



Lowell City Council

Regular Meeting Minutes

Michael Q. Geary
City Clerk

Date: August 28, 2023

Time: 6:30 PM

Location: City Council Chamber, 375 Merrimack Street, 2nd Floor,
Lowell, MA / Zoom (Hybrid)

SPECIAL MEETING - ORDINANCE - ACCESSORY DWELLING UNITS (ADU)

1. ROLL CALL

Roll Call showed 11 present, 1 via Zoom (C. Rourke).

M. Chau presiding.

2. MAYOR'S BUSINESS

2.1. Communication Remote/Zoom Participation:

In City Council, **Motion** to accept and place on file by C. Nuon, seconded by C. Robinson. So voted.

C. Mercier commented that meeting was to be in a different format. C. Robinson requested clarity on the process. City Solicitor Williams outlined how the final ordinance would be developed from first reading to public hearing. C. Gitschier commented that he was not given proper notice of the meeting as it was delivered in hand. Solicitor Williams addressed the notice question. Clerk Geary outlined notice process to the body regarding this meeting. C. Drinkwater noted issue has been before the body numerous times and they should be able to move forward.

Motion by C. Gitschier, seconded by C. Robinson to have Registered Speakers go after Council discussion, amended by C. Scott, without objection to have Registered Speakers choose when they wish to speak. Adopted per Roll Call vote 11 yeas. So voted.



3. ORDINANCES FROM THE CITY MANAGER

3.1. Ordinance - Amend Zoning - Accessory Dwelling Units (ADU).

In City Council, **Motion** to refer ordinance and approved amendments to the Law Department to draft revised ordinance and place on agenda for first reading by C. Rouke, seconded by C. Yem. Adopted per Roll Call vote 11 yeas. So voted. Registered speaker, Thomas Linnehan, addressed the Council. C. Mercier questioned Mr. Linnehan regarding process and his recommendation. C. Mercier noted she must listen to more knowledgeable speakers regarding ADUs. **Motion** by C. Mercier, seconded by C. Scott that all ADUs should be subject to special permit process of the Planning Board. Motion Failed. 4 yeas, 7 nays (M. Chau, C. Drinkwater, C. Jenness, C. Leahy, C. Nuon, C. Rourke, C. Yem). So voted. C. Yem noted special permit defeats purpose of the ADU ordinance. C. Drinkwater noted that ordinance makes units subject all zoning requirements so special permit is not needed. C. Jenness noted no need for special permit in process as it would defeat purpose to create more housing. C. Nuon noted burden on petitioner to file for special permit when zoning regulations are in place with this ordinance. C. Robinson noted each project should have neighborhood input. C. Scott noted that you should not take rights of others to provide ADUs. C. Scott questioned costs associated with a special permit. Francesca Cigliano (Insp. Services) noted costs with site plans and attorneys. C. Gitschier noted other communities require special permits and that costs are minimal moving forward. C. Gitschier commented that ADUs were not about increasing housing stock but increasing value of homes. C. Rourke noted if motion passed no need for any further discussion as this already exists in Zoning Code. M. Chau noted that meeting ends if motion passes; further noting the vast amount of input by community and the reason for this special meeting.

Registered Speaker, Jerry Frechette, indicated he would be available for questioning. The following registered speakers addressed the body; Christna Mehan, Lynne Dailey; and Mitchel Paulin. C. Scott noted that there is a cost analysis approach on these matters as there will not be many petitioners. C. Jenness noted that median income is not keeping up with the costs of housing and that there will not be many units coming online. C. Robinson noted the ordinance is just a tool but is being done at neighbors' expense. **Motion** by C. Robinson, seconded by C. Mercier that each ADU petition must have a certified letter from the owner indicating that the rent, including costs, will be no greater than 70% fair market value



in accordance with HUD standards. Adopted per Roll Call vote 6 yeas, 5 nays (M. Chau, C. Drinkwater, C. Jenness, C. Leahy, C. Yem). So voted. C. Leahy noted that ADUs are different as they can relieve housing pressure and assist families. C. Yem noted program is not for every homeowner. C. Nuon noted ordinance is one solution for housing shortages not only measure and does not have issue with affordable language. Solicitor Williams noted possible issue with rent control regarding this motion as statute may require municipality may have to reimburse homeowner the 30% loss of rent by ordinance. C. Robinson disputed rent control applies as ordinance is specific and that the question needs to be answered. C. Drinkwater commented that ADUs are a natural type of affordable housing as they are owner occupied and usually rent to known entities. C. Jenness noted Lowell meets its requirement of affordable housing and further noted concern with rent control and that the goal is to support ways to get units built. C. Gitschier noted affordability must be part of the ordinance as rents would not support the build. C. Scott commented on the affordability aspect of the ordinance. C. Robinson noted that the ordinance has no affordability language in it. C. Nuon supported affordability language as he was confident that petitioners would be developing units for the right reasons. M. Chau offered amendment to motion which was rejected by C. Robinson. Atty. McKenna (Law Dept.) noted number of units can be limited per district. C. Gitschier commented that the Council should have been informed of that information.

