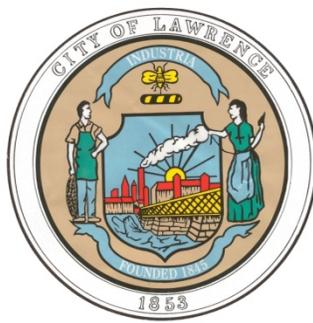


# ZONING BOARD OF APPEALS



# LAWRENCE MASSACHUSETTS

## Vice Chairman

Richard Rivera

## Voting Members

Frank Campos

Beatrice Taveras

Will Mazola

## Associate Voting Member

Roberto Fernandez

## Chairman

Richard P. Consoli

## Administrative Assistant

Jorge O. Martinez

## Land Use Planner

Daniel A. McCarthy

## ZONING BOARD OF APPEALS

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 done remotely.*

Roll Call:

Richard Rivera, Vice Chair-Present

Beatrice Taveras-Present

Will Mazola-Present

Frank Campos-Present

Roberto Fernandez-Present

Also Present:

Jorge Martinez, Minute Taker-Present

Michael Armano, Acting Inspectional Services Director-Present

David Palumbo, Acting Building Commissioner-Present

Daniel McCarthy, Land Use Planner-Present

Captain Patrick Delaney, Fire Prevention-Present

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

## OLD BUSINESS

### ***14 Atkinson Court Ken Kolifrath***

Present to address the members of the board was Frank Giles, the Land Surveyor on the project.

Mr. McCarthy stated that he suggests that the case be continued so the rest of the departments in the city can review the plans.

Beverly Laird, a resident of Atkinson Court stated that she had reviewed the plans that were submitted by Mr. Giles and she mentioned that there were no changes to any of the dimensions. She also stated that the plans still call for seven townhouses.

Ms. Laird then asked several questions regarding the parking in the area. She then asked if the case would be delayed another month due to the continuance. Mr. Rivera stated that it would.

Lauri Martin, also a resident of Atkinson Court, then relayed her concerns regarding the parking in the area as well.

Mr. Giles then asked the members of the board what the reason was for the continuance. He added that he did not want the case to be continued again. Mr. McCarthy then stated that the plan had only been in circulation between the departments for two days. Mr. Giles disagreed.

Ms. Laird then asked if the city would become a city owned street after the improvements were made. Mr. McCarthy then stated that the whole point of the improvements to the street would be so it can be adopted by the city. He then stated that the process to get the street accepted would take roughly 3-4 months. He added that there are multiple steps to the process, but that they all run simultaneously.

Ms. Laird then asked what would happen to the road. Mr. Rivera then asked if the road would become private. Mr. McCarthy then added that the road is currently private and is owned by the Kolifraths. He stated that if the city were accepted by the city it would become a public way which would be plowed and maintained by the city.

Ms. Laird then asked what the difference would be if the street was private instead of public. Mr. McCarthy stated that the street would be maintained by the city if it were a public way.

Mr. McCarthy then stated that it would be hard to answer technical questions at the moment and that he would like the other departments in the city to review the proposal.

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

***56 Smith Street  
Luisa Polanco***

Mr. McCarthy stated that the applicants are before the board looking for relief. He then stated that the applicant should be the party that is explaining what is being proposed.

Mr. Rivera then added that the applicants have no hardship. He then added that the applicants purposely built what was not supposed to be built.

One of the builders on the project then spoke and stated that he apologizes to the neighbors in the area and to city officials for the mistake that he and his colleagues made. He then stated that the home is a bit higher than the other homes in the area due to the fact that it is set up on a hillside. He also stated that the city had made some mistakes as well and that the Inspectional Services Department never stopped him. He then stated that the proposal made by the city to essentially cut off one floor is unfair, but at the end of the day the plans changed.

Mr. Rivera then stated that neither the Zoning Board of Appeals (ZBA) nor the city can be blamed for the predicament that the applicant is in. He then stated that the plans are different.

Max Guerro, another builder on the project then stated that he wants the project to keep going. He added that he was given the wrong information.

