

Lowell Zoning Board of Appeals Minutes

January 27, 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
Jared Alves, Associate Planner

The following represents the actions taken by the Zoning Board of Appeals at the 01/27/2020 meeting.

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

I. Continued Business

II. New Business

ZB-2020-1

Petition Type: Variances and Special Permit

Applicant: Hector Rodriguez

Re Property Located at: 15 Whipple Street 01852

Applicable Zoning Bylaws: Section 5.1; Section 6.1; Section 12.1(b)

Petition: Hector Rodriguez has applied to the Zoning Board of Appeals for Variance and Special Permit approval to convert a vacant first-floor commercial space into a housing unit, thereby converting the property from a 1-family home into a 2-family home. The property is located in the Traditional Mixed-Use (TMU) zoning district. 15 Whipple Street requires Variance approval under Section 5.1 to encroach on the minimum lot size, minimum lot area per dwelling unit, minimum frontage, side setback, and rear setback. 15 Whipple Street also requires Variance approval under Section 6.1 for relief from off-street parking requirements, Special Permit approval under Section 12.1.(b) for the proposed use of a two-family in the TMU zoning district, and for any other relief required under the Lowell Zoning Ordinance.

Speaking on behalf:

Hector Rodriguez, Applicant

H. Rodriguez presented the application. 4 bedroom unit. Basement, first floor directly accessible from street, vacant for a long time. Previous listing, vacant for number of years. 9 ft.-high ceiling, 900 sq. ft. total. Good space for residential unit. My wife and I would like to build.

Speaking in favor:

Speaking in opposition:

Charles Filiatrault, owner of nearby Frank and Ernest Convenience Store: My problem is parking. Since I can recollect, it's been a problem in that neighborhood. People park from Chapel Street right on my corner. Two 30 minute stickers, violated continually. One driveway furnishes dumpster in the back. Blocked by cars. Absolutely no parking on the street for new people moving into the neighborhood. Already have a people problem in existing apartments, 3, 4 cars per apartment. I don't blame the gentleman but we are in a crisis in that neighborhood. There's another building in the back that needs to park in front also. I know there's at least two cars, these two cars are parked in front. One probably has a legal parking plaque, then the rest of the street is taken up. That's my only concern. That's all I'm gonna say.

Maria Silva, 22 Whipple Street: I live directly across from this house and it has been used as a single family house since 1966 when I moved into that neighborhood. The gentleman that lived there stored his stuff in the basement. That's still a basement to that single family house. The fact that there's no space at all, makes no sense to take away two parking spaces with a driveway there. The other thing is, there's another house right behind it, it's such a congested area, people come and they want to park and there's no parking. I have a parking sticker that says restricted. People look at it and park there anyway. Adding another apartment to a single family, I have a basement and I am not going to convert it to an apartment. That is my biggest thing.

Antonio Quintal, 38-40 Whipple Street: I have been there since 1972. Over the years parking situation has become much worse in the neighborhood. All of the houses are now occupied, used to be vacant on the side streets. It's pretty tough for us to get a spot. There's also directly next door a vacant apartment, I'm not sure what the address is on the same side next door. Around the corner on Central Street, currently vacant. Once they are renovated and filled there will be additional problems with parking.

Discussion:

S. Callahan: How long have you had the property?

H. Rodriguez: A little over a year.

S. Callahan: Multiple addresses?

J. Alves: It's common to have multiple addresses at a property.

S. Callahan: What you are trying to do here, it is a tight fit neighborhood, parking is certainly an issue. I believe this is the second meeting looking at the Back Central area where parking is an issue. I have concerns about that. A couple things though that concern me that we need more information on. Need a very good detailed outline, no layout of how the proposal is to convert the bottom area. The interior. How the layout is going to be. We would be seeking to see how layout is going to be. One big open space, several rooms, bedrooms, bathroom, kitchen, is something I would like to see. The other thing, main issue is parking. I believe there was mention that you would be willing to put a parking space?

H. Rodriguez: If Board requires to build, I can have AHO Surveying draw the parking spot on the site plan. But then you would be taking one on the street, that's the challenge.

S. Callahan: Understandable. From the perspective, taking one off street. I would like to see updated plans on parking. Again, it is a tight fit. There's not much space to work with. I will listen to fellow Board members, we are not in the position to make a decision.

H. Rodriguez: Drawings of interior and surveyor of parking spot?

S. Callahan: How it would be laid out in the plot plan. Would have to see where the curb cut would be. How driveway would be laid out. That's what I'm thinking right now.

