

Lowell Zoning Board of Appeals Minutes

October 25, 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: Chair Perrin, Vice Chair Pech, Member Callahan, Member McCarthy, Member Briere,

Members Absent: Member Procope

Others Present: Jess Wilson, Design Planner

The following represents the actions taken by the Zoning Board of Appeals at the 10/25/2021 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.

Chair Perrin called the meeting to order at 6:32 PM

I. Continued Business

II. New 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 to the Lowell Zoning Board of Appeals for Variance approvals to convert an existing warehouse into a twelve (12) unit residential building at 545 Broadway Street. The property is located in the Urban Mixed Use (UMU) zoning district and requires Variance approval per Section 5.1 for relief from dimensional requirements and Section 6.1 for relief from off-street parking requirements, and for any other relief required of the Lowell Zoning Ordinance. This proposal also requires approval from the Planning Board for Site Plan Review per Section 11.4.2 to construct more than three dwelling units, and a Special Permit per Article 12 for use.**

On Behalf:

Ernst Dorante, Architect

E. Dorante introduced the project and stated that a Variance was being sought for relief from the parking requirement. He stated that 15 parking spaces including handicapped parking would be provided for the twelve units as well as a bike rack for 9 bikes. He described changes to the project since the last hearing including meeting City stormwater requirements, providing a fenced-in dumpster, reducing the curb cut to twenty-five (25) feet, and adding additional landscaping in front of the building.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

G. Perrin asked if the Applicant was aware of the Engineering Department's request for a stormwater permit.

E. Dorante stated that they would comply with all requirements and were only requesting variances from the Board for relief from the parking requirement.

V. Pech stated that the conversion of the warehouse into twelve (12) residential units aligns with the City's goals and that he has no objections to approving the project.

S. Callahan agreed and stated that it is a good revitalization project. He thanked the Applicant for working with DPD staff to smooth out all issues. He stated that he likes the way the parking is set up and that the dimensional issues have been resolved. He expressed support for approving the project as long as the Applicant was willing to comply with the condition that a stormwater permit be obtained.

D. McCarthy noted the significant length of the comments issued by the Engineering Department dated October 13, totaling six (6) comments.

D. McCarthy went through each of the comments and E. Dorante confirmed that they would comply with each requirement including inspecting the sewer with a camera, removing the planters previously shown outside the property line, obtaining a sidewalk permit and street-opening permit, conforming with ADA AAB requirements, and providing a utilities and grading plan.

M. Briere stated that the City will benefit from investment in this property and that he supports approving the project.

R. Njoroge recused himself.

G. Perrin noted the significance of the project location as a gateway project and wished the Applicant success.

S. Callahan confirmed the conditions of approval.

Motion:

S. Callahan motion and V. Pech seconded the motion to APPROVE WITH CONDITIONS; the motion passed unanimously, (4-0-1) with R. Njoroge abstaining.

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 to the Lowell Zoning Board of Appeals for Special Permit approval to establish a loam-screening operation that will bring in outside loam to be processed on site at 282 Lincoln Street. The property is located in the General Industrial (GI) zoning district and requires a Special Permit per Article 12 for use, and for any other relief required of the Lowell Zoning Ordinance.**

On Behalf:

John Geary, Attorney

J. Geary introduced the project which had previously been heard on September 13 and continued. He stated that since the last meeting the Applicant has met with Member Briere and about five (5) neighbors to discuss concerns; as a result of that conversation the Applicant is going to move the location of the loam screening and materials storage areas. He stated that they need additional time to prepare the drawings and requested a continuance to the next available public hearing.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to CONTINUE the application to the November 8th, 2021 meeting; the motion passed unanimously, (5-0).

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 to the Lowell Zoning Board of Appeals for Variance approvals in anticipation of sub-dividing the lot to build an additional single-family house at 98 Humphrey Street. The property is located in the Traditional Single Family (TSF) zoning district and requires Variances for relief from dimensional requirements, and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

S. Callahan motioned and M. Briere seconded the motions to ACCEPT THE WITHDRAWAL WITHOUT PREJUDICE; the motion passed unanimously, (5-0).

II. New Business

ZBA-2021-35

Petition Type: **Variance**

Applicant: **Olisa Adigwe**

Property Located at: **1337 Varnum Avenue, 01854**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Olisa Adigwe has applied to the Lowell Zoning Board of Appeals for Variance approval to build an addition onto his single-family home at 1337 Varnum Avenue. The property is located in the Suburban Single Family (SSF) zoning district and requires Variance approval per Section 5.1 for the side yard setback, and for any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Olisa Adigwe, Owner/Occupant

O. Adigwe stated that he has lived at 1337 Varnum Avenue for thirty (30) years and is applying for a Variance for relief from the side yard setback requirement so that he can build a sitting area above his two-car garage. He stated that the addition would only build up and not change the footprint of the home, therefore would not be a detriment to the neighborhood. He noted the presence of similar homes in the neighborhood.

