

# Lowell Zoning Board of Appeals Minutes

**February 13, 2023 at 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 Pech, Vice Chair Callahan, Member McCarthy, Member Briere, Member Procope, Member Hovey

**Members Absent:** None

**Others Present:** Francesca Cigliano, Senior Planner

*The following represents the actions taken by the Zoning Board of Appeals at the 2/13/2023 meeting. This meeting was held in the City Council chambers. Attendees had the ability to participate via Zoom as permitted by Chapter 107 of the Acts of 2022, signed into law on July 16, 2022.*

*Chairman Pech called the meeting to order at 6:30 PM*

## **I. Continued Business**

### **ZBA-2022-68**

*Petition Type:* **Variance**

*Applicant:* **Adam McPhillips**

*Applicant: Property Located at:* **38 & 49 Casco Street 01854**

*Applicable Zoning Bylaws:* **Section 5.1**

*Petition:* **Adam McPhillips has applied to the Zoning Board of Appeals to construct a single-family home in the Traditional Neighborhood Single-Family (TSF) zoning district at 39 & 49 Casco Street. The new home requires Variance approval pursuant Section 5.1 for relief from the minimum frontage requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

John Cox

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

G. Procope commented that it is a nice piece of property. Is the applicant looking to utilize any part of the paper street for the driveway?

J. Cox said proposing to use right hand side. Would remain open for access to property behind the site we are talking about.

G. Procope said that he does not have any issues. He hopes CC does support this as long as there is no detriment to the natural area.

M. Briere said concerns from Engineering department have been addressed. See no reason why variance cannot be granted.

D. McCarthy said opinion can use all of paper street as driveway. Why not using the whole thing? JC said no need to develop the entire street. DM said minimal impact. Makes a lot of sense.

S. Callahan said that the project works. Utilizing a piece of property. Have a hardship, next to border of Dracut. Oddly shaped lot. Meet the criteria of a variance.

T. Hovey said it is a straightforward ask. Don't have any issues.

V. Pech believes the project fits with the neighborhood, relief is minimal. Could have gone larger in scale, kept true to neighborhood. No neighborhood opposition.

Motion:

D. McCarthy motioned and T. Hovey seconded the motion to approve the variances. The motion passed unanimously, (5-0).

**ZBA-2022-69**

*Petition Type: Variances*

*Applicant: Julio Cortez*

*Property Located at: 242 Lakeview Avenue 01850*

*Applicable Zoning Bylaws: Section 5.1, and Section 6.1*

*Petition: Julio Cortez has applied to the Zoning Board of Appeals to demolish the abandoned structure on the property at 242 Lakeview Avenue and construct a new two-family home. The subject property is located in the Traditional Neighborhood Multi-Family (TMF) zoning district. The proposal requires Variance approval pursuant Section 5.1 for relief from the minimum front yard setback, minimum lot area, minimum lot area per dwelling unit, minimum side yard setback, and minimum usable open space requirements, pursuant Section 6.1 for relief from the minimum parking setback requirement, and any other relief required under the Lowell Zoning Ordinance.*

On Behalf

David Plunkett, Applicant's Attorney

Speaking in Favor

Robert Hunt, Board member, St. Casimir's Church

R. Hunt said that they had worked with the applicant to ensure there was clear delineation with the fence. He is satisfied.

Sandy McNamara, Centralville resident

S. McNamara said she thinks this is a good project and that housing is needed.

Speaking in Opposition:

None

Discussion:

M. Briere said he fondly remembers the bakery. Grew up in that neighborhood. He appreciates the cooperation and compromise with parish. Very supportive.

D. McCarthy said a lot of improvements compared to the last proposal. Plunkett said that the building is less nonconforming than other buildings despite needing a lot of variances. D. McCarthy highlighted the need to re-evaluate zoning as part of Lowell Forward - this is a good project but needs a lot of variances. D. McCarthy said no shade trees were included in the landscaping plan. Is it possible to add a shade tree working with Greening the Gateway Cities program? F. Cigliano said this site is not eligible as it is not in the district. D. McCarthy asked to add shade trees to the site. Norman Kurloff architect for project said they can add shade trees. D. McCarthy said they should be added to the streetscape. One in front one in rear.

S. Callahan said he is glad to see this project getting moving. The building has been an eyesore.

T. Hovey said that this project is what the city is looking for. Removing an eyesore, working with neighbors.

G. Procope said that this iteration is much better than the first one. Abutters are in favor because of the compromises made. The project is in line with what the street looks like. Like D. McCarthy, I support the recommendation of added street trees. Would add to value of property and benefit the neighborhood.

