

Lowell Zoning Board of Appeals Minutes

June 22, 2020 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 Briere, Member McCarthy

Members Absent: None

Others Present: Jared Alves, Senior Planner

The following represents the actions taken by the Zoning Board of Appeals at the 6/22/2020 meeting. Due to the COVID-19 pandemic, this meeting occurred using the GoToMeeting videoconferencing platform.

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

I. Continued Business

ZB-2020-21

Petition Type: **Variances**

Applicant: **Catherine Flood c/o Emerson 100 Real Estate, LLC**

Property Located at: **246.1 Market Street 01852**

Applicable Zoning Bylaws: **Sections 6.1.4 and 9.2.5(3)**

Petition: **Emerson 100 Real Estate, LLC is seeking Special Permit and Variance approval to convert the former mill building at 246.1 Market Street into residences. The building is in the Downtown Mixed-Used (DMU) zoning district and requires Special Permit approval under Section 8.1 to convert the building into 29 residential units, a Variance under Section 9.2.5(3) for 17 one bedroom or studio apartments smaller than 750 sq. ft., a Variance under Section 6.1.4 for the off-street parking requirement, and for any other relief required of the Lowell Zoning Ordinance.**

Speaking on behalf:

None

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Chairman Perrin said that Attorney Flood submitted a request to withdraw without prejudice her Variance application under Section 9.2.5(3). He said he would like to accept the withdrawal without prejudice.

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to allow the applicant to withdraw without prejudice their petition for Variance approval under Section 9.2.5(3). The motion passed unanimously, (5-0).

II. New Business

ZB-2020-27

Petition Type: Variances

Applicant: Kevin Murphy c/o Ryan Rourke

Property Located at: 414 Broadway Street 01854

Applicable Zoning Bylaws: Sections 5.1 and 6.1

Petition: Ryan Rourke is seeking Variance approval to relocate lot lines to create off-street parking for the existing three-family dwelling at 414 Broadway Street and create a new lot containing three condominium units with associated parking and utilities at 51-55 Willie Street. The properties are in the Urban Mixed Use (UMU) zoning district and the proposal requires Variance approval under Section 5.1 for minimum frontage for the proposed Lot A, under Section 6.1 for minimum off-street parking requirements and minimum drive lane width for both proposed lots, and for any other relief required of the Lowell Zoning Ordinance.

Speaking on behalf:

Kevin Murphy, Applicant's Attorney

Kenneth Lania, Cornerstone Land Consultants, Inc.

John Faneros

Attorney Murphy said he represents Ryan Rourke who owns three properties at the corner of Broadway and Willie Street. He is seeking to subdivide those three lots into two lots. Lot A would encompass the existing three family. In Lot B he proposes to construct three condominiums of workforce housing. The three condominium units have the sufficient parking and dimensional requirements under the existing zoning bylaws. They are looking for variances relative to the driveway width and a variance for the proposed frontage for Lot A. They are actually increasing the amount of frontage for Lot A, because it will be 48-ft. when it is only 31-ft. right now. The other advantage is that the housing at Broadway has no off-street parking whatsoever. They are proposing to establish parking on the lot, albeit not the six parking spots that are required under the Zoning bylaws. Still, there will be five parking spaces. The curb cuts show that they need variances for the driveways, because they are not as wide as they should be under the existing zoning bylaws. He recommended to his client and would accept it as a condition to make it one-way if the Transportation Engineer thought it would be more beneficial to the development. Mr. Alves is asking for easements for the parking spots and the driveways because they overlap each other. They agree to them 100%. The condominium units will be 2-bedroom units of workforce housing. Under the existing bylaws, they have sufficient parking for the condominium units. In his recommendations, Mr. Alves asks to execute easements for the parking spaces and driveway. They agree to that condition. Condition #2 is about the crosswalk. The city developed three crosswalks at this intersection, but failed to create the fourth crosswalk. They agree to construct the fourth crosswalk at Willie Street and Broadway and will make it ADA-compliant. The final condition is relative to the relocation of the pole. They had objected to the condition because it's a National Grid pole and they don't have authority over moving it. Mr. Alves withdrew that proposal, but they will still pave around the pole 4-ft. and work with the Transportation

Engineer to make sure that the ingress and egress is sufficient. He thinks this a great proposal for Acre section. They are providing new off-street parking. They are developing three units of workforce housing for the residents of the Acre. The Master Plan for the City identifies workforce housing as a priority in the Acre. He hopes the board endorses the project this evening.

