

Lowell Zoning Board of Appeals Minutes

March 22, 2021 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: Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procopé, Member Njoroge

Members Absent: Chairman Perrin

Others Present: Fran Cigliano, Senior Planner; Jess Wilson, Associate Planner; Dylan Ricker, Assistant Planner

The following represents the actions taken by the Zoning Board of Appeals at the 3/22/2021 meeting. Due to the COVID-19 pandemic, this meeting occurred using the Zoom video conferencing platform.

Vice Chairman Pech called the meeting to order at 6:31pm.

Continued Business

ZBA-2021-5

Petition Type: **Variance**

Applicant: **Lupoli Companies, LLC**

Property Located at: **330 Jackson Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Lupoli Companies, LLC seeking Variance approval to construct an 8-story, 548 space parking structure at 330 Jackson Street. The property is in the Hamilton Canal Innovation District (HCID). The proposal requires Variance relief from Section 10.3.8(3) Building Form Standards for Parcel 1 and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Chris Raymond, Applicant's Representative

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

C. Raymond stated that the applicant is seeking a continuance as they are still working out project details which may alter the terms of the Variance they require. The applicant is seeking a continuance for 1 month to the April 26th ZBA meeting.

S. Callahan said that the east side of the site plan references Revere Street, but believes that this is part of Canal Street. He wants to be sure the site plan is updated or there is clarification on the name of the street.

C. Raymond said they will update the site plan after finalizing the Variance they will require.

Motion:

D. McCarthy motioned and S. Callahan seconded the motion to continue the petition to the April 26, 2021 ZBA Meeting. The motion passed unanimously, (5-0).

ZBA-2021-1

Petition Type: Variance

Applicant: Lorenzo Arpini

Property Located at: 74-76 Chapel Street 01852

Applicable Zoning Bylaws: Section 6.1

Petition: Lorenzo Arpini has applied to the Zoning Board of Appeals seeking Variance approval to convert a 3-family home into a 4-family home. The property is located in the Urban Multi-Family (UMF) zoning district. The existing home at 74-76 Chapel Street requires a Variance under Section 6.1 for off-street parking requirements, a Site Plan Review under Section 11.4 for the conversion of a residential structure with more than 3 dwelling units, and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Lorenzo Arpini, Applicant (Not in attendance)

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

J. Wilson stated that the applicant is unable to attend the meeting and is requesting a continuance to the April 12, 2021 ZBA Meeting.

S. Callahan asked if the applicant is aware of the necessary items. J. Wilson said that the applicant did not know that he needed to submit the materials prior to the meeting, he will submit the necessary materials to DPD.

D. McCarthy asked whether the new materials will be reviewed by other City Departments, such as traffic, and building department. J. Wilson stated that she will circulate the materials to other departments for feedback.

Motion:

D. McCarthy motioned, and G. Procope seconded the motion to continue the petition to the April 12, 2021 ZBA Meeting. The motion passed unanimously, (5-0).

New Business

ZBA-2021-6

Petition Type: **Variances**

Applicant: **Joseph Papetti**

Property Located at: **81 Farmland Road 01850**

Applicable Zoning Bylaws: **Section 6.3**

Petition: **Joseph Papetti has applied to the Zoning Board of Appeals seeking Variance approval to erect a projecting sign at the existing business at 81 Farmland Road. The property is located in the Traditional Single Family (TSF) zoning district, and received prior approval from the Zoning Board of Appeals to operate as a real estate office. The proposed application requires a Variance per Section 6.3 for projecting signs, and all other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Joseph Papetti, Applicant's Representative

Speaking in Favor:

Ray Boutin, 255 4th Avenue

R. Boutin stated that he has lived in Lowell for over 25 years, and has been practicing real estate in the City for over 5 years. They have clients at the office who frequently get lost and the sign is meant to address this, and said that the sign is not intrusive.

Speaking in Opposition:

None

Discussion:

J. Papetti stated that the property houses a real estate office and real estate management business, and is seeking permission to erect a hanging sign. The property is setback from the road and clients frequently get lost. They are proposing two small signs, the signs are 10 inches by 24 inches, and the hanger for the sign is 30 inches. There will be no interference with pedestrians or vehicles, there is a planter at the bottom of the building which extends 36 inches, and the signs will not extend beyond the planters. Clients frequently get lost looking for the office and the applicant does not want people to have to drive around the neighborhood searching for the office. For that reason the applicant is seeking a Variance to erect a sign.

