

# Lowell Zoning Board of Appeals Minutes

**January 24, 2022 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](http://www.LTC.org).

**Members Present:** Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Njoroge, Member Procope

**Members Absent:**

**Others Present:** Dylan Ricker, Associate Planner

*The following represents the actions taken by the Zoning Board of Appeals at the 1/24/2022 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.*

*Chairman Perrin called the meeting to order at 7:09 PM. The meeting began later due to the School Committee meeting running longer than usual.*

## **I. Continued Business**

### **ZBA-2021-34**

*Petition Type: Variances*

*Applicant: Julio Cortez*

*Property Located at: 242 Lakeview Avenue, 01850*

*Applicable Zoning Bylaws: Section 5.1; Section 5.3*

***Petition: Mr. Julio Cortez has applied to the Zoning Board of Appeals to demolish a vacant single family home and bakery at 242 Lakeview Avenue and replace them with a two family home. The property is located in the Traditional Multi Family (TMF) zoning district, and requires multiple variances under Section 5.1 for front and side yard setbacks, minimum lot area, and minimum lot area per dwelling unit, and under Section 5.3 for landscaped open space, and any other relief required under the Lowell Zoning Ordinance***

On Behalf:

David Plunkett, Applicant's Representative

D. Plunkett stated the property was originally a bakery, and up until 2 years ago the property had been under the same ownership. D. Plunkett said the lot is almost entirely covered by building with an existing home at the front of the lot, and the former bakery behind it. D. Plunkett noted the property is in significant disrepair, and said the application is to redevelop the property into a two-family use, adding that the property is located in the Traditional Multi-Family zone. D. Plunkett stated the parcel has unique features not seen throughout the neighborhood qualifying it for the Variance relief. D. Plunkett said the project would improve the use of the property which is currently blighted. D. Plunkett noted that the architect has gone into detail to ensure

the property fits with the character of the neighborhood. D. Plunkett noted the relief would not have a detriment to the public good, and would in fact benefit the public.

Norman Kerlov, Applicant's Architect

N. Kerlov said the property was formerly mixed-use and the building covered the majority of the lot. N. Kerlov stated the applicant will be reducing the overall building coverage. N. Kerlov noted the architectural details of other properties in the area including the existing, small front yard setbacks. N. Kerlov explained the proposed elevations for the two-family structure noting the similar characteristics to the neighborhood.

In favor:

None

In opposition:

Robert Hunt, 48 Florence Avenue

R. Hunt stated he is Chairman of the St. Casimir's Church. R. Hunt said he is glad there is a proposal to redevelop the property. R. Hunt expressed concern about the plans and stating there are many single-family homes in the area as well, and the duplexes are typically on larger lots. R. Hunt said he is concerned that tenants and visitors will use St. Casimir's driveway for parking. R. Hunt stated the church has maintained the driveway and it is used by senior and handicapped parishioners to access the church. R. Hunt added he is concerned about snow storage.

Stan Kosidlo, 5 Nottingham Road, Tyngsboro, MA

S. Kosidlo said he is on the Board of St. Casimir's. S. Kosidlo said he believes the structure is too large for the lot, and added that it is not clear who owns the access drive between the church and subject property. S. Kosidlo expressed concern about snow storage. S. Kosidlo said he is unsure 4 parking spaces will be enough for the property. S. Kosidlo added that he is concerned the Church's parking area will become a thru way for the property.

Discussion:

G. Perrin requested the applicant address the concerns of the abutters.

N. Kerlov said he believes as an abutter to the road they have the right to access the road as well, adding that the road will not be used for parking. D. Plunkett said the road way will not be used for parking. D. Plunkett said the snow will be stored on site, and the applicant is amenable to a condition of removing snow from the site if it interferes with parking. D. Plunkett noted the comment that the property is in need of redevelopment and stated the architectural design matches the neighborhood and improves its appearance. D. Plunkett notes the use is in line with the zoning district, adding that the dimensions of the lot are unchangeable, and the existing condition of the site is almost entirely building.

V. Pech thanked the applicant for their detailed plans. V. Pech said he believes the plans compliment the neighborhood and added that the applicant has done well to ensure the project benefits the area.

S. Callahan noted the need for redevelopment at the property. S. Callahan asked if the applicant considered a single-family instead of a two-family. D. Plunkett said considering the existing conditions of the site there are increased costs to redeveloping the property including tearing down the existing structures. D. Plunkett said

the proposed use more closely in line with the zoning district, and said financially redeveloping the site as a single-family may not be feasible.

S. Callahan asked about the access drive. D. Plunkett said the applicant will not be utilizing the access drive for the site and they will use their own driveway. S. Callahan asked whether the applicant would erect a fence or extend landscaping between the proposed parking area and access drive. D. Plunkett said the applicant is amenable to this.

S. Callahan asked the applicant about their snow removal plans. D. Plunkett said the applicant is amenable to a condition that they will remove snow if it impedes parking.

D. McCarthy asked how much usable open space per dwelling unit is being provided. D. McCarthy said with a plan showing this it is hard to approve the Variance. D. Plunkett said there is not an exact calculation, but this can be provided to the Board. D. McCarthy said he would not grant a Variance without this calculation. D. McCarthy added that the site plan does not show an egress from the back deck but they appear to egress into the driveway. D. McCarthy said the plans show very spacious units and said the proposal appears to be overbuilt. D. McCarthy said he is supportive of a two-family on the site, but the proposal is too large and is missing important information.

