

Lowell Zoning Board of Appeals Minutes

January 11, 2021 6:30 P.M.

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: Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procope, Member Njoroge

Members Absent: None

Others Present: Christine McCall, Director of Economic Development & Jess Wilson, Associate Planner

The following represents the actions taken by the Zoning Board of Appeals at the 1/11/2021 meeting. Due to the COVID-19 pandemic, this meeting occurred using the Zoom videoconferencing platform.

Chairman Perrin called the meeting to order at 6:35pm.

Continued Business

ZBA-2020-42

Petition Type: **Variances**

Applicant: **Thanh Pham**

Property Located at: **50 Wentworth Ave 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Thanh Pham is seeking Variance approval to modify the existing lot lines of two parcels at 50 Wentworth Ave that have merged for the purposes of zoning and build a new single-family home on one of the parcels. Both lots are in the Suburban Single Family (SSF) zoning district. The new home will require Variance approval under Section 5.1 for minimum lot size, minimum lot area per dwelling unit, and minimum frontage, and the existing dwelling will require Variance approval under Section 5.1 for the front yard setback, to exceed the maximum allowed Floor Area Ratio (FAR), and for any other relief required of the Lowell Zoning Ordinance.

On Behalf:

John Geary, Attorney for Applicant

Speaking in Favor:

None

Speaking in Opposition:

Neil Desmond, 34 Wentworth Avenue

Nicole Skaff, 16 Glenwood Street

Nancy Canney, 64 Wentworth Avenue

Jess Medeiros, 33 Gild Street

Discussion:

Abutters reiterate previous comments stated at other public meetings. Abutters agree the proposed structure is too large for the size of the lot. Abutters are pleased to see the applicant address potential stormwater issues on the site.

Member Pech invites Attorney Geary to address the comments made by abutters. Mr. Geary states that there will be no increased to traffic or on-street parking. He disagrees with Mr. Desmond and believes the construction of a new home would increase adjacent property values. Mr. Geary reiterates he is following the process. Questions about the slope, Mr. Geary states that the slope will not be altered. The applicant proposes to increase landscaping in the rear to attenuate any flow.

Mr. Pech expresses gratitude to abutters who turned out for the project. Mr. Pech states that the request is reasonable and will only add to the neighborhood.

Member Callahan appreciates the concerns of the neighbors. However, to Mr. Geary's points, the rules of zoning allow property owners to vary from the lot size. Member Callahan states that the special hardship has been met. Member Callahan agrees with Attorney Geary on the increased value of properties in the neighborhood and to the City. The relief being requested is not nullifying the intent of zoning.

Member McCarthy states that he agrees with Member Callahan. Member McCarthy outlines how if everything is torn down and started over, the applicant would only need relief for 10' of frontage. He is interested in preserving the history of Lowell. He does not want to see a structure to be torn down to meet current dimensional requirements. He states that we come very close with Lot B. It is over 9,000 SQ FT in area. The preservation of the existing house is really important, rather than tearing it down. For that reason, I am favor of the plan in front of us. Additionally, removing the carriage house in the rear reduces the density on the lot and creates a nice street elevation for the neighborhood. Member McCarthy references a drainage plan that shows proposed infiltration trench and states that the drainage does not appear to support a trench, unless it is subsurface. Member McCarthy proposes that the pear trees be located outside of the trench area by 3'-4' or the trench moves. Member McCarthy confirms that the proposal stormwater plan would likely be subsurface infiltration. Member McCarthy proposes a condition that the trench will be subsurface and the pear trees are not on top of the trench. Member McCarthy states he does not want to see a gravel swale on the property. He believes this is a successful project and it does meet the criteria of granting a variance.

Member Procope states that he agrees with Member Callahan. Member Procope states that this could raise the value of the streets by the proposed improvements.

Member Njoroge states that the applicant is incredibly close to the minimum requirements of the SSF zoning district. References Member Callahan comments. Majority of lots and structures do not meet the minimum dimensional zoning requirements of the SSF district.

Chairman Perrin states that this project is consistent with variances throughout the City. The applicant did their due diligence and worked with the City. Member Perrin states that he lives in the neighborhood and understands the value and the characteristics of it. The City is growing, the people are looking for opportunities to raise their families, create future gain for the business plan. The comments provided by the City have been addressed. We are looking at one condition, already acquiesced by the applicant. The key here is the ability to understand the importance of zoning and what the Board has a role and obligation to do. Chairman Perrin states that Attorney Geary is

professional and always prepared when in front of the Board. Increase of stormwater, removal of the rear structure to ensure no habitant. All changes have been put forth in good faith.

Chairman Perrin asks Member McCarthy to reiterate his proposed condition.

Member Callahan states that at a previous meeting the Board proposed a condition that the garage on Lot B2 not be converted to a residential dwelling.

Member McCarthy states that the infiltration trenches be subsurface and the pear trees be located outside the infiltration trench.