M. Briere: I'm unable to render any decision until we see a definitive parking plan. That is a steep hurdle. I don't know how to achieve it. You are entitled to present us with a plan before final judgement.

D. McCarthy: I have a couple questions. Purchased in January last year, do you live there?

H. Rodriguez: No.

D. McCarthy: More income?

H. Rodriguez: Yes, we are investors, we plan to keep it, it is comfortable for a studio. I think it's only missing cosmetic work.

D. McCarthy: Parking – don't have parking on-site for single-family? Now you are asking to increase the density of the lot. Doesn't show how to increase green space or open space. Have you reached out to neighborhood association that might have parking that could be shared so you could come up with a scenario where- - I don't know if church has flexibility – opportunity for a site that doesn't have evening parking required that you could utilize. Parking is everything for this location. You have to do something to satisfy that so that there's not just financial gain. I like the idea of more utilization, I am against losing green space, throwing a parking space in that little triangle. See what you can do with neighborhood groups. That's all I have.

V. Pech: I do understand why you are here, what neighbors are going through. I totally get it. I think my reservation is very similar to the rest of the Board, first unit basement floor could be converted into a studio, more detailed parking plan so it doesn't affect the neighborhood adversely. I want to do it the right way. I like D. McCarthy's comment about working with a neighborhood group for shared parking resolution. I think there can be a middle ground, but before finding a parking solution, I'm not comfortable agreeing to do. I'm open to these projects, adding more housing, so if you had a different parking plan I would feel better.

G. Perrin: Request continuance. Detailed interior floor plan and parking plan. Advise you to take comments/suggestions of Board.

D. McCarthy: Additional question. Passageway?

H. Rodriguez: Fence and big wall that prevents people from accessing.

D. McCarthy: Is it utilized for off street parking? Show how wall works, have that detail.

S. Callahan: Passageway to neighbor's property. Need clarification on site plan. Surveyor try to clarify

that. Show who neighbors are, where lot lines are. Another thing, double check GIS maps on city system.

Motion:

S. Callahan motioned and **V. Pech** seconded the motion to continue this petition to the February 24, 2020 ZBA meeting. The motion passed unanimously, (5-0).

ZB-2020-7

Petition Type: **Variance and Special Permit**

Applicant: **MG Realty Development, LLC**

Re Property Located at: **720 Rogers Street 01852**

Applicable Zoning Bylaws: **Section 6.3.4; Section 6.3.2(8)**

Petition: **MG Realty Development, LLC is seeking Special Permit and Variance approval to install three wall signs and one freestanding sign for the car dealership at 720 Rogers Street. The three wall signs would total approximately 11, 20, and 64 sq. ft., respectively, and each face of the freestanding sign would be approximately 78 sq. ft. All four signs would be internally illuminated and would replace existing ones. The property is in the Regional Retail (RR) zoning district and the signs require Special Permit approval under Section 6.3.4 for internal illumination, the freestanding sign requires a Variance under Section 6.3.2(8) to exceed the maximum height and size of each face, and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf:

Philip Naffah, Harvey Signs

P. Naffah: Presented the application. We were purchased and this is the new changeover to new name. Go ahead and update signage. Building signs, service and Mazda text with Mazda logo replaced with what was existing. Newer upgraded LEDs.

G. Perrin: Updated, less energy?

P. Naffah: Yes, up to date. Mazda plans on staying in city for a while, every 10-15 years rebrand happens. Requesting that it could be allowed that the sign is always allowed at property so that in 10 years don't have to come back and request extra relief.

J. Alves: So long as the sign is same size as smaller, would be allowed. Used to be a condition that they would have to come back, no longer the case.

Speaking in favor:

None

Speaking in opposition:

None

Discussion:

M. Briere: Hours of illumination?

J. Alves: This is a blank slate. Condition from memo. If you'd like to apply the same condition you can.

M. Briere: No more stringent, but want to be consistent.

G. Perrin: Be consistent with prior illumination times. What we have been doing, dusk to dawn, 1 hour after closing. Board has a lot of illumination signs, stay in line, dusk to dawn, hour after closing, whichever is later so that it does not affect you seasonally.

D. McCarthy: Comment that the application is very detailed and thorough, glad to see that. Sign has shrunk. Graphics look good. Hours of illumination my only comments.

