

# Lowell Zoning Board of Appeals Minutes

**October 26, 2020 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](http://www.LTC.org).

**Members Present:** Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, and Member Procopio

**Members Absent:** Member Briere

**Others Present:** Jared Alves, Senior Planner

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*The following represents the actions taken by the Zoning Board of Appeals at the 10/26/2020 meeting. Due to the COVID-19 pandemic, this meeting occurred using the Zoom videoconferencing platform.*

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

## **I. Continued Business**

### **ZB-2020-38**

*Petition Type:* **Variances**

*Applicant:* **Ken Lania c/o Landsmart, LLC**

*Property Located at:* **61-69 Rock Street 01854**

*Applicable Zoning Bylaws:* **Section 5.1; Section 6.1.4**

*Petition:* **LandSmart, LLC is seeking Variance approval to construct six residential units at 61-69 Rock Street. The property is in the Urban Neighborhood Multi-Family (UMF) zoning district and the use requires Variance approval under Section 5.1 for decks proposed to encroach on the side yard setbacks, under Section 6.1.4 for the off-street parking requirement, and for all other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Ken Lania, Cornerstone Land Associates

Dean Jenkins, Landsmart, LLC

**Mr. Lania** said that the project is a six-unit development, three separate buildings, one on either side of the property, with a driveway in the center of the parcel that provides access to garages for each unit. This project has received approval from the Planning Board to develop more than three units in that zone. It has also received Historic Board approval. They have proposed decks and they fall within the side yard setbacks. The property is constrained in order to provide access to the garages. The decks are small. There is about 6' on the left side and about 7' on the right side of the property. That is a 13' cumulative setback and this zone requires a 17' setback, so they are requesting a 4' setback variance. They realized that it would create screening issues, so they have provided updated plans showing screening. The neighbors on the left side of the property are more affected since they have windows facing this lot. The right side does not have any windows facing this property. So, they are proposing windows on the left side. They are also proposing a 6' chain-link fence with privacy slats on all three sides. On the front side, they are proposing an aluminum Carolina style fence as recommended by the Historic Board. The goal is to take into

consideration of the neighbors. He provided the landscape plan showing the fence. It was a condition required for a building permit by the Planning Board. Regarding the parking variance, they had originally sought 4-bedrooms. Based on comments from the Building Commissioner, they decided to reduce the number of bedrooms to three per unit. That reduces the required parking from 18 spaces to 13.5 spaces. They are providing two car garage spaces under each unit for 12 total. So, they are looking for a variance for two spaces. With density of the neighborhood and the development here, they feel that two parking spaces per unit is acceptable. There is on-street parking. A good number of cars in the area are non-registered and related to the auto body shops. Mr. Jenkins has had conversations with those property owners and is hoping that they can relieve some parking issues by ensuring that vehicles on the road belong to residents on the street.

**Mr. Jenkins** said that he is available to answer any questions.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

**Member McCarthy** said that he glad to see that the application was fixed regarding the parking and that the relief is only for two spaces. He is glad that they fixed the plans to remove the attic/third-living area level to make it strictly storage space. He asked about snow storage and where recycling and trash bins will be placed. He thinks the units will be able to access the city bins and pickup.

**Staff** said that he believed that they would have access to city trash and recycling.

**Mr. Lania** said that they would store the bins in the garage and roll them out onto the Rock Street side.

**Member McCarthy** said they would be stacking 12 bins on recycling day. He thinks there is room to do that.

**Mr. Lania** said there is and they will be rebuilding the sidewalk was well. It's pretty rough and it was a condition of the Planning Board. They will ensure that there will be room for the barrels.

**Mr. Jenkins** said they will also lift the sidewalk up, which will discourage the current parking habits. Drivers today park right up against the fence.

**Member McCarthy** said that's perfect. He is impressed with what they are getting on the site. He believes Rock Street is underused. This development bodes well for the city. He asked about snow storage.

**Mr. Lania** said that the plan area shows the driveway with what appears to be an exit out onto Wiggin Court. That area will be for emergency access only. If the entryway on Rock Street is blocked, then there would be a sliding fence. The area to the left and right of the gate would be for snow storage and would leave the gate open. It's a condo association so if there is too much snow they will need to have it trucked offsite.