***Mr. Fernandez then gave a motion to continue. No one seconded.***

Heather Abreu, a resident of the neighborhood, then stated that the building is too high and looks almost like a multiplex. She added that the basement will be lived in and that the upstairs area makes the building a fourth floor. She added that it would be acceptable if the builder could go back to the floor plans that they had presented initially. She then stated that the home is a detriment to the community. She then concluded by stating that if there was a mistake it needs to be corrected.

Denise Olivares-Molina, the resident of 56 Smith Street stated that there was not a third floor on the plans that were submitted to the members of the board. Mr. Rivera then asked who made the plans. It was said by the builders on the project that Marcos Devers had prepared the plans. Mr. Rivera then stated that Mr. Devers stated that he had nothing to do with the plans. He then stated that the architect is not certified, but makes plans on Mr. Devers' behalf.

Mr. Rivera then asked if the original plans that were submitted were stamped. Mr. McCarthy stated that they were not.

Mr. Guerrero then asked if the case was going to be continued. He was told it would not be.

Mr. Mazola then asked if the attorney on the project was also ill during last month's meeting. Mr. McCarthy stated that he was and that his health should not be a matter of public record. He then stated that even if the attorney were to speak, it would not change the facts of the case.

Mr. Rivera then state that the plans used for the building state that the proper sign offs were performed.

Mr. Devers then stated that he had been engaged in the entire process, but that he was unable to intervene or give his input. He stated that the original plans were stamped and that they had been done by Gilberto Jimenez. He added that it was very embarrassing that the procedures were not followed. He then stated that in the beginning stages of the project he indicated that there needs to be some sort of relief given, but that his input has been ignored. He added that he has not been in touch with the applicants regarding the project. He then stated that he had informed the applicant that he should seek legal advice. He then concluded by stating that corners were cut in this project, and this happened as a result.

Mr. Campos then asked if the board would be overturning the building commissioner's decision. Mr. McCarthy stated that they would be granting relief for the project.

With no further discussion,

*The board voted and the results are as follows:*

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

*The board unanimously decided to deny the applicant's petition.*

*26-28 Summit Avenue  
Maria De La Cruz*

Present to address the board was Marcos Devers.

Mr. Devers stated that supplemental information is needed by the board and other city officials. He also stated that new plans need to be drafted and submitted. He also stated that the issues have been addressed and that he and his clients are attempting to be more in compliance with the zoning ordinances.

He then humbly requested a continuance from the board.

Mr. McCarthy then asked Mr. Devers if he could explain the differences between the first and second sets of plans that were submitted.

Mr. Devers then stated that he had tasked one of his employees to edit the plans. He stated that the space inside of the building was reduced, a ramp had been added for accessibility, and there will be garages underneath the home in this proposal. He added that more improvements will be coming as well. Mr. Campos then asked if the applicant was requesting a continuance. Mr. Rivera stated that he was.

Mr. McCarthy then stated that there are indeed some slight differences between the old and new sets of plans, but he would like the Department of Public Works (DPW) to look at the plans as well. He added that the main concerns about the project are the curb cut onto Prospect Street, the construction of a retaining wall and how storm water will be handled on the property.

Captain Delaney of the Lawrence Fire Department then asked Mr. Devers if he planned on sprinkling the property. Mr. Devers stated that if it were made into a condition, he would. Captain Delaney was in support of continuing the case.

*Upon a motion made by Mr. Campos and Mr. Fernandez, the board unanimously decided to continue the matter until the next meeting.*

*555 South Union Street  
Greater Lawrence Community Action Council (GLCAC)*

Present to address the members of the board were Meera Alanonly, Arthur Broadhurst, and Evelyn Friedman.

Mr. Broadhurst indicated that the property in question is a 16,000 square foot building which used to be an old nursing home. He added that at one point there were roughly 50-70 people going in and out of the building at any given time.

Mr. Broadhurst then stated that the plan was to create up to 26 units of supportive housing for the elderly that are economically challenged. He added that the housing would fall under the GLCAC's housing program and that many services would be offered to the residents.