Chairman Perrin appreciated the outline and the reviewing of the staff comments. He acknowledged the communication back and forth with DPD. The comments were addressed his satisfaction. He agrees about the telephone pole. All have had experiences with poles not owned by the city and it's an issue in itself.

Speaking in favor:

None

Speaking in opposition:

Anibal Fontanez, 58 Willie Street

Michael Ing, 61 Willie Street

John Tsoumas, 62 Willie Street

Jose Valera, 382 Broadway Street

Mr. Fontanez said he is not against something going up, maybe two townhouses would work. The current parking issue is a nightmare. There is a barber shop on the corner. A Chinese restaurant. Both use on-street parking. It's a pain in the butt for everyone. He sees a lot of risk with the pole next to a driveway. There is no place to put snow around here. He would like that considered. His other concern is power. National Grid wanted to install a pole to add transformers a few years ago, which he fought. Councilor Mercier agreed with him. Thankfully it didn't go up. He has lived in the area for over 30 years. He would like to see something go up, but he wants to be smart about it. This project would add more cars plus visitors.

Mr. Ing said there is not enough parking. People already park in front of his garage. There are many accidents at the corner. Willie Street and Broadway has a lot of accidents.

Mr. Tsoumas said that he has lived here all his life. He remembers a tenement block on that corner with a bar on the first floor. It burned in 1978. People used to park along Willie Street. Broadway street isn't great for parking because there isn't enough width. People can park on the laundromat side of Broadway street because it's wider, but it's narrower on the proposed condo side. It's under 16-ft. By adding the curb cuts... about 24-ft. Most of the people have parked in those two spots. If you put the curb, then you may lose the off-street parking. He asked about the width of the curb cut. In the middle of the sidewalk in Willie Street is a 5-ft. spot of dirt, where they used to deliver beverages to the basement of the bar. The sidewalk needs to get fixed. If this gets approved, that whole sidewalk should get changed along with the proper curb cut. He asked about greenspace and the percentage required. He hasn't seen the plan. When he looked at the sign, the first one was blurry. He asked if it was to deceive the public. Then they put up another sign about a month ago. He finds it hard to see how they get 11 parking spaces. 8 or 9 by 18-ft. Someone would need to look up the math. Sometimes things get drawn up in paper and don't look like that in the field. Willie Street is a bad intersection. It used to have a lot of accidents. He is not sure if it has gotten better. The existing buildings have angles on the street. The proposal is square and is a right angle. He thinks that all four sides should be symmetrical. It should have the corner angled like the other three. The three family didn't have off-street parking, but the same owner had the lot so they could park in the vacant lot. The other gentleman mentioned snow storage and condos don't always get rid of it. He would also expect to see a dumpster. He is concerned about seeing a lot of barrels out front. The only group he

has seen been able to remove the snow and not lose parking spaces is Market Basket. As far as parking goes, on-street parking is a problem. China Star doesn't have enough parking. The employees park in the back. Anton's Cleaners has parking, but they don't let anyone else use it. With the curb cut, you will lose two on-street parking spaces. He reiterated that he needs an answer on the green space. Broadway Street narrows. The center line leans to one side. If you park on Broadway then your mirror will end up down the street. He is for projects and improvements. He went for CTI when they did their thing several years ago. He is not against this, but maybe they should go for two units. It's always about trying to put 6 gallons of water in a 5-gallon bucket. It's about money. 42 years of nothing is no good. It's the only lot left. He reiterated his concerns about the size of the parking spaces.

