

Lowell Zoning Board of Appeals Minutes

March 9, 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 McCarthy, and Member Briere

Members Absent: None

Others Present: Jared Alves, Senior Planner

The following represents the actions taken by the Zoning Board of Appeals at the 3/9/2020 meeting.

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

I. Continued Business

ZB-2020-13

Petition Type: **Variances**

Applicant: **George Theodorou c/o Loon Hill Development, Inc.**

Re Property Located at: **66 State Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Loon Hill Development, Inc. is seeking Variance approval to construct a duplex on a vacant lot at 66 State Street. The proposed development will include a roadway extension of State Street and a proposed fire lane on a paper street adjacent to the lot. The property is in the Traditional Neighborhood Two Family (TTF) zoning district and requires Variance approval under Section 5.1 for minimum lot area per dwelling unit, minimum frontage, minimum front yard setback, and for any other relief required of the Lowell Zoning Ordinance.**

Speaking on behalf:

George Theodorou, Applicant's Attorney

Matt Hamor, LandPlex, LLC

Attorney Theodorou said this lot lies at the end of a dead end street. The lot was purchased by the current owner in 1983 and was an abandoned lot at the time. They believe it has been in that condition since 1954. In 1986 a Variance was obtained to construct three units. A foundation was placed. They exist today in a deteriorated state. The applicant proposes to remove the foundations and construct two units, a duplex of about 1,100 to 1,200 sq. ft. each. Each unit will have two parking spaces. First floor garage/study, second floor family room/kitchen. Two bedrooms above. To construct this, they need variances for minimum LA/DU, side yard setbacks, and frontage. There is a challenge with respect to this street. They do propose to develop this dead end street, to extend it to allow for frontage of 66-ft. Constructing two units at the end of the street would be consistent with other homes on the street. At

49 State Street there is a duplex on a 5,500 sq. ft. lot with 55-ft. of frontage. Three-family with 4,000 sq. ft. and 40-ft. of frontage. 33 State Street has a large four-family on 5,100 sq. ft. with 50-ft. of frontage. He believes that constructing this duplex, which will be a condominium, will fit in well with the surrounding homes. They will have the required parking. They will also have a spur/turnaround that may even fit another car. It would not be a detrimental to the public good or derogate from the intent of the zoning ordinance. It will provide additional housing/taxes. There are a number of comments from DPD. They will review them with the site plan. There is a railroad that goes by the lot. This railroad is about 20-ft. above the existing surface of this lot. They have some aerial photos showing that it veers away from the lot. Want to have the Board appreciate... in the City, it's an old City. Neighborhoods were built around existing railroad tracks. They are all over the city. In this situation, they run off to the rear of this street. Several streets are perpendicular to this railroad, including State. St. James Street is parallel with the railroad tracks. This issue with respect to noise existed prior to this house going there. It exists now for the homes there today. Whether or not this house is in this location doesn't have any significance. The noise and railroad will be there just as it is in other neighborhoods. Just like on Middlesex Street. There is even a school that abuts the railroad. He does not believe that that itself derogates from the intent of the zoning ordinance. Another issue... This lot has been overgrown since the 1980s. They are not mature trees, but there is some significant growth. Mr. Hamor identified some quality trees: oak, birch, and ash. Those trees will be saved. They are going to plant a couple other trees and shrubs. The application does state that a landscaping plan may be required, but they always like to work with DPD on it, especially as they are applying for a building permit. They can provide a more elaborate plan if needed. One of the other aspects are the little turnarounds. DPD didn't like them. Mr. Hamor will show that they have a useful purposes. They allow cars to turnaround without going into the public way. They are not standardized parking spaces under the ordinance. As a practical point, cars could possibly be parked on them. Have talked with the neighbors. Will continue to discuss it with them. One final point, the Fire Department has some concerns about the turnaround. They will speak with the Fire Department. The turnaround doesn't exist today, but will work with them. He asked Mr. Hamor to review the site plan.

Mr. Hamor described the existing conditions. There is a 40-ft. town-owned right of way in order to access the Park's Department property. There is a 51x24' concrete foundation on the property. It's vegetated with some mature trees around the outside of the property. There is an electric easement. The railroad right-of-way isn't on the plan because it's further away. He described the proposal. The project will ensure that plows, fire trucks, and others will have easier ways to turn around. That will be a benefit to state street. Located mature trees that they could save. Realize that they City is in the process of developing a tree ordinance. The proposed duplex would be accessed by extending the pavement to give more improved frontage along State Street. They only need to extend the pavement enough to get full access to the property because they have the turnaround for the fire department. Can make it larger per their comments. They will walk the Fire Department through their swept path analysis. Two access drives for each garage. They like to add the turnaround areas, the spurs, because they give a place for kids to play or do things on pavement without it being in front of the garage door. They become useful to occupying the townhouse. Always trying to provide ways for vehicles to navigate themselves without needing to back out onto the right of way. If the Board felt strongly about removing them, then they could do so. They are providing drainage trenches to infiltrate the runoff. Adding two street trees on the street. Put some shrubs along the driveway. Will add trees along the perimeter of the back yard. They would be mature. Will do so at the next stage of the plan revision. The building department made a comment about solar. He hasn't seen that comment before. One of the five units next door has solar panels. The proposed building will be essentially the same height. He doesn't believe a shadow study is necessary to determine whether the building itself will impose a detriment to installation of panels given

the height and distance. He described the solar arc for the area.

