

Lowell Zoning Board of Appeals Minutes

February 11, 2019 6:30 P.M.
City Council Chambers, City Hall
City of Lowell, 375 Merrimack Street, Lowell, MA

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 G. Perrin, Member V. Pech, Member S. Callahan, Member D. McCarthy, Member M. Briere, and Member P. Jamina

Members Absent: None

Others Present: Patrick Burns, Associate Planner

The following represents the actions taken by the Zoning Board of Appeals at the 2/11/2019 meeting.

Chairman G. Perrin called the meeting to order at 6:30pm

I. Continued Business

ZB-2019-1

Petition Type: **Variances**

Applicant: **Spiro Skinsacos**

Re Property Located at: **55 Robert Street 01854**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **The applicant proposes subdividing a lot and requires Variances for minimum lot size, minimum lot area per dwelling unit, and frontage for proposed Lot two (2) and additional relief to exceed the Max. Floor Area Ratio (FAR) for Lots one (1) and two (2) under Section 5.1: Table of Dimensional Requirements and any other relief required of the Lowell Zoning Ordinance. The subject property is in the Traditional Neighborhood Single Family (TSF) zoning district. The petitioner has requested a continuance to the Monday, February 11th meeting date.**

Speaking on behalf of the petition:

George Theodorou, Attorney for the applicant: We are seeking another continuance. Following that initial meeting, the weather turned a little colder than expected so we had a difficult time getting the soil samples to do the testing for the subsurface infiltration systems. I took it upon myself to notify the individuals who were here last time, the Pawtucketville Citizens, as well as their abutters and we are also meeting with Atty. Joseph Clermont who owns a house on Mt. Hope Street and we will go over the plans. We are asking this further continuance to the March 11th meeting.

Chairman Perrin: Thank you and we appreciate your proactive response to the follow up.

Motion:

S. Callahan made a motion to approve the request for a continuance to March 11, 2019. V. Pech seconded the motion with unanimous approval by the Board, (5-0).

II. New Business

ZB-2019-2

Petition Type: **Variances**

Applicant: **Emily and Matt Steinberg**

Re Property Located at: **107 Endicott Street 01854**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **The applicant proposes to construct a one-story addition onto their existing single-family home at 107 Endicott Street. The home is in the Traditional Neighborhood Single Family (TSF) zoning district and the addition requires Variance approval under Section 5.1 for maximum floor area ratio and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf of the project:

Matt Steinberg: We have put in a variance and are looking to expand our home. We've been in the city for 16 years now; I grew up here. We have two large boys and a large dog. We explored making changes to our basement to accommodate some extra space for our family, but that was unfeasible due to a low bearing stairwell within our house. We are looking to expand outward and demolish the deck and construct an addition in the back.

Chairman Perrin: Did you receive staff comments?

M. Steinberg: Yes

Speaking in favor of the petition: None

Speaking against: None

Discussion:

Member Briere: I believe the proposed project meets the character of the neighborhood. I hope you'll be living in it soon.

Member McCarthy: This is a situation we come across quite a bit where we have an addition proposed or change of a property that doesn't meet zoning. I am troubled by how we're meeting the definition of a variance. One of requirements is that the site has a difficulty in meeting the zoning. Your site is relatively square. This project makes sense, but it doesn't meet the definition of a variance to support. I don't know if that is something that the Planning Dept. should be looking for relief. I have a hard time opposing this proposal but I don't see how it meets definition of a variance.

Staff: You are correct, there is a hardship threshold in the variance criteria I think that is for the Board to weigh on.

Member McCarthy: I just don't want the Board or myself to be supporting a motion that puts in the city in jeopardy. I think what you're asking for makes a ton of sense and I think the neighboring properties have a similar situation already.

Member Callahan: I agree with Dennis that this makes sense. Did you do the elevation plans yourself?

M. Steinberg: No, the contractor did.

S. Callahan: They are very nice and look well put together. I wish you luck.

Member Pech: No comments

Member Jamina: No additional comments. Good luck.

Chairman Perrin: You the heard comments from the Board. We will address concerns at the end of the meeting not relative to your project but from the Board's standpoint.

Motion:

S. Callahan made a motion to approve the requested variance for Floor Area Ratio to construct an addition to the rear of the dwelling. D. McCarthy seconded the motion with unanimous approval by the Board, (5-0).

