

Lowell Zoning Board of Appeals Minutes

July 26, 2021 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 McCarthy, Member Briere, Member Njoroge

Members Absent: Member Procope

Others Present: Jess Wilson, Associate Planner; Peter Cutrumbes, Assistant Planner

The following represents the actions taken by the Zoning Board of Appeals at the 7/26/2021 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.

Chairman Perrin called the meeting to order at 6:30 PM

Continued Business

ZBA-2021-10 Petition Type: Special Permit and Variance

Applicant: EJ Properties, LLC

Property Located at: 95 Market Street, 01852

Applicable Zoning Bylaws: Article 12 and Section 6.1

Petition: EJ Properties, LLC has applied to the Lowell Zoning Board of Appeals seeking Special Permit and Variance approval at 95 Market Street. The proposed application seeks to renovate and redevelop the second floor of the existing building into three (3) residential apartments. The subject property is located in the Downtown Mixed-Use (DMU) zoning district. The application requires Special Permit approval per Article 12 for use, and Variance approval per Section 6.1 for relief from the off-street parking requirement, and for any other relief required under the Lowell Zoning Ordinance.

On Behalf:

John Geary, Attorney

J. Geary introduced the project and provided an update to the Board on changes.

Anthony Nganga, Architect

A. Nganga further elaborated on these project updates. He stated that they have mirrored the floor plans so that the 2 bed unit is on the opposite side, as they are more likely to be rented by a family. They also ensured no bedrooms share a wall with the Blue Shamrock.

John Noto, Property Owner

J. Noto said that he had worked with Blue Shamrock staff to take sound measurements. He stated that even with just the current brick walls and no additional soundproofing, the Blue Shamrock is not in violation of the noise ordinance. Additional mitigation would lower the noise even more.

Speaking in Favor:

Ben Brown of 171 Jackson Street, Elissa Henebry of 155 Merrimack Street, Sam Burnett of 71 Chelmsford Street, and Beth Falk of the Lowell Culinary Collaborative all spoke in favor, citing the need for more housing downtown.

Speaking in Opposition:

Raymond Weicker, counsel for Blue Shamrock.

R. Weicker stated that the owner of the Blue Shamrock wants conditions of approval. They were looking for an explicit amount of noise reduction as a condition of permit. The condition would carry with the property if the building sold.

Nick Petrakos, Blue Shamrock owner, stated that he just wants to protect business. He said he wants to see plans for sound proofing before they are approved.

Discussion:

J. Geary argued that the application already meets the special permit granting criteria.

V. Pech thanked all involved, and thinks major efforts were made to reduce sound.

S. Callahan asked R. Weicker if there is a particular decibel level set in the condition they want. R. Weicker said they'd like to see the Board set a level that the occupants can't complain about the noise levels next door, as the Blue Shamrock doesn't want to change operations.

S. Callahan asked if the units are rentals or condos. J. Geary and J. Noto both confirmed they will be rentals at first, and maybe become condos later. J. Geary stressed that he doesn't feel the applicant should have to go below City ordinance.

D. McCarthy asked about the wall design behind the rooms bordering the Blue Shamrock. A. Nganga stated that they will insulate the bathroom and laundry rooms, but leave bricks exposed in the living room and kitchen. D. McCarthy asked about sound deadening material in floor, to which A. Nganga responded that they are intending to install it.

M. Briere asked which condition R. Weicker would propose. R. Weicker stated he would ask sufficient and adequate sound proofing be installed to avoid any and all noise complaints. M. Briere wants the opposition to explicitly state a decibel level.

G. Perrin said the Board cannot require lower levels than the ordinance.

R. Njoroge requested to recuse himself from this petition.

G. Perrin restates that he thinks all parties are being transparent. He stated that he thinks the condition is too steep. He spoke in favor of additional sound proofing that doesn't take away from brick aesthetics.