Speaking in favor:

None

Speaking in opposition:

Paula Lamphier, 65 State Street

Gerald Lamphier, 65 State Street

Mrs. Lamphier said she is the neighbor across the street. She wrote a letter and sent some videos of the train. The other streets and houses, like St. James Street, Sidney, etc. They are not as close to the hill. Her house is a lot further from the edge of the hill. It's not just the train passing by, it's the idling. At times it sits right at the edge of the proposed dwelling for days at a time sometimes. She doesn't want any increased noise at her house. She doesn't want people to live that close to the train. She is not only fighting for her quality of life, but doesn't believe it's good quality of life for those people. She thinks they will turnover many times, which will decrease her home values. She is also the lowest point on the street and deals with a lot of flooding. Building up the lot will make it worse for her property. Her house is 114 years old. There doesn't seem to be a need to have the turnaround. Trucks, etc. have managed. She is also self-employed and works from home, so she would be living in a construction zone. She doesn't feel like a condominium is consistent with the neighborhood. It's consistent with two properties around her. The rest are two families, but they are up-and-down. They are not big structures, 50-ft. tall, peering over your backyard. Some houses don't have a driveway. The one apartment house can be up to 18 cars parking at the end of the street, which is where the driveways would go. She wasn't able to get the video of the house vibrating due to the train idling. There is a diesel smell too. She doesn't even have off-street parking. There is a hydrant in front of her house. She asked where she would park. There are a lot of trees, animals. She likes it the way it is. When she bought her house she was told that the lot was not buildable.

Mr. Lamphier said they have the only catch basin in front of their house. He has cleared the grates to allow the water to go. It brings down the trash, papers, etc. That's one of his major concerns. There is no shortage of drainage down there that could possibly be done. It would be a great thing to do. As far as extending the street, he doesn't like that idea either. When he and his wife purchased the home, they weren't told about the train. Told the lot across the street was unbuildable. It wasn't viable then, so why should it viable now.

Chairman Perrin said he received an opposition letter from the Concord View Estates at 48 State Street. She was unable to attend the meeting but is in complete opposition to the project.

Discussion:

Chairman Perrin said that Member Briere has recused himself from the vote.

Chairman Perrin asked the applicant to address the neighbor's concerns regarding flooding, etc.

Attorney Theodorou said that the plans show that they will keep the rain runoff on the site. They have proposed infiltration trenches at the ends of each spurs. The City has asked them to conduct a stormwater analysis. That is a requirement that they will go ahead and complete. They will have it with the next submission. They will keep the rain runoff on the site.

Member Pech asked the applicant to discuss the solar ready roof.

Mr. Hamor said that a national building code addresses solar. His understanding is that he needs to provide accommodations for solar if in fact later it's needed on the building itself. He can look whether it would apply and how it might affect other properties. If someone wants to put solar panels on this building, then they most certainly can.

Member Pech said there are many good features of this property, including the turnaround. He gets the neighbors concern, but overall he thinks it is a more positive impact for the city and the neighborhood.

Member Callahan asked about the trains and how the project could increase noise issues. He asked whether an assessment has been done on that issue and how it could be mitigated.

Attorney Theodorou said that one of the issues was that they would remove trees and in doing so they would remove a sound buffer. They are leaving mature trees. No one has done a study on this, but this new building... within the regulations at 35-ft. in height. The structure will provide a buffer to the neighborhood. They can't regulate the entire city. Developing property near a railroad. It veers off from here. The railroad extends all the way down. As developers, they need to work with this and prospective homeowners.

Member Callahan said the more trees they can squeeze in the better to mitigate noise pollution to the property and neighbors.

Attorney Theodorou said they would be planting more trees in the rear and along the side, including the side where the train goes by.

Member Callahan asked Staff about a past example involving a paper street and the Board couldn't consider the paper street for parking. In this instance, he believes it would be a benefit.

Staff confirmed that they are not using the paper street to try to meet their frontage requirements.

Attorney Theodorou said that they are not using paper street to increase the buildable size of the lot.

Mr. Hamor clarified that they will need to go before the Planning Board as part of the definitive subdivision process.

Member Callahan said that regarding the spurs, he would hate to remove further greenspace. It's a dead end street. He asked for their dimensions.

Mr. Hamor said that the dimensions are 8' wide by 12' long.

Member Callahan said he's wondering what the purpose is if someone is parking in front of the garage. Won't have an opportunity to use the spur. Car in the driveway will just back out into the street anyway.

Mr. Hamor said sometimes you put a basketball hoop there or a hockey net. It's an area to use a paved surface instead of where the cars are. It's a little usable space. If a guest visits, then may be able to put a car there. At 1400 Gorham, those duplexes have only a driveway. It just limits the use of the driveway area.

Member Callahan said he agrees with Mr. Hamor. Taking into account DPD's... want to have more greenspace. He gets Gorham Street, it's a highway technically: Route 3A. Here it is at the end of a dead end street. He is leaning towards the spurs, but taking into account DPD's comments too.

Mr. Hamor said they could take 4-ft off them. It wouldn't detract from their use. The City has an ordinance, the 50% rule in front of the building itself. 50% of the area needs to be landscaped. It will limit the actual incorporation for the turnarounds within the drive.