**Member McCarthy** said that he is worried about it because it's a 22-ft. wide drive and he asked about the

small islands in front of the buildings.

**Mr. Lania** said they are 6' wide.

**Member McCarthy** noted the overhang of several feet in the architectural.

**Mr. Lania** said that's correct. It's the architectural styling to adhere to the Historic Board requirements. They go up 2' total.

**Member McCarthy** said that looking at the elevations, it's a little interesting. There is a bit of a step in the roof... There is about 4' of space where water could go into the soil. He noted that the site plan doesn't indicate the entry points or stoops for the rear stairs.

**Mr. Lania** said that the rear stairs will come off the decks. There are the doorways shown on the site plan. He doesn't show paved area as far as a sidewalk goes.

**Member McCarthy** said they should show hardscape in all cases. He asked about the area under the deck.

**Mr. Lania** said they are looking to have a patio.

**Mr. Jenkins** said that it would be a stone area and concrete pad.

**Member McCarthy** said he would like to condition it to have the plan revised to show all hardscape.

**Mr. Jenkins** asked about Sonotubes.

**Member McCarthy** said he would like to see any hardscape to understand potential infiltration, which he recognizes is better than before.

**Mr. Jenkins** said that they do have a drainage plan.

**Member McCarthy** asked about what will happen to the areas in the back.

**Mr. Lania** said that there will be gravel under the deck and then grass in the remaining area.

**Member McCarthy** said he would like to see that in the revised plan. He thinks that's a wonderful idea.

**Mr. Lania** said that the landscaped plan notes that all non-paved areas will be loamed and seeded.

**Member McCarthy** said that he would like to see that on the plan.

**Mr. Lania** said he could prepare a color rendering.

**Member McCarthy** said that there will be two parking spaces for each unit and 22' wide drive aisle and 6' dimension to turn into garages. That's tight but doable. He doesn't see a way to get two additional spaces without drastic changes. He said he could support the variance for the parking. He believes the decks are great. He asked about the number of units since they are wide.

**Mr. Jenkins** said that they went with six units because parking makes it harder to add more units. They would need to have a lot more units to make it profitable. He thought he could fit 8 or 12, but he went to six because he felt that it would be the simplest pathway. If the project was with a non-profit and he could show that the residents wouldn't own cars, then maybe he could've made a case for more.

**Member McCarthy** appreciated the restraint and says that this project will be favorable for the neighborhood.

**Member Callahan** said that he likes the utilization of the property. Regarding Wiggin Court, he noted the roll-in and rollout fence. He asked how it would be maintained.

**Mr. Lania** said that it would be maintained by the condo association, including any landscape and hardscape elements.

**Member Callahan** said that he likes the idea of the rolling fence. He asked about ownership of Wiggin Court.

**Mr. Lania** said that it's a private way. It's 16' wide. Each property owner adjacent to the private drive owns to the middle point of the private drive. They own 8' into Wiggin Court. Each person on Wiggin Court has the right to pass, so they can't block it or cover it.

**Member Callahan** asked about snow storage.

**Mr. Lania** said that the plan... the gate will be 12'. So they have about 10' of an area to locate snow storage.

**Mr. Jenkins** said that on either side of the property, Habitat for Humanity had received variances to access the property, pass, and repass over it.

**Mr. Lania** said that they used Wiggin Court for frontage. This application only uses Wiggin Court for emergency access.

**Mr. Jenkins** said that the City plows Wiggin Court.

**Member Callahan** said that he doesn't need to condition anything on that. The condo association will be formed.

**Mr. Lania** said that he thought if they left it, open then it could be used as a cut through. They didn't need to use it for this particular project. Felt that it would not be wise to close it off completely if there needed to be emergency access. They will provide a firebox on it so that the Fire Department could gain access through their universal key.

**Member Callahan** said that he likes the new plans regarding the fencing and the screening on the decks. He doesn't see any real issues with this project.

**Member Procope** agreed with his colleagues. This will be an improvement to the neighborhood. He sees the concern about the parking. As he has driven around the street, he has noticed it. Hopefully with their request it will help alleviate or not add to any congestion. He doesn't have any objections.

**Member Pech** said that this is a good project. It is scaled appropriately to the site and the neighborhood. The requested relief is reasonable. The lot has been underused.

