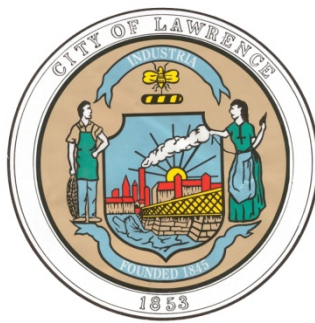


ZONING BOARD OF APPEALS



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Land Use Planner

Daniel A. McCarthy

ZONING BOARD OF APPEALS

7-29-2021

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

Frank Campos-Present

Roberto Fernandez-Present

Beatrice Taveras- Present

Jose Rosario- Present

Also Present:

Daniel McCarthy, Land Use Planner

Michael Armano, Acting Inspectional Services Director

David Palumbo, Acting Building Commissioner-Present

Captain Patrick Delaney, Fire Prevention

Pedro Soto, Planning Director

Jorge Martinez- Minute Taker

With a unanimous motion of 4-0, the members of the Zoning Board of Appeals voted to open the public meeting.

540 Essex Street

Prime Real Estate Investments

Present to address the members of the board were Attorney Anthony Copani and Sadie Camilo.

Attorney Copani stated that there have been multiple revisions to the plans that have been submitted over the past few months. He then stated that it shows that the applicants have been listening to the feedback and have been adjusting accordingly. He then stated that Prime Real Estate Investments is represented this evening by Manuel Joaquin and Rosario Nicotra. He added that they would be able to answer any questions related to construction.

He then gave a brief overview of the project and a brief procedural history.

He then stated that the city recommended that the building be situated right on the front of the lot in order to keep the appearance of the building consistent with the rest of the ones in the neighborhood. He then stated that there were two additional site plans submitted, one in April and the other in June. The main revision between the two plans being the movement of the building closer to the lot line. He then stated that the new plans change the configuration of the first floor. He added that the first floor will contain two commercial units and that there will be no residential units on the first floor. He then stated that there were architectural plans submitted that show the ten unit, three story building. He then stated that the windows were eliminated from the right side of the building in the anticipation that the adjacent building will be developed. He then corrected himself and stated that the new building will be five stories, 18 units total.

He then stated that there will be six total parking spots dedicated for the residents of the building and that there would be two handicap spots amongst the six proposed. He then stated that there is an agreement with the city that will dedicate 18 off-site parking spots. He then stated that the project requires both a parking variance and a density variance. He stated that the parking variance would allow 20 total spots

when 32 are required. He then stated that it is unlikely that all of the residents of the units will require two parking spots. He then stated that his clients have done everything possible to address the city's concerns.

Mr. McCarthy then stated that the city has been in communication with the applicant for over three months and they have been very responsive to the concerns of the city. He then stated that there is a general agreement that the layout and design of the units is a really positive development. He then stated that the elevator and the utilities will be on the right side of the building and the windows will be oriented in such a way that they will allow as much light as possible to enter the building. He then stated that the design of the units is also very smart and convenient. He then stated that the city did a wrap-around on the property and it was discussed that the units should have laundry areas inside of them. He then stated that the requested variable is reasonable and variances have been given to similar projects. He then stated that the city would require that a contract be entered into a licensing agreement and that it become valid. He then stated that there were some discrepancies in regards to the parking and that the city has requested cameras and motion activated lights in the rear of the building.

The following conditions were presented to the applicant:

1. Applicant must provide a parking agreement for the agreed number of parking spots.
2. Applicant must install cameras and motion activated lights at the request of the Police Department.
3. Applicant must provide laundry area for the residents of the building.

Mr. Rivera then stated that he has visited the parking lots and that both are already full. He then asked how the board would know what arrangements were made for parking because the board is constantly making these agreements into conditions without following up on them and seeing how they are implemented.

Ms. Camilo then stated that she has been involved in the project and when she initially communicated with the city attorney, Attorney Ruano stated that in order for the city to pay, the project had to be approved first.