Member Callahan said he believes they have a hardship relative to the landscape. The relief for lot area per dwelling unit is minimal. The frontage and front yard setback too. He thinks the relief can be granted.

Member McCarthy said that regarding solar; the building height seems to be relatively close to the building height in question.

Mr. Hamor said they would not exceed 35-ft. They did an average plane grade calculation to correlate the building plans to the grading. That's why the grading is raised up on the sides.

Member McCarthy said that the property with the solar today is a garage under two stories.

Attorney Theodorou said that is correct.

Member McCarthy said it's separated by over 40-ft., including the paper street alone. Probably closer to 60-ft. A sun angle in the winter hitting that building... He doesn't see how they would provide any shade on that building. He doesn't see any validity to that comment.

Mr. Hamor said they only ran into it with the Grandview Manor project with six stories. They would cast shade. His only rationale is that they are essentially the same height and the sun is obviously projecting above.

Member McCarthy asked for the width of the utility easement. He thinks they are about 25-30 ft. from the property line to where the building sits. Another 40 or so feet of utility easement before the railroad tracks. Then a grade change as well. Sounds like there is a utility violating the noise ordinance above more than 10 decibels. It probably more a problem of that ordinance violated rather than something else.

Mr. Hamor said the easement for the utility is 82.5' wide. He said they are 140-ft. to where the railroad starts to veer away. Where train turns on the track there is an intermittent screeching noise. At that

turn, there is a big large building next to the track. He believes it is deflecting the noise back and exacerbating the noise on the track. It is loud. It's a noise that intermittent that varies based on what is on the train tracks themselves. On top of that easement is 20-ft. above where they are at.

Member McCarthy said he doesn't like the backing in spots given that the lot is not generous, it's efficient. It's a dead end street without a traffic area.

Mr. Hamor said they could take it off the plan.

Member McCarthy said he would understand them in a more generous setting or an area with traffic. It's not warranted to worry about backing into the street. He thinks they violate the intent of zoning.

Attorney Theodorou said they could remove the spurs.

Member McCarthy said it's interesting that they call it additional parking, but it would be additional cars that need to be removed to use. He would like to see a condition of working with DPD to provide a landscape plan. He thinks it's a good gesture to save significant trees. Plan should identify species, caliper size. Regarding drainage, it looks like the lot has a lower spot than the street or adjacent lot. He asked if they have done a soil analysis to see if infiltration will occur.

Mr. Hamor said the catch basin is connected to the sewer. They will work with the Engineering Department to come up with a drainage methodology for the extension.

Member McCarthy referred to the grades. It looks like the lot is in the low zone. He asked whether they will have flooding.

Mr. Hamor said they would not have flooding. They will be building the site up.

Chairman Perrin asked about the trees.

Attorney Theodorou said they will plant additional trees along the rear and the railroad side.

Chairman Perrin said that it would be in the updated landscape plan.

Attorney Theodorou said that's correct.

Chairman Perrin asked about the fire pad and turnaround.

Mr. Hamor said it will be a clear lot and will not be used for snow storage.

Chairman Perrin said he would like it conditioned to be a clear lot, clearly marked with no storage, e.g., snow, recreational items, containers, sheds, etc. They talked about drainage. He asked if they could discuss the height to address the water issues.

Mr. Hamor said that the flow sheds off to the rear. Flow to left hand side to that side. Even removing the spurs, they will still have drainage on that side of the driveway. Work with Engineering Department regarding how they would like to have the road handled, whether drainage at the end of the road or brought back to the catch basin. In his experience when the system connects to the sewer, it's just a

matter of maintenance. They can clog with leaves, etc., but nothing prevents the water leaving that area because it's connected to the sewer line.

Chairman Perrin said the spurs go away but the drainage remains on the lot and parallel to the adjacent driveways.

Mr. Hamor graded driveways so that they sheet flow to the drainage areas.

Attorney Theodorou said they're depicted on the elevations.

Chairman Perrin asked about physical signage at the turnaround.

Mr. Hamor said similar to what they did with Berry Road. They did one on Stratham St. Signage to prevent people from parking in front of those areas because to be utilized as a fire lane.

Member Callahan asked about conditioning activity on the paper street.

Staff clarified that the adjacent property owner has rights to up to 50% of the paper street.

Mr. Hamor said the condominium documents could note that the owners cannot use the turnaround for anything.

Attorney Theodorou said they would put it in the master deed.

Member Callahan summarized the proposed conditions.

Attorney Theodorou said they are reasonable.

Chairman Perrin clarified that only four voting members are present. The applicant will need a 4-0 vote.

Attorney Theodorou asked them to go forward.

Motion:

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

1. The applicant must provide a landscape plan for approval by DPD that shows new trees in the rear of the property and along the railroad side of the yard;
2. The Fire Department turnaround shall remain clear of snow storage and storage of any other items. This restriction must be in the master deed recorded with the Registry of Deeds for the condominiums; and
3. The applicant must submit a new site plan to DPD that removes the driveway spurs and shows drainage infrastructure along the driveways.

The motion passed unanimously, (4-0).

II. New Business

ZB-2020-14

Petition Type: Variances

Applicant: Anju Realty, LLC

Re Property Located at: 11 Centre Street

Applicable Zoning Bylaws: Section 6.1.10

Petition: Anju Realty, LLC is seeking Variance approval to construct a driveway at 11 Centre Street that would encroach on the rear lot line setback. The property is in the Urban Neighborhood Multi-Family zoning district and requires Variance approval under Section 6.1.10 for the minimum setback from the rear lot line and for any other relief required of the Lowell Zoning Ordinance.