Attorney Geary states that there is no infrastructure to allow for housing, happy to include the condition. Attorney Geary agrees to both conditions.

Member Callahan states that a third condition of receiving final approval from the Lowell Stormwater Review Team will be required prior to the application of a building permit.

Attorney Geary agrees to all three conditions.

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to APPROVE the variances with the following conditions:

1. The garage on Lot B2 shall not be converted to a residential dwelling;
2. The infiltration trenches shall be subsurface and the pear trees shall be located outside of the infiltration trench; and
3. Final approval from the Lowell Stormwater Team shall be required prior to applying for a building permit.

The motion passed unanimously, (5-0).

ZBA-2020-54

Petition Type: **Variance**

Applicant: **Joseph & Denise McCue**

Property Located at: **24 Westchester Street 01851**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Joseph & Denise McCue have applied to the Zoning Board of Appeals to construct a second-story addition at 24 Westchester Street. The property is located in the Suburban Neighborhood Single-Family (SSF) zoning district and requires Variance relief under Section 5.1 for relief from the maximum FAR requirement and all other relief required under the Lowell Zoning Ordinance. The applicant has requested a continuance to the January 25, 2021 ZBA meeting.**

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to continue the petition to the January 25, 2021 meeting. The motion passed unanimously (5-0).

ZBA-2020-55

Petition Type: **Variances**

Applicant: **Fatumata Jaiteh**

Property Located at: **173 Westford Street 01851**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Fatumata Jaiteh has applied to the Zoning Board of Appeals to construct a new single family home at 173 Westford Street. The property is in the Traditional Neighborhood Multifamily (TMF) zoning district and requires Variance approval under Section 5.1 for minimum lot area, minimum frontage, minimum front yard setback, minimum porch setback, minimum garage setback, minimum side yard setback, and minimum rear yard setback and for any other relief required of the Lowell Zoning Ordinance. The applicant has requested a continuance to the January 11, 2021 ZBA meeting. The applicant has requested a continuance to the February 8, 2021 ZBA meeting.

On Behalf:

Bob Lee, Representative for Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to continue the petition to the Feb. 8, 2021. The motion passed unanimously (5-0).

ZBA-2020-56

Petition Type: **Variances**

Applicant: **Nelson Group**

Property Located at: **610 Gorham Street 01852**

Applicable Zoning Bylaws: **Section 6.1**

Petition: Nelson Group has applied to the Zoning Board of Appeals to redevelop the existing building at 610 Gorham Street into a four-unit residential structure. The building currently has three residential units and one vacant commercial unit. The subject property is located in the Urban Neighborhood Mixed Use (UMU) zoning district and requires Site Plan Review approval per Section 11.4 to expand a

residential structure with more than three dwelling units, Special Permit approval per Section 12.1(d) for the use, and a Variance per Section 6.1 for relief from the off-street parking requirement.

On Behalf:

John Bavuso, Representative for Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Mr. Bavuso states that he has revised building plans that he would like to submit to the Board prior to a vote for variance.

Motion:

Member Callahan motioned and Member Pech seconded the motion to continue the petition to January 25, 2021. The motion passed unanimously (5-0).

New Business

Other Business

Variance Extension: 122 Sixth Street 01850

The applicant is seeking a one year extension to a Variance that expired on April 24, 2020.

On Behalf:

Jagmohan Chani, 3 Judy Street, Billerica, MA

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Member Callahan states that this seems very straightforward. Member Callahan asks for a status update on the previous condition. Mr. Chani states that the architectural renderings will include the condition.

Member Procope states that under these extraordinary circumstances that he does not have any issues at this time.

Member Njoroge states that the request is due to circumstances beyond his control, he does not see any issue.

Member Pech agrees with his colleague.

Member McCarthy states that he absolutely supports this extension. The property owner has lost rent due to the pandemic. The Board is glad to be supportive of this project.

Motion:

Motion Callahan motioned and Member Procope seconded the motion to extend the previously granted variance for one year. The motion passed unanimously (5-0).

Minutes for Approval:

December 14, 2020

Member Callahan motioned and Member McCarthy seconded the motion to APPROVE the minutes. The motion passed unanimously (5-0).

Announcements

Member Perrin announces the arrival of Jessica Wilson.

Member Callahan states that he would like the Board to revisit a discussion with staff that all projects be uploaded to the website by Thursday night (at least Friday). The Board emphasizes that they need information by Thursday before the meeting. Chairman Perrin says if staff and the Board can be organized, we can ask applicants to be organized and submit things timely. Chairman Perrin would like to minimize continuances. Member Pech states that uploading materials by Thursday before the meeting should be available to us and to the public. The Board agrees that this should be on the next ZBA Agenda for open discussion with staff.

Adjournment

Member Callahan motions and Member Procope seconded the motion to adjourn the meeting. The time was 7:40PM.

New Business to Be Advertised by December 27, 2020 and January 3, 2021