D. McCarthy asks A. Nganga if they would accept extending the sound mitigation through kitchen which would eliminate 10 feet of exposed brick. A. Nganga said they would accept that. J. Geary confirmed.

Motion: S. Callahan motioned to approve the special permit with the condition that the applicant submit soundproofing design AND building plans to be approved by DPD. Seconded by V. Pech. Motion denied 2-3 (GP, SC, and MB against. VP and DM voting in favor.) S. Callahan motioned to approve the variance with the same condition, which was seconded by V. Pech. Motion denied 2-3 (GP, SC, and MB against. VP and DM voting in favor.)

New Business

ZBA-2021-23 *Petition Type: Variance*

Applicant: Maria and Avelino DeAgrela

Property Located at: 33 Boston Road 01852

Applicable Zoning Bylaws: Section 4.3.5(4)

Petition: Maria and Avelino DeAgrela have applied to the Lowell Zoning Board of Appeals for Variance approval to legalize an existing garage that was constructed without the benefit of a building permit and does not meet the required ten (10) foot setback from the house and five (5) foot setback from the property lines at 33 Boston Road. The property is in the Traditional Neighborhood Single Family (TSF) zoning district and requires Variance approval under Section 4.3.5(4) and for any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Maria DeAgrela, the applicant

M. DeAgrela explained that they were replacing an existing garage when they bought the house, and that their contractor did not tell them they needed a permit or ZBA approval.

Speaking in Favor:

Anna Silva, daughter of the applicant

A. Silva also explained that the contractor said they didn't need a permit.

Speaking in Opposition:

None

Discussion: D. McCarthy pointed out that originally, the Board would be approving the garage as an accessory structure. The applicant is now proposing to connect the garage and house via breezeway, thus changing the amount of relief required.

G. Perrin recommended that the applicant withdraw their application and resubmit.

Motion:

S. Callahan motioned to withdraw the application without prejudice, and was seconded by M. Briere. The vote was unanimous (5-0).

ZBA-2021-22

Petition Type: Special Permit

Applicant: Naysean and Teek LLC

Property Located at: 39 Prospect Street 01852

Applicable Zoning Bylaws: Section 4.5

Petition: Naysean and Teek LLC has applied to the Lowell Zoning Board of Appeals for their property at 39 Prospect Street located in the Traditional Multi Family (TMF) zoning district. The applicant proposes to convert an existing dimensionally nonconforming single family dwelling into a two-family home. The applicant seeks a Special Permit under Section 4.5 Nonconforming Uses and Structures to alter the nonconforming use, and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Catherine Flood, counsel

C. Flood described the project, and stressed that it will add 750 sq. ft. to the building.

Speaking in Favor:

Sandy McNamara, a former City inspector, said inspections have always been good.

Speaking in Opposition:

None

Discussion:

D. McCarthy pointed out that it would require an additional variance, as the expansion to a two-family makes the property non-conforming under minimum lot area. He still expressed support for the project.

R. Njoroge agreed with D. McCarthy and expressed his desire to move forward.

S. Callahan says the design of the house is very strange and that this application can be helpful to enhancing the design. He expressed his support.

M. Briere expressed his support.

G. Perrin agreed and voiced his support for the project even with the additional variance.

Motion: S. Callahan motioned to approve the Special Permit. M. Briere seconded. Vote was unanimous (5-0).

S. Callahan motioned to approve the variance for minimum lot area. V. Pech seconded. Vote was unanimous (5-0).

ZBA-2021-15 (Application taken fifth)

Petition Type: Variance

Applicant: Ernst Dorante

Property Located at: 545 Broadway Street 01854

Applicable Zoning Bylaws: Section 5.1 and 6.1

Petition: Ernst Dorante, on behalf of Aloisio Ramalho, has applied to the Lowell Zoning Board of Appeals for Site Plan Review, Special Permit, and Variance approval at 545 Broadway Street. The applicant is seeking to convert an existing warehouse into a twelve (12) unit residential building. The property is in the Urban Mixed Use (UMU) zoning district. The proposal requires Variance approval from the Zoning Board for relief from dimensional and off-street parking requirements, and for any other relief required of the Lowell Zoning Ordinance.