He then stated that it would not be like the typical housing plan, but that it would incorporate a lot of open space and that residents would have access to communal areas and some would even have access to balconies outside of their rooms. He also stated that there is a large patio area in the rear of the building where the residents can assemble and enjoy the outdoors. He stated that there will be parking in the rear of the building which is more than sufficient and that there will be plenty of privacy as well.

He added that the GLCAC has a sterling reputation and that the proposal would eliminate some of the stress which is on many of the services that the city is offering.

Mr. Broadhurst then added that he and his colleagues are asking for relief for density and parking.

Mr. McCarthy then stated that some of the initial concerns were in regards to the unit sizes. He stated that supportive housing is a great idea. He added that the home is in great shape and that the property has more than enough parking.

He stated that the use of the building is good for the neighborhood and provides balance in the neighborhood. He added that the tenants would live in close proximity to amenities and that the tenants would be quiet and will not disrupt the workings of the neighborhood. He then stated that two letters of support were drafted, one by Martha Velez and the other by Mayor Dan Rivera.

No abutters were present to address the board.

With no further discussion,

***The board voted and the results are as follows:***

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

***The board unanimously decided to approve the applicant's petition.***

***452 South Union Street***  
***Merlyn Banegas***

No one was present to address the members of the board.

It was suggested that the members of the board continue the matter until the next meeting and that the applicants be notified that if they do not attend, the case will be withdrawn.

***Upon a motion made by Mr. Campos and Mr. Fernandez, the board unanimously decided to continue the matter until the next meeting.***

***9 Pembroke Drive***  
***Frankie Santiago***

Present to address the members of the board was Frankie Santiago.

He stated that he is before the board in order to appeal the decision of the building commissioner so he can construct an in-law apartment in the basement of the property so his parents can live with him.

Mr. McCarthy then stated that a kitchen is also going to be installed, but a condition can be made that the kitchen be removed if the property were to change hands.

Mr. Rivera then asked if there would be two egresses or one. Mr. McCarthy stated that the entrance the primary entrance would be through the front door of the home, which is already part of the house. He then stated that the garage will be living space and the second egress will only be for the in-law apartment. He then stated that a condition can be put in place to ensure that a common entrance join the two units together.

Mr. Rivera then asked if the home was just simply a single-family home that the applicant wants to install an in-law in. Mr. McCarthy stated that this was indeed the plan, but that it was used as a family room at one point.

Mr. Rivera then asked if it would be possible for the applicant to just build a kitchen. Mr. McCarthy stated that it sets a precedent.

Mr. Santiago then stated that the unit will not be an apartment, but he is just trying to make the home comfortable for his parents.

Mr. Fernandez then stated that it was good that the applicant knows that the permit cannot be transferred to the new owners of the property, should he sell it.

Mr. Rivera then asked if the statement that Mr. Fernandez made was true or not. Mr. McCarthy stated that it was.

The following conditions were then presented to the applicant:

1. Units must have a common interior door that links the units inside of the building.
2. There must be one set of meters and sewer and electrical services.

3. The unit will be considered a single family home by the city and there will be no occupancy permit pulled for the second apartment.
4. The in-law apartment must not be advertised as a separate unit.
5. The in-law apartment must be constructed in such a way that it can be removed when the unit is sold, changes ownership, or the in-law apartment is no longer needed.
6. Building must be protected by interconnected smoke detectors.

Mr. Rivera then asked if the kitchen area would be where the current garage is. Mr. McCarthy stated that it can be, but the easiest way to construct the kitchen would be to place it right underneath the current kitchen on the floor above it.

With no further discussion,

*The board voted and the results are as follows:*

*Roberto Fernandez- Yes with the conditions*

*Will Mazola- Yes with the conditions*

*Frank Campos- Yes with the conditions*

*Richard Rivera- Yes with the conditions*

*Beatrice Taveras- No*

*The applicants petition was passed with a vote of 4-1.*

*Upon a motion made by Mr. Campos and seconded by Mr. Mazola, the board unanimously decided to approve the minutes from the September 25<sup>th</sup> meeting and the May 28<sup>th</sup> meeting.*

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