G. Procope stated that the building is very beautiful, sheds a good light on the neighborhood, and asked where the sign will be located. J. Papetti stated that he provided pictures of the sign and building. The sign will hang above the first two windows on the street side. There is a planter near the paved area, and the sign will not project past the planters.

M. Briere stated that he has no questions and complimented the building's appearance.

S. Callahan said that it makes sense to add a sign, and its addition will alleviate traffic in the neighborhood caused by people searching for the business. He asked to confirm there will be two signs, one for DeRosa Properties, and one for ReMax, their sizes, and whether they will be illuminated. J. Papetti confirmed there will be two 20 inch signs which will not be illuminated.

R. Njoroge stated that the sign is not intrusive and is aesthetically pleasing. He had no objections.

D. McCarthy agreed that the building is well-maintained and positive for the neighborhood. He asked to confirm the length of the planter. J. Papetti stated it goes out 32 inches.

D. McCarthy asked to confirm that the sign is 24 inches wide. J. Papetti stated that the sign holder is 30 inches, but the sign is 24 inches.

D. McCarthy asked to confirm the length of the building's overhang. J. Papetti stated that the documents show it is 24 inches. D. McCarthy stated that the sign keeps with the intent and design of the building, and is in favor of the sign variance.

V. Pech agreed that the sign goes with the neighborhood and is not intrusive. He does not see any issues with the project.

Motion:

D. McCarthy motioned, and M. Briere seconded the motion to approve the Variance to erect a projecting sign at the existing business at 81 Farmland Road. The motion passed unanimously, (5-0).

ZBA-2021-4

Petition Type: **Special Permit**

Applicant: **Coljack Development Corporation**

Property Located at: **698-706 Lawrence Street 01852**

Applicable Zoning Bylaws: **Article XII**

Petition: **Coljack Development Corporation has applied to the Zoning Board of Appeals for Special Permit approval to construct a duplex at 698-706 Lawrence Street. The subject property is located in the Traditional Mixed Use (TMU) zoning district and requires a Special Permit under Article XII for use, and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Applicant's Representative

David Fieldsend, Applicant's Engineer

Speaking in Favor:

None

Speaking in Opposition:

Rosa Bonilla, 714 Lawrence Street

R. Bonilla stated that the property has been left vacant and not cared for. She is concerned that the property is only now being developed because of the current real estate market.

Eyolise Espada, 712 Lawrence St, Apt. 2

E. Espada stated that she resides at the property located behind 714 Lawrence Street, and is concerned with potential fire hazards. The Fire Department's only access to the property is via the vacant lot, there are two buildings located in front of 712 Lawrence Street, 714 and 716 Lawrence Street which makes it

difficult to access.

Discussion:

G. Theodorou stated that the application is for a Special Permit for use to construct a duplex in the TMU zone and Variances for the setback. In the TMU setbacks are required to be consistent with other setbacks in the vicinity, and there are many properties built up right against the sidewalk. The applicant has requested a Variance from that requirement, as well as the setback for the garage; garages are required to have a 21 foot setback.

G. Theodorou said that the property at 698-706 Lawrence Street is a vacant parcel, and has been vacant for over 30 years. There was a prior Special Permit for construction in 2002, however the parcel is currently vacant. The applicant is seeking to develop this parcel and construct a duplex consistent with the plans that have been filed. The garage is on the first floor, and then the living room and kitchen is on the second floor with bedrooms on the third floor, and loft or storage on the fourth floor. The submitted plans show these as a loft or storage area. Comments from DPD were received on Friday, and they reached out to DPD to discuss the comments due to the serious concerns raised in them.

G. Theodorou stated the requirements of the Special Permit are that the project fulfill the needs of the community and the City which they are doing by redeveloping a vacant, underutilized parcel. There is no question with respect to the adequacy of utilities; traffic flow and parking will be addressed. In terms of neighborhood character, infilling this lot with a duplex is something that should be done, leaving it in its present condition serves no function to the community or city. There is no impact on the natural environment due to the subsurface infiltration system that was reviewed and approved. Trees will also be planted in the front and where permissible shrubs will be planted in order to amplify the green space. In terms of fiscal impact on the City, they will be building a residential structure with 2 units providing tax revenue to the City.

G. Theodorou said that one of the major concerns raised was the front facing garages, and the safety concern of residents backing out onto Lawrence Street. The lot was studied and the conclusion reached was that this design being presented is the best possible, and most cost-effective design. Moving the structure up to the sidewalk, and having the parking in the rear would require there be a driveway on the left side of the property. A driveway cannot be constructed on the right side due to the elevations in the rear, and the severe bedrock on that side. In order to have the garages in the rear and allow for the turning radius this would essentially require a parking lot in front of the garages. This will increase pavement and will impact the open space that can be provided.