Speaking in Favor:

Rodney Elliot, 15 Cresta Drive resident

R. Elliot stated that he has known the Adigwe family, including their five sons, since they first moved into the neighborhood. He reiterated that the Applicant is not expanding the existing footprint of their home and that the addition will not harm the neighborhood in any way. He encouraged the Board Members to vote favorably.

Speaking in Opposition:

None

Discussion:

M. Briere stated that he supports the proposal and believes it will enhance the beauty of the home as well as the neighborhood.

R. Njoroge noted that the existing garage is considered grandfathered in and that the project meets the criteria for Variance approval.

D. McCarty noted that per DPD Staff comments, the Site Plan does not meet the submission requirements, but agreed with Staff that waiving those requirements makes sense in this case. He stated that neighbors have similar structures and that this home would be compatible.

V. Pech agreed that by not increasing the footprint, the proposal enhances the property and the neighborhood and that the relief requested is minimal.

S. Callahan agreed that it will be a great investment in the neighborhood and that the Application meets the criteria for Variance approval.

G. Perrin noted that the property is very well maintained and that having supportive neighbors come to City Council chambers to speak in favor reflects favorable on the Applicant.

Motion:

S. Callahan motioned and M. Briere seconded the motion to APPROVE; the motion passed unanimously, (5-0).

ZBA-2021-45

Petition Type: Variance

Applicant: 62 Gorham LLC

Property Located at: 62 Gorham Street, 01852

Applicable Zoning Bylaws: Section 6.1

Petition: 62 Gorham LLC has applied to the Lowell Zoning Board of Appeals for Variance approval to redevelop the existing building into two (2) ground-floor commercial spaces totaling approximately 2,000 sq. ft., and five (5) townhouse-style residential units on the second and third floors at 62 Gorham Street. The property is located in the Urban Mixed-Use (UMU) zoning district and requires 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. This proposal also requires approvals from the Planning Board for Site Plan Review per Section 11.4.2 to construct more than three dwelling units, a Special Permit per Section 6.1.6 to reduce the parking requirement by 50%, and a Special Permit per Article 12 for use.

On Behalf:

John Geary, Attorney

J. Geary introduced the project's context, history, scope of work, and proposed layout. He described the historic preservation efforts including working with Stephen Stowell on the elevations. He stated that the Applicant intends to restore the building to historic standards and that they will be seeking a Historic Permit from the Lowell Historic Board. He stated that the Applicant has also been working with Building Commissioner Fuller and that the Applicant, Leo Monteiro, has a legacy of successful projects completed in collaboration with the City. He explained that Variance approval is being sought for relief from the off-street parking requirement and stated that the project had received a Special Permit from the Planning Board on

October 18th to reduce the parking requirement by 50%. He explained the alternate accommodations available including ride sharing, in-unit bicycle storage, and proximity to a parking garage and the Gallagher Transportation Terminal. He stated that DPD Staff comments have been addressed and that they have the support of the Neighborhood Planner, the Director of Planning, and the City Manager. He stated that the Applicant will comply with the comments issued by the Engineering Department and the conditions set by the Planning Board as follows:

1. The applicant will work with the Historic Board to approve outside lighting and exterior materials
2. The applicant will repair the sidewalk and wheelchair ramp
3. The applicant will submit a Transportation Management Plan to be approved by DPD
4. The applicant will obtain a Stormwater Permit from the GLRWWU

Leo Monteiro, Developer/Property Manager

L. Monteiro walked through the architectural and structural plans and described the layout and circulation, egress, commercial storage, bike storage, waste management, and landscaping.

J. Geary noted that the 62 and 80 Gorham Street projects will be transformational for the neighborhood and the City and stated that the projects meet the criteria for Variance approval.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

R. Njoroge agreed the project will benefit the City and expressed support for granting the requested relief and adopting the four condition set by the Planning Board.

V. Pech agreed that the projects will be transformative and commended the Applicant on their thoughtful responses to comments and input from the City and the Planning Board.

M. Briere noted that the Applicant has received high praise from all City Departments and thanked the Applicant for their investment.