**Chairman Perrin** said that they have paired up and taken on a project that will help the neighborhood and the city. They do their due diligence. Their foremost interest is always the neighborhood and the city. Regarding Member McCarthy's condition, he heard that if there will be excess snow then they will cart it out.

**Mr. Lania** said that is correct. It would be a bylaw in the condo regulations. Typically, it's somewhere in the range of 2-3' that would require removal.

**Mr. Jenkins** said that if they can't pack it up higher then it becomes obvious that it needs to go. His project on Lakeview Ave had the same issue. They ended up trucking snow out of there only because they had nowhere else to put it safely.

**Chairman Perrin** said that's perfect. He said that's a good parallel.

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to APPROVE the Variances under Sections 5.1 and 6.1.4 with one condition:

1. Prior to applying for a building permit, the applicant must submit a revised site plan to DPD that shows the extent of the hardscape and grass around the decks.

The motion passed unanimously, (5-0).

**ZB-2020-39**

*Petition Type: Variances*

*Applicant: Ken Lania c/o Madjack7, LLC*

*Property Located at: 38 Clifton Street 01852*

*Applicable Zoning Bylaws: Section 5.1*

***Petition: Madjack7, LLC is seeking Variance approval to subdivide the existing lot with an existing two-family home and construct a new single-family home on the new lot. The property is in the Traditional Neighborhood Two Family (TTF) zoning district. The proposal requires Variance approval under Section 5.1 for the minimum lot area per dwelling unit, minimum frontage, and for any other relief required of the Lowell Zoning Ordinance.***

On Behalf:

Ken Lania, Cornerstone Land Associates

**Mr. Lania** Cornerstone Land Associates, requested withdrawal due to neighbor concerns. He never advises his clients to move forward when there is major opposition. They will seek out the neighbors with concerns and will try to come up with a better project.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

S. Callahan motioned and V. Pech seconded the motion to allow the petitioner to withdraw the application without prejudice. The motion passed unanimously, (5-0).

**ZBA-2020-41**

*Petition Type:* **Special Permit**

*Applicant:* **DSM MB II, LLC**

*Property Located at:* **11 Wood Street / 657 Princeton Blvd 01854**

*Applicable Zoning Bylaws:* **Section 6.3.4**

*Petition:* **DSM MB II, LLC has applied to the Zoning Board of Appeals seeking Special Permit approval to install a 34 sq. ft. internally illuminated monument sign at 11 Wood Street; 675 Princeton Boulevard. The sign would be in the Regional Retail (RR) zoning district and needs Special Permit approval under Section 6.3.4 and for all other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Brandon Currier, Barlo Signs

**Mr. Currier** said he is representing Market Basket. He is seeking Special Permit approval to allow internal illumination for the secondary monument sign located at the intersection of Wood Street and Princeton Blvd. illumination aids with wayfinding and makes the intersection less dangerous. This plaza is undergoing renovation. The sign will not have any burden on the surrounding properties and will not have any impact on the environment or other city services.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

**Member Callahan** said that it seems like a good idea. Staff had a question about the hours of illumination, although the CVS would be open 24 hours.

**Mr. Currier** said that CVS is 24 hours. The intent is to have the sign illuminated from dusk to dawn.

**Member Callahan** said that they usually put time limits on these, but under the circumstances, he is okay with not doing so here.

**Member McCarthy** asked if they are using LEDs.

**Mr. Currier** said that's correct.

**Member McCarthy** asked about whether it has technology for flat screen and imaging.

**Mr. Currier** said that the sign does not have any ability to be an electronic message center.

**Member McCarthy** asked about the dimensions of the sign.

**Mr. Currier** said that the width of the entire cabinet is 7' and the width of the cabinet is 4'10". He said it would be about 18" or so.

**Member McCarthy** asked if there is a sign on the side facing the parking lot.

**Mr. Currier** said that there will not.

**Member McCarthy** asked if the location of the sign has anything to do with the bridge and widening Wood Street.

**Mr. Currier** said he can't speak to the bridge widening.

**Chairman Perrin** said it's right around the corner.

**Member McCarthy** said they are roughly five years away.

**Mr. Currier** said they could address the matter.

**Member McCarthy** said it makes a lot of sense to him.

**Member Procope** said he doesn't have any questions. It's a simple proposal.

**Member Pech** said it's straightforward.

**Chairman Perrin** said the only condition is hour of illumination dusk to dawn 1 hour before to 1 hour after.

Motion:

S. Callahan motioned and V. Pech seconded the motion to APPROVE the Special Permit under Section 6.3.4 with one condition:

1. The hours of illumination shall be one hour before sunset to one hour after sunrise.

The motion passed unanimously, (5-0).

