

Lowell Zoning Board of Appeals Minutes

June 12, 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.

Members Present: Chair Pech, Vice Chair Callahan, Member McCarthy, Member Procope, Member Hovey, Member Nickerson

Members Absent: Member Briere

Others Present: Dylan Ricker, Associate Planner

The following represents the actions taken by the Zoning Board of Appeals at the 4/10/2023 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.

Chair Pech called the meeting to order at 6:30 PM

I. Continued Business

II. New Business

ZBA-2023-18

Petition Type: **Variances**

Applicant: **Steve Marshall**

Property Located at: **191 Freda Lane, 01854**

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

Petition: **Steve Marshall has applied to the Zoning Board of Appeals seeking approval to construct a rear addition to the existing single-family home at 191 Freda Lane. The subject property is located in the Suburban Single-Family (SSF) zoning district. The proposal requires Variance approval per Section 5.1 for relief from the maximum Floor Area Ratio (FAR) requirement, per Section 6.1 for relief from driveway setback requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Ian Ainslee, Applicant's Representative

I. Ainslee said explained the proposed addition, and said it would have a 3 car garage and a room above. I. Ainslee said the height of the home will remain the same. I. Ainslee noted the applicant will

appear before the Conservation Commission since the addition is located 44 feet from a wetland, and said erosion controls will be installed to hold runoff from the addition. I. Ainslee said the driveway will be expanded to serve the garage, and noted the deck on the back of the house will be removed.

Steve Marshall, Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Hovey asked if the applicant had reviewed the engineering comments. I. Ainslee confirmed they would pull a driveway permit. T. Hovey asked that the driveway be pulled 3 feet away from the structure and this be a condition of approval. I. Ainslee agreed. T. Hovey noted the lift, I. Ainslee confirmed they were aware that working on vehicles was not allowed on residential properties. T. Hovey asked if the applicant can remove the area of the driveway currently within 3 feet of the home to come into compliance with zoning. I. Ainslee agreed.

G. Procope noted the concern about the lift. G. Procope said he is in favor as long as the lift is not included. S. Marshall said the lift is for the display of a corvette, and added that he had a repair shop in Dracut and won't be repairing vehicles at the property.

D. McCarthy said the lift may not be to work on vehicles, but only to display cars, S. Marshall agreed. D. McCarthy said he is ok with the lift as long as repair is not done on the site. D. McCarthy said he would change the condition to ensure car maintenance is not done on the site, but the lift can remain. S. Marshall agreed. D. McCarthy agreed with the condition about moving paving within 3 feet of the house. D. McCarthy said the relief requested is reasonable and expressed support.

S. Callahan agreed with fellow board members and said the relief requested is reasonable. S. Callahan asked about the area above the garage. S. Marshall said this would be a game room. S. Callahan expressed support with the proposed conditions.

J. Nickerson expressed support.

V. Pech expressed support. V. Pech confirmed the applicant was amenable to the proposed conditions. S. Marshall agreed.

Motion:

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

- (1) The applicant shall remove 3 feet of paving to accommodate the parking setback requirement along the home, but not including the garage; and
- (2) The applicant shall not repair/maintain cars on the site.

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

ZBA-2023-19

Petition Type: **Variance**

Applicant: **65 Wellington Ave, LLC**

Property Located at: **65 Wellington Avenue, 01852**

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

Petition: **65 Wellington Ave, LLC has applied to the Zoning Board of Appeals seeking approval to split the existing lot into two (2) lots. The existing lot contains a two-family residence, and the applicant proposes to construct a new single-family home on the newly created lot. The subject property is located in the Traditional Single-Family (TSF) zoning district. The application requires Variance approval from the Zoning Board of Appeals per Section 5.1 for relief from the Minimum Lot Size, Minimum Lot Area per Dwelling Unit, and Maximum Floor Area Ratio (FAR) requirements, per Section 6.1 for relief from the minimum off-street parking requirement for Lot 1. Lot 2 requires Variance approval for minimum lot size, and minimum lot area per dwelling unit, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