ZB-2019-3

Petition Type: **Variances**

Applicant: **Michael McGuire**

Re Property Located at: **152 Jewett Street 01850**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **The applicant proposes to construct a single-family home at 152 Jewett Street. The proposed home is in the Traditional Neighborhood Single Family (TSF) zoning district and requires Variance approval under Section 5.1 for minimum lot size, minimum lot area per dwelling unit, minimum frontage, and maximum floor area ratio and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf of the project:

Atty. Catherine Flood: The proposed project consists of tearing down the existing garage and proposing a new single-family home on the lot. We are requesting the variances pertaining to construction. You will see there will be sufficient parking for 2 vehicles.

Chairman Perrin: You received the comments from staff?

Atty. Flood: Yes, everything seems positive, the only question was the asphalt in the front. He proposes to construct the home facing Richardson St. The asphalt will be pulled out and grass will be there and the driveway will be to the right.

Speaking in opposition:

Ann Marie Paige: I sit on Executive Board for the Centralville Neighborhood Action Group. What is the size of that lot?

Atty. Flood: The lot is 4,180 SF

Ann Marie Paige: I realize there are other houses on Jewett St. that are close to that size. In Centralville, we are kissing close. There's not much more we can take and that is a small lot. The zoning changed to 7,000 sf. If you put a house on it and then add cars, it's a small lot. We depend on the Zoning Board to follow the codes. Centralville was moved up to 7000 sf. If we keep sticking houses in, the houses on Jewett Street are close, that's why it was changed so we can spread apart a little bit.

James Harrington, Christian St., Board of Directors for Centralville Organization: When the Zoning Board put together package that determined how large properties should be for new houses, they the neighborhoods into consideration. They did allow minor, small variances. Going from a 7000 sf zoning requirement to a 4100 request, is a little bit more than what would be allowed in that zone. I can't see being able to put in a house that size and have off-street parking. Every family has multiple cars that park on the street. There are very few driveways in that area. We don't need to add more congestion to that area of the city.

Speaking in favor:

None

Discussion:

Member McCarthy: I would like to ask, how do you expect the Board to accept a 40% reduction in lot size with the criteria for us to grant a variance.

Atty. Flood: When I submitted my application and narrative, I pointed out the neighborhood and what the neighborhood appears as of now. Most of the lots in the neighborhood are on smaller lots, some even have 2 family homes. To not allow him to develop it, would be a hardship for him based on the lot. It's a square lot, a house would fit perfectly and he provides for the parking.

D. McCarthy: I am trying to follow the hardship. The lot is not a buildable lot today? So why is it a hardship for it to become a buildable lot? If it's not buildable, why is the city granting a variance to make it one?

Atty. Flood: Mr. McGuire would be able to do something with the lot, it would bring tax revenue to the city, it would beautify the neighborhood, new home, new construction, it would look nice.

Member McCarthy: Okay. Let's move on to the next one. How did you come to the size of the structure? Why is it 28' x 38'?

Member Flood: It was designed so that it would meet setback requirements. Gavin and Sullivan created the plan.

Member McCarthy: The site doesn't show walkways or decks. Is there a site plan showing a front walk or access to an outdoor patio or deck? Is it your intent to have a walkway to the front door?

Michael McGuire: This isn't a site plan, this is just an elevation plan of the proposed building.

Member McCarthy: For informational purposes, we should see whatever is green space and what is hardscape on the site plan. We should understand what you intent is for access to the structure. If we move forward, I'd like a condition that the applicant submits a site plan showing all hardscape walkways and patios. This is a significant variance; I would like to see a landscape plan. Are there trees on the lot?

M. McGuire: There are some trees, I'm hoping to keep them.

D. McCarthy: I'd like to see a plan showing trees, shrubs and the intent of keeping as many mature trees as possible. I'm having trouble with the definition of a variance, but I like the project.

Member Callahan: I would like to see a site plan showing landscape plan and hardscape. Is this compliant as a corner lot?

Staff: Yes

S. Callahan: You are planning stacked parking?

Atty. Flood: Yes

Member Pech: Did you get a chance to speak with the neighbors to discuss the development on Jewett St?

Atty. Flood: I didn't have any contact with anyone after notice went out

M. McGuire: I haven't spoken to neighbors about it.

V. Pech: It is a concern to me when neighbors have reservations. I think it is always good to add to or beautify a neighborhood but in this case, you are also lacking some information. You don't have site plan showing landscaping or hardscape. I would like to see this perhaps continued to have those documents

developed. Maybe during that process, if you could meet with the neighborhood to address those concerns they have.

