



**ZONING BOARD
OF APPEALS
LAWRENCE
MASSACHUSETTS**

**Administrative
Assistant**

Jorge O. Martinez

Vice Chairman

Richard Rivera

Voting Members

Frank Campos

Beatrice Taveras

Will Mazola

Chairman

ZONING BOARD OF APPEALS

March 26th, 2020

Minutes to the Meeting/Hearing

[Due to the COVID-19 outbreak and the policy changes made by](#)

Governor Baker and Mayor Rivera, this meeting of the Zoning Board of Appeals was preformed remotely.

Roll Call:

Richard Consoli, Chair: Absent
Richard Rivera, Vice Chair: Present
Beatrice Taveras: Present
Frank Campos: Present
Roberto Fernandez: Present

Upon a motion made by Mr. Campos and seconded by Ms. Taveras, the board unanimously decided to open the public meeting.

CONTINUED CASES

*56 Smith Street
Luisa Polanco*

The applicant was not present to discuss their matter to the board. However the attorney handling the matter, Attorney Armand Hyatt indicated to city staff that he does not feel that he and his client can effectively argue their case via the GoToMeeting platform. He stated that he would like to continue the matter until the next in-person meeting is conducted.

Upon a motion made by Mr. Mazola and seconded by Ms. Taveras, the board unanimously voted to continue the matter until the next meeting.

*300 Haverhill Street
Brightfields Development*

Mr. Martinez indicated that the applicants had met with city staff regarding their project to construct a canopy equipped with solar panels. He stated that the applicant had indicated to city staff that the project has stalled due to the fact that there are not any incentives that solar panel companies can take advantage of.

Mr. McCarthy then added that the matter has been on the agenda for months now. He also added that the applicants had missed every meeting that they were scheduled for. He then stated that the board should withdraw the case without prejudice.

Upon a motion made by Mr. Campos and seconded by Mr. Mazola, the board unanimously voted to withdraw the case without prejudice.

*16-18 Fitz Street
Josue Garcia*

Present before the board was Frank Giles. His client also called in later on and took part in the virtual meeting.

Mr. Giles indicated that he had presented the case to the board during the previous meeting. He then added that the city and the board had some concerns about the having a vertical duplex with garages underneath. Mr. Giles then stated that he submitted new plans that addresses the city's concerns. He added that the building will consist of a front-load garage and will be a slab on grade. He stated that due to the floodplain, his client cannot excavate.

Mr. McCarthy then stated that he was opposed to the proposal during the last meeting, but not this meeting due to the fact that the plans that were submitted were modified and reflect the changes that the city was asking for.

Mr. Rivera then started experiencing technical difficulties.

Mr. McCarthy stated that one of the concerns that he had was in regard to the design of the home. He then referred to some of the dimensions of the home and questioned them to Mr. Giles. Mr. Giles answered Mr. McCarthy's questions regarding the dimensions, however many of the board members were still confused.

Mr. Rivera then stated that there is no hardship in the case. He added that the lot that the home was built on was advertised as a lot that was big enough for a single family home only. He then added that having a single family home would be appropriate.

Mr. Giles stated that he and his client were given the recommendation to continue due to the fact that there were some building concerns that needed to be addressed. He stated that he has addressed the concerns and that the home will not be large. He then stated that his client is adamant on being approved for a two-family home.

Mr. Mazola then asked Mr. Giles if there was a hardship as to why the home has to be a two-family home and not a single-family home. Mr. Giles stated that the home would be contracted in a stand-alone lot. He also added that the home cannot be built to its full potential because it is located within a flood-plain.

Mr. Fernandez then asked how many square feet the lot was. Mr. Giles stated that it was 4,000sf.

Mr. McCarthy stated that the home being within the floodplain is a substantial hardship. He then added that the land needs to be developed, but the main question is whether or not the land is appropriate for a single or two family home. He added that Mr. Giles submitted plans that addressed the all of the problems to the board, he then stated the home that is being proposed should fit the neighborhood.

Mr. Rivera then asked Mr. McCarthy what the size requirement for the lot is. Mr. McCarthy stated that the lot has to be 5,000sf to build on. Mr. Rivera then stated that the applicant only has 4,000sf, therefore they do not meet the size requirement.

Mr. Rivera then asked if the home would be an investment lot or if the applicant was going to be living in the home. Mr. Giles and the applicant stated that the home would be for investment. Mr. Garcia then stated that the neighborhood is zoned as an R-3 residential zoning district, therefore

a single-family home would be more out of place than a two-family home would be. Mr. Rivera then stated that the parking would also be a problem.

Mr. Giles stated that he respects the board's decision. He also agreed with his client and stated that a single-family home would be more out of place than a two or three family home.