Speaking on behalf:

Hooshmand Afshar, TAJ Engineering

Mr. Afshar said that the existing dwelling has a passage from Centre Street to the back. The existing topography slopes toward the back. The existing lot has a unique shape. The back yard is kind of dislocated. The lot does not have any parking today. The existing condition of this passage is such that it's not drivable. However, the proposed driveway can be built. The existing frontage, Centre Street, the right of way is only 33-ft. wide. It's a narrow street. The shape of the lot, by introducing the off-street parking will relieve street parking demands on the narrow street. He addressed the widths. They can reduce the width of the driveway to 8-ft, which will increase the setback along the lot lines. In the rear, the back lot line is 1.5 feet. They shift the paving so that the narrower setback is along the building and not along the rear lot line. If there are any structural issues with the retaining wall in the rear, they can address them. The Building Department had a question about egress. They will move the existing stairs. It doesn't affect the egress in the rear at all. They are doing something similar with the front steps. Concerns from Engineering about curb opening. That will be addressed at the time of construction. The grades are agreeable.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Member Callahan said that it is a good idea based on where the property is located. It's a tight squeeze. Clarified that reduce from 9-ft. wide to 8-ft.

Mr. Afshar said that's correct, it would meet the minimum width.

Member Callahan asked about the bulkhead.

Mr. Afshar said that the bulkhead has a short parapet above the grade. When reducing it to 8-ft., they will create a little room. They will not pave right up to the bulkhead. They will reduce the width by 0.5 from either side. Could also do the entire foot from the building side if the Board prefers to avoid paving up to the bulk head.

Member Callahan said he's not sure about his preference. He would like to take a little more from the bulk head side. He asked if the property is a single-family.

Mr. Afshar said that's correct.

Member Callahan appreciates that it's three spaces, but that takes away some green space. He asked Staff about the relief required.

Staff clarified that the relief required would be for the 3' setback from the lot line and 3' from the building.

Member Callahan said he has no issues with the relief requested along the access drive because it's providing a benefit to the neighborhood by removing cars from the street. He is hesitant about the rear.

Member Pech said he sees the hardship for the lot. It's quite a bit of benefit to construct the driveway and the off-street parking spaces. Centre St is a cut through to Central Street. Having more off-street parking is a good thing. He can support the petition.

Member Briere asked for the total length of the driveway.

Mr. Afshar said it's about 110' from front to back.

Member Briere said that the Building Department commented about the rear steps.

Mr. Afshar said that the relocation is shown on the plan.

Member Briere asked if they are familiar with the comments from the stormwater team about pitching stormwater to the rear.

Mr. Afshar said the natural topography works that way. They are willing to install a subsurface infiltration chamber to collect runoff from the new impervious surface.

Member McCarthy said he is glad to hear that they are providing a subsurface infiltration chamber. Would like to condition it on them providing a new site plan showing that chamber. The pavement where the driveway would be does not natural flow to the rear of the site, as he understood it today. There appears to be a two or so foot grade change from the edge of the foundation to the property line.

There is a granite stone in the middle. There is something like a 20% side slope. Site plan doesn't show grades. Doesn't have a document showing how the driveway slope will be handled. Don't have a document showing how the 2' grade change at the property line would be resolved.

Mr. Afshar said they could produce a site plan with the grades, the slope, and the location of the infiltration of the basin.

Member McCarthy said they need a retaining wall along the 8' wide drive aisle to allow sloping to the back. Provide how they will mitigate the roughly 2' grade change. He said he likes the idea of parking off-street. He said that the parking spaces in the back are 9' for a single family. He would be okay making the parking width 8'. That would give 3' away from the rear lot line and the building.

Mr. Afshar said that is okay with them.

Member McCarthy said they would allow 8' by 18' and allow the additional space toward the retaining wall in the back.

Mr. Afshar said they would save on paving costs too.

Chairman Perrin said he agrees with Member McCarthy. It's an incomplete application. They have set a precedent of continuing matters when the application package is not complete. They are asking for conditions for two major items that are requirements of the application. He is not comfortable to making a condition to a requirement. The overall sense is to move forward with these as conditions. He will do that. In the future, he asked the applicant to bring the appropriate documents. He asked Member McCarthy to review the conditions.

Member McCarthy said they would be (1) the subsurface infiltration would be shown on the site plan, (2) mitigating cross slope for the drive aisle shown the site plan, whether a retaining wall up against the building or lot line, understanding the lane narrows to 8'. (3) Parking spaces at rear of site reduced in width to 8' by 18' feet in length to allow for appropriate rear setback of 3' or more.

Member Callahan said he would like to see more detailed plans if there would be a retaining wall. That will affect the driveway width.

Member McCarthy said there is potential to have the cross slope against the building. Could possibly have a flat drive lane. Increase amount of exposed foundation wall. But it's not addressed in the plan.

Mr. Afshar said a short retaining wall would not affect the width of the driveway. The footing of the driveway will be below grade.

Member Callahan discussed the steps. He said the relocating the steps isn't clear in the plan.

Mr. Afshar said usually the lighter one is existing and darker is proposed.