V. Pech said working with the neighbors is great. This is a good project.

Motion:

D. McCarthy motioned and S. Callahan seconded the motion to approve the variances with the following conditions:

1. The applicant shall plant one shade tree in the rear of the property and one along the streetscape. The applicant shall submit a revised site plan showing the proposed location species, and size of each tree prior to applying for a building permit.

The motion passed unanimously, (5-0).

**ZBA-2022-71**

*Petition Type:* **Variance**

*Applicant:* **Deb Soly and Jill Poirier**

*Property Located at:* **165 Virginia Avenue, 01852**

*Applicable Zoning Bylaws: Section 5.1*

***Petition: Deb Soly and Jill Poirier have applied to the Zoning Board of Appeals to construct a front porch on an the existing home at 165 Virginia Avenue. The property is located in the Suburban Single-Family (SSF) zoning district. The project requires Variance approval pursuant Section 5.1 for relief from the minimum front yard setback, and maximum floor area ratio (FAR) requirements, and for any other relief required under the Lowell Zoning Ordinance.***

On Behalf:

Jill Poirier

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

D. McCarthy said that this is the neighborhood he grew up in. Houses used to be so similar, people have added to them to make them unique. Porch would add that. Provides opportunity for neighbors to greet each other and enjoy the streetscape. Relief requested is minimal.

S. Callahan said relief appears minimal. Would be a great aesthetic addition. In support.

T. Hovey said that this is pretty straightforward. In support.

G. Procope said this is minimal relief. Don't have an issue. Beautiful setting. Farmer's porch would make a great addition.

M. Briere agrees with staff that requested relief is minimal, no detriment.

V. Pech agreed would benefit city and the relief requested is minimal.

Motion:

D. McCarthy motioned and M. Briere seconded the motion to approve the variance. The motion passed unanimously, (5-0).

**ZBA-2022-72**

*Petition Type: Variance*

*Applicant: Stonehill Properties, LLC*

*Property Located at: 32 Marriner Street, 01852*

*Applicable Zoning Bylaws: Section 5.1*

***Petition: Stonehill Properties, LLC has applied to the Zoning Board of Appeals to subdivide the existing lot at 32 Marriner Street and construct a new single-family home on the newly created lot. The property is located in the Tradition Single-Family (TSF) zoning district. The proposal requires Variance approval pursuant Section 5.1 for relief from the minimum frontage, and minimum lot area requirements, and for any other relief required under the Lowell Zoning Ordinance.***

On Behalf:

John Cox

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Dina Soliman, 18 Marriner Street

D. Soliman said she is strongly opposed. In 2020, went through big development across the street. A lot of green space gone. 7 houses to 9 houses on the street. Also have letters from the remaining neighbors in the street in opposition. Biggest concern – my property would be 10 ft. off the new house. Great loss of privacy. Friends with current owners. Construction noise. Don't think we need to be the site of squeezing in another house.

Khal Van, 23 Marriner Street. Moved from a tight area. Moved to an area with more room. Thought the area was really nice. After hearing house is being built, I am opposed.

Kanika Vong, 15 Marriner Street. Strongly oppose. Moved to this neighborhood because it is a suburban feel. Wanted to move to a place with more space to ride bikes. New build will reduce charm of neighborhood.

Kim Ly, 59 Boston Road. Opposed to this idea. I have a 15 month child who will start running around the streets soon. Hope to keep street nice and quiet. I like the neighborhood the way it is.

J. Cox said that the owners invited the neighborhood to come to their home to show the plan. I don't know anything about city employees being there. A lot that was said was hearsay at the least, I think it's interesting that the gentleman lives in a new house that was approved. As far as noise, three homes were built. J. Cox does not see a lot of sprawling lots. Sees lots that are exactly what we are proposing. This is not an unreasonable request.

Discussion:

S. Callahan asked whether they could add landscaping in the rear. M. Hamor confirmed that they could add shade trees and could work with DPD on the location and type of shade tree. M. Hamor said he could add porous pavers in the rear of the existing home which is currently nearly fully paved.

T. Hovey said that he understands the concerns of neighbors. They meet the side yard and parking requirements. M. Hamor confirmed that driveway would be off-set three feet from the house. T. Hovey said he doesn't see too many issues with it.

G. Procopé said it is important to be mindful of what neighbors feel. Responsibility to look at things based on what makes sense. Fits within requirements. Anything they can do to help the abutters feel more

comfortable. Adding shade trees would be a benefit. J. Cox added that he is happy to work with DPD regarding the landscaping.

M. Briere said that when he did his site review, he immediately formed a favorable impression. Public is allowed to come to chambers and speak in favor or in opposition. Heard opposition. I heard no compelling argument that would allow me to deny this petition. I'll be voting in favor.