G. Theodorou cited a previous Zoning Board decision from 2017 for a similar project two doors down at 682-684 Lawrence Street. Coljack Development has been going forward on these processes and decisions, and moved forward on each one with consideration of the Board. There have been several approvals at Court Street, Abbott Street, and Manchester Street each with driveways that back out into the street. The current design is the most cost efficient design.

G. Theodorou stated that a safety concern was raised regarding 712 Lawrence Street which is located behind 714 Lawrence Street. DPD commented that the proposed development would impact fire and safety at that property. The applicant would support hearing comments from the Lowell Fire Department regarding these concerns. They believe the Fire Department would fight this fire from the street as they do all other fires, and not require this undeveloped lot to gain access to that rear parcel.

G. Theodorou said that there was a comment stating that the project is located within the National Historic Preservation Overlay District. The project was reviewed by Stephen Stowell and there were no comments. The parcel is located 300 feet from the Conservation protection area and there would be no impact on protected wetlands.

G. Theodorou agreed with the DPD comments that the third floor will be used as a loft area. The abutting property on the north facing side has a 10 foot buffer off of their building used for parking. The applicant does not see how they can be held responsible for the neighbor's off-street parking. The proposed retaining wall on the east side of the building is believed to be a question for the Building Department. The question pertaining to the utility pole is a question for National Grid. The applicant will replace the damaged sidewalks, and plant shrubs where permissible.

D. Fieldsend stated the property is in the TMU zoning district and complies with frontage, lot area, and LA/DU requirements. Various layouts were considered in project development, including locating the property near the street. The main problem with this was the 12 to 14 foot elevation difference between where the drive way would enter to the rear of the property. Additionally, they would need to either build a retaining wall along the left hand side or blast out a ledge in the rear. The plan is at 10 scale instead of the typical 20 scale to show greater detail. In order to accommodate a driveway along the left side of the property and have a vehicle make a turn back into a parking lot or into a rear facing garage would require much of the rear yard be paved, and would require either filling or blasting. Additionally, they will be infiltrating the roof runoff as well as the proposed infiltration trenches running along the side of the proposed driveways to help facilitate storm water. The retaining wall and stockade fence to the right of the property and the broken pavement to the right of the property influenced the decision to locate the building at the center of the lot. The project is compliant with zoning with the exception of the 21 foot garage setback.

M. Briere agreed that the property is an eyesore in need of investment, and would love to see the site developed. M. Briere asked what the concerns are with safety and emergency access, and whether the Fire Department has weighed in. F. Cigliano said they have not commented and DPD staff will reach out to them after the hearing to solicit their comments.

M. Briere stated that it is vital for the Fire Department to provide input to help understand potential problems. He said that he is unsure why DPD indicated a potential problem, and asked whether it is related to driveways or garages, and inquired about what would cause firefighting concerns.

D. McCarthy sought to confirm the Variances necessary for the project. G. Theodorou stated there were 2 Variances, one for the 21 foot garage setback, and a Variance from the requirement that setback be consistent with other properties in the neighborhood.

D. McCarthy asked for more information about consistent setbacks for properties and how the Variance would work. J. Wilson stated that no setback is required in the TMU district if it keeps with the appearance of the neighborhood.

D. McCarthy said that adjacent properties vary with their setbacks, one property is farther setback, and at 686 Lawrence Street there is a similar setback. He asked if there was a setback Variance other than parking. J. Wilson stated there is a Variance for the garage setback only, there is no Variance for being similar to nearby properties.

D. McCarthy asked to confirm the Special Permit is due to the property being located in the TMU district. D. Fieldsend confirmed that is since there will be 2 units and is located in the TMU district.

D. McCarthy noted that the applicant is not seeking significant relief, and has done a good job fitting a building which requires minimal relief from the Zoning Board. He stated that there is a property one structure down with a similar driveway, however there is a softer turn, not a 90 degree turn. D. Fieldsend said that the property is located at the intersection and there is sight distance in both directions unlike the other property.

D. McCarthy stated that if the project is continued it would be helpful to receive information related to traffic incidences to determine if accidents are common at this location. He said that moving parking to the back makes sense if the site is flat, but this site would require blasting. He asked whether blasting would disrupt neighbors.