M. Chau began to question each member regarding adding amendments. C. Mercier questioned the amount of floor area needed as well as the special permit process. Ms. Cigliano responded to inquiries. C. Leahy noted he had no amendments and questioned requirements with detached dwellings, parking and application of the building code. Ms. Cigliano responded to each inquiry. **Motion** by C. Jenness, seconded by C. Nuon that there be no added utilities for ADUs but upgrades may be added to ensure safe use of the units. Adopted per Roll Call vote 10 yeas, 1 abstain (C. Mercier). So voted. C. Robinson noted only one utility box on property. C. Gitschier noted this was not an issue as you can upgrade existing utilities. **Motion** by C. Jenness, seconded by C. Yem to request City Solicitor prepare a Home Rule Petition (Similar to Salem, Ma) regarding tax break if ADU units are subject to affordability provisions, as well as report of City Solicitor. Adopted as amended per Roll Call vote 7 yeas, 4 nays (C. Gitschier, C. Mercier, C. Robinson, C. Scott). So voted. C. Robinson noted a tax benefit should not be given to petitioners. C. Jenness noted it



was not a benefit to landlord but an assist to those who are helping to increase housing stock. C. Scott questioned if existing units would have retroactive benefit. C. Gitschier noted taxes are based on services and ADU units increase services so benefit should not be given. C. Rourke noted the amount of developers who get enormous tax breaks by the City. C. Drinkwater such a tax break would assist with getting added units to the inventory and that Salem is a good model. C. Mercier commented that everyone must pay their fair share. C. Yem noted the relief is no different than a tax benefit to a developer. M. Chau offered amendment to motion with no objection to have City Solicitor provide a report regarding Home Rule Petition. C. Gitschier requested increase of services for ADU to be part of the report. C. Gitschier commented on setbacks for detached dwellings converted to ADUs. Ms. Cigliano responded to inquiry. C. Gitschier put forward a motion regarding setbacks which he withdrew without objection. C. Jenness noted setbacks are already a part of special permit regulations for detached dwellings. C. Drinkwater noted that petitioners need to go to land use boards for detached dwellings. C. Nuon commented on prior amendment to have special permit for detached dwellings. C. Yem noted Planning Board is involved in petitions for detached dwelling. C. Scott questioned use of language in Planning Board in zoning petitions. **Motion** by C. Scott, seconded by C. Gitschier to request side and rear setbacks go from 5 feet to 7.5 feet. Motion failed 5 yeas, 6 nays (M. Chau, C Drinkwater, C. Jenness, C. Nuon, C. Rourke, C. Yem). So voted. C. Yem noted that there were many small lots in City. C. Drinkwater commented on C. Scott example and the use of a special permit in process. C. Robinson questioned special permit process and the installation of breezeways. Ms. Cigliano responded. **Motion** by C. Scott, seconded by C. Robinson to incorporate language regarding trust ownership in the ordinance. Adopted per Roll Call vote 11 yeas. So voted. C. Scott questioned architectural design and number of people allowed in unit. Ms. Cigliano responded. C. Drinkwater and C. Yem did not have any amendments to put forward. **Motion** by C. Robinson, seconded by C. Mercier to have a one-year review by City Council or 16 petitions of the ordinance. Adopted per Roll Call vote 11 yeas. So voted. C. Jenness questioned type of review proposed. C. Robinson noted it would be data based. M. Chau commented on the process with the ordinance and the difficulty moving forward as each neighborhood as different needs and concern. Motion by M. Chau, seconded by C. Nuon to have special permit review for all ADU petitions that are to be placed on lots under 7000 square feet. Adopted per Roll Call vote 11 yeas. So voted. C. Yem noted that



there were many small lots in the City. C. Drinkwater noted concern for lot size but was willing to move forward as it would be subject to one-year review. C. Rourke requested reason petitions were denied to be part of the report. Speaker, Dennis McCarty and William Nickles, addressed the body. C. Leahy questioned final speaker regarding proposals.

4. ANNOUNCEMENTS

In City Council, none.

5. ADJOURNMENT

In City Council, **Motion** to Adjourn by C. Jenness, seconded by C. Drinkwater.

Meeting Adjourned at 10:00 PM.

Michael Q. Geary, City Clerk