

Lowell Zoning Board of Appeals Minutes

**April 27, 2020 6:30 P.M.
TPx Meet-Me-Conferencing**

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Vice Chairman Pech, Member Callahan, Member McCarthy, and Member Briere

Members Absent: Chairman Perrin

Others Present: Jared Alves, Senior Planner

Due to the state of emergency during the COVID-19 pandemic, the meeting was not held in-person. Access was provided using the TPx Meet-Me-Conferencing service.

Vice Chairman Pech called the meeting to order at 6:32pm.

I. Continued Business

II. New Business

ZB-2020-24

Petition Type: **Variances**

Applicant: **LandSmart, LLC**

Re Property Located at: **25 Marriner St**

Applicable Zoning Bylaws: **Sections 5.1 and 5.1.10**

Petition: **LandSmart, LLC is seeking Variance approval to demolish the existing home and subdivide 25 Marriner Street into buildable lots for three new single-family homes. The lot is in the Traditional Neighborhood Single-Family (TSF) zoning district and one of the three proposed lots requires Variance approval under Section 5.1 for minimum frontage and to exceed the maximum allowed front yard setback; under Section 5.1.10 for minimum lot width; and for any other relief required of the Lowell Zoning Ordinance. The applicant has requested a continuance to the Monday, May 11, 2020 meeting.**

Speaking on behalf:

None

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Text

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to continue the hearing until the May 11, 2020 meeting. The motion passed unanimously, (4-0).

III. Other Business

Minor Modification and Extension Request: 83 Boulevard Street

Massachusetts Electric Company d/b/a National Grid is proposing to demolish an existing substation and construct a new substation at 83 Boulevard Street in the Suburban Neighborhood Single-Family (SSF) zoning district. On April 8, 2019 the Zoning Board granted an amendment to a Special Permit under Section 12.7.a for a public utility use and a Variance under Section 5.1 for a non-conforming rear yard setback. The applicant has revised the plans, which includes making the setback more conforming by shifting the control house further away from the property line and increasing the height of the transformers and sound wall. **The applicant is seeking approval for these changes and is requesting that the Special Permit and the Variance approval be extended to July 12, 2021.**

Speaking on behalf:

Joshua Lee Smith, Bowditch and Dewey

Mr. Smith said that the Chair provided a good summary of what they are requesting. Approximately a year ago, they came before this Board requesting two approvals with respect to an amendment of a Special Permit granted in the 1970s for this substation site and a dimensional variance in connection with this proposed project, the rebuilding of the electric substation. Since the approvals, which were unanimously granted by this Board about a year ago, his client sought certain designs regarding the actual equipment and facilities proposed for the rebuild. As part of the vendor feedback, there was a resulting change regarding the layout and design of the site. They have updated the plans accordingly. He is here this evening to seek approval from the Board with respect to what he feels is a minor modification. The general scope of the changes includes mainly the addition of certain platforms and stairs to allow for access to some of the raised equipment. It's raised because the site is in a flood plain. In addition, some of the equipment itself was raised, including the transformer height. Previously, they were 14-ft. in height. Vendor specifications and bids increased the heights by 3-ft. to 17-ft. In order to properly mitigate noise, there had to be a corresponding increase in height of the sound wall. As part of the changes to the sound wall in terms of the height, the wall has to be more strongly reinforced. A portion is reinforced with concrete, there is ultimately going to a net decrease in the impacts to the flood plain as due to the sound wall changes in design. The sound wall will be raised 4-ft. above the ground. This is going to off-set the slightly increased impacts due to the additional platforms and stairs. What really results here is a net decrease as respects the flood plain, increased height of the wall to provide for proper noise mitigation, increased screening for some of the taller equipment, and some shifting of other equipment. For example, the proposed control house was decreased slightly in size and that along with some other equipment was shifted farther away, about 3-ft. from the rear property line. They had sought an obtained a dimensional variance, so now the control house will be more in compliance with the 25-ft. rear yard setback requirement. The footprint of the site is not changing, fence line is not changing, wall footprint is not changing. Fire truck access is improving. All and all consider this to be a minor modification. Had discussions with Staff and reviewed the memorandum. Agree with his conclusions. Through housekeeping, we are seeking extensions regarding the special

permit and variance to 2021. That is in-line with the time in which the project work is scheduled to commence.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Member Briere said that he didn't have any questions.