Mr. Valera said he owns a nearby barbershop. They have issues with his clients not finding parking. It's not right that they should suffer. In the building where his shop is located. There are several apartments plus a restaurant. The workers park on Willie Street. He had to have his wife drop him off at the Barber Shop because he can't find parking. In the winter it's worse. He owns a plow and sometimes he has to clean the side before the client can park but other people will come and park there for the rest of the day. There is no parking at all on Willie Street

Discussion:

Attorney Murphy said that the current zoning doesn't require any specific greenspace for the area. He would be happy to add whatever the Board deems appropriate.

Member Pech said he is concerned with parking in the Acre and specific to this corner. It is a tight area for parking. He heard one idea. A nice suggestion or a good addition would be to downsize the project in terms of the number of units.

Attorney Murphy said they had planned a larger development but in anticipation of the size of the lot and area, they downsized it to the lowest number of units that make it economically feasible. They had originally proposed four units, but they downsized it to three. Making it less than three would not make it economically feasible. There is no parking currently for 414 Broadway. They are proposing five spaces. The condo units will have three garage spaces and three outdoor spaces. They are increasing the parking the area. That is a benefit to the neighborhood.

Member Pech thanked Mr. Murphy for his comments. He wants to relay that the builder or petitioner have been trying to work with the City in the interest of the neighborhood. They have downsized the project. Parking will always be an issue. It comes down to enforcement. We can be neighborly, but he suggests calling the appropriate departments when there are issues. He thinks the project should move forward.

Member Callahan said that he understands that parking is extremely tight there. It appears that this project is providing a lot of relief of parking especially with the three garages and outside parking. He said that it looks like three units in 16-ft. in width for the entire width of the building at 48-ft. If turned to face Willie Street it looks like there may be more space facing Willie Street. using areas between 414 Broadway and the edge and having a two-way entry or exit. It may create additional areas for landscaping.

Mr. Lania elaborated on the layout. They have looked at several scenarios. They previously had a larger project. The goal of going with three units on Broadway was to stay in kind with the neighborhood and meet the front yard setback. Flipping to Willie Street would not leave enough space for the two parking

spaces for the lot and building on Broadway Street. They felt it was the most advantageous layout for the neighborhood and to get the additional parking. They had a back and forth with the Acre neighborhood group. They were comfortable with this layout. They did lay it out with snow storage in mind. Having it be an entrance on Willie and exit onto Broadway seemed to provide enough space for snow storage. They left a large area between the two parking areas. There will be about 550 sq. ft. of area for snow storage. Have identified landscaped areas too for greenspace. They felt that proposing the maximum number of spaces would be advantageous.

Member Callahan appreciated the comments. He asked about the number of bedrooms in each unit. He doesn't know what's existing in 414 Broadway.

Attorney Murphy said the new condos have two-bedroom units.

Mr. Faneros said the existing building has three one-bedroom units.

Member Callahan asked about unit sizes.

Mr. Faneros said that they have kitchen living and bedroom. He does not have the square footages available.

Mr. Lania said the building is one floor per unit. The building is 820 sq. ft. per floor with a common area stairwell. He said each unit is probably 750 sq. ft.

Member Callahan asked if 414 Broadway will stay as is.

Mr. Lania confirmed that it will.

Member Callahan asked about a dumpster.

Mr. Lania said they did not plan to have a dumpster on-site because trash pickup is available. There is space to the right of the existing building to have barrels.

Member Callahan asked if that's the plan for Willie Street too.

Mr. Lania said that's correct. In the condo documents they could require internal trash storage until trash day.

Member Callahan said that answers his inquiries. Taking into consideration the parking challenges, he thinks the project will be beneficial. He said that he agrees with Mr. Alves' conditions. He asked if the parking spaces next to the garage will be designated.

Mr. Lania said that on the site plan that the spaces are labeled as 3A or 2A, 1B, etc. That's the number of spaces and A and B refer to the lot.

Member Callahan said they probably should have some signage.

Mr. Lania said they will also develop an easement plan to provide the new owners knowledge of which space goes with which unit.