S. Callahan: I have no comments or concerns. New branding looks really nice.

V. Pech: I agree, I think that this makes sense, the rebranding, upgrades. This business is doing well, I'm glad to see that its growing and this marketing makes sense. Wish you best of luck.

Motion:

S. Callahan motioned and **M. Briere** seconded the motion to GRANT the Special Permit per Section 6.3.4 for an internally illuminated sign and the Variance per Section 6.3.2(8) for a freestanding sign with the following condition:

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

The motion passed unanimously, (5-0).

ZB-2020-8

Petition Type: **Variances**

Applicant: **Michelle DeAlmeida**

Re Property Located at: **52 Staveley Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Michelle DeAlmeida has applied for Variance approval to add an approximately 1,660 sq. ft., multi-floor addition, including a new attached garage, at 52 Staveley Street. The property is located in the Traditional Neighborhood Single Family (TSF) zoning district. 52 Staveley Street requires Variance approval under Section 5.1 for the maximum FAR, minimum side yard setback, and for any other relief required under the Lowell Zoning Ordinance.**

Speaking on behalf:

Michelle DeAlmeida, Applicant

M. DeAlmeida: Looking to do an addition and garage.

Speaking in favor:

Joseph Kirane, 51 Staveley Street: I've seen the design, it looks very nice, good for the area. They keep a very clean area. I think it would only be an improvement for the area.

Speaking in opposition:

None

Discussion:

D. McCarthy: I have a couple questions. Site plan, you have existing shed. Double shed?

M. DeAlmeida: My husband was putting up a roof with no walls to put his tools underneath, our house is very small. We have literally no storage. I put all the kids' bikes, Christmas stuff. In the back he just put up temporary to put his stuff under. All that will come down.

J. DeAlmeida: I built a little roof over and four posts, saws and stuff. Will tear down and move shed five feet. After I build everything I will tear it down. I need a place to store my stuff for the addition.

M. DeAlmeida: Once this is up he will tear it down.

D. McCarthy: Footprint of addition similar to double-shed in theory. Did you get permits? You have a pool in the back.

M. DeAlmeida: When we bought the home, I guess years ago, the people in that neighborhood all moved their fences so when I got the permit for the pool I didn't know it was on National Grid land. When we got the plot plan, they showed the pool was on National Grid. I did put a call out five times and left them messages calling them to see if I could have permission so I wouldn't have to move the pool. Its above ground, not going to be there forever. It's on their land and I was unaware. I guess everyone has their fence on their land.

D. McCarthy: Floor Area Ratio, highest floor area on street? Seemed to fit well. Green space left over? Paved area? I hope your intent isn't to pave the whole lot.

M. DeAlmeida: No, just to garage doors.

D. McCarthy: Site plan, limit hard scape to walkway and driveway. Make sure you're not paving the whole lot. I don't see a big problem, making stretch with the FAR. Set back from the street.

M. Briere: I'm not offering this in an accusatory vein, a cautionary one. I guess you guys are buddies with National Grid. As I read on, comments – didn't request variance necessary for minimum side yard setback. Oversight or liberty? Pattern of liberties being taken here. Want to ensure were not skirting the law. No further questions.

S. Callahan: Just regarding side yard setback – can consider this? Memo indicates that the sum side yard was reduced to 22 feet, 19 feet total. Clarify that. Is there any way to scale back the proposed addition to meet those requirements, 25 feet? Dimensions of the 2 car garage? Cites 6.1.11, clearance.

D. McCarthy: Want to have green space along the house itself. I think the variance is probably best unfortunately.

S. Callahan: Cut down on FAR as well. Tried to be out of the box to be more in line with the zoning code. My other main concern was the National Grid thing, trying to work that out. All the other neighbors encroaching as well, I'm surprised.

M. DeAlmeida: When I pulled the permit I was unaware and that's what I found. They came and didn't say anything.

S. Callahan: Condition of hardscape plan, including curb cuts.

V. Pech: I totally get why you're doing this. I'm relieved the temporary shed is going to come down. I was a little apprehensive with the FAR, but I think relief can be granted. Have merits to the variance. Always a good thing to have neighbor speaking, if someone was against, would be harder to work through. The side yard setback I'm ok with personally. Overall I think this variance can be granted.

S. Callahan: Even though you are removing existing shed, we are going to condition that.

Motion:

S. Callahan motioned and **D. McCarthy** seconded the motion to GRANT the Variances per Section 5.1 with the following conditions:

1. The applicant shall limit additional hardscape to the new driveway and walkway to be shown on an updated site plan prior to applying for a building permit. The new driveway shall comply with the maximum allowed curb cut of fifteen (15) feet.
2. The applicant shall remove the existing shed and temporary extension attached to the shed when construction of the new addition is complete.