Member Callahan said it's not clear from the plans. He could go either way regarding the continuance. The application is not complete without the topography and the grade of the driveway.

Member McCarthy suggests that they continue it. It would be a short hearing if all the documents are in

order. Would make sense for the Board to see the final product. Give them another couple weeks to get another document submitted.

Member Pech agrees with Member McCarthy's analysis about needing the documents and Chairman Perrin's comments about precedent setting. He favors continuing the matter.

Chairman Perrin agreed that to move forward they need a complete application. Two major items are missing.

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to continue the hearing until the March 23, 2020 meeting. The motion passed unanimously, (5-0).

ZB-2020-15

Petition Type: **Special Permit**

Applicant: **Jose Ribeiro**

Re Property Located at: **145-147 Woburn Street**

Applicable Zoning Bylaws: **Section 4.5.2(1)**

Petition: **Jose Ribeiro is seeking Special Permit approval to legalize the use of a building that has operated as a three-family home. The building is in the Traditional Neighborhood Two-Family (TTF) zoning district and shares the lot with a detached, single-family home. Legalizing the three-family requires Special Permit approval under Section 4.5.2(1) to change or substantially extend an existing nonconforming use and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf:

None

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

None

Motion:

S. Callahan motioned and M. Briere seconded the motion to continue the hearing until the April 13, 2020. The motion passed unanimously, (5-0).

ZB-2020-16

Petition Type: **Special Permit and Variance**

Applicant: **Chestnut Square Housing Association, LP**

Re Property Located at: **43 Willow Street**

Applicable Zoning Bylaws: **Sections 4.5.2 and 6.1.4**

Petition: **Chestnut Square Housing Assoc., LP is seeking Special Permit and Variance approval to increase the number of permitted residential dwelling units from 41 to 42 within a previously approved affordable housing development that includes 43 Willow Street. The development is in the**

Traditional Neighborhood Multi-Family (TMF) zoning district and renovating 43 Willow Street into a single-family residence requires a Special Permit under Section 4.5.2 to extend the non-conforming use, a Variance under Section 6.1.4 for the required off-street parking, and for any other relief required of the Lowell Zoning Ordinance.

Speaking on behalf:

Catherine Flood, Applicant's Attorney
Debbie Nutter, the Caleb Group

Attorney Flood said they would like to amend the previously granted permits to increase the number of units from 41 to 42 without the required parking. The Caleb Group is a nonprofit affordable housing organization based in Swampscott with communities in MA, NH, and ME. They own other properties in Lowell too. In November 1997, they received a variance to remodel and restore several buildings and construct a parking lot. The property is collectively known as Chestnut Square. When they removed approvals, they had proposed demolishing 43 Willow Street. Due to its historic nature, it was not possible. They are now asking for a parking Variance under Section 6.1.4 and a Special Permit under Section 4.5.2. Will allow the conversion of a historic structure. In its current state, the building is boarded up. Renovating it will enhance the character of the neighborhood. There will be no significant change to the exterior of the structure except for cosmetic or structural repairs. Any changes will require Historic Board approval. The rear parking lot has 61 spaces. They can add more but it would remove green space. There are only 45 registered vehicles today. All tenants must register their vehicles with the management company. 16 available spaces based on current occupancy. Hardship because building cannot be removed or destroyed due to the historic nature.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Member McCarthy said he really likes the development. He is surprised that he building is boarded up.

Ms. Nutter Said that there are 11 buildings and 2 were new constructed the rest were historic. The Historic Board wouldn't let them tear it down and the Zoning Board wouldn't them fix it. It has been sitting vacant. They are in the process of refinancing and would like to fix it this time.

Member McCarthy thought conditioned approval showing the potential location for three additional spaces. They certainly have room.

Ms. Nutter said they have many children.

Member McCarthy said that off Chestnut Street, there is a small parking lot with five spaces. They could add spaces directly behind it.

Ms. Nutter said they would do anything at this point.

Member McCarthy said it would show that they could accommodate the spaces in the event that they

are required. Doesn't take away the field area. It's close to the address. Condition show future location of the spaces if they become necessary. He said condition about carbon monoxide detectors.

Ms. Nutter said that all of the apartments have them.

Member McCarthy said they would need to be hardwired.

Ms. Nutter said they are all hardwired and that's her requirement.

Member Briere said that renovating a vacant historic building is a benefit to the neighborhood and adds to affordable housing stock, in desperate need of.

Member Callahan said he doesn't have any concerns. Straightforward way to use the property that has been boarded up. Agrees with Member McCarthy's proposal.

Member Pech said he agrees with his colleagues. It's a good reuse/repurpose of the site.

Chairman Perrin said there are two conditions, the parking and carbon monoxide. He thanked them for being prepared and having a complete application, walking through the history of the property. Always nice to see a rundown building turned into affordable housing.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the Special Permit under Section 4.5.2 with two conditions:

1. The applicant must provide a site plan to DPD showing the potential future location of three parking spaces; and
2. The smoke and carbon monoxide detectors must be hardwired within the building.

S. Callahan motioned and D. McCarthy seconded the motion to APPROVE the Variance with the same conditions.

The motions passed unanimously, (5-0).