Member Callahan said that makes sense and it's a good project.

Member McCarthy said that he loves the idea of developing the lot it has been empty for far too long. Continuing the street edge is critical is to the place feeling vibrant and thriving. He thinks this a great project. Lot B doesn't appear to need many variances at all. It's mostly the 12-ft wide access drive.

Attorney Murphy said that's correct.

Member McCarthy said that for angled parking the drive lane needs to be 22-ft. wide.

Mr. Lania said that in his review of the parking bylaw is that if they made it a one-way drive aisle then he believes they can make it as narrow as 14-ft. So, he believes they are only requesting a 2-ft. wide Variance.

Member McCarthy discussed hypothetical vehicle sizes. He doesn't see the turning radius working.

Mr. Lania said that the 12-ft. space coming from Willie Street... if turned pickup in towards unit 1, then would not have room to back out without any interference into the parallel parking space especially if there is a space at unit 2.

Member McCarthy agreed that's the spot he is concerned about.

Mr. Lania said they are 60-degree parking spaces entering 1-2-3. There is a double star section in the 6.1.10, may have one-way access drive with a minimum width of 14-ft. The dimension at the 12-ft. park shows the very edge of the island.

Member McCarthy thinks its greater degrees than 45-60.

Mr. Lania said he doesn't think it complies and that's why they have asked for the variance.

Member McCarthy said they are asking for a variance on the driveline but it must be a one-way in order for unit 1's parking space be successful.

Mr. Lania said he would rather see it one-way. He agrees that a 17-ft. truck with a trailer hitch would not be able to back-up and exit out onto Willie St.

Member McCarthy said he would like to avoid a scenario... projects change in the final picture. The lovely landscaped areas can go away. There's an example on School Street. He would like to see it done according to the plan. There is definitely a variance required for drive aisle and also for one-way traffic flow entering from Willie St and exiting onto Broadway.

Mr. Lania said that agrees it should be conditioned that way.

Member McCarthy said he feels he can make something... have an understanding that can have a plan that can be built and be successful and followed. He said that the parking spaces are far better for 414 Broadway St.

Attorney Murphy said they have five spaces.

Member McCarthy said he is only talking about the three spaces directly behind 414 Broadway. There is a grade change of maybe 3 to 4-ft to where those parking spaces are. A prerequisite is to provide topographical lines at 1-ft. contours.

Mr. Lania said that the topographical lines are in the existing conditions plan.

Member McCarthy asked if the proposed grades are the same as existing.

Mr. Lania said they are proposing to keep them as similar as possible. He did deep hole testing out there to add drainage on this lot. The material is very quick gravel and sand. Their plan is to infiltrate the runoff from this paved area. City Engineer required 2-hr. amount of a 5-year 24-hour storm. He said they have been working it with the Engineer's office.

Member McCarthy said they have a plan showing intent for drainage. But it's not part of the submission.

Mr. Lania said it was not. It was brought up in a comment from the Engineering Department. He believes it was one of the conditions in Mr. Alves' recommendations.

Attorney Murphy said that they would agree to making the Stormwater Comments a condition.

Member McCarthy said they have an egress situation from 414. The stairs exit at the bottom at the lower western corner. There is an 11-ft. dimension for the parking space. If a Chevy Pickup that is 17-ft. long is backing by the 11-ft. wide drive aisle where the stairs are where people are walking out and trying to creep its way back into Lot 1B. He asked if that's the intent.

Mr. Lania said that is their intent. It is not the absolute best scenario, but given the area of the land and the shape of the space it's the best that they can provide.

Member McCarthy said he doesn't see how it could be plausible. It's 9-ft. wide parking spaces. He's thinking of how Home Depot spaces work for these trucks. he doesn't see the radius working without smashing into the egress stairs.

Mr. Lania said they looked at moving the egress stairs it's about a \$30,000 project to remove and relocate them. It's not economically feasible. The last space wouldn't be smart to drive a 17-ft. long space. They could label it as compact only and identify the restriction in the condominium documents. They are still trying to provide spaces on the lot compared to the current condition of not having spaces. It would make it at least better than the current situation. It's not perfect. The space and existing building that's there would allow the granting of the variance.

