

Lowell Zoning Board of Appeals Minutes

February 10, 2020 6:30 P.M.

City Council Chambers, City Hall

City of Lowell, 375 Merrimack Street, Lowell, MA

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: Francesca Cigliano, Assistant Planner

The following represents the actions taken by the Zoning Board of Appeals at the 02/10/2020 meeting.

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

I. Continued Business

ZB-2020-3

Petition Type: **Variances**

Applicant: **Jennifer Sargent**

Re Property Located at: **70 Fox Street 01850**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Jennifer Sargent has applied for Variance approval to build a single-family home on a vacant lot at 70 Fox Street. The property is located in the Suburban Single-Family (SSF) zoning district. 70 Fox Street requires Variance approval under Section 5.1 to encroach on the minimum lot size, minimum frontage, and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf:

Dave Crispin, BSC Group

D. Crispin: Took homework assignment and put together brief presentation. Interesting thing about site plan, driveway goes off to the right. Granite curb to ends of driveway. This house will drain back to the street, very flat. We will grade around the building, there will be basically a walk-out basement. No need for variances on that. Heavy dark line, erosion control. Goes with neighborhood. Two trees in upper right hand corner we think we can save. Two on bottom left, oak and maple can be saved, so that's good. All other trees will be cut down. Envisioning flowering fruit trees for ground cover. Top of site, covered with ground cover and shrubbery. Retaining wall, left this in the slide because it has been an issue. Shown in yellow. As far as we know, 30 years old, poor condition, 10 page professional memo about that. Highest part of the wall about foot and a half out of plumb, dangerous when leaning that much. Not to mention earth coming through the wall. We agreed with neighbor, bury side of wall. Literally 2.5:1 slope, plant shrubbery, ground cover. Will stabilize completely for many, many years. Because staff asked for height, 29 feet high. All of lots in neighborhood with stars would need variances

today, not detrimental. That's what I have to say.

G. Perrin: We have two letters of support, both in favor of this building. Just wanted to state for the record.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

V. Pech: I just wanted to add, great presentation. Thank you for additional plans, landscaping plans. Glad you have concrete plan for the retaining wall. Feel like this variance can be granted. I see merits to the project. I will be voting in favor. I wish you the best of luck.

D. McCarthy: Just have couple of questions. Great presentation, fills in a lot of the gaps. Think the solution for retaining wall makes a lot of sense. Surprised at 2.5:1 slope?

D. Crispin: Certainly stable, especially if landscaped. Won't be runoff from the top. Would put my stamp on that.

D. McCarthy: Appears grade in rear is matching that?

D. Crispin: Held as maximum slope without retaining wall. Comfortable with that.

D. McCarthy: Rear appears to be graded as same steepness. You have landscaped that with grass?

D. Crispin: Probably not mowed. Probably brush.

D. McCarthy: Grades off the site, what kind of slope is that?

D. Crispin: Certainly going to be made stable one way or the other.

D. McCarthy: Can you look into and see if you drew correctly?

D. Crispin: It does look like new aren't tied into old. My bad. Certainly room to make that work.

D. McCarthy: Would like the contours to get corrected on a revised plan prior to approval. I like the fact that we are preserving trees. Landscape plan is quite nice, nice job. Thank you very much.

S. Callahan: Agree with sentiments. Landscaping, topography. Got us all the information to make an informed decision on this. I am in full support of this petition.

G. Perrin: Appreciate that you did your homework. I had a lot of concerns. I am pleased to hear that the neighbor and petitioner have come to an agreement. I was also concerned about the slope, knew D. McCarthy would be concerned. In full support, wonderful neighborhood. Generational living great for Mass and great in Lowell, in our own city. Wish you and petitioners all the best. In full support.

Motion:

S. Callahan motioned and V. Pech seconded the motion to GRANT the Variances under Section 5.1 with the following conditions:

1. The applicant shall correct the contour lines on the northwest corner of the retaining wall on a revised plan to be submitted to DPD prior to applying for a building permit.
2. If the applicant intends to construct any slopes beyond 2.5:1 in grade, the applicant shall indicate additional stabilization measures on revised plans to be submitted to DPD prior to applying for a building permit.
3. The applicant shall include the dimensions of the proposed driveway on revised plans to be submitted to DPD prior to applying for a building permit.