S. Callahan agreed that it is a fantastic project and noted that the building has been in a state of disrepair for a long time and is in need of rehabilitation. He asked for clarification about the "light tunnels" noted in the plans.

L. Monteiro explained that they will be similar to skylights, but fixed to the frame for easier maintenance.

D. McCarthy stated that he was impressed by design and glad to see the preservation of ground-floor commercial space. He asked about the dimensions of the alleyway.

L. Monteiro stated that they alley is between five (5) and five and a half (5.5) feet wide and that their architect is working on fenestration calculations to comply with code.

D. McCarthy stated that it feels like buildings in Boston's North End neighborhood and is a creative design. He noted that the rear elevation shows a door onto the roof and asked if that is intended to be a roof deck.

L. Monteiro clarified that the Elevation D. McCarthy was looking at was existing conditions and that they are proposing to remove the deck and frame out a full gable roof.

D. McCarthy expressed support for the project and for adopting the Planning Board's conditions of approval.

G. Perrin added his support and stated that this is one of the most important projects the City has seen in decades given its historic value. He stated that the Applicant has proven their commitment and character to the Board and the Citizens of Lowell.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE WITH CONDITIONS; the motion passed unanimously, (5-0).

1. The applicant will work with the Historic Board to approve outside lighting and exterior materials
2. The applicant will repair the sidewalk and wheelchair ramp
3. The applicant will submit a Transportation Management Plan to be approved by DPD
4. The applicant will obtain a Stormwater Permit from the GLRWWU

ZBA-2021-47

Petition Type: Variance

Applicant: New Gorham LLC

Property Located at: 80 Gorham Street, 01852

Applicable Zoning Bylaws: Section 6.1

Petition: New Gorham LLC has applied to the Lowell Zoning Board of Appeals for Variance approval to redevelop the existing building into two (2) ground-floor commercial spaces and twelve (12) residential units at 80 Gorham Street. The property is located in the Urban Mixed-Use (UMU) zoning district and requires 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. This proposal also requires approvals from the Planning Board for Site Plan Review per Section 11.4.2 to construct more than three dwelling units, a Special Permit per Section 6.1.6 to reduce the parking requirement by 50%, and a Special Permit per Article 12 for use.

On Behalf:

John Geary, Attorney

J. Geary introduced the project and described its similarities to 62 Gorham Street as well as the project's context, history, scope of work, proposed layout, and historic preservation efforts. He stated that they have been working with Stephen Stowell, Commissioner Fuller, and DPD Staff. He walked through the architectural and structural plans and described the layout and circulation, egress, commercial storage, bike storage, waste management, and landscaping. He explained that Variance approval is being sought for relief from the off-street parking requirement and stated that this project also received a Special Permit from the Planning Board

on October 18th to reduce the parking requirement by 50%. He explained the alternate accommodations available including ride sharing, bicycle storage, and proximity to a parking garage and the Gallagher Transportation Terminal. He stated that the Transportation Demand Management Plan will include bus and train schedule, ride sharing options, and micro mobility solutions and that the document will be made available to tenants. He stated they have the support of the Neighborhood Planner and the Director of Planning, and that they will comply with the comments issued by the Engineering Department to obtain a Stormwater Permit, and the conditions set by the Planning Board as follows:

1. The applicant will submit a Transportation Management Plan to be approved by DPD
2. The applicant will ensure the new sidewalks meet ADA standards
3. The applicant will obtain a Stormwater Permit
4. The applicant will address the comments submitted by the City of Lowell Engineering Department on October 12, 2021

Leo Monteiro, Developer/Property Manager

L. Monteiro elaborated and went through the plans and renderings, explaining that they intend to demolish the existing addition to expand and better utilize the lot, as well as take advantage of the attic space to create town-home style units in the back.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan noted that 80 Gorham Street is another building that has been dilapidated for a long time and stated that he likes the concept and the backyard area. He noted that the parking letter from the City lists the property as 82 Gorham Street.

J. Geary confirmed that the address should be 80 and that the submitted letter had a typo. He agreed to resubmit the correct letter to DPD Staff.

V. Pech stated that this is another great rehabilitation project that will benefit downtown and the City.

R. Njoroge agreed the building is in bad shape and expressed support toward approving the project with the adoption of the Planning Board's conditions.

D. McCarthy commended the Applicant on transforming the building into something that represents the character of the neighborhood and adapts downtown in a meaningful way. He asked why the Applicant chose to stop at twelve (12) units.

L. Monteiro stated that the requirement for an elevator would be triggered if they were to build up any taller, which is the primary reason they chose to limit the expansion to twelve (12) units.