**ZBA-2020-42**

*Petition Type:* **Variances**

*Applicant:* **Thanh Pham**

*Property Located at:* **50 Wentworth Ave 01852**

*Applicable Zoning Bylaws:* **Section 5.1**

*Petition:* **Thanh Pham has applied to the Zoning Board of Appeals seeking Variance approval to modify the existing lot lines of two parcels at 50 Wentworth Ave that have merged for the purposes of zoning**

**and build a new single-family home on one of the parcels. Both lots are in the Suburban Single Family (SSF) zoning district. The new home will require Variance approval under Section 5.1 for minimum lot size, minimum lot area per dwelling unit, and minimum frontage, and the existing dwelling will require Variance approval under Section 5.1 for the front yard setback, to exceed the maximum allowed Floor Area Ratio (FAR), and for any other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Thanh Pham, the Applicant

**Mr. Pham** said that some neighborhoods in Lowell will generate more opposition. He understands that no one wants any new construction near them. If it was up to us, we would all want 500' of land separating us from our neighbors. That is hard to do given the housing shortage. Ever since the project has been advertised, he has received some nasty anonymous calls. Regarding his project, he thinks a single-family in this vacant lot is feasible and reasonable. First, the parcel was subdivided in 1961. He proposes to add even more frontage and lot area to the old lot because it wants to make it more perfectly rectangular. He plans to live there with his family. He has reserved this proposed lot to the surrounding properties. He submitted his result to the Zoning Board. Basically, this proposed lot is basically bigger than about 70 percent of them. The two variances required are fairly conservative compared to other projects the Board has received. It is a flat beautiful lot. Lowell doesn't have many nice buildable lots left. The proposed house is of a reasonable size. It will leave plenty of space to meet the front and rear setbacks. According to Engineering, Wentworth Ave is due for improvements. This is an opportunity to get increased tax revenue. He can build a house that will last 100 years. That is \$700,000 or more tax revenue to the city. This lot is very consistent with what they have in the neighborhood. It will increase the neighborhood value. The proposed house will be fully fenced. Both homes will meet the off-street parking requirements. He believes that they are good neighbors.

Speaking in Favor:

David Fieldsend, 25 Wentworth Ave

**Mr. Fieldsend** said that the project looks to have a good site plan. It conforms to the neighborhood character in terms of frontage and setbacks. It's equal to or more than most lots on the block. He likes that they are proposing sidewalks where there is a gap. His only concern is that the 15" maple in the right of way be protected during construction.

Speaking in Opposition:

Costas Sotirakos, 40 Wentworth Ave  
Nicole Skaff, 16 Glenwood Street  
Kenneth Hood, 18 Wentworth Ave  
Nancy Canney, 64 Wentworth Ave

**Mr. Sotirakos** said that the individual who purchased the property... there is a garage in the rear of the house. He believes it's his intent to make the garage a place to live. He opposes the project because it doesn't look like the parking or driveway on the main unit would need to be relocated to his side of the house.

**Ms. Skaff** said that she lives directly behind the site. She has several questions. Her first is the driveway that they will add. She asks what he will intend to do with Lot A including the carriage house and barn. She understands that Mr. Pham is looking for 11' forgiveness on the frontage of the property. By building,



the new home on Lot B will create a need for forgiveness on the barn. She asked if they are looking for two non-conforming forgivenesses or just the one. Based on the intended home size, she asked if it's a two- or three-bedroom home. That size of land is big enough for a pretty decent pool and cabana, so she can't envision the size of the house. She read the application. She knows that they currently live on Lowell Street in Andover. He mentioned that he spoke to the neighbors, but she said that he missed her.