Member P. Jamina: What is the need for building the house? If it for you to move in?

M. McGuire: I would be selling the house.

P. Jamina: How are you going to deal with trash?

M. McGuire: There would be a roll off dumpster for any debris.

Member Jamina: I think you're asking too much from us. You are asking us to approve a variance of 2,800 sf. But for us to have sound decision, we should see a plan.

Member Briere: Mr. Chairman, is it permissible to ask those you spoke in opposition?

Chairman Perrin: Yes

Member Briere: With respect to Centralville neighborhood opposition, what do you think is the most detrimental to this neighborhood?

Ann Marie Paige: Houses are kissing close.

Member Briere: We always have.

A. Paige : Now we have automobiles, we didn't before.

Member Briere: I grew up in Lower Centralville. We've always had these issues. Why would a neighborhood be against a new structure that would bring more tax revenue that's consistent with the neighborhood?

A. Paige: It's too close now. Why did zoning change from 4000sf to 7000sf? If you decided 7000sf is where we play the game, we can't keep knocking it down to 4000sf. It's a beautiful piece of property, it's just too tiny. I would hope one of the abutters would want to buy it, and then they'd have a nice big yard. We're too tight in Centralville, we can't take much more.

M. Briere: I wasn't a part of the process that changed the code, and I understand we have to follow it. Where would you be able to build house if we were using 7,000 sf? There would be no new construction.

G. Perrin: Prior to moving on, it was requested by Mr. Briere to have a question and answer session with those in opposition. To remain calm, we will do it from the podium.

J. Harrington: You asked about piece of property that would meet the 7,000 area. There is a property pretty close at the corner of Hildreth and Coburn that I have seen with a backhoe. They are clearing this lot and there's no question someone is about to develop it. So there are pieces in and around lower Centralville that are going to make the 7000 sf.

M. Briere: There are not many properties. We are never going to have a new structure again.

J. Harrington: There are other areas of Centreville that fall into this category.

M. Briere: Let's stick to Lower Centralville.

J. Harrington: I thought we were going to stick to the 7000 sf. Issue?

M. Briere: That's what I have an issue with. I understand that's the code, but I think this proposal meets the character of the neighborhood and doesn't impose a new parking problem that doesn't already

exist. The neighbors don't want that close proximity, but that's the neighborhood. That's the character. Do we really think we're going to change it by denying these new properties to be built?

J. Harrington: If you keep allowing lots smaller than what's required, then there's going to be major problems, it's so congested.

M. Briere: It's not going to make any difference to the neighborhood. I am trying to find out those who are most active in the neighborhood, what's your motivation behind this? I don't get it or agree with it.

J. Harrington: You have a right to disagree.

M. Briere: I think new construction is better for the neighborhood than limiting structures. I am equally active in this neighborhood. I don't see a single abutter from lower Centralville opposing this project, and yet the neighborhood organization is here which gives the impression that they speak for the entire area of the city, when in fact, they don't. If the guys next door don't oppose, why are you? I don't think we should deny new construction.

G. Perrin: We are going to move on. Mr. Briere has had his moment for conversation. This is becoming a back and forth and we are not here for that. I would recommend a continuance for a new site plan, landscape plan, and an opportunity for you to speak with the neighborhood group. Our next meeting is February 25th would you have those plans by then?

Atty. Flood: Yes

Member McCarthy: I would like to follow up with the submission process and include a grading plan and established finished floor elevations so we know how much exposed foundation wall we'd be looking at.

Atty. Flood: So you want a site plan, landscape plan, hardscape plan, and plan showing grading and elevations?

D. McCarthy: Submittal requirements include a topo or grading plan showing contours on the lot. Also we'd want to see a landscape plan and a hardscape plan showing walkways and patios.

V. Pech: Please reach out to all of the neighbors and neighborhood groups. If you get those plans and reach out, that would be in your best interest.

Member Briere: I have not rendered any final judgment on this. I think we need to hear from abutters. If you had abutters who were against, it lends some credibility to the neighborhood. That's my advice.

Motion:

S. Callahan made a motion to continue the petition to the February 25th meeting. The Board requested that the applicant provide the following plans and information:

1. A new detailed site plan showing hardscape surfaces on the lot and grading which the contours of the lot;
2. A landscape plan;
3. An established finished floor elevation showing how much exposed foundation wall will be visible;
4. An opportunity to reach out to the neighborhood group and abutters of the subject property.