The motion passed unanimously, (4-0-1), with M. Briere abstaining.

II. New Business

ZB-2020-9

Petition Type: Variance and Special Permit

Applicant: Kronos, Incorporated

Re Property Located at: 900 Chelmsford Street 01851

Applicable Zoning Bylaws: Section 6.3

Petition: An application was submitted by Kronos seeking Special Permit and Variance approval at 900 Chelmsford Street. The applicant is proposing to install an approximately 800 sq. ft. temporary wall sign. The property is located in the High-Rise Commercial (HRC) zoning district. The proposed project requires a Special Permit and Variances from the Zoning Board of Appeals under Section 6.3 of the Lowell Zoning Ordinance and any other relief required.

Speaking on behalf:

Melanie McVey, Kronos

M. McVey: Presented the application. Top place to work in MA. Continue to grow, in CrossPoint towers. Approximately 800 sq. ft. sign.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

S. Callahan: I don't have any concerns. DPD asked what the timing of the temporary sign would be.

M. McVey: Minimum of a year.

S. Callahan: No problems with that, fantastic having you in the city and wish you best of luck.

V. Pech: Want to say thank you to Kronos for being to the City of Lowell. Great ambassador to the city.

M. Briere: As I've stated, if it was up to me, you could put up a movie screen. Thank you for being in Lowell.

D. McCarthy: I am also very grateful for Kronos for making that building their home. Sign approved last time, staying on building?

M. McVey: That sign is being changed to a smaller sign. Tower 3 is going to be replaced, much smaller. Similar messaging on Tower 1. No plans for Tower 2.

D. McCarthy: If you do come back I'd like to see a plan for phasing these banners to showcase wonderful work you've been doing.

G. Perrin: Huge economic and social boost for us. Wish you the best of luck.

Motion:

S. Callahan motioned and M. Briere seconded the motion to GRANT the Special Permit per Section 6.3. The motion passed unanimously, (5-0).

ZB-2020-10

Petition Type: **Variances and Special Permit**

Applicant: **Dean Jenkins**

Re Property Located at: **12 Manchester Street 01852**

Applicable Zoning Bylaws: **Section 12.1(a); Section 5.1; Section 5.1.10**

Petition: **Dean Jenkins is seeking Special Permit and Variance approval to construct a new single-family home at 12 Manchester St., a vacant lot that has merged with 18 Manchester Street for the purpose of zoning. 18 Manchester St. is in the Traditional Neighborhood Two-Family (TTF) zoning district and 12 Manchester St. is in the Traditional Neighborhood Mixed-Use (TMU) zoning district. Unmerging the lots requires Variances for the preexisting, non-conforming duplex at 18 Manchester St. and Variances and a Special Permit for the proposed single-family home at 12 Manchester St. 18 Manchester St. requires Variances under Section 5.1 for lot size, lot area per dwelling unit, frontage, front yard setback, and sideyard setback; under Section 5.1.10 for lot width; and under Section 5.3.2 for usable open space per dwelling unit. 12 Manchester Street requires a Special Permit under Section 12.1(a) for the use, Variances under Section 5.1 for frontage, under Section 5.1.10 for lot width; and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf:

Matt Hamor, Landplex

M. Hamor: Dean didn't feel as though traditional mixed use would be viable on this property. Not a lot of room to accommodate parking on this parcel. There was consideration to do a two-family in mirror