J. Geary, Applicant's Representative

J. Geary explained the proposed plans for the new home and landscaping plan. J. Geary explained the existing and proposed conditions. J. Geary explained the proposed home, and noted the relief required for the proposal. J. Geary said there is available on-street parking to meet the 2 additional parking spaces required for the use. J. Geary said most homes in the area are single-family however some 2 families are in the neighborhood too. J. Geary noted the property's proximity to Fort Hill and Shedd Parks. J. Geary said the proposed lot size, dimensions, and setbacks are in line with other properties in the area. J. Geary said the proposal will complement the neighborhood. J. Geary said they believe the addition of the new home and renovation of the two-family home will enhance the neighborhood. J. Geary said the actual living space of the home is closer to 1500 square feet, however the FAR includes unfinished basements, and added that most homes in the area do not meet the FAR requirement.

J. Geary said they believe the project can be approved without detriment to the neighborhood and said the proposal meets the goals of the City Master Plan, and said the project will take a step in the right direction toward alleviating the housing crisis.

Brian Geaudreau, Applicant's Engineer

B. Geaudreau said existing utilities are available for the home and noted the slope of the lot. B. Geaudreau said they are placing the driveway on the left side of the home to allow the existing shade tree to be retained. B. Geaudreau said the landscaping plan will add 2 shade trees to the lot and will add streetscape improvements. B. Geaudreau noted the property meets the off-street parking requirement. B. Geaudreau said they will work with the stormwater team to address stormwater concerns. B. Geaudreau said the existing garage is 10 feet from the property line and the new home will be more than 10 feet from the property line.

Speaking in Favor:

None

Speaking in Opposition:

John Allen, 95 Belrose Avenue

J. Allen submitted a petition. J. Allen said he is concerned about putting more vehicles on the street. J. Allen said he is concerned about increased park in the area. J. Allen said he is concerned about the lot size. J. Allen said the home is 12 feet from is home where he has a garage on his property line. J. Allen said many residents are opposed.

Kerry Stecchi, 82 Belrose Avenue

K. Stecchi said the applicant was rehabbing the home so the tenants that typically park there are not there at the moment.

Harry Stecchi, 82 Belrose Avenue

Harry Stecchi said he is requesting the petition be denied. H. Stecchi said he is opposed to changes. H. Stecchi said the Variance is an authorized deviation from the Zoning Ordinance. H. Stecchi said the applicant has not shown a separate hardship. H. Stecchi said neighbor's impacted by the request are opposed. H. Stecchi expressed concern about traffic.

Robert Allen, 97 Belrose Avenue

R. Allen said the neighborhood is already busy. R. Allen said street parking is limited especially in the winter. R. Allen said his privacy will be negatively impacts, and expressed concern about noise. R. Allen expressed concern about the neighborhood character. R. Allen expressed concern about stormwater runoff. R. Allen said the building would impact Fire Dept ability to respond to emergencies.

Emily Gertenbach, 124 Park Avenue East

E. Gertenbach said the building will have a negative impact on people enjoying the parks. E. Gertenbach said parking more cars on the street would impact walking on the street and would be a detriment to the parks. E. Gertenbach said this doesn't address the need for affordable housing, and is opposed because a developer will profit off neighborhood.

Frances Nowak, 71 Belrose Avenue

F. Nowak said this sets a bad precedent. F. Nowak said because they are already renovating means they thought the development may not have been approved. F. Nowak said Lowell doesn't have any room for more people they can go elsewhere.

Virginia Meyer, 64 Wellington Avenue

V. Meyer said the property has been improved with the renovations. V. Meyer expressed concern that the developer will make a profit off the home. V. Meyer said the homes on smaller lots are older. V. Meyer said a lot of people walk along Park Ave East and there is no sidewalk and people must walk in the street. V. Meyer said it was hard to drive around construction vehicles. V. Meyer said there won't be enough space for shade trees to grow big.