III. Other Business

Extension Request: 102 Appleton Street 01852

Einstein Realty, LLC is seeking an extension of a Variance for one (1) year in order to allow the necessary time to exercise a Variance originally granted on August 27, 2018. Since the original Variance was granted, the applicant has requested and received a six (6) month extension. At this time, the applicant is unable to complete the project, but has found someone that is interested in purchasing the property and completing the build-out as approved. The new owner will not be able to exercise the Variance by obtaining a building permit prior to the extended date of February 27, 2020. As such, the applicant is requesting another Variance extension of one (1) year to allow time to exercise the Variance.

On Behalf:

John Geary, Geary & Geary, Applicant's Attorney

J. Geary: Presented the extension request. Client has found buyer for project. It was too expensive. Need more time for the variance.

Discussion:

V. Pech: I see no concerns with this extension. Is this a realistic time frame?

J. Geary: It is, we should have requested a year the first time around. Certainly enough time. Buyer ready to go, needs to work on finalizing contracts and time to pull building permits.

V. Pech: Big endeavor.

J. Geary: Contractors busy right now.

V. Pech: No concerns. Wish you the best.

S. Callahan: I don't have any concerns. I wish you the best of luck.

D. McCarthy: I just have a couple questions. Not too many concerns. We really want to be sure that we are giving an extension where it is warranted. Understand trying to get financing. It's a lot to ask to keep continuing.

J. Geary: She will be ready to go given a little more time.

D. McCarthy: Looking forward to the project.

M. Briere: No questions.

Motion:

S. Callahan motioned and **M. Briere** seconded the motion to GRANT the Variance extension for (1) year to expire on February 27, 2021.

Extension Request: 1 E Merrimack Street 01852

The Daly Group, LLC as owner of One Riverfront, LLC, is seeking an extension of a Variance (s) for one (1) year in order to allow the necessary time to exercise a Variance originally granted on February 27, 2017. Since the original Variance was granted, the applicant has modified the scope of the project. The Variance is set to expire on February 11, 2020.

On Behalf:

Dave Daly, Project Manager

D. Daly presented the project. We have had some really good meetings with the city. Brought in an investor, going to move forward. Timeline is not going to line up. Looking for an extension.

Discussion:

S. Callahan: I don't have any objections, comments or concerns. Looking forward to getting this project off the ground.

V. Pech: I agree, I think this is an exciting project and great for the downtown in the city of Lowell.

M. Briere: No questions.

D. McCarthy: I like this project a lot, looking forward to it again. Is the first floor retail/commercial?

D. Daly: Mixed use. First version, significant size restaurant, gym, now we have scaled down to a 900 sq. ft. shop facing E Merrimack Street, good for coffee shop or lunch place.

D. McCarthy: Glad to see commercial there. Mixed use. Looking forward to this extension.

G. Perrin: We are looking forward to this, having a coffee shop next to the auditorium would be nice.

Motion:

S. Callahan motioned and **V. Pech** seconded the motion to GRANT the Variance extension for one (1) year to expire on February 11, 2021. The motion passed unanimously, (5-0).

Minutes for Approval:
January 13, 2020

S. Callahan motioned and **V. Pech** seconded the motion to APPROVE the minutes from the January 13, 2020 ZBA meeting. The motion passed unanimously, (5-0).

V. Adjournment

G. Perrin: Thanks to Phillip Jamina, thank you for your professionalism and time to this Board, wish him the best of luck to him and his family.

V. Pech: Echo same sentiments, always courteous and professional, some people don't realize the commitment it takes to be on this Board and to do this role, it is very time consuming, I completely understand why people want to move on.

S. Callahan: Shares same sentiments. Will be sorely missed, he did a great job great service to the city, hope to see him at future functions.

D. McCarthy: Thought Phil added quite a bit to the Board, sacrifice to get here on time working out the city is tremendous. Tried to do that while on the board. Testament to his interest working for the city. Thanks.

M. Briere: Close friend of mine, hell of a colleague, we will miss him.

S. Callahan motioned and **D. McCarthy** seconded the motion to adjourn the meeting. The motion passed unanimously, (5-0). The time was 7:54pm.

New Business to Be Advertised by January 12, 2020 and January 19, 2020