

Lowell Zoning Board of Appeals Minutes

January 9, 2023 at 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: Chairman Pech, Vice Chair Callahan, Member McCarthy, Member Briere, Member Procope, Member Hovey

Members Absent: None

Others Present: Francesca Cigliano, Senior Planner

The following represents the actions taken by the Zoning Board of Appeals at the 11/9/2023 meeting. This meeting was held in the City Council chambers. Attendees had the ability to participate via Zoom as permitted by Chapter 107 of the Acts of 2022, signed into law on July 16, 2022.

Chairman Pech called the meeting to order at 6:30 PM

I. Continued Business

ZBA-2022-56

Petition Type: **Variance**

Applicant: **William R. Renaud**

Property Located at: **105-111 Martin Street 01854**

Applicable Zoning Bylaws: **Section 5.1; Section 5.3.1; Section 6.1**

Petition: **William R. Renaud proposes to split the two lots for zoning purposes, and construct a new single-family home on the 105 Martin Street lot. The subject properties are located in the Traditional Two-Family (TTF) zoning district. The 105 Martin Street lot requires Variance approval per Section 5.1 of the Lowell Zoning Ordinance for relief from the minimum frontage, minimum garage front yard setback, and minimum lot width requirements, and per Section 5.3.1 for relief from the minimum landscaped open space requirement, and any other relief required under the Lowell Zoning Ordinance. The 111 Martin Street lot requires Variance relief per Section 5.1 for relief from the minimum frontage, minimum side yard setback, minimum lot area, minimum lot area per dwelling unit, and minimum lot width requirements, and per Section 6.1 for relief from the maximum curbcut requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Applicant's Attorney

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

D. McCarthy motioned to continue the petition to February 13, 2023, seconded by S. Callahan, passed unanimously, (5-0).

II. New Business

ZBA-2022-63

Petition Type: Variance

Applicant: Property Located at: 228 First Street 01850

Applicable Zoning Bylaws: Section 5.1

Petition: James Thawngmung has applied to the Zoning Board of Appeals to split the existing lot at 228 First Street into two lots and construct a new single-family home on the newly created lot. The subject property is located in the Traditional Single-Family (TSF) and Traditional Two-Family (TTF) zoning districts. The proposal requires Variance approval per Section 5.1 for relief from the minimum front yard setback requirement and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Matt Hamor, Landplex

Speaking in Favor:

None

Speaking in Opposition:

Anthony Lally

A. Lally said that if something goes wrong there, what happens? Wall has been there for hundreds of years. First Street is notoriously a pond. The trees hold back erosion.

Liza Morales, 77 Durant Street

L. Morales said that she lives behind where this would be built. Love modern and traditional New England homes. This would be a beautiful home. Would affect my view which is why I bought this

house. This house elevation is 3+ stories. My land could be disturbed. Will lose river view and city view. See a lot of wildlife there. How much more land can we take from the city? There's other lots that can be built on.

Speaking in Favor:

Vesna Nuon, City Councilor, 10 Gibson Road

V. Nuon said that there is a shortage of housing and we need to balance the need for more housing and the community needs. Request of Mr. Hamor is not unreasonable especially for this family.

Discussion:

G. Procope said that he shares concerns of those in opposition. From a safety perspective. I drove by the road and saw it was recently paved. I like the idea but I'm concerned about this particular area.

M. Hamor said they can talk to the stormwater team and engineering about any potential water issues. Roof runoff will be going into subsurface infiltration system. The existing property where the SF house is, that area will remain untouched. Tried to make house as small as possible. Small footprint.

M. Briere said the application clearly meets hardship criteria. Engineering posed several questions. Would like those answers into the record. M. Briere asked M. Hamor to address engineering questions. Stated he would vote in favor.

D. McCarthy said wow what a house. M. Hamor emphasized the trees that would be preserved and there would be areas that would be untouched. D. McCarthy said he wanted to add a condition that at least 8 trees remain. Maintain at least 8 existing trees > 6 inches DBH. Major concern to maintain trees in this location. Is the building height also a variance request?