Member McCarthy said the application is very thorough and the modification to the control house minimizes the required variance by an additional 3-ft. is a worthy change. He doesn't understand the sound wall requirement. He was not part of the original presentation. He asked if a sound study was included or conducted that found a sound wall was necessary.

Mr. Smith said a sound study was prepared in connection with the project. The company is mindful of neighbors and surroundings. As part of the study and based on the proposed equipment, the company ensured that the design complied with all local and state noise regulations. Without the sound wall, it would not have complied. That's why the company has proposed a sound wall.

Member McCarthy asked if the sound study was submitted.

Mr. Smith said he could not recall.

Member McCarthy said the sound wall is at the rear of the site closest to the nursing home. The residents on Boulevard Street do not have any issues with sound. He asked if that's correct.

Mr. Smith said that's correct.

Member McCarthy he said they should have the sound study. He asked if that could be submitted. He would like to make that a condition.

Mr. Smith said they can provide the original sound study that was performed.

Member McCarthy asked if the study needs to be updated.

Mr. Smith said that the consultant had reviewed the impact on noise as a result of the taller transformers and had increased the height of the wall. They can provide the study.

Member McCarthy said he would like to make that a condition. The landscaping is wonderful. He noticed that the lighting, the additional foot candles do not go beyond the property line with the exception with a spot just at the southeast edge bordering the commercial property's parking lot. Nothing significant. So, there are no issues with lighting causing an adverse impact to neighbors. The package is very thorough. He would like to support it.

Member Callahan said he doesn't see any real issues. It appears to be a minor modification. He agrees

that it's a thorough package. He agrees with the condition regarding the current sound study. He doesn't recall having the original sound study during the previous hearing.

Vice Chairman Pech said he agrees with his colleagues. This is a minor modification. The modification is more conforming. He agrees with the proposed condition. He said a 4-0 vote is necessary.

Mr. Smith said if he is hearing everyone correctly, he gets the sense that the members are comfortable with the request subject to a condition of approval that includes the updated noise study. He is comfortable with providing whatever the city would require. He is comfortable with the members taking a vote.

Motion:

S. Callahan motioned and M. Briere seconded the motion stating that the changes are not material or substantial and represent a minor modification and to extend the Variance approval under Section 5.1 to July 12, 2021 with one condition:

1. The applicant must provide the sound study encompassing the revised plans.

The motion passed unanimously, (4-0).

S. Callahan motioned and D. McCarthy seconded the motion to extend the Special Permit approval under Section 12.7.a until July 12, 2021 with the same condition as above. The motion passed unanimously, (4-0).

Minutes for Approval:

April 13, 2020

S. Callahan motioned and M. Briere seconded the motion to APPROVE the April 13, 2020 minutes. The motion passed unanimously, (4-0).

Further Comments from Members

Member Callahan congratulated Jared Alves on his to ascension to Senior Planner. He said it's a well-deserved promotion and he does a great job.

Vice Chairman Pech echoed the sentiments from Member Callahan. Mr. Alves does amazing work for the city, DPD, and the Zoning Board. He appreciates all his hard work. Congratulations on the advancement.

Member McCarthy said he would like to say the same thing. He glad that Mr. Alves is now the Senior Planner, but at some point, he may move on and may not be part of their meetings.

Member Briere said congratulations on a promotion well-deserved.

V. Adjournment

S. Callahan motioned and D. McCarthy seconded the motion to adjourn the meeting. The motion passed unanimously by acclamation, (4-0). The time was 7:01 PM.

New Business to Be Advertised by April 12 and April 19, 2020