D. Fieldsend said that in order to put a driveway in the rear you would have to cut to be equal to the elevation near the street, or bring it up to be a first floor driveway. The first floor then becomes used for car storage, and you would still have a walkout beneath that which would become prohibitive. D. Fieldsend confirmed they believe it is primarily ledge in the back of the lot, it would need to be further investigated, but would likely require blasting through ledge. The applicant believes there is more benefit to having green space in the rear than parking.

D. McCarthy asked whether the neighbor currently uses part of the property for parking. G. Theodorou stated that the owner has not granted approval, and there is not currently an agreement or easement of record to their knowledge.

D. McCarthy stated that the lot appears to have been 2 combined lots. D. Fieldsend said that the previous owners combined the property in 2019.

D. McCarthy asked that the heights be added to the drawings. D. Fieldsend said the calculated is 24.4 feet and this will be added to the drawing.

R. Njoroge agreed with other Board members, and stated there was a lack of information in the petition. He asked if there was a bus stop in front of the property. S. Callahan stated there is an LRTA bus stop which appears to be in front of the neighboring property.

R. Njoroge said that the petitioner would be well-served to understand traffic functions of the street, and agreed that the Fire Department should provide comments regarding the neighboring properties. He does not have concerns about the special permit as TMU allows for residential uses.

G. Procope agreed with fellow Board members, and reiterated concerns about fire safety raised by neighbors. G. Procope stated more information is needed about traffic as well, and the project may be beneficial to the City by adding revenue and redeveloping an abandoned property.

S. Callahan said his main concern is the traffic impact, and agreed the property is an eyesore. S. Callahan asked what can be done to benefit the City and minimize impacts on neighbors. He agreed that the Fire Department should weigh in on the development. S. Callahan asked why the applicant is proposing a duplex rather than a single family.

G. Theodorou stated that is economics, if the duplex complies then it can be done. The applicant is only requesting Variances, and supports having the Fire Department weigh in on potential safety concerns, as well as any input on traffic incidences from the Police Department. G. Theodorou added that the development is residential not commercial and there will not be frequent traffic.

S. Callahan agreed, and stated that the applicant is seeking to create a property which does not meet traffic requirements. The primary concern is that the property is at the corner of multiple streets. G. Theodorou stated that the project complies with parking and they are not seeking any parking relief, and believes there cannot be traffic concerns without first have a report on accidents from the Police Department.

S. Callahan stated the Fire Department frequently provides no comments as they get busy and it does not mean they do not have any comments. J. Wilson stated she will follow up with the Fire Department for comments. F. Cigliano said that the Fire Department changed their point of contact and there is a new person sending comments.

S. Callahan said he was hesitant to vote on the project tonight. G. Theodorou stated that the applicant supports getting additional information to review.

M. Briere agreed with G. Theodorou and sought to clarify remarks. He stated the property is in desperate need of attention and previous comments were directed toward the lack of comments from Fire Department or Police Department.

V. Pech agreed with fellow members and stated that he believed the project can happen with right support. His main concerns are safety, fire access, and increased traffic. He said he wanted to be sure these concerns were mitigated prior to a final vote, and urged the petitioner to reach out to neighbors to address their concerns. He asked when this meeting should be continued to.

G. Theodorou asked when DPD could get the information. V. Pech asked DPD staff when comments can be received from appropriate departments. J. Wilson stated that it depends on how quickly the departments respond, 2 weeks should be enough time, but 4 weeks would be safer.

D. McCarthy stated that many nearby properties on Lawrence Street have steep curbs and residents back out onto road. He was interested in information pertaining to nearby traffic accidents. J. Wilson agreed.

S. Callahan stated that the petition would be continued to the April 26, 2021 ZBA meeting, and this would serve as notification.

Motion:

D. McCarthy motioned, and M. Briere seconded the motion to continue the petition to the April 26, 2021 Zoning Board of Appeals meeting. The motion passed unanimously, (5-0).

Other Business

Minutes for Approval:

March 8, 2021

D. McCarthy motioned, and G. Procope seconded the motion to approve meeting minutes for the March 8, 2021 meeting. The motion passed unanimously, (5-0).

Announcements

D. McCarthy asked that materials be made available for neighbors to review prior to April 26. J. Wilson confirmed this would be done.

Adjournment

V. Pech motioned to adjourn, the motion passed unanimously, (5-0). The time was 8:09pm.

New Business to Be Advertised by March 7, 2021 and March 14, 2021