**Mr. Hood** said that he never received proper notice on this project. He never spoke to Mr. Pham. He apologized for any negative communications that the applicant may have received. That's not right at all. There was notice put up at the property but it was put about 25-30' back from the sidewalk. He never heard from anyone. He never spoke with Mr. Pham. He said that Wentworth is a well-traveled thoroughfare. It is somewhat of a bottleneck today. People need to park on the curb to allow travel in two-ways. He noted that a lot of the lots are less than 10,000 sq. ft., but those are preexisting conditions that existed decades and decades ago. Since then there were standards set and that's the 10,000 sq. ft. They were grandfathered in. Other items: he asked if Mr. Pham intends to live on the property. He noted that the applicant owns a house on Lot A and wants to build a house on Lot B. He thought that the house on Lot A was listed as a two family when it was put up for sale. Lot A has a carriage house. Lot B has a garage or carriage house. The one on Lot B needs serious repair. He asked about plans for the existing structure. He asked if the applicant owns other properties in Lowell or the surrounding area. If so, he asked where and whether they are in good standing. He asked about outstanding issues or violations.

**Chairman Perrin** said that the applicant can't address the other locations because they can only review the facts related to this application.

**Mr. Hood** wants clarification on whether the parking would be sufficient to clear traffic flow in the area.

**Ms. Canney** said that she didn't get any notification. She heard it from a neighbor. She called City Hall and they sent her the information. She is concerned as to why she didn't receive anything. She said her house was built in 1890. She has concerns about the project getting built next door. She wants to know what the construction would be like and the building of a foundation. She is worried about her property values getting affected by the construction. She wants to know how tall the building would be and where the windows would be relative to hers. She said she isn't sure about her property lines and wants to know if he should survey it.

Discussion:

**Member McCarthy** said that he has questions about the application in general. He asked if Mr. Pham is the sole representative for the project.

**Mr. Pham** said that it's just him.

**Member McCarthy** said that the LowellMA.gov GIS site states that only one lot exists. It also states that the property is a two-family with two structures. It also indicates a square footage on the existing house that is different than one is on the site plan. It is missing a 15x18 sq. ft. area that is not shown on the site plan. He wants to know what exists.

**Mr. Pham** said that it was merged because the main house... According to his understanding, from what Mr. Alves told him it was subdivided in 1961. It was merged because the single-family on Lot A was lacking 8" of setbacks. It is 24.4 feet...

**Member McCarthy** said it currently exists as a single lot. He asked if it's two separate dwelling units as stated in the taxes. There is the main house and a second family dwelling unit behind the main house.

**Mr. Pham** said that it is a single-family. He wishes that the tax records were correct. Westford Street was taxed as a four-family, but he had to go to the ZBA because in the building record it existed as a single-family. This building on Lot A is a single-family. The carriage house in the back has been used an office space. It doesn't even have a heating system.

**Member McCarthy** asked if has been taxed as a two-family.

**Mr. Pham** said they can't rely on the taxes because they are often incorrect.

**Member McCarthy** said that the structure in the back has a bathroom... spaces listed in the taxes, bathroom, and kitchen. If the city says it's a living area, then it could be converted back to a living area down the road.

**Mr. Pham** said they could put a condition that it would never be converted into a living area.

**Member McCarthy** said that it's existing as a living area. He clarified that the applicant's intent... They have an existing condition that is 22000 sq. ft. lot with two dwelling units. Converting it, two separate lots for two dwelling units. Each lot would be roughly 10,000 sq. ft.

**Mr. Pham** said his intent is to convert... Lot A would be a single-family and Lot B would be a single-family.

**Member McCarthy** said the way the City sees it is a single lot with 22,000 sq. ft. and would be converted to two single-families on two single lots.

**Mr. Pham** said that's correct.

**Member McCarthy** said that the site plan needs to be cleaned up to have that language. Need minimum lot area per dwelling unit, existing and proposed. The math should be precise and tied to what currently exists so that they can compare what he is doing to what they currently have. He sees this as a reasonable solution. They are taking a two-family and keeping it a two-family, but just separating the lots. Right now, the two-family is tucked together on one side. Instead, they would be two side-by-side units on roughly 10,000 sq. ft. lots.

**Mr. Pham** said that the Assessor taxes it as a two-family, but it is not a two-family.

**Member McCarthy** said that it appears to be out of sync with what the city documents say.

**Mr. Pham** said that it's a single-family on 22,000 sq. ft. and he will build two single-families.

**Member McCarthy** said that it's critical to him because his fear is that if he were to grant approval, they could be granting approval for three dwelling units by using the carriage house. He wants some assurance that he existing carriage house is not and will not become a dwelling unit. He doesn't like the looseness of the documentation. Regarding the existing house, the City GIS card shows a room that is missing on the footprint. He doesn't know whether the FARs are tied to this. There is a space that is not showing up in the site plan. It is 300-ft. of footprint that might be 600' of structure.