Mr. Rivera stated that he does not have an issue with that part, but that he does have an issue with the fact that the board has already exhausted these parking spaces and the board has not seen these parking agreements. He then stated that the board does not know who is paying and who is not. He added that the board does not know who is taking up these spots.

Attorney Copani then stated that he does have a copy of the parking agreement with the city and he can present one if necessary.

Mr. Rivera then stated that it appears that these parking lots are already full. Attorney Copani then stated that this type of problem is not unique to the applicant, but they apply to everyone.

Mr. Rivera then stated that his intent is not to put the burden on the applicant, but the board needs to see if they can hold someone within the city accountable so that they can answer these questions. He then stated that he does not want the city to vote on something that will essentially make the city worse. He stated that approving projects such as this one would set a precedent and the board needs to ensure that they are setting the correct precedent. He then stated that it appears that parking is the main issue.

Mr. McCarthy then stated that after a conversation this afternoon, he took the opportunity to contact that Parking Director and discuss how the proposal is being handled. He then stated that part of the problem is the fact that the Pac 10 Mills were partially filled with units, but they are providing two floors of parking inside of the building. He then stated that the parking that will be inside of the building itself is not ready yet, so they will be the ones who are primarily using the Franklin Street parking. He then stated that another 40 unit building has 25 cars in the area as well and that there is currently no one enforcing the parking in these lots. He then stated that it is a possibility that many of the cars that are currently parking in the parking lot do not have the proper permits and they are using the spots just because they are there. He then stated that he does agree with the points that they city has to come up with some way to hold the offenders accountable. He then stated that the city has to find out what these numbers are and deal with the problem at hand.

He then stated that the city is committed to having the spaces for the project at Common Street available. He then stated that initially, the spots could not be used because Northern Essex Community College was using the spots, therefore this is an issue that needs to be addressed, but it may not be an issue that is addressed today. He then stated that he believed that the board cannot punish the applicant. He then stated that the board should find these answers before more projects come down the pipeline and that a new contract for parking has just gone out to RFP and there will be a new group that will handle the parking. He then stated that another problem is the Museum Square parking lot where 450 cars have been placed into the street. He then stated that the long-term goal is to have all the parking spaces on the street be

metered and enforced and have the garages open and filled to capacity. He then went over the way a parking contract works.

Mr. Rivera then asked how the alleyway in the back was going to be worked out and whether or not a play area can be installed on the roof. Mr. Nicotra stated that he would take that into consideration. He then stated that it would be a safety issue to have children on the roof. He then stated that there are laundry areas downstairs and an activity room as well, not including the refuse area which is outside.

Mr. Rivera then asked what would happen in regards to the alley. Mr. McCarthy then stated that the city does not own the alleys other than several of the ones on Essex Street. He then stated that the one in question is not owned by the city. He then stated that the alleyway in question could be one that was formerly owned by the Essex Company that is now a public way which means no one can obstruct them and anyone has the right to use them. He then stated that his understanding is that the six parking spaces coming off of the alleyway was addressed. He then stated that there will be two ADA parking spaces in the alleyway and there will be loading and unloading areas for the commercial units in the alleyway as well. He then stated that the city would require that the group maintains the alleyway in some sort of way as well as improve it by grading it and leveling it out.

Mr. Rivera then asked where the refuse area would go if it cannot go in the alley. Mr. McCarthy then stated that they have to create a space inside of the property where a dumpster can be stored and then wheeled out on trash days. He then stated that the refuse cannot be visible to the public and has to be closed in some manner. He then stated that the city would request that the refuse area be maintained in such a way that no rats or other animals will be able to access this location.

Mr. Rivera then asked if the play area on the roof can be made into a condition. Mr. McCarthy stated that it can and that he would also suggest that a condition be put into place that one of the multi-use rooms be used for a fitness room or laundry area. Mr. Nicotra stated that there will definitely be a laundry room down there and that enough room has been left to have an activity area down there as well.