V. Pech seconded the motion with unanimous approval by the Board, (5-0).

ZB-2019-4

Petition Type: **Variance**

Applicant: **Kronos Inc.**

Re Property Located at: 900 Chelmsford Street 01851

Applicable Zoning Bylaws: Section 6.3

Petition: The applicant proposes to install a new temporary 20' x 56' wall sign to be installed on the façade of the building. The subject property is in the High Rise Commercial (HRC) zoning district. The applicant is seeking a Variance under Section 6.3.4 #18 (D) of the Lowell Zoning Ordinance and any other relief that is required.

Exhibits: Kronos, Inc., Sign Design Plans dated 1/30/2019

Speaking on behalf of the project:

Jonathan Proffitt, Kronos, Inc.: We relocated recently and renovated. We were named the top place to work in MA. We feel that has to do with moving to Lowell and we want to celebrate that. This allows us to grow and stay in Lowell. We are renovating another floor in the building and perhaps another in a year each about a \$3 million project.

This is very tall building and very far. In order for it to be seen, it has to be that large. We don't think it's a detriment to the neighborhood. We have changed the sign renderings and have copies to pass out tonight. They are the same size.

Chairman G. Perrin: You are surrounding multiple communities as well.

Speaking in favor:

None

Speaking against:

None

Discussion:

S. Callahan: This is a no brainer. It's a nice set up. I am glad Kronos is growing and expanding. I was going to comment how the sign mentioned Boston when this is Lowell, but you've changed the designs.

J. Proffitt: Yes, we have.

V. Perrin: No comments

P. Jamina: No comments

M. Briere: Lowell is very fortunate to have you. You could have a movie screen on the building if you wanted.

D. McCarthy: I am very impressed with the caliber that you have with the company. I would love to see that expressed. How many square feet do you have?

J. Proffitt: We have 503,000 sf. We have 400 open jobs right now. We are a private company and we publish our earnings, we just closed out our best quarter.

D. McCarthy: We are grateful that you have chosen Lowell as your headquarters. Thank you.

Chairman Perrin: I do appreciate your time coming out. Since its inception, your business staff has been a model for partnerships. You have developed an atmosphere that has enriched everyone.

Staff: How long will temporary sign be posted on building?

J. Proffitt: It is an annual award and I think they are given out in January. Hopefully we could win it again,

but I think through January would be a reasonable time if the Board would allow.

Chairman Perrin: I have no concerns with putting a time stamp on this or having a yearlong celebration.

Motion:

S. Callahan made a motion to approve the variance for the proposed sign with the condition to approve the revised renderings dated 01/30/19 submitted at the public hearing. D. McCarthy seconded the motion with unanimous approval by the Board, (5-0).

ZB-2019-5

Petition Type: Variances

Applicant: An Ponnary

Re Property Located at: 31 Robbins Street 01851

Applicable Zoning Bylaws: Section 5.1

Petition: The applicant proposes to construct a two-story addition onto their existing two-family home at 31 Robbins Street. The home is in the Traditional Neighborhood Single Family (TSF) zoning district and the addition requires Variance approval under Section 5.1 for maximum floor area ratio and for any other relief required under the Lowell Zoning Ordinance.

Speaking on behalf of the project:

Property owner and Interpreter, Mandy Che: We are looking to build two new rooms and a full bathroom to the existing 2 family home.

G. Perrin: Are you in receipt of the comments for this project?

Staff: We emailed them last Wednesday.

Mandy Che: I'm sorry I had not seen these comments before, he's just shown them to me right now.

G. Perrin: If you haven't had an opportunity to read the comments, I think it's going to be difficult to answer questions. Is the builder available to speak on this project?

Mandy Che: No. He's not available tonight.

G. Perrin: Where you don't have a copy of the comments, and generally, if the builder was here who made the plans, it'd be easier for us to have ask questions.

Many Che: I'm sorry, the builder is not available to come today.

G. Perrin: I would make a recommendation to continue this to February 25th meeting. That would give the petitioner the opportunity to have a copy of the comments and prepare a response. If the builder was available, it would be helpful if he could be here to answer questions.

S. Callahan: You probably should have the builder here because there's a note about demolition, and I don't see why this project would require any demolition. I would want to ask why that's included in the plans.

Motion:

S. Callahan made a motion to continue the petition to the February 25th meeting. V. Pech seconded the motion with unanimous approval by the Board, (5-0).