Mr. Rivera then stated that the applicant should have known that the lot was only suitable for a single family home. Mr. Garcia then stated that he went to city hall and was told that he would be able to construct a two-family home.

Mr. McCarthy then stated that the lot would not meet the minimal requirements. Mr. Mazola then stated that the applicant would still need a variance. He then added that he has personal concerns about the proposal of a duplex because it would be too close to neighboring homes, but he stated that the city maintains a neutral position regarding the case. He also does not like the proposal of having garages under the building.

No one from the public was present to speak for or against the petition.

Mr. Fernandez then stated that he agreed with Mr. Giles in regard to a single-family home being more out of place than a two-family home.

The following condition(s) were presented to the applicant:

1. Applicant must submit a landscape plan.

Discussion ensued regarding the number of parking spots, the amount of green-space and the number of curb cuts that are on the property.

With no further discussion,

The board voted and the results are as follows:

Frank Campos-Yes

Will Mazola-Yes

Beatrice Taveras- No

Roberto Fernandez- Yes

Richard Rivera-Yes

The applicant's petition was passed with a vote of four votes yes and one vote no.

25 Water Street

Raul Cruz

Present to address the board was Marcos Devers.

He stated that the applicant has been working as a cosmetology teacher. He stated that the applicant is an asset to the community.

He stated that the building that the applicant wishes to turn into a cosmetology school is 15,000sf. He stated that the building has been an eye-sore and to renovate it into a cosmetology school would be an improvement to the community. He added that the cosmetology classes will be alternative therefore half of the students will go one day and the other half will go another day. He added that the parking is more than sufficient and that there is more than enough free space. He then added that the third floor will be used as a celebration hall for graduations and school related ceremonies. He stated that it would be an asset to the community.

Mr. Rivera then stated that the building used to be the old Richard's Furniture building. He then asked Mr. Devers where the parking would be. Mr. Devers stated that the property would be on Embankment Street and Water Street. He then stated that the public and fire vehicles will have ample access to and around the building.

Mr. McCarthy then stated that there was a disagreement on the number of the seats in the building. He stated that there are 100 seats and 8-9 students, therefore the applicant would need 30-40 seats, but they only have 20. He then stated that there are construction concerns, he then stated that the project would warrant a wrap-around meeting. He added that due to the COVID-19 outbreak the city was not able to meet with the applicant regarding the project going on at 25 Water Street. He added that the board should accept the project, but with conditions.

The following condition(s) were presented to the applicant:

1. Applicant must abide by the recommendations and rules set forth by the Inspectional Services Department and The Lawrence Fire Department.

Mr. Martinez then relayed one of Mr. Campos' concerns to the applicant. Mr. Campos stated that he was in approval of the proposal, he just wants to ensure that the third floor area will not turn into a club. Mr. Devers stated that the floor will be used as a celebration hall for graduations and presentations and such.

Mr. Roger Farrah then stated that he owns the property that the applicant is attempting to purchase. He added that the applicant has everything in place to purchase the building. He stated that the school would be an asset to the community and would better the area. He emphasized that no illegal activity would take place on the property.

With no further discussion,

The board voted and the results are as follows:

***Will Mazola-Yes
Beatrice Taveras-Yes
Richard Rivera-Yes
Frank Campos-Yes
Richard Rivera-Yes***

The applicants petition was unanimously approved.

3 North Parish Road

Adrian Encarnacion

Present to address the board were Adrian and Esther Encarnacion.

They stated that they were before the board to add an addition to their third floor that is currently an attic. They also stated that the set of stairs on the exterior of the building will be enclosed and turned into a set of interior stairs.

Mr. Rivera then asked Mr. and Mrs. Encarnacion what the hardship of the situation was. Ms. Encarnacion then stated that the third floor would be where her parents would live.

Mr. McCarthy stated that Sullivan Park is right across the street from the home, which alleviates some of their parking need. He stated that the city has no position.

Mr. Fernandez then asked if the board was approving a case that would allow for an in-law home or the conversion of the home from a two-family home to a three-family home. Ms. Encarnacion stated that she is requesting a three-family home, but that the home would essentially operate as an in-law apartment.

Mr. McCarthy then stated that the home going from a two-family home to a three-family home would be inappropriate.

Mr. Mazola then asked who lives on each floor. Ms. Encarnacion stated that her family lives on the second floor and the first floor is being rented out. Mr. Mazola then asked Mrs. Encarnacion why she could not accommodate her parents on the first floor.

Marcos Devers then stated that he is in support of the project.

With no further discussion,

The board voted and the results are as follows:

Beatrice Taveras- No
Frank Campos-No
Roberto Fernandez-No
Will Mazola-No
Richard Rivera-No

The applicants petition was unanimously denied.