Judith Utley, 84 Belrose Avenue

J. Utley said she went to City Hall because she wanted her father to move in, but they were denied. J. Utley said they didn't try to change anything when they were told they couldn't have their father live in their garage, for this reason the Variance should be denied.

John Stecchi, 82 Belrose Avenue

J. Stecchi said the size of the lot is concerning. J. Stecchi said the neighborhood character will change forever. J. Stecchi said people are buying their grandparents houses. J. Stecchi said if you allow this you have to allow others. J. Stecchi said there is already a two-family there so no need to help the housing crisis. J. Stecchi said people that live on Rogers Street park in the neighborhood. J. Stecchi expressed concern about traffic and parking.

Kerry Freeman, 57 Belrose Avenue

K. Freeman said they appreciate the renovation of the 2-family home. K. Freeman said there isn't enough parking on Park Ave East. K. Freeman said cars drive down the street quickly. K. Freeman said there isn't enough parking. K. Freeman said don't try to squeeze another home on the lot. K. Freeman said the home looks nice but it doesn't fit the character of their neighborhood. K. Freeman said they should buy properties somewhere else. K. Freeman said the applicant should have considered a smaller home with more off-street parking.

Karen Poisson, 54 Hoyt Avenue

K. Poisson said she likes the neighborhood. K. Poisson said she has trouble finding a parking spot because renters from Nesmith and Rogers St park by her house. K. Poisson said she is concerned about traffic and said there was an accident last year.

Sharon King, 98 Park Avenue East

S. King said she would live close to the new house, and mentioned traffic and lack of parking as concerns. S. King said the renovate two-family improves the neighborhood.

William Daly, 117 Hoyt Avenue

W. Daly expressed concern about speeding. W. Daly said traffic is an issue on Wellington Avenue. W. Daly said he gets water in his cellar and this is an issue.

Kim Karner, 23 Belrose Avenue

K. Karner said she is opposed because of parking concerns and concerns about snow removal. K. Karner said this is over burdening the neighborhood, and said both lots are undersized.

Jennifer Jolly, 130 Park Avenue East

J. Jolly said this sets a bad precedent. J. Jolly said she is concerned with the character of the neighborhood. J. Jolly asked what the estimated price range for the home and said it wouldn't add to the affordable housing stock.

Discussion:

J. Geary said the photos showing the available parking was to indicate there is sufficient space for on-street parking. J. Geary noted the closeness of this structure to Mr Allen's home and proposed flipping the home to the opposite side of the lot to create more space. J. Geary said any home that can be constructed will help ease the housing crisis and noted Lowell does not have large tracts of land and said if you can produce housing it is good. J. Geary said the LLC is for-profit and said the applicant will invest significantly in the area.

G. Procope noted there is significant opposition. G. Procope asked if the applicant met with the neighborhood group. J. Geary said the applicant went around the neighborhood knocking on doors and spoke to some neighbors. G. Procope said meeting with the neighborhood group would have been good. G. Procope said he is concerned about the size of the home. G. Procope said he is not comfortable with the property being split but he would like to hear the opinions of fellow Board members.

T. Hovey said he appreciates the neighbor's concerns, and said the speeding, lack of sidewalks, traffic, is an issue to be addressed with the City as this decision will not solve this. T. Hovey said the Variance for 2 off-street would not likely be a large inconvenience to the neighborhood. T. Hovey said the 2-family was there and has been there so it should not make the environment unsafe.

T. Hovey noted lot 2 met setback requirements. T. Hovey said there are pros and cons the proposal. T. Hovey said he'd like to see neighbor concerns addressed.

D. McCarthy thanked the applicant for a thorough package. D. McCarthy said the parking on the 2 family does not comply with city zoning and he is unsure because there are not dimensions on the plan. D. McCarthy said the existing lot is a pre-existing non-conforming use. D. McCarthy said the applicant is requesting 7 Variances. D. McCarthy said the applicant is making a compliant parking situation worse. D. McCarthy said he understands the need for housing. D. McCarthy said all lots on Park Ave East are larger. D. McCarthy said he is not in support of the application. D. McCarthy said he does not see the application meeting the zoning criteria.

