. Mr. Lynch stated that the proposed lot coverage is actually 41% now that the front porch has been removed. The Board asked Mr. Lynch questions regarding impervious cover and stormwater mitigation. The net change in impervious cover was unknown. The driveway will be pervious. Ms. Melchert explained the stormwater calculations that the civil engineers will do at the building permit stage, and stated that the onsite stormwater mitigation will likely be a raingarden and/or drywell.

Board Member Goldblatt asked if the house is proportional to the size of the property. Ms. Melchert and Mr. Houle believes that it is proportional and is the least relief necessary. He stated that for lots less than 2,000 sq ft, the average lot coverage is 46%.

Objector Andrew Segal spoke, stating that he believes the lot coverage and setback relief are large asks. He believes that the lot is too small to be buildable and that the 3' setback from his property is unacceptable. Board Member Johnson asked staff if the lot is buildable. Staff said yes. Ms. Schmidt also believed the lot was not buildable and expressed concerns regarding increased lot coverage contributing to runoff and flooding issues in the neighborhood.

Mr. Jackson requested to remove the stairs on the northern setback, which would bring the lot coverage down to 36%. A motion to approve the afore-mentioned amended full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley.

The Board discussed the petition. Mr. Riley believed that small lots are complicated cases, but that the applicant has proven that this is the minimum relief necessary for reasonable use of the property and that the proposal is in harmony with the neighborhood. Mr. Johnson was initially concerned with the lot size, but believes this proposal fits with the removal of the exterior stairway. Mr. Grimes, Ms. Shevory, and Mr. Goldblatt expressed similar sentiments. The motion was unanimously approved.

Attorney Jackson will prepare the draft decision.

App. #2023-Mar-010, PETITION OF 77 BRIDGE STREET, LLC, applicant and owner, **14 Second Street**, TAP 16, Lot 199, (R-10 Zone, Historic Overlay) for a special use permit and dimensional variances to relocate a single-family dwelling by approximately 26' to the south, construct an addition to the north and a new stair case to the south and west of the residence, located 3.7' from the east front property line (15' required), 8.6' from the west side property line (10' required), increasing the lot coverage from 16% to 27% (20% permitted).

The applicant was represented by Attorney Jay Lynch. Architect Madeline Melchert and real estate expert Jim Houle were also present. Mr. Lynch and Ms. Melchert provided a summary of the application. Board Member Johnson asked questions regarding the placement of the house on the lot.

A motion to approve the afore-mentioned full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley.

The Board Members each expressed support of the petition, stating that it was the least relief necessary to modernize the house, given the small lot size. The motion was unanimously approved.

Attorney Lynch will prepare the draft decision.

App. #2023-Mar-014 PETITION OF AUDRAIN AUTOMOBILE MUSEUM, LLC, applicant, ARC HTNEWRI001, LLC, owner, **2 Kay Street**, TAP 21, Lot 137, (R-10 Zone, Historic Overlay) for a modification to a special use permit to permanently approve the location for use during the two-day annual Audrain Motor Week for special events.

The applicant was represented by Attorney Russell Jackson. Audrain Museum Board Member John Boxer, zoning expert Paige Bronk, and innkeeper Liz McDonald were also present. Fourteen people

were present in opposition: Steven Bohan, Katherine James-Bowers, Phil Young, Judy and Charles Schaefer, Patricia Coussa and Mary Beth Dolohanty, Janet Hall, Niamh Bohan, Dino and Janet Spentzos, Annalee Chatty, Michael Bowers, and Joanne M. Wondel.

Mr. Jackson provided an overview of the history of the event. After applying for a modification to permanently approve the location for the event, the application received many objections. In response to the objections, the applicant is requesting to modify the application to remove the permanent approval aspect. The modification they are requesting will only be for this year's event.

Mr. Boxer described the event. The event to take place on the property is a 3-hour cigar and whiskey sampling event on the evenings of September 28th and 29th. It will have light music, a free shuttle, no on-site parking, and a police detail. Other events can only be held on the property if the event host rents out all of the rooms in the inn.