Member McCarthy said he doesn't believe it's safe. The third space basically requires someone to potentially smash into the second means of egress for two of the upper floor units. One space provides unsafe egress for the building.

Mr. Lania said they could eliminate the space and have four for the building.

Member McCarthy said that's what they should do. It's unrealistic to consider the space for compact cars. The egress stairs are supported by wood supports. if you smash into it and see the stairs fall then you

compromise the egress for those two units. Regarding the barrels, he asked what happens when the snow storage goes.

Mr. Lania said the barrels would go along the side of the unit. There is no proposed snow storage along unit 1. There is also an area not for snow storage behind the utility pole.

Member McCarthy asked about landscaping for the area of snow storage.

Mr. Lania said it would be landscaped.

Member McCarthy asked if there is a landscape plan.

Mr. Lania said they would probably go with combo hardscape/landscape with stone and rocks and grass area. Keep maintenance now. Grass wouldn't thrive if it's used for snow storage.

Member McCarthy said it sounds a little barren. He noted that they do not have any floor plans showing the parking in units 1, 2, and 3.

Mr. Lania said he received the floor plans from the architect. He said he provided them to Mr. Alves earlier today.

Member McCarthy said the elevations show windows on the third floor. First floor is garage/entry. Second floor is living room/kitchen. Third floor is two bedrooms. Then there is another level. He asked if it could be a third bedroom.

Mr. Lania said they are just considering it attic storage. it could be flex room.

Member McCarthy said he is just thinking rental. Best- or worst-case scenario is students and three parking spaces. Then it goes to the fears of the neighbors. He asked if they could condition approval on the attic not being bedrooms.

Staff confirmed that they could condition approval on ensuring the attic are not bedrooms.

Member McCarthy said he is asking for the fellow board members to weigh in on the lack of plans and the parking space situation behind the existing building. He said he would not want to continue it if they can get conditions on it to make them comfortable with one-way flow. There might be a condition about drainage. Maybe a condition about providing additional greenspace in lieu of the fifth parking space. Only four parking spaces... or maybe the three parking spaces are only 8-ft. wide.

Member Briere said he believes Attorney Murphy and Mr. Lania have satisfied the conditions of DPD. That will allow the city the benefit of increasing the desperately needed housing stock in the Acre. It's an endeavor that he wholeheartedly supports. He will vote in favor of the petition.

Chairman Perrin said that upon review of the comments and the discussion of the petitioners and concerns of the Board, he recognizes that there will be several conditions. The underlying condition/concern will be the rear parking spot. The relief would be eliminating it. That would still give the off-street parking that was originally on-street parking. As relates to trash barrels and receptacles. Trash day is one day per week and the entire city needs to accommodate. He asked the clerk to provide

the list of conditions and if Attorney Murphy could weigh in on what's he has agreed to.

Member Callahan repeated the conditions from Mr. Alves' memo. He said that for #1, he would add in work with DPD on adequate signage on the spaces. He repeated #2.

Attorney Murphy said they would construct the sidewalk in compliance with ADA as approved by the city engineer.

Member Callahan applicant said that #2 should be revised to state that the applicant shall in conjunction with City Engineer construct the sidewalk. He stated #3. For #4, the applicant will provide plans showing the site can provide detention for the first 2 hours of a 5-year 24-hour storm. As an additional condition, the driveway access will be one-way coming into Willie Street and out to Broadway.

Attorney Murphy said they will agree to the one-way access if the Board wants it.

Member Callahan said the outstanding question is about the parking space. He would hate to see the extra space go, but he agrees with Member McCarthy that it would be dangerous to leave the parking space. He asked if the applicant agrees to remove the space and provide landscaping.

Mr. Lania said that he accepts the condition about removing the parking space.

Chairman Perrin clarified that there would be six conditions.