J. Geary said they do not meet all the zoning requirements which is why they are requesting a Variance. J. Geary said in terms of parking they reviewed whether they could add parking spaces, and said it would remove open space, J. Geary said since there appeared to be sufficient on-street parking this was a better use for space. J. Geary said the house is missing middle-housing and noted the City needs more housing in general not just affordable.

D. McCarthy expressed concern about the density.

S. Callahan said he is familiar with the neighborhood, and said he initially believe it fit. S. Callahan expressed concern based on the concerns of the neighbors. S. Callahan said based on dimensions he believes it could have fit. S. Callahan said he is concerned because the application is creating a hardship. S. Callahan said as far as the dimensional relief required, staff had concerns about the size of the structure, and asked if the applicant would consider making the building smaller. S. Callahan said this may help reach consensus with the neighborhood.

J. Geary said the applicant could consider this to bring the building more in compliance with the FAR requirement. J. Geary said they would review the design to see if there is something more suitable. S. Callahan suggested a continuance if the Board and petitioner is agreeable. J. Geary said new plans can be provided.

J. Nickerson asked whether the 2-family will be a rental or being flipped. J. Geary said the intent is condoize the units and sell. J. Nickerson said his concern that as a condo there is less control over the parking area. J. Geary said he disagreed because it is just a different form of ownership.

V. Pech said he is happy with the rehab of the two-family. V. Pech said he had concerns with the proposal. V. Pech said he appreciates the Vice Chair comments and asked if the applicant is amenable to a continuance. J. Geary said they are amenable and they are willing to relook at the design and will

look to see if more off-street parking can be provided. V. Pech noted G. Procope's comments about attending the Belvidere Neighborhood group meeting for additional input. J. Geary agreed. V. Pech noted the importance of housing, and said there needs to be changes for it to be appropriate.

Motion:

D. McCarthy motioned, and T. Hovey seconded the motion to continue the petition to the 8/14 Zoning Board meeting. The motion passed unanimously, (5-0).

III. Other Business

Variance Extension Request: 38-40 Swift Street, 01852

The applicant is requesting a six (6) month Variance extension for their Variance issued on June 27, 2022. They are seeking an extension to December 27, 2023.

On Behalf:

Ken Lania, Applicant's Representative

K. Lania said the extension is being requested so the Definitive Subdivision approval can be obtained, K. Lania said they will go before the Planning Board shortly.

Hooshmand Afshar, Applicant

Discussion:

D. McCarthy noted the applicant can get only one 6 month extension. S. Callahan asked if the conditions of approval have been met, K. Lania confirmed.

Motion:

D. McCarthy motioned, and T. Hovey seconded the motion to grant the 6 month Variance extension. The motion passed unanimously, (5-0).

Variance Extension Request: 90 Lupine Road, 01850

The applicant is requesting a six (6) month Variance extension for their Variance issued on June 15, 2022. They are seeking an extension to December 15, 2023.

On Behalf:

Ken Lania, Applicant's Representative

K. Lania said they are in the process of transferring the property and there was a title issue that has not been resolved. K. Lania said the delayed process is why they are requesting the extension.

Hooshmand Afshar, Applicant

Discussion:

Motion:

D. McCarthy motioned, and T. Hovey seconded the motion to grant the 6 month Variance extensions. The motion passed unanimously, (5-0).

Minutes for Approval:

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

D. McCarthy stated that the Lowell Forward Master Plan will have a public workshop on Wednesday, June 21st from 6:30pm-8:00pm.

V. Pech welcomed J. Nickerson to the Zoning Board.

D. McCarthy motioned, and T. Hovey seconded the motion to adjourn. The motion passed unanimously, (5-0). The time was 8:15pm.