D. McCarthy disputed the privacy argument. The applicant is proposing to remove windows on the second floor. Doesn't love that. I don't see that as a negative and most importantly, the property meets the side yard setback. Not asking for relief for side yard setback. Congestion and parking - understand ranch was taken down. Those three lots met the minimum lot size. Can't speak to parking - this meets the parking. There is space in front of the property for on-street parking. Want to make sure I spoke to the material submitted by neighbors. I think it makes sense to have a condition that the applicant provide a revised side plan that shows pervious pavement system at rear of lot 2 and also show shade trees on the new lot. Would like to see shade trees added to lot 2 as well. J. Cox said no objection. Said this is a lot of variance relief but most is on the existing home. For proposed - just lot size and frontage. J. Cox agrees and said they would like to include upper floor windows.

V. Pech thanked the neighbors for attending and expressing concerns. The project has merit. Wants people to be mindful that housing is a big need in the Commonwealth. Adding a single family home to the lot would be a benefit to the whole city. I think the petitioner is making a lot of effort to comply and address neighbor concerns.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. The applicant shall submit a revised site plan prior to applying for a building permit showing a green paver system added to the rear of lot 2 starting at the bump out on the northeast side as well as a minimum of two shade trees on lot 2 and on lot 1;
2. The applicant shall remove existing pavement which encroaches on lot 1 from lot 2; and
3. The applicant shall add a note to the revised site plan to remove the brick wall at the entrance to lot 1.

The motion was seconded by S. Callahan and passed unanimously, (5-0).

#### **ZBA-2022-56**

*Petition Type:* **Variance**

*Applicant:* **William R. Renaud**

*Property Located at:* **105-111 Martin Street 01854**

*Applicable Zoning Bylaws:* **Section 5.1; Section 5.3.1; Section 6.1**

*Petition:* **William R. Renaud proposes to split the two lots for zoning purposes, and construct a new single family home on the 105 Martin Street lot. The subject properties are located in the Traditional Two-Family (TTF) zoning district. The 105 Martin Street lot requires Variance approval per Section 5.1 of the Lowell Zoning Ordinance for relief from the minimum frontage, minimum garage front yard setback, and minimum lot width requirements, and per Section 5.3.1 for relief from the minimum landscaped open space requirement, and any other relief required under the Lowell Zoning Ordinance.**

**The 111 Martin Street lot requires Variance relief per Section 5.1 for relief from the minimum frontage, minimum side yard setback, minimum lot area, minimum lot area per dwelling unit, and minimum lot width requirements, and per Section 6.1 for relief from the maximum curbcut requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Applicant's Attorney

G. Theodorou said the project received approval from the Conservation Commission. The approval was appealed by MassDEP. The team met with Tyler Ferrick from MassDEP at the site to address concerns. Following that, the applicant made revisions to the plan. Tyler Ferrick has approved the revised plans.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Hovey said it is a good project that fits in the neighborhood.

G. Procope asked if they had met with the Conservation Commission. G. Theodorou said that it was approved and appealed by MassDEP, but later approved by MassDEP.

M. Briere said the project will benefit the neighborhood. Will be voting in favor.

D. McCarthy said he would like to see shade trees added. S. Callahan asked about the flood plain.

Motion:

D. McCarthy motioned to approve with the following conditions:

1. Applicant shall plant one shade tree, with at least 25-ft. canopy at maturity, along the street.

The motion was seconded by G. Procope and passed unanimously, (5-0).

## **II. New Business**

### **ZBA-2023-2**

*Petition Type:* **Variances**

*Applicant:* **ZR Development Group LLC**

*Property Located at:* **72-74 Boisvert Street and 253 W Sixth Street 01854**

*Applicable Zoning Bylaws:* **Section 6.1, Section 5.1, Section 8.1.3(4)**

*Petition:* **ZR Development Group LLC has applied to the Lowell Planning Board and Zoning Board of Appeals to redevelop the existing St. Louis School building into sixteen (16) residences with thirty one (31) off-street parking spaces. The application requires Site Plan Review under Section 11.4 to construct**

**more than three dwelling units and Special Permit approval for the conversion of an existing historic school under Section 8.1. The application also requires Variance approval under Section 6.1 for relief from the off-street parking requirement, Section 5.1 for relief from the land area per dwelling unit requirement and usable open space per dwelling unit requirement, and under Section 8.1.3(4) for relief from the minimum square footage requirement and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

John Geary, Applicant's Attorney

Speaking in Favor:

None

Speaking in Opposition:

Regina Faticanti, 165 Bunker Hill Street

R. Faticanti said that this project would create a hardship for the neighborhood. R. Faticanti said they are apartments which allows for more transient populations in our community.