S. Callahan said he was concerned about the height of the building.

T. Hovey said he can appreciate the off-street parking. Access to open space is in question. Is there a door? M. Hamor pointed to access.

V. Pech said that the project is very impressive and detailed. Believes that the lot has a lot of hardships in terms of building on it. Client was creative in developing lot. Livable but mindful of shape and layout of area. Some of their comments were addressed in the Q&A. Housing is such a big need in the city. Suggested working with stormwater team to ensure there are no concerns with water. Noted that D. McCarthy had a great point about preserving green space.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. The applicant shall preserve at least eight (8) 6-inch DBH existing trees on the property;
2. The applicant shall obtain final approval from the Lowell Regional Wastewater Utility (LRWWU); and
3. The applicant shall submit a revised site plan prior to applying for a building permit that removes the grass area.

The motion was seconded by S. Callahan and was approved unanimously, (5-0).

ZBA-2022-64

Petition Type: **Variances**

Applicant: **Anny Chum**

Property Located at: **14 Harvard Street 01851**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Anny Chum has applied to the Zoning Board of Appeals to construct an addition to their existing single family home. The property is located in the Traditional Single Family (TSF) zoning district, and requires Variances under Section 5.1 for minimum side yard setback, maximum Floor-Area-Ratio, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Anny Chum, the Applicant

A. Chum submitted a letter of support from neighbors to the ZBA for the record.

Speaking in Favor:

Vesna Nuon, City Councilor, 10 Gibson Street

V. Nuon said he is happy to see the family stay in Lowell and is in support.

Speaking in Opposition:

None

Discussion:

M. Briere said that Ms. Chum's presentation is great. He believes relief requested in minimal. Maximum benefit. Support this petition.

D. McCarthy said this is a reasonable request. Had a question about tree in backyard. A. Chum said the branch is overtaking her neighbor's driveway. Tree will have to be removed. Have connected with tree company. D. McCarthy said we have lost so many trees over time. Need to request tree replacement. A. Chum said once things are completed she has other trees in mind for the rear. DM said another shade tree would be appropriate.

S. Callahan agrees that this seems to be a great project. S. Callahan asked if there was a pool in the rear. A. Chum said no.

T. Hovey said he has no questions. G. Procope said he is in support.

V. Pech said Mr. Chum is very philanthropic and gives back. Speaks volumes when neighbors are in support.

Motion:

D. McCarthy motioned to approve the variance with the following conditions:

1. The applicant shall replant one (1) shade tree on the property; and
2. The applicant shall obtain final approval from the Lowell Regional Wastewater Utility (LRWWU).

The motion passed unanimously, (5-0).

ZBA-2022-65

Petition Type: Variance and Special Permit

Applicant: Avetisyan Realty LLC

Property Located at: 133 Merrimack Street 01852

Applicable Zoning Bylaws: Section 12.1(d); Section 6.1:

Petition: Avetisyan Realty, LLC has applied to the Zoning Board of Appeals to convert the second floor commercial space at 133 Merrimack Street into four (4) residential units. The property is located in the Downtown Mixed Use (DMU) zoning district and requires a Special Permit pursuant to Section 12.1(d) for the use, Variance approval pursuant to Section 6.1 and for any other relief required under the Lowell Zoning Ordinance.

On Behalf:

John Geary, Applicant's Attorney

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

D. McCarthy said he was happy to see comments from the Director of Economic Development. Happy to see more residences coming to this area of the city.

S. Callahan asked where packages would be stored. J. Geary confirmed there would be a dedicated area.

G. Procope said he is in support.

V. Pech said they can't say enough how housing is a big need. Big need throughout the country. Creative repurpose.

Motion:

D. McCarthy motioned to approve the variances, seconded by M. Briere, passed unanimously, (5-0).

ZBA-2022-66

Petition Type: Variance

Applicant: Vichiravuth Kret

Property Located at: 65 Moore Street 01852

Applicable Zoning Bylaws: Section 5.1

Petition: Vichiravuth Kret to convert the existing single-family residence into a two-family residence. The subject property is located in the Traditional Two-Family (TTF) zoning district. The project requires Variance approval per Section 5.1 for relief from the minimum lot area per dwelling unit, and minimum usable open space per dwelling unit requirements, and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Hooshi Afshar, Applicant's Engineer

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan said he might need more information.