D. McCarthy noted the opportunity to have ADA-compliant nits on the first floor.

L. Monteiro agreed to explore the feasibility of making the ground-floor units ADA-compliant.

D. McCarthy encouraged the Applicant to included ADA-accessible units if possible and applauded the Applicant's efforts to incorporate bicycle storage, laundry facilities, and balconies to utilize the site to its fullest potential. He asked if the units would be serviced by electrical heat pump units.

L. Monteiro confirmed, noting that the electrical heat pumps have been highly successful in other projects and that he intends to use the same system and manufacturer that he contracted previously. He stated that tenants save significantly on energy bills and that they are currently working on the load calculations for the system.

D. McCarthy asked if the four (4) existing chimneys would be operational.

L. Monteiro stated that they intend to preserve the chimneys but that they are not intended to be functional.

D. McCarthy expressed support for granting approval and adopting the Planning Board's conditions. He stated that the requested parking relief makes sense and is supported by the parking study recently completed by Stantec.

M. Briere expressed his support for approving the project.

G. Perrin stated that his comments for 80 Gorham Street are the same as his comments for 62 Gorham Street, and that he looks forward to the completion of both projects.

Motion:

S. Callahan motioned and M. Briere seconded the motion to APPROVE WITH CONDITIONS; the motion passed unanimously, (5-0).

1. The applicant will submit a Transportation Management Plan to be approved by DPD
2. The applicant will ensure the new sidewalks meet ADA standards
3. The applicant will obtain a Stormwater Permit
4. The applicant will address the comments submitted by the City of Lowell Engineering Department on October 12, 2021

ZBA-2021-46

Petition Type: **Special Permit**

Applicant: **Poyant Signs**

Property Located at: **70 Industrial Avenue East, 01852**

Applicable Zoning Bylaws: **Section 6.3**

Petition: **Poyant Signs, on behalf of Cannabist, has applied to the Lowell Zoning Board of Appeals for Special Permit approval to install two (2) internally-illuminated signs at 70 Industrial Avenue East. The property is located in the High-Rise Commercial (HRC) zoning district and requires Special Permit approval per Section 6.3 for internally-illuminated signage, and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Jason Fredette, Poyant Signs

J. Fredette introduce the project and the extent of relief being sought. He explained that Patriot Care is changing their name to Cannabist and replacing their internally-illuminated signage, which requires a Special Permit.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

V. Pech stated that it is a straightforward application and that he does not see any problems.

R. Njoroge stated that the sign meets requirements and that he would support approval with the standard hours of illumination condition.

S. Callahan stated that he likes the rebranding and noted that within the commercial district the illumination is not likely to cause an annoyance for residents. He stated that they normally condition approval upon allowing illumination between one (1) hour before sunrise and one (1) hour after sunset or the close of the business, whichever is later. He asked what the Applicant's hours of operation are.

J. Fredette stated that he believes the business closes at 9:00pm.

D. McCarthy stated that the new sign is an improvement graphically and that the size of the sign is significantly less than what is allowed; he commended the Applicant on their restraint. He noted that Patriot Care opened rather recently and asked why they were rebranding so soon.

J. Fredette stated that Patriot Care was opened in 2016 or 2017 and that the legalization of recreational marijuana in Massachusetts has prompted the change as the business transitions from being strictly medical to both medical and recreational.

D. McCarthy stated that the new sign improves the appearance of the building.

M. Briere and G. Perrin stated that they had no questions.

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to APPROVE WITH CONDITIONS; the motion passed unanimously, (5-0).

1. The hours of illumination shall be one (1) hour before sunrise to (1) hour after sunset or one (1) hour after the close of the business, whichever comes later.

III. Other Business:

Approve 2022 Meeting Schedule

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the 2022 schedule; the motion passed unanimously, (5-0).

Minutes for Approval:

October 14, 2021

Motion:

S. Callahan motioned and M. Briere seconded the motion to APPROVE the October 14, 2021 minutes; the motion passed unanimously, (5-0).

IV. Announcements:

V. Pech and members of the Board congratulated J. Wilson on her promotion to Design Planner.

D. McCarthy stated that when reviewing the Varnum Avenue project, he saw that 31 Elaine Street had a barn-type carport structure that may not have a foundation or building permit. He recalled that property coming before the Zoning Board previously and wasn't sure what the conditions of approval had been.

J. Wilson agreed to have DPD staff look into the issue.

V. Adjournment:

S. Callahan motioned and D. McCarthy seconded the motion to adjourn; the motion passed unanimously (5-0). The time was 8:19pm.