**Mr. Pham** asked if he is asking about the addition on the left side of the property. On the site plan he is looking at it is the 15.8 x 18.3 room. That is the addition.

**Member McCarthy** said that the City information shows a bigger footprint than what is shown the site plan. The document is inconsistent with the assessment of the property. He asks if something was removed or demolished or if the site plan is incorrect. The other piece is the pavement. The pavement for Lot A1. There are two 18x8 parking spaces shown. He asked if the intent is removing the pavement that exists beyond the two parking spaces.

**Mr. Pham** said that they will remove the pavement. The off-street parking for Lot A will remove the handicap ramp. The width will be 14.4'. That is enough for two stacked parking.

**Member McCarthy** said that would be an improvement. On the other side they have a driveway for the proposed two-family that is much wider, 12-15' wide.

**Mr. Pham** said they are trying to make a bigger driveway to go into the existing garage. They tried to keep the garage because it is a sound structure instead of demolishing it.

**Member McCarthy** said that if they are just accessing the garage, he doesn't understand why it needs to be wider than 8'.

**Mr. Pham** said that when he believes there he wants to be as comfortable as possible for himself and his family.

**Member McCarthy** said that it seems inconsistent because the other property on Lot A is a larger square footage and he is giving them less parking. The proposed property has less square footage but he is giving them more parking and pavement. Math wise he thinks this works because if the applicant was surgical, he could potentially get two conforming lots by right. He would like to see the applicant come back with the math corrected to understand exactly what the city has for documents, what he is proposing, and to do some clean-up on the documents. He thinks the footprint of the existing house is not shown correctly. He wants to make sure the FAR is correct. He would like to continue the hearing.

**Mr. Pham** said that what exists on the City website is not correct. His plan was prepared by a surveyor. He went over the measurements and the area is correct as shown. The addition on the left side is really this area shown in the site plan.

**Member McCarthy** said that the site plan may be missing a deck.

**Mr. Pham** said that there isn't a deck.

**Member McCarthy** said that there is a trellis over that area per Google earth. He asked if it's over a patio or a deck.

**Mr. Pham** said that there isn't a deck there.

**Member McCarthy** said he is not feeling confident with the site plan. He said that the carriage house is a livable space. It is listed as dwelling unit. It probably was a dwelling unit at one time. He reiterated that

lot area per dwelling unit is not on the site plan.

**Mr. Pham** said the concern is about the carriage house. He asked about demolishing the carriage house.

**Member McCarthy** said that it is not about demolishing... he wants to see a clarification that Lot A1 is strictly a single-family.

**Mr. Pham** said that he would get the verification that Lot A1 is a single-family.

**Member McCarthy** said that if he demolished the carriage house, then there would be a potential to redraw the property line to avoid needing the 941 sq. ft. of relief.

**Mr. Pham** said that he tried to keep the carriage house because it is still a very strong structure. It would be such a waste to demolish it. It could be for storage or office.

**Member McCarthy** said he is on the applicant's side. He wants to make sure that that it remains two units total across the two lots.

**Member Callahan** said the Board still needs more information. On the proposed house on Lot B, they don't have any floor plans. They don't know the number of bedrooms. He can't tell how the property would be structured. It looks like a proposed deck on the right-hand side of the building. It might encroach on the side yard setbacks.

**Mr. Pham** said they will have deck in front of the building.

**Member Callahan** said that it looks like the side based on what was provided.

**Mr. Pham** said that he will clarify the deck location.

**Member Callahan** said that it needs to be clarified on the site plan as well.

**Mr. Pham** said that regarding Google earth, behind the house is a thing for grapefruit trees to climb on.

**Member Callahan** said he can't tell because of the location of a fence. To Member McCarthy's point, the City appears to have it laid out as part of the structure on GIS. He would like the floor plans for the existing structure. Regarding the carriage house, he is willing to accept a condition that it would not be used as a dwelling unit. He asked about the legal status of the property.