image of the other, Dean felt it was better to create the single-family proposal to be consistent, to not need waivers. We are proposing a single-family. Typically in district, would see commercial below and residential above. We are here this evening for that Special Permit. We are also here for required frontage that is necessary. We are nonconforming with lot width. Those are two variances needed. Would be conforming to setbacks in zoning ordinance. We are proposing 2.5 story single family. There is elevations that everyone should have. The front of the building is going to have a small farmer's porch here. Going to be proposing to do three trees. Make sure that they are shade trees. City has number of shade trees they prefer, have DPD specify what shade trees they would prefer. Proposed driveway. Come to rear where there will be two parking spaces for the single family. There is a small area here which helps the vehicles back out of the space. I know one of the comments was to reduce impervious area to remove small leg at end of drive. Like to leave for a couple reasons. Helps with plowing, backing out. If you have a couple visitors, it accommodates for a car there and one behind it. Helpful for those reasons. Proposing infiltration trench along drive, and here so runoff will be infiltrated into the ground. House that Dean constructed in Clinton looks similar, without garage. Make sure we get an updated set of architectural with revision date, 2020 not 2010. DPD recommended to remove spur at end but would prefer to keep. Will leave up to Board. Have no problem putting up a privacy fence. Again we've spoke about shade trees along Manchester Street. Nice to see comment on page 4, comparable to other designs on Manchester Street. Fire Department had no comments. Building Department said that they would not have a problem. Engineering, fully agree with all of engineering comments as well as sidewalk comments. We feel as though this proposal falls in line with all the 18 point requirements of Special Permit. We feel as though the lot is unique, we have Dunkin Donuts across the street, cemetery. Bookend of residential neighborhood. Would fall in line with goals for our proposal.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

D. McCarthy: I have a couple of questions. The elevations and floor plans still reference a garage to some degree. In lieu of the garage, which is your site plan, there will be a blank wall there with small window on dining room. Improvements to include windows?

D. Jenkins: Plan is to put window on side. That house you are looking at, that's where the slider comes in. There will be a window on that side closest to 18 and 20.

D. McCarthy: Plan to revise the plans and elevations.

D. Jenkins: Elevations should be set in stone.

D. McCarthy: Building facades on building need to be corrected. No window in living room?

D. Jenkins: Typical of a wall to put couch there or put TV there. I don't want to do a whole bunch of windows.

D. McCarthy: I do believe that the value of the building would increase with window in living room and master bedroom. Absence of garage, would be an improvement. I had a question on dimensions on

backing in area there. I don't think it works without area to back into, otherwise you would be backing out all the way out that driveway. I don't see walkways on your site plan for the deck or for the front door. Include on revised site plan.

M. Hamor: There will be walkways.

S. Callahan: Generally speaking, see as being workable. Understanding the area, it will fit in with the neighborhood. Looking at lot from Google maps. Set of shrubs in the back?

D. Jenkins: Spend landscape money on front of house. The shrubs are big.

S. Callahan: I'm in full support. Thank you for copy of building permit.

V. Pech: I'm in agreeance with my colleagues. I think construction of the single family house does fit in with the neighborhood. My main concerns, my colleagues addressed. Overall I think this is a good fit for the neighborhood.

M. Briere: Easy for me. DPD supports requested relief with recommended changes. I have no objection. Important to note the Building Department had no concerns. Neatly fits in character of neighborhood. Going to be a nice touch.

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to GRANT the Special Permit per Section 12.1 with the following conditions:

1. The applicant shall submit revised elevations and floor plans to DPD prior to applying for a building permit showing the proposed house without an attached garage and with added windows on the right side of the house.
2. The applicant shall submit a revised site plan to DPD prior to applying for a building permit showing all proposed walkways.
3. The applicant shall work with DPD to install a privacy fence on the lot line separating 12 Manchester Street and 18 Manchester Street.

The motion passed unanimously, (5-0).

S. Callahan motioned and V. Pech seconded the motion to GRANT the Variances per Section 5.1 and Section 5.1.10, with the same conditions as the Special Permit approval. The motion passed unanimously, (5-0).