M. Briere agreed the site is in need of investment, and agreed with D. McCarthy about the need for more information related to the usable open space. M. Briere said the applicant should provide this information and scale back the building.

G. Procope agreed with fellow Board members. G. Procope expressed concerns about the property being overbuilt, and cited snow storage issues. G. Procope asked the applicant to consult with neighbors and work with them to find an amenable solution.

R. Njoroge agreed the structure is too large for the lot. R. Njoroge noted the lot is blighted and in need of investment.

G. Perrin said given the number of continuances the petition has already received he is not supportive of continuing the application any further. G. Perrin recommended the applicant withdraw their application so the applicant can make the necessary changes to the plan.

D. Plunkett stated the applicant would like to request a withdrawal without prejudice. G. Procope encouraged the applicant to meet with the neighborhood groups regarding the project.

#### Motion

S. Callahan motioned, and D. McCarthy seconded the motion to withdraw the petition without prejudice. The motion passed unanimously, (5-0).

## **II. New Business**

### **ZBA-2021-64**

*Petition Type:* **Special Permit**

*Applicant:* **Xpress Car and Truck Rental**

*Property Located at:* **1625 Middlesex Street, 01851**

*Applicable Zoning Bylaws:* **Section 6.3**

***Petition: Xpress Car and Truck Rental has applied to the Zoning Board for Special Permit approval to erect an internally illuminated sign at 1625 Middlesex Street. The property is located in the Regional Retail (RR) zoning district and requires a Special Permit under Section 6.3 and for any other relief required under the Lowell Zoning Ordinance***

Speaking on Behalf:

John Peterson, Applicant's Representative

J. Peterson said the current sign is shared between UHaul and Xpress Car, but UHaul no longer shares the office space. J. Peterson said Xpress car is looking for their own sign. The sign will be 32 square feet and is illuminated, the sign will not be flashing.

In favor:

None

In opposition:

None

Discussion:

S. Callahan said the application makes sense and the sign does not appear to increase in size significantly. S. Callahan asked about hours of illumination. J. Peterson said the sign will only be on when they are open and they close around 6pm. S. Callahan said the Board typically includes a condition that the sign hours of illumination are 1 hour before sunrise to 1 hour after sunset or close of business, whichever comes later. J. Peterson said the applicant is amenable to this condition.

D. McCarthy asked if the existing sign is illuminated. J. Peterson said it is not, and confirmed UHaul no longer utilizes the office space.

R. Njoroge said he has no questions or comments. G. Procope said he is supportive of the petition. V. Pech expressed support. M. Briere said he has no questions.

Motion

S. Callahan motioned, and D. McCarthy seconded the motion to approve the Special Permit with the following condition:

(1) The hours of illumination for the sign will be one hour before sunrise to one hour after sunset or close of business, whichever is later.

The motion passed unanimously, (5-0).

### **III. Other Business**

Variance Extension Request: 50 Wentworth Ave 01852

The applicant is seeking a Variance extension of one (1) year for their variance approval issued on January 20, 2021. They are seeking an extension to January 20, 2023.

On Behalf:

Cindy Le, Applicant

C. Le stated they are requesting a Variance extension for an additional year.

Discussion:

S. Callahan asked whether Variance's can be extended 1 year or only for 6 months. S. Callahan said the Board can grant 6 months. C. Le said they are requesting 1 year because the Variance is under appeal, and they are concerned 6 months is not enough. S. Callahan said the Board can grant an additional extension in 6 months.

Motion

S. Callahan motioned, and R. Njoroge seconded the motion to extend the Variance for 6 months. The motion passed unanimously, (5-0).

Discussion: Maximum agenda items per meeting

The Board shall discuss the possibility of instating a rule that would limit the number of agenda items that are scheduled for each ZBA meeting.

Discussion:

D. McCarthy said he would not like more than 6 items of business including continued business on a Zoning Board agenda. D. McCarthy stated that meetings lasting longer than 3 hours are difficult for members.

V. Pech said he was also open to a maximum of 5 items to ensure meetings do not run too long. S. Callahan said he was in agreement with a 6 item maximum, and added staff would need to track applications to ensure whether items can be continued. D. Ricker explained the process used for the Planning Board.

M. Briere said he is in agreement with a 6 item maximum. G. Procope agreed and emphasized the importance of manageable meetings. R. Njoroge expressed support for allowing smaller items to be added to exceed 6 items, but he is agreeable to the maximum. G. Perrin expressed agreement with the item limit.

Motion

D. McCarthy motioned, and M. Briere seconded the motion to amend the Zoning Board of Appeals rules to adopt a rule limiting the number of agenda items to 6. The motion passed unanimously, (5-0).

**Minutes for Approval:**

January 10, 2022

S. Callahan motioned, and G. Procope seconded the motion to approve the meeting minutes. The motion passed unanimously, (5-0).

**IV. Adjournment**

S. Callahan motioned, and D. McCarthy seconded the motion to adjourn. The motion passed unanimously, (5-0). The time was 8:57 pm.

***Per Order of the City of Lowell Zoning Board of Appeals – Gary Perrin, Chairman***

***New business to be advertised by January 9, 2022 and January 16, 2022.***