**Staff** clarified that the Assessor's information is not definitive. If the applicant obtained a legal use, determination then that would be definitive. If the legal use is a single-family and the lots were subdivided, then it would not be possible to convert the carriage house into a residence.

**Member Pech** thanked the abutters who came out, whether for or against. He agrees with his colleagues. The applicant should cross the T's and dot the I's regarding the site plan and documentation. If they are continuing this matter, then he recommends talking with the neighbors and abutters.

**Member Procope** said that hopefully as the applicant returns to the drawing board, then the fact that a few abutters felt that they weren't notified. Going back to the drawing board may make them feel more

comfortable. It is probably best to continue the hearing and put everything together in the interim.

**Chairman Perrin** said that they have received a letter of opposition via email. From Cornelius Desmond from 34-36 Wentworth Ave due to concerns outlined by previous neighbors. He agrees with Member McCarthy. This is an incomplete application. It doesn't define the lot lines. It doesn't define the existing structures. There are concerns about the carriage house. Part of the process is working with DPD and having open communication with the neighbors. He thinks it's in his best interest to get a legal use determination. This home and clusters of homes within a 3-4 block neighborhood area is consistent with existing two-families, and two-families converted to singles and back to two-families over the course of a hundred years. He agrees with Mr. McCarthy that a vote on this particular petition could create a three-unit property. The math equation is there. It can be split, but there would need to be some demolition and restructure. Certainly, the carriage house that is aged and may have historic value. There is a lot of unfinished business. A continuance at this point is the only thing that is practical. The list of questions from his neighbors are all the same concerns: plan with the driveway, how split lots A and B, the current and future plan of the carriage house, the true value of the fence and fence replacement, the actual height of the structure, location of windows. These are all valid concerns. He would strongly suggest a continuance. He said that staff will also investigate the status of the abutter notice and letters.

**Mr. Pham** said that he completed the certificate of mailing. Unfortunately, he cannot control what occurred after the post office received the letters. He personally put a legal ad in Ms. Canney's mailbox once he heard that she did not receive it. He said he is comfortable with the November 23 continuance. If engineering were to excavate the street then he can't do anything for 5 years.

Motion:

S. Callahan motioned and G. Perrin seconded the motion to continue the hearing to the November 23, 2020 meeting. The motion passed unanimously, (5-0).

**II. New Business**

**ZB-2020-44**

*Petition Type:* **Special Permit**

*Applicant:* **Pineapple Realty, LLC**

*Property Located at:* **17 Montreal Street, 264-266 Plain Street 01852**

*Applicable Zoning Bylaws:* **Section 12.5(f)**

*Petition:* **Pineapple Realty, LLC is seeking Special Permit approval to store construction materials and screen loam associated with a landscaping business at 17 Montreal Street and 264-266 Plain Street. The properties are in the Light Industrial (LI) zoning district and the use requires Special Permit approval under Section 12.5(f) and any other relief required of the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Applicant's Attorney

**Attorney Theodorou** thanked the Chairman to bring this matter up first. This is a request to the November 9 meeting. The client met with the members of the abutters last week and reviewed concerns. There is additional work to be done to satisfy their concerns. So, they are requesting the continuance.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

S. Callahan motioned and D. McCarthy seconded the motion to continue the hearing to the November 9, 2020 meeting.

**ZB-2020-45**

*Petition Type:* **Variances**

*Applicant:* **Andrea Drolet**

*Property Located at:* **207 Wentworth Ave 01852**

*Applicable Zoning Bylaws:* **Section 5.1**

*Petition:* **Andrea Drolet is seeking Variance approval to construct an addition to a single-family home at 207 Wentworth Ave. The home is in the Suburban Neighborhood Single-Family (SSF) zoning district and the addition requires variance approval under Section 5.1 to exceed the maximum allowed Floor Area Ratio (FAR) and for all other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Andrea Drolet, 207 Wentworth Ave

**Ms. Drolet** said that she has lived here her entire life. She grew up on the street. Unfortunately, they are growing out of the house. With her finance, they have seven daughters. She doesn't want to leave. She works in Lowell for the city. Her whole life is here. Her main goal is to go out 10' in the back and then up. She wants to add a porch in the front and they are short a little bit.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

**Member Procope** said he is not an architect, but he doesn't think... they will go back a little bit and then up.

**Ms. Drolet** said that's correct and they will have a second floor.

**Member Procope** asked about the number of bedrooms.

**Ms. Drolet** said they are hoping for five.

**Member Procope** asked if they are planning to expand towards the neighbors.

**Ms. Drolet** said that they won't. They are only building out toward the driveway. It's like they are filling in the space. They are basically just adding bedrooms.