ZB-2020-17

Petition Type: **Variance and Special Permit**

Applicant: **Gregory T. Curtis c/o Demoulas Super Markets, Inc.**

Re Property Located at: **677 & 705 Pawtucket Boulevard**

Applicable Zoning Bylaws: **Sections 6.1.10 and 6.3.4**

Petition: **Demoulas Super Markets, Inc. is seeking Variance approval under Section 6.1.10 for relief from the maximum curb cut requirement, Special Permit and Variance approval under Section 6.3.4 for internally illuminated signs, and any other relief required of the Lowell Zoning Ordinance. The applicant is proposing to construct an approximate 72,500 sq. ft. Market Basket supermarket and 12,000 sq. ft. of retail space at 677 Pawtucket Blvd and includes reconstruction of the one hundred thirty-four (134) space parking lot for the existing restaurant at 705 Pawtucket Boulevard. The site is located in the Suburban Mixed Use (SMU) zoning district.**

Speaking on behalf:

Gregory Curtis, Applicant's Attorney
Jim Lamp, J and Company, LLC

Attorney Curtis said they were before the Board last April. The Board granted approval for curb cuts. They since returned to the Planning Board and made changes to the plan, which incorporated the removal of the existing 705 Pawtucket Blvd. building and adding a coffee shop. Slight variations with the plan. Looked at curb cuts that are still in pretty much the existing locations. They are also seeking approval for new signage. Suggested opening to Section 6.1.10 to the public first. He described the changes. Regarding signage, they are looking for illuminated signage on the buildings. There will be potentially three retail businesses: Market Basket, clothing/retail next to the Market Basket, and a proposed coffee shop replacing the Boomer's building. The illuminated signage would be on the front of the building, the south facing side. One sign on the west side of the Market Basket building. No signage on the rear or east side. No housing on Old Ferry Road. Across from the Fire Station/Water Department. He doesn't believe the illuminati would interfere with any housing in the area. The signs on the roadway, have frontage to have freestanding sign. About 11' in height. Market Basket plus two tenants more than likely.

Speaking in favor:

None

Speaking in opposition:

Steve O'Neill, 10 Old Ferry Road

Mr. O'Neill said he is concerned with the new curb cuts. They are moving closer to his property line. There is not enough length there if cars back up at the lights or roundabout. It will take away from his limited frontage. If people put a sign on the old ferry street side it will be a hindrance to the neighborhood and the house or potential house he could build. He doesn't mind the sign out front.

Discussion:

Member Briere asked how the council responds to the abutter's concerns.

Attorney Curtis said that Mr. O'Neill doesn't live there. He owns a piece of property far up on Old Ferry. He's not sure how a sign on the west side of the property would impact any houses. They abut the back of the Elks property. The property across from the Elks, further up from Market Basket wouldn't have any housing. They are asking for very slight changes compared to what was approved back in April 2019, regarding the curb cuts. He doesn't see how Mr. O'Neill who owns property at 10 Old Ferry Road would be affected. He has now been at the Conservation Commission meetings, but didn't go to the Planning Board meetings or previous Zoning Board meeting.

Mr. Lamp said that the lot at 10 Old Ferry Road is recorded as a non-buildable lot. It is on the north side of the two homes on Old Ferry. He has been in front of the Conservation Commission. He has put Market Basket in a catch 22. He said that the movement of a drive 20-ft. will create a problem with cars backing up. He has appealed the Conservation Commission's roundabout, which would have less queuing than a light. Now he is objecting to queuing. He is not a direct abutter. The lot owned by him is recorded as non-buildable.

Mr. O'Neill said he didn't go to the Planning Board meetings because they would install a light. That

wouldn't affect his property whatsoever. Plan for roundabout not shown until January of 2020. He didn't have a problem with lights, believes it would take the traffic better. Roundabout severely affects his property. Labeled not buildable doesn't matter. He would need to seek the approval just as Market Basket did. He would need to go to the Conservation Commission. The lights would affect it. He is not a direct abutter. He is within the 300' that needs to be notified. Now he has a problem with limited entrance and access to his property if they build the roundabout.

Member McCarthy asked about the signage. The pylon sign shows two.

Attorney Curtis said one on Pawtucket Blvd and one on Old Ferry Road. They have frontage on both and enough distance to have both.

Mr. Lamp said two signs on Old Ferry Road and alternative location back toward the entrance. Would like to have the sign right at the corner of Old Ferry and Pawtucket Blvd. Second sign would be at the right in, right out on Pawtucket Blvd. One further north was an alternative, no longer seeking approval for that location.

Member McCarthy said that in the sign details there is a ground-mounted sign not a pylon sign.

Mr. Lamp said that's the one they are talking about.

Member McCarthy said same sign in two locations.

Mr. Lamp said that's correct.

Member McCarthy said it looks like one of the smaller Market Basket signs. He said it's a good scale.

Mr. Lamp said especially if compare to Wood St. sign.

Member McCarthy said looks like a great height. He has no problem with the submission. Curb cuts do seem to make more sense with proposed changes. This is a minor modification as to what they approved last time. Assumed they will be LED. Asked about hours of illumination.

Attorney Curtis said store hours are typically 7am to 9pm for Market Basket. Can't imagine next-door store will be much later than 9:30. Lights shutoff with hours of operation.

Member McCarthy said typical have condition regarding hours of illumination.

Attorney Curtis said that's fine. Coffee shop will likely need to come for their own type of sign to seek approval.

Member Callahan said they usually condition hours of illumination: one hour prior to sunrise to one hour after sunset or closing, whichever is later. He clarified that only pylon sign is the one on the corner, site location B.