NEW BUSINESS

611 Lowell Street
Lowell House Inc

Present to address the board were Ben Fierro, William Garr, Diana Newell, Jen Maloney and Victoria Nesto.

Mr. Fierro stated that the group is here to appeal a decision made by the building commissioner. Mr. Fierro then stated that the home that he and his colleagues are attempting to acquire is an old victorian home. He then stated that he agrees with some parts of the denial letters. He added that he agrees with the notion of the home being a pre-existing non-conforming use, but he disagreed that the home has a sort of education component attached to it. He added that an exterior handicap ramp has been installed, but nothing in the interior has been changed. He added that the home will remain to appear as a single-family home on the outside. He then added that the Dover Amendment is applicable in this situation. He then stated that he and his colleagues had provided more than enough evidence to help the board make their decision. He also added that the program would be licensed and regulated by the state.

William Garr then spoke. He stated that he has been in the industry for 50 years. He added that no medication or methadone will be administered at 611 Lowell Street. He added that the home at 611 Lowell Street would help as it would serve the community of Lawrence, which is where most of the groups clientele comes from. He also added that the abutters in the area have stated that Lowell House at 611 Jackson Street are good neighbors. He added that the group takes people, helps them and reintegrates them into society. He added that this is a service that is desperately needed in today's society.

Dianna Knoll then spoke. She stated that the state would oversee the program. She added that they are very strict. The program that would be implemented at 611 Lowell Street would help with substance abuse and addiction. She added that the patients would be interviewed and they have to meet a strict criteria in order to be admitted into the facility.

Ms. Knoll then added that the patients learn practical skills such as how to cook, write resume, prepare for job interviews, and garden.

Mr. Fierro then stated that the program is an individual health working group. He also added that he and his colleagues have met and spoke with many of the local organizations.

Mr. McCarthy then stated that the city takes no position regarding the matter.

Mr. Palumbo then stated that he agrees that this type of service is needed. He stated that he has a problem with the procedure. He stated that the 30 day period has lapsed. He added that he is confused as to why the group is before the board.

Mr. Fierro stated that the letter was issued on 11/12 and the letter was answered on 11/27. He then stated that Raquel Ruano, the city attorney and Mr. Palumbo had visited one of Lowell House's programs in Tewksbury. He indicated that the city attorney had stated that the group should file an appeal. He added that he and his colleagues are aware that the abutters can challenge the decision and he understands that he and his colleagues are performing things at their own risk. He reiterated that he believes that the Dover Amendment is applicable in this situation.

Mr. Soto then stated that he believes that the group should request a continuance that way the city attorney can give her assessment on the situation. Mr. Fierro stated that he does not know what else to provide in terms of evidence. He added that the group cannot secure their license until permits are granted.

Mr. Palumbo then stated that the mistake that was made in the letter was small. He also added that the setback in reference to the letter refers to Pegasus House, which is approximately three blocks away. He wants to make sure that the citizens of Lawrence have a voice. He stated that the appeal has taken well over the allotted 30 days.

Mr. Fierro then stated that a new letter would help change the situation.

Mr. Palumbo then added that the literature that the group has been passing out confirms that the letter that Mr. Palumbo has been drafting is correct. He stated that the process just has not been done in a timely manner.

Mr. McCarthy stated that the group would need four votes.

Mr. Rivera then stated that the home would cater to men ages 18 and up and have 16 beds. Mr. Fierro then stated that the Department of Public Health decides how many beds can fit.

Mr. Soto then asked if the group would need a variance. Mr. McCarthy stated that they would because Pegasus House is within the required setbacks. Ms. Knoll then stated that Pegasus House serves a different demographic than Lowell House does.

It was also mentioned that the program is an open door program that can accept anyone.

It was then mentioned that the patients will be examined around the clock.

Mr. Rivera had police concerns. Ms. Knoll stated that the police have never been called as long as she has been working.

Mr. Rivera then stated that the program is more of a privilege than a right.

No one was present to speak for or against the petition.

It was mentioned that the program has a very long waitlist, Ms. Knoll stated that the waiting time is a result of how urgently these services are needed. She added that the clients are chosen extensively.

Mr. Soto then asked if the home would serve members from other communities or the Lawrence area. Mr. Fierro stated that both would be served.

Without further discussion,

The board voted and the results are as follows:

Frank Campos- Recused

Roberto Fernandez- Yes

Will Mazola-Yes

Beatrice Taveras-Yes

Richard Rivera-Yes

The applicants petition was unanimously granted.

BOARD BUSINESS

Upon a motion made by Ms. Taveras and Seconded by Mr. Fernandez, the board unanimously decided to approve the previous meeting's minutes.

Upon a motion made by Mr. Campos and seconded by Mr. Mazola, the board unanimously decided to adjourn the public meeting.