On Behalf

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion: S. Callahan motioned to continue to the 9/13/2021 meeting. D. McCarthy seconded. Vote was unanimous (5-0)

ZBA-2021-24 (Application taken sixth)

Petition Type: **Special Permit**

Applicant: **7-Eleven, Inc.**

Property Located at: **63 Mammoth Road 01854**

Applicable Zoning Bylaws: **Section 6.1**

Petition: **7-Eleven, Inc has applied to the Lowell Zoning Board of Appeals for Special Permit approval to erect an internally illuminated sign at 63 Mammoth Rd. The property is in the Neighborhood Business (NB) zoning district and requires a Special Permit under Section 6.3 and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf

Carolyn Parker, representative for applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion: S. Callahan asked what hours the store will be open. C. Parker answered 24/7. S. Callahan said the light can stay illuminated during all business hours.

All board members expressed support.

Motion: S. Callahan motioned to grant the Special Permit, V. Pech seconded. Vote was unanimous (5-0).

ZBA-2021-25 (Application taken seventh)

Petition Type: **Variance**

Applicant: **Hooshman Afshar**

Property Located at: **111 Rivercliff Rd 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Hooshmand Afshar, on behalf of Kathleen and Robert Cancro, has applied to the Lowell Zoning Board of Appeals for Variance approval to subdivide the lot and construct a new single-family home. The property is located in the Suburban Single Family (SSF) zoning district. The proposal requires Variance approval under Section 5.1 for frontage of the proposed lot, and for any other relief required of the Lowell Zoning Ordinance. The applicant has requested to withdraw their application.

Speaking on Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion: S. Callahan motioned to accept the withdrawal without prejudice, which V. Pech seconded. The vote was unanimous (5-0).

ZBA-2021-26 *Petition Type:* Variance

***Applicant:* Rick Train**

***Property Located at:* 171 Lakeview Avenue 01850**

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

Petition: Rick Train has applied to the Lowell Zoning Board of Appeals seeking variance approval to convert an existing commercial structure into a single-family residence. The property is located in the Traditional Neighborhood Multi-family (TMF) zoning district and requires Variance approval under Section 5.1 for lot area per dwelling unit, minimum lot area, minimum side yard setback, minimum front yard setback, under Section 6.1 for relief from the off-street parking requirement, and for any other relief required under the Lowell Zoning Ordinance.

On Behalf:

J. Geary, Applicant's Attorney

J. Geary described the project, and said that the resubmitted plans answered all DPD comment memos. Hooshmand Afshar spoke on removing and resetting the curb. He also stressed the addition of more windows.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan expressed concern about yard setbacks, the stockade fence the neighbor has up that encroaches on the property, and the amount of relief

R. Njoroge says property is vacant, but would like stormwater to look at the roof given its proximity to the sidewalk. He believes the redevelopment will be good for the neighborhood.

V. Pech concurred.

M. Briere expressed regret that the bar has been closing, but that he is in favor of repurposing the building.

D. McCarthy echoed S. Callahan's concerns about the amount of belief. He expressed that he would prefer repurposing than tearing down. He supports the application.

G. Perrin supported the project.

S. Callahan asked about opening the wall between the living room and kitchen. H. Afshar is unsure if the wall is load bearing, so does not know if that space can be opened up.

Motion: S. Callahan motioned to approve, D. McCarthy seconded. The vote was unanimous (5-0).

Other Business:

Minutes for Approval:

June 28, 2021. Motion by S. Callahan to approve, V. Pech seconded. The vote was unanimous (5-0).

Announcements

Adjournment

Motion to adjourn by G. Perrin, seconded by V. Pech. Meeting adjourned at 9:40.