Attorney Curtis said there are two signs on Pawtucket.

Mr. Lamp clarified the locations.

Member Callahan reiterated two on Pawtucket Blvd, facing the Blvd. No problems with that. He said that the curb cuts are the one for the coffee shop.

Attorney Curtis said one at the shop, but there are three total. He described them. One requirement from PB would be that all deliveries up Pawtucket Blvd. Mr. O'Neill is not an abutter. Had every opportunity to speak, as PCC did. He chose not to prior to going to Conservation Commission and now tonight.

Member Callahan asked about signage for coffee shop to ensure no one enters there.

Attorney Curtis said that correct only exit onto Pawtucket Blvd westbound. There will be do not enter signs.

Member Callahan said they would restrict the hours of illumination for both the wall and pylon signs.

Mr. Lamp clarified the comments from staff. At most he counts 49.5 sq. ft. If three tenants or more then allowed 50 sq. ft. is the maximum. Only looking for SP for the illumination.

Staff confirmed that the maximum would be 50 sq. ft.

Member Pech agrees that it's minor relief. He is concerned... Mr. O'Neill is not a direct abutter. He lives in the neighborhood. Would be a good thing for them to talk it out. Access/egress to his property.

Attorney Curtis said that the Conservation Commission voted for the City of Lowell to seek the roundabout. It was a request of the Planning Board. The City talked with Mr. O'Neill many times and couldn't come to any agreement. City returned to Conservation and the Commission approved the roundabout plans. Mr. O'Neill has now filed an appeal.

Mr. Lamp said that regardless of whether it's a signal or roundabout, then plans have changed to accommodate a curb cut provided to the non-buildable lot. If there's a signal, then there will be a curb cut to access the property.

Member Pech said the relief could be granted.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the Variances under Section 6.1.10. The motion passed unanimously, (5-0).

S. Callahan motioned and D. McCarthy seconded the motion to APPROVE the Special Permits under Section 6.3.4 with one condition:

1. The hours of illumination shall be one hour before sunrise to one hour after sunset or closing, whichever is later.

The motion passed unanimously, (5-0).

ZB-2020-18

Petition Type: **Variances**

Applicant: **Gregory Carragher**

Re Property Located at: **37 Thornton Ave**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Gregory Carragher is seeking Variance approval to add a second-story addition to an existing single-family home at 37 Thornton Ave. The property is in the Suburban Single-Family zoning district and requires Variance approval under Section 5.1 for minimum lot area, minimum frontage, minimum front yard setback, minimum side yard setback, and for any other relief required of the Lowell Zoning Ordinance.**

Speaking on behalf:

Gregory Carragher, 37 Thornton Ave

Rose Plourde, 37 Thornton Ave

Mr. Carragher said they would like to expand the house to accommodate their four kids. He is going blind and is comfortable in the neighborhood. His kids play outside. His neighbors help him with his errands and kids appointments.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Member Pech asked if the applicant saw the comments from the City.

Staff provided the comments to the applicant.

Member Pech noted that there concerns about floor area ratio (FAR).

Mr. Carragher asked if the concern was about the size of the addition.

Staff summarized the memo.

Mr. Carragher said it's a small plot, and that they would like to remain in the neighborhood.

Staff clarified that they could still obtain the variance.

Member Briere said they would go up a level.

Mr. Carragher agreed.

Member Briere said that the sides do not have any proposed windows.

Mr. Carragher said they would put windows around the addition.

Member Briere said he would like to see them be able to do this. He has no further questions.

Member McCarthy asked about the FAR.

Staff clarified the intent of the FAR table in the memo.

Member McCarthy said that it's already a non-conforming structure, but they are staying within the same footprint. He doesn't see any issue with frontage, side yard, etc. setbacks. He knows that 0.46 is on the high end, but it's a small house with four children. He said he grew up in that neighborhood. It hasn't changed much over the years. He understands the desire to stay. By not increasing the footprint of the house, it's a big plus. Would condition adding windows to the side elevations. He noted that the building department has comments about the construction. Those will be addressed when they submit a permit. He asked if they have an architect.

Mrs. Plourde said an architect drew the original plans. She spoke with the contractor earlier today. Based on the decision from the Board, she would move forward with the contractor and his architect.

Member McCarthy confirmed that they have an architect and a contractor.

Mrs. Plourde said that's correct.

Member McCarthy asked their schedule.

Mr. Carragher said they are hoping for a spring construction. Likely early summer.

Member McCarthy said they would be working on it this year. He said it's a reasonable solution. They

are maintaining the existing footprint. They are going up in a similar manner to their neighbors.

Member Callahan said he would also like to see the side windows on the plan. He is struggling with the reliability of the plans as laid out. They don't show the elevations. The plans go back to September. He likes the layout as proposed. He is not ready to make a decision until they see more detailed plans. He would like to know the height of the structure after construction. He would like to see windows on the sides and the layout. Generally speaking, he likes the idea. Looking at the property, it is very small.

Mr. Carragher said the windows were are clear oversight.

Member Callahan asked about the height of the second floor.

Mr. Carragher said it would be a small crawlspace attic. He doesn't have the number.

Member Callahan said he would like to know the height of the ceilings on the second floor.

Member McCarthy pointed to the heights. It would be around 24-ft. to the ridge. He said it would be nice to have complete architectural plans but there's enough information.