**Member Procope** said that he doesn't see a problem with the project. It looks fine to him.

**Member Pech** said that the request is very minimal. It's realistic. They meet the hardship. He has no reservations. It can be done. He wishes Ms. Drolet the best of luck.

**Member Callahan** said that in general he approves the project. But they don't have any renderings for floor plans of the addition. It is tough to gauge.

**Ms. Drolet** said that is hard to know where to start. She doesn't want to spend too much only for the Board to say no. Bedrooms are 10 x 10'.

**Member Callahan** asked about the number of bedrooms today.

**Ms. Drolet** said there are three. The master spans the whole house, but they will cut it in half, so that's plus one. So, they think the extra bedrooms will come in in the rear.

**Member Callahan** clarified that they will add five.

**Ms. Drolet** said that they will have 5-6 total. They will not add five.

**Member McCarthy** said that aren't any overly problematic concerns. The addition is in the back of the house. There is already a piece back there that they will go up above. He said that she doesn't have the prerequisites completed. He wants a floor plan on the first and second floor to understand what exactly she needs. Until she does that, she is guessing. He thinks that they would want prerequisites filled in correctly. She has support. She should do it so that they all are clear on what is being asked for. He noted that the site plan has a structure in the back and the structure that they are going over isn't indicated as being removed.

**Ms. Drolet** said that the addition isn't staying intact.

**Member McCarthy** asked her to clarify that they are removing the little bump out. Then provide a floor plan for the first and second floor. He would also like to see the driveway on the site plan, including any new paving. He wants to see hardscape on the site plan, including walkway and rear patio. He likes the project. He would just like to see it done correctly so that she doesn't miss something in the variance that she needs so that the Board would need to go back and review it again.

**Chairman Perrin** said that the request of the Board is a site plan to indicate the Floor Area Ratio (FAR). He reads the application and when she mentioned five bedrooms... and he realizes the intent is not to have eight bedrooms. He doesn't think it would be time-consuming. He recommended continuing the hearing to the November 23 meeting.

Motion:

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

### III. Other Business

#### 2021 Meeting Schedule

S. Callahan motioned and V. Pech seconded the motion to approve the 2021 meeting schedule. The motion passed unanimously, (5-0).

#### **Minutes for Approval:**

September 28, 2020

S. Callahan motioned and G. Perrin seconded the motion to approve the minutes from the September 28, 2020 ZBA meeting. The motion passed unanimously, (5-0).

#### Election of Officers

##### Chair

**Member Pech** said that throughout his 9 years on the Board, he has really enjoyed the opportunity to help serve the city and residents. He wants to nominate Member Perrin as the Chairman. In the last several years, he has led the Board and meetings with such grace and dignity and to try to arrive at an understanding with petitioners and neighbors.

V. Pech motioned and S. Callahan seconded the motion to nominate G. Perrin as the Chair. The motion passed unanimously, (5-0).

##### Vice Chair

**Chairman Perrin** nominated Member Pech for vice chairman. He extended his gratitude to Mr. Pech. He has spent nearly a decade on the Board. Due to professional and business commitments, he has had to lean on Member Pech considerably to chair these meetings. He has done yeomen's work. He has helped him captain this fine ship.

G. Perrin motioned and S. Callahan seconded the motion to nominate V. Pech as the Vice Chair. The motion passed unanimously, (5-0).

##### Clerk

**Chairman Perrin** said that Member Callahan has been the Clerk for six years. He has done an impeccable job. His knowledge of land use law and his personal and professional attorney knowledge has set this Board above what we usually expect.

G. Perrin motioned and D. McCarthy seconded the motion to nominate S. Callahan as the Clerk. The motion passed unanimously, (5-0).

### V. Adjournment

S. Callahan motioned and D. McCarthy seconded the motion to adjourn the meeting at 9:09 PM. The motion passed unanimously, (5-0).

**New Business to Be Advertised by October 11, 2020 and October 18, 2020**