ZB-2020-11

Petition Type: **Variances and Special Permit**

Applicant: **Dean Jenkins**

Re Property Located at: **18 Manchester Street 01852**

Applicable Zoning Bylaws: **Section 12.1(a); Section 5.1; Section 5.1.10**

Petition: **Dean Jenkins is seeking Special Permit and Variance approval to construct a new single-family home at 12 Manchester St., a vacant lot that has merged with 18 Manchester Street for the purpose**

of zoning. 18 Manchester St. is in the Traditional Neighborhood Two-Family (TTF) zoning district and 12 Manchester St. is in the Traditional Neighborhood Mixed-Use (TMU) zoning district. Unmerging the lots requires Variances for the preexisting, non-conforming duplex at 18 Manchester St. and Variances and a Special Permit for the proposed single-family home at 12 Manchester St. 18 Manchester St. requires Variances under Section 5.1 for lot size, lot area per dwelling unit, frontage, front yard setback, and sideyard setback; under Section 5.1.10 for lot width; and under Section 5.3.2 for usable open space per dwelling unit. 12 Manchester Street requires a Special Permit under Section 12.1(2) for the use, Variances under Section 5.1 for frontage, under Section 5.1.10 for lot width; and for any other relief required under the Lowell Zoning Ordinance.

Speaking on behalf:

M. Hamor: Here representing applicant. He's done a number of homes in Lowell. The zoning district line separates the two properties. Traditional Two-Family and Traditional Mixed Use. Variances pertain to pre-existing nonconforming aspects of this property. Currently functioning as a two family. Want to make improvements to the lot, primarily the parking. Rear of property, shed. Remove shed and portion of the pavement so that pavement is now conforming. Make conforming 4-space parking space. Can now comfortably have 4 parking spaces for 4 vehicles. Enhance this area to make formal walkway that would address concrete steps that come out of existing building. Separated with concrete walk. For variances we are requesting, 1500 sq. ft. of relief to get to 4000 sq. ft. needed. Additionally, minimum lot size, 1000 sq. ft. in relief. Also asking for variance for frontage, 80 required, we have 50, relief of 30. Existing building has nonconforming side yard setbacks, need relief of 4.7 feet on one side and 3.6 feet on the other side. Another variance needed for lot width, required 64 feet of width but we are at 50 feet, asking for 14 feet of relief. We received comments from DPD today. Looking through those comments we are fully in agreement with any of the comments which require changes. It was shown that the building itself is generally what is relevant in the area. We thought that was in support of the variances in reading those comments. So I believe that's my presentation for 18 Manchester Street.

Speaking in Favor

None

Speaking in opposition:

None

Discussion:

M. Briere: I see no issues. More conforming than neighbors.

D. McCarthy: Need to increase green space. Way to design to increase green space to make more conforming to requirements.

D. Jenkins: It is a difficult pull-in. Previous parked four cars there. In order to conform to site plan review, make parking spaces conform to city requirements, add paving to site that we don't need. If shed did come down and leave as it was, would be able to get four parking spaces but didn't meet what city wants. Willing to do landscaping requirements. Remove paving next to side of property that currently exists.

D. McCarthy: Three feet wide?

D. Jenkins: Yes, doesn't make sense to be there.

D. McCarthy: Where I was heading with parking requirements. What are dimensions of parking spaces?

M. Hamor: Cut additional two feet off paved area on side.

D. McCarthy: Additional green space from front to back on that side. Don't have any trees??

M. Hamor: Existing tree right here. Existing landscaped area in the front.

D. McCarthy: Continue the shade trees with one in front?

M. Hamor: Existing mature landscaped area here. Could add a tree.

D. McCarthy: Dogwood or ornamental.

D. Jenkins: As long it can grow right, I have no problem with it.

D. McCarthy: Work with DPD to improve landscaping for the site as a condition.

S. Callahan: Don't have many concerns. The landscape plan was probably one of the things. Seems going to work that out. Fencing or shrub line with 12 Manchester Street. With variance approvals, will fit in with the rest of neighborhood.

V. Pech: I am in agreeance with my colleagues. Recommendations from the Board and DPD. I think this new home will fit into the neighborhood well.

