

Lowell Zoning Board of Appeals Minutes

September 13, 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: Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procope, Member Njoroge

Members Absent: Chairman Perrin

Others Present: Peter Cutrumbes, Assistant Planner

The following represents the actions taken by the Zoning Board of Appeals at the 9/13/2021 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 Pech called the meeting to order at 6:32 PM

I. Continued Business

ZBA-2021-15

Petition Type: Variance

Applicant: Ernst Dorante

Property Located at: 545 Broadway Street, 01854

Applicable Zoning Bylaws: Sections 5.1 and 6.1

Petition: Ernst Dorante, on behalf of Aloisio Ramalho, has applied 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 Special Permit and Site Plan Review approval from the Planning Board to create more than three (3) dwelling units, Variance approval from the Zoning Board under Sections 5.1 and 6.1 for relief from dimensional and off-street parking requirements, and for any other relief required of the Lowell Zoning Ordinance. The applicant has requested to continue to the October 25 meeting.

On Behalf:

Speaking in Favor:

Speaking in Opposition:

Discussion:

Motion: Motion to continue until the 10/25 meeting proposed by D. McCarthy, seconded by S. Callahan. The vote was unanimous (6-0).

II. New Business

ZBA-2021-28

Petition Type: **Special Permit**

Applicant: **New England Masonry and Landscaping**

Property Located at: **282 Lincoln Street 01852**

Applicable Zoning Bylaws: **Article XII**

Petition: **New England Masonry and Landscaping has applied for a Special Permit for the property at 282 Lincoln Street located in the General Industrial (GI) zoning district. The applicant seeks a Special Permit under Article XII to establish a loam-screening operation at this address that will bring in outside loam and be processed on site.**

On Behalf: John Geary, counsel to the applicant, appeared via Zoom alongside Andrew Pojasek (Engineer for Perkins), Sebastian and Jessica Silva (owners), and Jim McClutchy (participant in the business). J. Geary described the project, and stressed that the revised plan has entrance and egress from Tanner Street, as opposed to Canada Street.

Pojasek said that the area will be surrounded by a 6ft high fence and privacy screening. In addition, they will implement “erosion controls”, but did not specify. He said there are already gravel roads on the Tanner Street side, which they can extend to the site to allow larger trucks to use the Tanner Street side.

Speaking in Favor: None

Speaking in Opposition: Michael Ashe of 100B Quebec Street said that a similar operation had been proposed there, around 800 feet away, and was rejected. He also said that part of the lot is in the GI district and part of the lot is in the LI district, and that LI does not allow sand work. M. Ashe also said the business rarely follows the hours of operation imposed on them.

Joseph Delgrosso, 1 Ottawa Street, concurred with Mr. Ashe, and was upset about what the project will do to property values.

Bill Schaefer, 1 Waldo Street, said the landlord removed all the trees in the area, and that the landlord has continually shown disregard for residents.

Diane Tetrall, 106 Waltern Street, echoed her neighbors concerns.

Rev. Charles Leroux, 66 Manchester Street, claimed the land in that area is contaminated, not just the SILRESIM site.

Rachel Fisher, 77 Main Street, said the trucks are constantly up and down the street speeding. She also said that the noise from stone crushing is challenging. Additionally, R. Fisher stated that the air pollution from the site is very bad.

Discussion: R. Njoroge expressed his belief that the project cannot be approved without the zoning being confirmed. S. Callahan expressed his frustration with the site plans. D. McCarthy concurred and said he believes the work is being done in the Light Industrial district. He also stated that he believes the application is incomplete. M. Briere said that he cannot make a decision on this without knowing where the project is and inquired about scheduling a Site Visit. V. Pech summarized the views of his colleagues and asked for additional information to be provided to relieve the confusion around the Site Plan.

Motion: Motion to continue to the 10/25 meeting by D. McCarthy, seconded by S. Callahan. The vote was unanimous (6-0).

ZBA-2021-31

Petition Type: **Variance**

Applicant: **Erez Nir**

Property Located at: **98 Humphrey Street 01850**

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

Petition: **Erez Nir has applied for a variance for the property at 98 Humphrey Street. This property is located in the Traditional Single Family (TSF) zoning district. The applicant seeks to subdivide the lot in order to build an additional single family house, and will need variances on both Lots A and B for minimum lot area, minimum lot area per dwelling unit, and minimum frontage, as well as a variance for minimum side yard setback on Lot A, or any other relief required under the Lowell Zoning Ordinance.**

On Behalf: K. Lania, Engineer for the project, described what is proposed. He said he agrees with the additional lot width variance noted by DPD, and is willing to make the correct driveway dimensions a condition.