The Board asked why the event is being held in the R-10 zone, traffic control measures, and the intent for future years. Mr. Boxer stated that the event is held at Hillside Inn to show guests "the real Newport" and because they do not have to pay a venue fee at this location. A police detail will be there for traffic measures and the shuttle will drop people off at the Viking Hotel. They intend to continue holding the event in future years. 75 tickets have currently been sold for each day of the event this year. Board Member Goldblatt asked if alternative locations have been considered. Mr. Boxer said it was too late to consider alternative locations this year, but they are considering other locations for next year. The applicant was amenable to conditions to have a fan directing cigar smoke away from the residential area and to have a fire marshal detail.

Exhibit 1 Bronk Report was accepted. Mr. Bronk stated that the SUP modification was consistent with the comprehensive plan goals of balancing multiple land uses and protecting neighborhood character while encouraging local business. Board Member Riley asked if the event expanded the guest house use. Mr. Bronk stated that this is not an expansion as the use is temporary.

Objector Philip Young is a direct abutter. Objector Exhibit A Email from Guy Weston and Exhibit B Photographs were accepted. He expressed that the large truck deliveries of event supplies disturbed him in the mornings and that the traffic generated by the events causes a safety hazard. He hears all of the noise from activity in the inn's parking lot and patios, and stated that the inn has advertised themselves and functioned as an event space.

Objector Niamh Bohan believes that this application is an imposition of commercial events on the neighborhood. She believes that the Bronk report's characterization of the neighborhood is inaccurate. She stated that the Audrain Group has not been a good neighbor, has not given the neighbors warning of the events in the past, and has advertised their property as a venue for events.

Objector Dino Spentzos stated that he called the police over excessive noise from the property and believes that others have too. He stated that it is very crowded with poor traffic circulation during events. Objector Katherine James-Bowers doesn't believe there were police present at past events and that the 2019 event was not held legally. Objector Stephen Bohan believes the inn is an intrusion of a high-end hospitality company into a residential neighborhood. He believed the petition was too vague and did not address mitigating noise and smoke pollution. Exhibit C Multiple Documents was accepted. He also referenced the inn's website advertising events and believed illegal structures had been built. Objector Janet Spentzos had concluding remarks, supporting the other abutters.

Mr. Jackson stated that all events held by the Audrain group had been done with permits. He proposed a list of conditions of approval that the applicant would be amenable to, to address the abutters' concerns:

1. The phone number of Innkeeper Liz McDonald will be made available to all of the neighbors. They will be able to reach out to her with any concerns during the event.
2. The applicant will send out information to all ticket holders about available transportation options and that parking in the neighborhood is prohibited.
3. Fans will be installed on the patio to direct cigar smoke to the west, away from the residential area.
4. There will be a police detail on site.
5. There will be a fire marshal on site.
6. There will be private security.
7. Temporary "No Parking" signage will be installed in the neighborhood.
8. Any transportation provided will take place at the Viking Hotel.

A motion to approve the afore-mentioned modified petition for a modification to a special use permit to approve the location for use during the annual Audrain Week for a special event to be held on September 28th & 29th, 2023 only, from 4:30-7:30 PM only, with the modification sunseting thereafter, with the aforementioned eight conditions agreed upon with the applicant and the condition that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Goldblatt, seconded by Mr. Riley.

The Board discussed the petition. Mr. Riley is concerned with the expansion of the guest house use for other events, as brought to their attention by the neighbors. He believes that this is a serious enforcement issue for another time, but will make a judgement based on this petition alone. He will support the petition with the conditions. Mr. Johnson believes the applicant has heard the issues from the neighbors and will move it next year. He will vote to approve, but only for holding the event this year. Mr. Grimes agreed. Ms. Shevory does not believe the event is conducive to the neighborhood, but will vote to approve with the limited scope. Mr. Goldblatt stated that they are not bound by the fact that the event was approved in the past and that the event is not harmonious with the neighborhood. While Audrain is important to the City, there are significant issues with the operation of this facility. He will reluctantly vote in favor with conditions, but expects them to look for an alternate location for next year. The motion was unanimously approved.

Attorney Jackson will prepare the draft decision.

All remaining Petitions were continued.

Meeting was adjourned at 11:35 pm.