Maura Kelleher, 37 Unsworth Street

M. Kelleher said at the end of the Centralville Community Coalition meeting, the St. Louis project was brought up. How can a 16 unit apt building be allowed in the center of a TMF zoned area? I was told that that was for the zoning board to decide. How can six people be basically thrown under the bus like you were? It's no one's decision but yours as to whether or not this project gets through. How can the six of you have that much power to make these kinds of decisions that are going to forever affect our neighborhood? The six of you have authority to destroy the neighborhood piece by piece. With great power comes great responsibility. You are responsible to all the citizens of the city. Not just politicians, friends, colleagues, attorneys and developers, not just other people with power. You are responsible to all of us. I wondered where this power comes from and what constrains the breadth of your power. Reads zoning code and MGL 40A.

Discussion:

M. Briere asked JG to explain legal underpinnings that give the ZBA the authority to approve this application.

J. Geary said the zoning code was put into place with input from the community. Section 8.1 "special residential regulations" is a section of the ordinance that enables buildings to be adapted to be new uses while preserving exterior features. This section enables the adaptive reuse of large historic buildings. There's no question this is a unique property. We are unable to put 6 units in this building. Without some density, the building will fall into disrepair and be torn down. Section 8.1 is the pathway that allows this building to be reused.



M. Briere said he has no further questions for J. Geary. M. Briere said he has done more work on this petition than any other he has reviewed. Parents and friends still live in this neighborhood. Didn't come to this decision lightly. Compromise and consensus are noble pursuits, and are absolutely vital to any negotiation. I think that has taken place. Happy to hear that. Developers have offered concessions. Seems to me that debate has become more winner take all. That is unproductive. Leads to stalemate. Responsible for a lot of problems culture experiences today. There has to be compromise. When I initially heard this petition, I thought it was unbalanced, unfairly in favor of the developer. And then concessions were offered. In the first meeting, the neighbors said that they did want the building redeveloped but in a less dense fashion. I wanted to see it developed in a less dense fashion. The numbers the neighbors are looking at are simply unachievable. This historic building is not conducive for any developer to come in and make 6 units. The building would never be repurposed. I think that is a hardship. Hasn't it been vacant long enough, posing a potential risk to the neighborhood? When I throw it back on the scale with the new proposal, I have to weigh legitimate concern vs. grievance. There was no bigger opponent initially than myself. Staunchly, because I thought it was unbalanced. The scales have come more into balance with the concession of reducing the units from 19 to 16. Can we afford to throw away a \$6mil investment in lower Centralville? The entire city is being revitalized. I am now going to vote in favor of the redevelopment of this building. I believe it will be a benefit to lower Centralville. We know there is more development coming. The developers do quality work. We want to encourage future investment.

G. Procope noted that he is recusing himself from discussion and the vote.

D. McCarthy said he is happy to see 10 shade trees in the landscaping plan. There will be 20% removal of pavement, still providing everything but 1 parking space. Extraordinary. This is a better plan. We have seen several of these proposals come forward with townhouse designs. Had a chance to tour one on Gorham Street, similar size, in an old existing building, and it was quite lovely. This has turned into something better. Nothing but good things to say about this.

S. Callahan said we are all in agreement that the building needs to be redone. Went back and reduced the number of units. I understand concerns of neighbors, but big picture, something needs to be done with this. I find this project favorable.

T. Hovey said he saw how the Franco American School was reused. Initially I thought there would be more traffic there but there hasn't been much of an uptick. This is a scaled down version.

V. Pech appreciates that they scaled down the project. Great repurpose. I will be voting in favor.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. The applicant shall submit a revised site plan and landscaping plan that remove the shed from the northeast corner prior to applying for a building permit.

T. Hovey seconded the motion and it passed unanimously, (4-0-1) with G. Procope abstaining.

**ZBA-2022-55**

*Petition Type:* **Special Permit**

*Applicant:* **Devon Self-Storage Holding**

*Property Located at:* **24 Duren Ave 01851**

*Applicable Zoning Bylaws:* **Section 6.3.2.9(d)**

*Petition:* **Bob's Sign Service, Inc., has applied to the Zoning Board of Appeals on behalf of Devon Self Storage Holding, for an internally illuminated sign at 24 Duren Avenue. The property is located in the Regional Retail zoning district, and requires a Special Permit under Section 6.3.2(9)(D) for internal illumination, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Bob, Bob's Sign Service

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan said they'd like to do the standard lighting condition.