G. Perrin: Echo sentiments of my colleagues. This is a big ask, but the way you present yourself is good. I think this will be a good addition. One of the gateways into Lowell. Going to enhance that neighborhood.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the Variances under Section 5.1, Section 5.1.10, and Section 5.3.2 with the following conditions:

1. The applicant shall submit revised site plans showing additional green space along the left side of the house. The applicant shall reduce the left side of the paved rear parking area by two (2) feet to align with the house.
2. The applicant shall work with DPD to create a landscape plan for the subject property prior to applying for a building permit.

III. Other Business

Minor Modification Request: 1516 Middlesex Street 01851

NH signs is requesting a minor modification to replace the red "Message Center" face on an existing freestanding sign with a multicolored "Message Center" of the same size at 1516 Middlesex Street. The subject property is located in the Regional Retain (RR) zoning district. Car Star was granted a Special

Permit for an Illuminated Sign that incorporated the red "Message Center" on 11/22/05.

On Behalf:

Peter March, NH Signs

P. March: Coloring is much more affordable and flexible now. Looking to replace with color. No different in size than the old unit. Potentially converting to LED, currently fluorescent. In 2005, sign was found appropriate for neighborhood, nothing has really changed and it is still appropriate. Sign uses less power than the one originally on-site.

In Favor

None

In Opposition

None

Discussion:

V. Pech: I think this message board is just an upgrade. It makes sense, uses less energy, more efficient. I think it makes sense.

M. Briere: No questions.

D. McCarthy: What kind of displays? My thoughts are we are going to see this coming forward for new businesses. I think Walgreens and CVS have them. They would see this as technology that they would employ as well. What kind of images?

P. March: Moving images, static images. Advertising cars. Content/type that are currently played are not going to change.

D. McCarthy: How fast are they changing?

P. March: It will be moving. Flags waving. Movement. Not intended to play videos.

D. McCarthy: Motion to make more engaging. For elements in the message. I feel better.

S. Callahan: I have no issues with this. Improvement of existing signage. We had a similar instance with Hogan Tire on Rogers Street on the signs. We did some sort of conditions with timing. I don't see this being an issue. If it does, will come back to DPD. Overall I'm in approval.

G. Perrin: There was a condition as it related to how many turnovers in 60 seconds. Work with DPD to have this as a condition of approval.

S. Callahan: Using sign to sublet advertisements for other businesses, not allowed. City won't tolerate using signage to promote other businesses.

P. March: Absolutely. Would not do this.

D. McCarthy: DPD would report back what the signage is. Develop strategy on how to manage signs like

this moving forward. Will see this type of technology taking off. Want to know how to manage.

Motion:

S. Callahan motioned and V. Pech seconded the motion to GRANT the Minor Modification with the following conditions:

1. The applicant shall work with DPD regarding the frequency of the electronic message image turnover.
2. To vacate the condition from the previous Special Permit granted by the ZBA requiring that future approvals for internally illuminated signage must come before the Zoning Board, so long as the proposed sign is the same size or smaller than the existing sign.

Minutes for Approval:

January 27, 2020

S. Callahan motioned and V. Pech seconded the motion APPROVE the minutes from the January 27, 2020 ZBA meeting. The motion passed unanimously, (5-0).

V. Adjournment

G. Perrin: I wanted to take time to recognize Christine McCall. The office has grown in its ability to communicate to Board very effectively in her time here. Bright young group of professionals. McCall led them extremely well. I want to thank her for her time, role as a mentor in this office. Sincere congratulations.

V. Pech: Echo same comments. Congratulations to Ms. McCall in her promotion. She has always been very professional, helpful, kind, good move for the city and for the department. Look forward to working with Mr. Alves and Ms. Cigliano.

S. Callahan: Certainly share same sentiments. Christine is a wonder to work with, very bright. Worked her way up to senior planner. Going to be missed on this Board. Testament to the city that she's working her way up the city. We will see her on campus.

D. McCarthy: Congratulate city on choosing to elevate her. Brings tenacity and diligence. We will miss her though.

M. Briere: I think her fine work speaks for itself.

S. Callahan motioned and V. Pech seconded the motion to adjourn the meeting at 8:15pm. The motion passed unanimously, (5-0).

New Business to Be Advertised by January 26, 2020 and February 2, 2020