Speaking in Favor: Erez Nir, applicant, spoke in favor of his application.

Speaking in Opposition: David Bonin 112 Humphrey Street, says the signees of the support letter aren't actually in support. Additionally, he said that having two houses there increases fire safety issues.

Andrew McLaughlin, 41 Humphrey Street, said the neighborhood will be too dense.

Eileen DelRossi, 557 Beacon Street, also spoke out against neighborhood becoming overly dense.

Alexandra Dinulescu, 13 17th Street, says that most neighbors are opposed to this project, and that it would hurt their property value.

Jimmy Garbino, 93 Humphrey Street, echoed his neighbors concerns. He is the house directly across the street.

Darcie Coleman, 547 Beacon Street, says the developer was offering people gift cards to support the project.

Kelly Nash, 569 Beacon Street, spoke out against the increase in density.

Discussion: G. Procope inquired about the ANR label on the Site Plan. K. Lania said the ANR label was incorrect, and he apologizes for it. The ANR Label would come when the lot is actually subdivided.

M. Briere spoke about living in Lower Centralville and how density fits there. He said he does not believe Christian Hill is conducive to this level of density.

D. McCarthy said that, because the City changed the zoning requirements from 50 ft of frontage to 75 ft of frontage, approving a project with less frontage violates the “intent of zoning”, a criteria used to grant variances. He also said that the application does not provide enough drainage information.

R. Njoroge said the application is looking for too much relief.

S. Callahan said he believes the dimensions of the driveway are not accurate or detailed enough, and that it does derogate from the intent of zoning.

V. Pech says he believes adding to the housing stock is important but that he agrees with his colleagues.

K. Lania asked if they could have a continuance. S. Callahan and D. McCarthy concurred, with D. McCarthy pointing out that due to the semi-online nature of the meeting, K. Lania cannot advise his client in person. M. Briere asked K. Lania if that is his reasoning, to which K. Lania replied yes.

Motion: D. McCarthy motioned to continue the application to the 10/25 meeting, seconded by S. Callahan. The vote was unanimous (6-0).

ZBA-2021-32

Petition Type: **Variance**

Applicant: **Kevin McDermott**

Property Located at: **135 Thornton Avenue 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Kevin McDermott has applied to the Zoning Board of Appeals for variance approval to construct a mudroom and attached garage. The property is in the Suburban Single Family (SSF) zoning district and requires variance approval under Section 5.1 for the side yard setback and for any other relief required under the Lowell Zoning Ordinance. The applicant has requested to continue this petition to the September 27 meeting.**

On Behalf:

Speaking in Favor:

Speaking in Opposition:

Discussion:

Motion: Motion to continue until the 9/27 meeting proposed by D. McCarthy, seconded by M. Briere. The vote was unanimous (6-0).

ZBA-2021-36

Petition Type: **Variance**

Applicant: **HEG 186 Appleton Street**

Property Located at: **186 Appleton Street 01852**

Applicable Zoning Bylaws: **Section 6.3**

Petition: **HEG 186 Appleton St, LLC is seeking a Special Permit approval at 186 Appleton Street. The applicant seeks approval to erect an internally illuminated sign at the property. The subject property is located in the Urban Mixed-Use (UMU) zoning district. The proposed application requires a Special Permit from the Zoning Board of Appeals under Section 6.3, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf: Peter March of NH Signs. He introduced the project, which is a standard signage upgrade, and stressed that the historic Haffner's sign is not going to be impacted. The site will be very similar to the Bridge Street site they recently upgraded.

Speaking in Favor:

Speaking in Opposition:

Discussion: M. Briere approves of the sign being kept. D. McCarthy seconded that notion and asked how the Haffner's logo will be illuminated, to which P. March replied it will be halo illuminated. S. Callahan concurred with his colleagues. R. Njoroge agreed. G. Procope had no additional comments. V. Pech as well.

Motion: D. McCarthy motioned twice, once to grant the Variance and once to grant the Special Permit, with both being seconded by S. Callahan. The vote was unanimous (6-0).

III. Other Business:

Minutes for Approval:

August 9, 2021: Motion to approve the minutes by D. McCarthy, seconded by S. Callahan. The vote was unanimous (6-0).

Per Order of the City of Lowell Zoning Board of Appeals – Gary Perrin, Chairman

New business to be advertised by August 29, 2021 and September 5, 2021.

Motion by D. McCarthy, seconded by M. Briere. The meeting was adjourned at 9:13 PM.