G. Procope said no comment.

M. Briere said no questions.

D. McCarthy said the graphics are terrific.

Motion:

D. McCarthy motioned to approve with the following conditions:

1. Hours of illumination shall be 1 hr. before sunrise to 1 hr. after sunset.

The motion was seconded by S. Callahan and passed unanimously, (5-0).

**ZBA-2023-3**

*Petition Type:* **Variance**

*Applicant:* **Kalpesh Mehta and Amisha Mehta**

*Property Located at:* **9 Melton Street 01851**

*Applicable Zoning Bylaws:* **Section 5.1**

***Petition: Kalpesh Mehta and Amisha Mehta have applied to the Zoning Board of Appeals to construct an addition to a single-family home at 9 Melton Street. The property is located in the Suburban Single Family (SSF) zoning district and requires Variance approval to exceed the maximum allowed Floor Area Ratio (FAR) and for any other relief required under the Lowell Zoning Ordinance.***

On Behalf:

Nalin Mistry, Applicant's Engineer

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

G. Procope said that the application requires very little relief and the department does not have any concerns.

M. Briere said no questions.

D. McCarthy said that the FAR calculation is proposed 0.73. FAR proposed is more than double what is allowed on the lot. Still think there is a lot of merit.

S. Callahan asked about wooden deck. T. Hovey said no questions.

V. Pech said this application is pretty straightforward. No opposition from neighbors.

D. McCarthy noted that the shade tree on the property is wonderful.

Motion:

D. McCarthy motioned to approve the variance with the following conditions:

1. The applicant shall submit a revised site plan showing the correct FAR (0.73); and
2. The applicant shall add a note to the site plan noting that the existing wood deck will be razed.

S. Callahan seconded the motion and it passed unanimously, (5-0).

**ZBA-2023-1**

*Petition Type: Variances*

*Applicant: 102-108 Westford Street LLC*

*Property Located at: 102-108 Westford Street 01851*

*Applicable Zoning Bylaws: Section 5.1, Section 6.1*

***Petition: 102-108 Westford Street, LLC to construct a 6-unit residential structure at 102 Westford Street. The previous multi-family property on the site was destroyed in a fire. The subject property is located in the Traditional Multi-Family (TMF) zoning district. The proposal requires Site Plan Review approval from the Planning Board per Section 11.4 to construct more than 3 residential units, and Special Permit approval from the Planning Board per Section 11.3 and Article 12.1 for 6 residential units. The proposal also requires Variance approval from the Zoning Board of Appeals per Section 5.1 for relief from the minimum lot area per dwelling unit, maximum front yard setback, minimum side yard setback, maximum height, minimum rear yard setback, minimum lot coverage and minimum usable open space per dwelling unit requirements, and per Section 6.1 for relief from the minimum off-street parking requirement, and for any other relief required under the Lowell Zoning Ordinance.***

On Behalf:

John Geary, Applicant's Attorney

Brian Geaudreau, Applicant's Engineer

In Favor:

None

In Opposition:

None

Discussion:

D. McCarthy asked about the site plan. Is there an ability to add ramps to make some units ADA accessible? Incomplete package from the civil side in my opinion. Missing walkways. Would barrels be brought down stairs to the street? Still things that haven't been resolved. No walkway to the patio. Would be nice to continue to get a complete site plan. Would also like the fire department to weigh in and approve.

S. Callahan said he would like to see additional information. Would like to continue. Try to work out something for the barrels and/or handicapped persons.

T. Hovey discussed parking at the site. I like what is getting done here and there is a need. House on the left is getting developed. Wouldn't want to hold that back. Concerned about additional parking on the street. Balance. J. Geary said that legally there were four units there but there were air conditioning units on the third floor. I would suggest this proposed use is similar to what was there before.

G. Procope asked about stormwater. J. Geary said a meeting is scheduled with the stormwater team tomorrow. G. Procope said parking is what it is, benefit is creating nice looking apartments for people to live. That part of Westford Street has been neglected for a long time. More new development would be an improvement to that neighborhood.

M. Briere said there is great value in what they propose to do.

V. Pech said this is a very nice project that will benefit that neighborhood. Has been blighted. Repurpose of building would be great. Missing some key details.

Motion:

D. McCarthy motioned and M. Briere seconded the motion to continue the application to 2/27. The motion passed unanimously, (5-0).

**III. Other Business**

Minutes for Approval:

1/9/2023 Meeting Minutes

D. McCarthy motioned to approve the minutes, seconded by M. Briere, passed unanimously, (5-0).

D. McCarthy motioned to adjourn, seconded by S. Callahan, passed unanimously, (5-0). The time was 10:30PM.