T. Hovey asked if there will be upgrades to utilities. H. Afshar said if need be, yes.

D. McCarthy asked staff to confirm how usable open space is calculated. D. McCarthy said this could be added as a variance.

V. Pech said the variance request is reasonable.

Motion:

D. McCarthy motioned and G. Procope seconded the motion to approve the variances with the following conditions:

1. The applicant shall submit a revised site plan showing a paved surface for the proposed driveway and at least two shade trees on the property prior to applying for a building permit.

The motion passed unanimously, (5-0).

ZBA-2022-67

Petition Type: **Variance**

Applicant: **Emerson 100 Real Estate**

Property Located at: **246.1 Market Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Emerson 100 Real Estate, LLC seeking Variance approval to construct 29 23 residential units at 246.1 Market Street. The subject property is located in the Downtown Mixed-Use (DMU) zoning district. The project has previously received the required Special Permit approval which remains active, and currently requires Variance approval pursuant Section 6.1 for relief from the minimum off-street parking requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Catherine Flood, Applicant's Attorney

Speaking in Favor:

Michael Garbo, 200 Market Street

Rosemar Dienes, 200 Market Street

Safer for neighboring buildings to not park on site. There's a lot of cars that park there. Appreciate the proposal and design.

Wayne Jenness, 200 Market Street

Speaking on behalf of neighbor out of town. His apartment overlooks roof. When this approval first came through, there was a concession in terms of placement of rooftops a certain distance away from windows. Wanted to mention before this was approved. Overall in support. We clearly need housing and this is an abandoned building.

Kerry Jenness, 200 Market Street

K. Jenness said she echoes Jim Wilde's comments about HVAC not being near windows. No need for parking, we have plenty of space in garages.

Speaking in Opposition:

None

Discussion:

T. Hovey said he doesn't have a problem with this. Close to public garages. G. Procope said he thinks this is a viable project. Definitely needed for the city.

M. Briere said that they are in possession of letter from Jim Wilde. C. Flood said that the HVAC condition is built into the Planning Board approval.

D. McCarthy said he looks forward to seeing this project go forward. With new parking garages, almost too many. Need to fill them up. Let's get people in these buildings and let's use the parking garages.

S. Callahan said he believes they can approve.

V. Pech said this is straightforward. There is no issue here. Need to get this project going.

D. McCarthy said he visited the site today and had a hard time finding where the notice is. Ask for traffic engineer to look into access from Dutton Street. S. Callahan asked and F. Cigliano confirmed that ZBA does not have jurisdiction over this.

Motion:

D. McCarthy motioned to approve, seconded by G. Procope, passed unanimously, (5-0).

III. Other Business

Bower's House Discussion (150 Wood Street)

D. McCarthy said that when this was voted on by the Board, made it a condition that the applicant work with Steve Stowell to maintain minimum standards of property. It was later determined that Steve Stowell has no jurisdiction because the property is not in a historic district. In light of that - condition could have been different. Prior to recent renovation happening, it languished. Fear was that oldest house was going to be lost. Wondering if we could revisit application and place a different condition.

S. Callahan said that health inspectors are authorized to do this. We aren't an enforcement board. We are an appeals board. We lay the conditions and then the enforcement agents take care of it. They are supposed to do it. Not an enforcement board, an appeals board. Get a petition, rule on it, that's the nature of it. There's other parts of the city that need to enforce it.

T. Hovey said they just had an applicant who didn't pull permits and then they came to us for approval. Caught by inspectional services.

Minutes for Approval:

D. McCarthy motioned to approve the minutes from 12/12/2022, seconded by S. Callahan, passed unanimously (6-0).

D. McCarthy motioned to adjourn, seconded by M. Briere, passed unanimously, (5-0). 9:25PM.