III. Other Business

1, 5-7 E Merrimack Street 01852: Minor Modification

The proponent is requesting a minor modification to the previously approved mixed use building. The proposed changes include reducing the height of the building from 12 to 5 stories, the number of dwelling units from 66 to 42, and the size of the restaurant from 4,270 sq. ft. to 915 sq. ft.

Speaking on behalf of the project:

Matt Hamor, LandPlex Engineering on behalf of 1 Riverfront LLC:

I am here requesting a minor modification to the original previously issued permit from the Zoning Board of Appeals and also to request to extend the permit previously issued. The Planning Board approved and decided this would be a minor modification project for Site Plan Review.

The original proposal was a much taller building. This will be a 5-story building; it will be podium construction. It will be mixed use. It's going to have a ground floor and coffee shop and exercise room and four stories of living space above. The number of units has been reduced from 66 to 42. The stories have been reduced from 12 to 5. The roof is going to have a green design element to it where there is going to be an open plaza on the roof, also shown on the sheet provided to everyone. There will be patio space on the roof. This is a view from E Merrimack; this is the plaza area here to be used by the residents, and the coffee shop. The coffee shop is going to be positioned on this end unit. The full engineering will go through DPD and all the municipal jurisdictions like the water, engineering departments, and DPW. This is the proposed design. We have removed the existing structure and it has been fenced off since the prior approval. I will leave it to the board for any other questions.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

V. Pech: I still think this is an amazing project. I think the city would be lucky to have it, best of luck.

P. Jamina: Why is the project being reduced?

M. Hamor: Economics. The 12 story building is a much different structure and a lot more expensive. I won't be able to tell you the details. This will be a podium style construction. This is an easier building to build and is more within the means of the client to build. He hopes to start in the summer.

Member Briere: I think it's a good project. I loved it. It was magnificent before and it's great now. It is a benefit to Lowell.

D. McCarthy: I have a couple questions. I kind of like the idea of it not being 12 stories. It seems like an easier piece to fit into the city. What is the parking scenario?

M. Hamor: We have a full parking agreement with the City of Lowell. We have a parking garage at the Lower Locks and the John St. garage. We have a parking agreement to utilize both garages.

D. McCarthy: We are seeing garages fill up. How many years back was this approved?

M. Hamor: The original permit was in 2017. If you go to the Decision, there was a typo it said 2007.

D. McCarthy: I just want to look into parking availability.

S. Callahan: Parking wasn't too big an issue because of the Davidson Street lot. It's an ambitious project and it still fits within the character. I like it a bit more now. I think it fits in better.

P. Jamina: Does this have to go back to refile a new application because of the changes?

Staff: The project is here tonight for the Board to decide if it needs a new application or if it's a minor modification.

G. Perrin: Being that it's a reduction in build and deemed a minor modification, is there any member wanting a new application?

D. McCarthy: I didn't see anything from the city stating that now two years out, the capacity of the garage is still there.

M. Hamor: Mr. Daly had spoken at the Planning Board meeting that he is currently finalizing the agreement with the city. I know that it had been verbally agreed by the city, but official final documents have not been issued.

G. Perrin: Let's condition that we get an update on the parking plan as approved and agreed through the petitioner and the city. I am in favor of accepting this as a minor modification as it came through the Planning Board. We'll accept this with no new application.

Motion:

S. Callahan motioned and V. Pech seconded the motion stating that the changes are not substantial or material and that they represent a minor modification provided that the applicant submit an updated parking agreement with the city to DPD. The motion passed unanimously (5-0).

S. Callahan motioned and D. McCarthy seconded the motion to condition approval of the modifications on the proponent providing an updated parking agreement with the city to DPD. The motion passed unanimously (5-0).

S. Callahan motioned and V. Pech seconded the motion to extend the Special Permit approval period for one year with the condition that the applicant provides an updated parking agreement with the city to DPD. The motion passed unanimously (5-0).

Minutes for Approval

12/10/2018

Motion:

V. Pech made a motion to approve the meeting minutes from the 12/10/2018 meeting. D. McCarthy seconded the motion with unanimous approval by the Board. S. Callahan abstained from the vote. (4-0).

IV. Adjournment

S. Callahan made a motion to adjourn the meeting. V. Pech seconded the motion with unanimous approval by the Board, (5-0).

Per Order of the City of Lowell Zoning Board of Appeals – Gary Perrin, Chairman
New Business to Be Advertised by January 27, 2019 and February 3, 2019