Member Callahan said he would like to see where the windows would be laid out, but they could condition it through DPD. He said that Member McCarthy convinced him.

Chairman Perrin said they are looking to move forward. Condition to include updated elevations showing the windows and the height of the building. Include the address of the property in the site plans.

Motion:

S. Callahan motioned and M. Briere seconded the motion to APPROVE the Variances under Section 5.1 with one condition:

1. The applicant must provide for approval by DPD new elevations showing windows on the sides of the building, the height of the structure with the addition, and listing the address of the property.

The motion passed unanimously, (5-0).

ZB-2020-19

Petition Type: **Special Permit**

Applicant: **185 Woburn St. Realty Co., LLC**

Re Property Located at: **185 Woburn Street**

Applicable Zoning Bylaws: **Section 6.3.4**

Petition: **185 Woburn St. Realty Co., LLC is seeking Special Permit approval to replace internally illuminated signs for the gas station at 185 Woburn Street. The proposed signs would replace panels on the existing freestanding sign totaling about 115 sq. ft., three circular logo signs on the awning totaling 3.5 sq. ft. each, and a text sign on the awning totaling about 15 sq. ft. The property is in the Regional Retail (RR) zoning district and the signs require Special Permit approval under Section 6.3.4 for the internal illumination and for any other relief required of the Lowell Zoning Ordinance.**

Speaking on behalf:

Peter March, NH Signs

Mr. March said they are applying for a Special Permit to rebrand the Gulf Site. The signage is a new branding. They are re-facing the existing signs and adding a LED price changer. There is no change in size and they will use the existing poles. The change are essentially that the current sign lights in its entirety. The new sign will only illuminated in the Gulf Logo, not the white portion. The subway and Dunkin' will light as before. There will be a small reduction in the lighting. There is no increase in square footage. LED price changes are a new tech that replace the plastic panels. They are not designed to display anything other than fuel prices. They do not shift or flash. The owner of the station can change the prices of the dispensers and on the sign remotely. In terms of the canopy, it currently lights entirely. The new canopy will only have a thin yellow LED band and then the Gulf text and logo illuminated. There is a minor increase in area. The current Gulf logo is 42 sq. ft. compared to the new logo that is 43.7 sq. ft. There is a significant reduction in the light output. He addressed the SP requirements. Reducing the light will decrease the light overspill onto nearby properties including the apartment across the street. The single LED price changer make it easier for people to read the prices and thereby improve traffic safety when people are deciding whether to access the station. They are more legible and reliable than the plastic prices. Convert from fluorescent to LED illumination. 60 fluorescent lamps eliminated from the existing canopy. Will use significantly less power than the old signage. The new logos are fresh, modern and appealing. Replaces imaging from 12 years ago. LEDs use less power and are easier to dispose. Fluorescent lamps last 2-3 years and are difficult to dispose. The rebranding will benefit the business and allow it to attract new customers.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

Member Callahan said he likes the new design compared to the current design. It will bring a lot more color to that facility. He asked about existing business hours.

Mr. March said it's from 6am to 11pm, per a neighbor who said it in the room. He said gas stations like to turn off the lights when they close to discourage people to go to the island.

Member Callahan said that some are open 24-hrs. and it's off a major highway. He noted a comment from DPD about the sign on the awning extending above the roof level. He doesn't see it as much of an issue. Lowering it would detract from the awning.

Mr. March said an alternative image brings it below the canopy.

Member Pech said it's straightforward, an upgrade/update to the sign. He is indifferent to the canopy logo.

Member McCarthy said the plans they received show different lighting. It seems like the same amount of illumination if not more.

Mr. March clarified that it's just the light that is along the bottom edge and then the word gulf plus the gulf logo. He said that the night shot is not part of the package.

Member McCarthy said it's a nice reduction. He asked them to provide the night shot to identify what they are approving for a nice reduction in illumination.

Mr. March said he also had an example from a Mobile image.

Member McCarthy said he could picture it fine. He wants to make it clear to his fellow members that they are approving a nice reduction in illumination. He would like to see the gulf logo break the roofline. It's a nice graphic feature. He expressed concerns about future applicants changing the prices to other information.

Staff answered questions about regulating content.

Mr. March said that the LED is actually just a figure eight, so you can only really show numbers.

Member McCarthy said he doesn't have any concern in that case.

Chairman Perrin said two conditions updated renderings showing at night and the hours of illumination. He thanked the applicant for his preparedness. The rendering helped the community understand the changes.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the Special Permits under Section 6.3.4 with two conditions:

1. The hours of illumination shall be one hour before sunrise to one hour after sunset or closing, whichever is later; and
2. The applicant must provide updated renderings to DPD showing the canopy illuminated at night,

as presented during the hearing.

The motion passed unanimously, (5-0).

III. Other Business

Minutes for Approval:

February 24, 2020

S. Callahan motioned and D. McCarty seconded the motion to APPROVE the February 24, 2020 minutes. The motion passed unanimously, (5-0).

Further Comments from Members

Chairman Perrin and Member Callahan congratulated Member Briere on his appointment to full member of the Zoning Board.

V. Adjournment

S. Callahan motioned and V. Pech seconded the motion to adjourn the meeting. The time was 9:25 PM.

New Business to Be Advertised by February 23 and March 1, 2020