Member Callahan said that's correct.

Chairman Perrin said that the conditions have been talked and walked through. The open communication among the Board and petitioners and the input from the neighbors is exactly what this Board is all about. Receiving all this info in a clear-cut package from Mr. Alves is always helpful.

Member Pech said he has no further comments. All his concerns were discussed.

Member McCarthy said he doesn't like the idea of eliminating the third space. He would condition it to develop plan to provide compact spaces to eliminate issue with egress stair.

Mr. Lania said they are fine with the condition. If they flipped the parking spaces 90 degrees so that the three spaces would face it. They could be 8.5' apiece and would eliminate requirement to backout anywhere near the stairwell.

Member McCarthy thanked him. He fears someone compromising the stairwell when leaving in the morning. His condition would be to work to develop compact spaces to alleviate the unsafe condition with the egress stair. The Board doesn't need to tell him exactly how to do it.

Chairman Perrin said that's well-said.

Member Briere said he didn't have further comments.

Chairman Perrin said they have six conditions.

Motion:

S. Callahan motioned and V. Pech seconded the motion to grant the Variances under Sections 5.1 and 6.1 with these conditions:

1. Prior to obtaining a Certificate of Occupancy for the new units in Lot B, the applicant must execute an easement allowing the users of Lots A and B to use the access drives and curb cuts of the neighboring lot and for the residents of Lot A to use the parking spaces labeled 2A in the site plan dated May 21, 2020. The applicant must work with DPD to ensure adequate signage for these parking spaces.
2. Prior to obtaining a Certificate of Occupancy for the new residences in Lot B, the applicant shall in conjunction with the City Engineer construct the missing crosswalk at the intersection of Broadway and Willie Street. The crosswalk must have ADA compliant detectable panels at the curb ramps on each end of the crosswalk.
3. Prior to obtaining a Certificate of Occupancy for the new residences in Lot B, the applicant must add pavement to the extent necessary to provide four feet of clearance around the utility pole on Broadway Street.
4. The applicant shall provide plans to DPD demonstrating that the site can provide detention for the first two hours of a 5-year, 24-hour storm.
5. The driveway access shall be one-way with the entrance on Willie Street and the exit onto Broadway Street.
6. The applicant must provide a plan to DPD showing compact parking spaces in place of the spaces labeled 3A in the site plan dated May 21, 2020 that alleviate the unsafe condition with the egress stair to the existing building at 414 Broadway Street.

The motion passed unanimously, (5-0).

III. Other Business

Community Preservation Committee

Vote to designate a representative to the City's Community Preservation Committee

Chairman Perrin said he would like additional information on meeting times, role, etc. He tabled the discussion to the next meeting.

Staff note: this item will not be on the next agenda as the Zoning Board does not have a designee on the Community Preservation Committee. Staff incorrectly added this item to this agenda.

Minutes for Approval:

June 8, 2020

S. Callahan motioned and D. McCarthy seconded the motion to APPROVE the June 8, 2020 minutes. The motion passed unanimously, (5-0).

Further Comments from Members:

Chairman Perrin thanked DPD and the Members for working through this process using GoToMeeting

and teleconference. He thanked Staff for working the sound board to keep public meetings open and transparent during the pandemic. He said that since Staff will soon return to City Hall, he is hopeful that it will allow a return to Chambers. He thanked the community who has participated in this process. It's alien to everyone to use these devices to communicate concerns and appreciation for a petition. He knows how difficult it is. Everyone is participating and working as hard as they can to make meetings public and open.

Member Pech echoed the sentiments. Mr. Alves and Ms. Cigliano have been amazing in helping to navigate these virtual meetings and ensuring that the applicants and the abutters can speak.

Member McCarthy said that whatever Mr. Alves is doing has been really successful. It has been flawless.

V. Adjournment

S. Callahan motioned and V. Pech seconded the motion to adjourn the meeting. The motion passed unanimously by acclamation, (5-0). The time was 7:58 PM.

New Business to Be Advertised by June 7, 2020 and June 14, 2020