Mr. Armano then stated that the proposal has consisted of a lot of great changes and that a lot of things are a lot nicer than the past presentation. He added that the city wanted to see this building be a lot nicer and that a lot of energy and thoughtfulness has gone into developing the downtown area. He then stated that the parking in the area is certainly an issue and that one of the ways to resolve this problem is to make the city more walkable. He stated that the downtown area is close to the commuter rail and that there are great amenities in the area, but it is important to take some for these buildings and make sure that they have what people need that way residents can enjoy their space. He stated that it is not easy to do that in a smaller apartment, but that he believes that a laundry area is a necessity. He then stated that it is important to have laundry areas inside of a unit and that it is not that difficult of a request. He then stated that he will continue to ask developers to be aware of this.

Mr. Armano then stated that common areas will also make a big difference. He then stated that this building has 16 units and that the more units a building has, the more communal space a developer needs to provide. He then stated that the mill buildings that have been recently renovated can be an example of this, as when they are developed they not only become a place where people live, but rather a place where people come and gather. He then stated that there can be many excuses for these amenities to be absent, but if the city wants to have the quality of life of the residents increase then the city needs to expect more out of our developers and of our buildings. He then stated that he would challenge the owners of the building to think a bit harder about what they are doing with the space and that he loves the little changes that have been made and that he would be happy to work with the owners in the future. He then stated that he likes the direction that the project is going in and that he does not understand the trash plan or the multi-use room. He then posed multiple questions to the owners.

Mr. McCarthy then stated that he agrees with Mr. Armano's comments and that the applicants for the project are requesting two variances, one for parking and the other for density. He then stated that the project will have to go before the Planning Board for site plan approval as well as a special permit for multi-family housing. He then stated that many of the questions raised at this meeting can be answered in greater detail at that meeting.

Mr. Armano then stated that his comments were not intended to delay this project in any way, but they can be resolved.

Attorney Copani then stated that he agrees with Mr. McCarthy and that this is just one step in the process. He then stated that the project does need to go before the Planning Board as well.

The following conditions were presented to the applicant:

1. Applicant must provide cameras on the exterior of the property.
2. Applicant must provide lighting on the exterior of the property.
3. Applicant must provide laundry areas in each apartment.

4. Applicant must provide a rooftop playground for children.

With no further discussion,

The members of the board voted and the results are as follows:

Richard Rivera, Chair- Yes with the four conditions
Beatrice Taveras- Yes with the four conditions
Frank Campos- Yes with the four conditions
Jose Rosario- Yes with the four conditions

The applicant's variance was passed with a vote of 4-0.

32 Alder Street
Luis Javier

Mr. McCarthy indicated that he received a letter from the applicant's engineer that they wish to continue the matter until the next meeting.

Upon a motion made by Mr. Campos and seconded by Mr. Rosario, the members of the board voted unanimously to continue the matter until the next meeting.

100 Hancock Street
Esmirna Encarnacion

Present to address the members of the board was Esmirna Encarnacion.

She stated that the proposal is for an addition in the rear of the building which will convert a single family home into a two-family home. She stated that she would like to convert it so that her mother can live on the first floor and she can live on the second floor. She stated that three bedrooms and a bedroom will be installed on each floor. She then stated that she has asked her neighbor if she could access her parking lot through their property, but Chairman Rivera stated that this would not be something binding or permanent.

Mr. Rivera then asked what the hardship associated with the proposal is. Mr. McCarthy then informed Ms. Encarnacion that she needs a specific hardship that needs to be associated with the land which will warrant giving the variance. Ms. Encarnacion stated that she submitted all of the plans already.

Mr. McCarthy then stated that the building commissioner and the fire department have been to the property several times to look at the property. He then stated that Captain Delaney was at the property and it was an agreement that it is impossible to get parking on the site. He then stated that the lot is not big enough under the current zoning to have a single-family home let along a two-unit home. He then stated that the hope was that Ms. Encarnacion would create some sort of parking in the area and that the driveway and the parking area would benefit the neighborhood in some sort of way. He stated that without parking, the city would not support the project due to the fact that it will be putting more cars on the street. He then stated that there are schools and city owned property in close proximity and that the paths are very tight and cramped.

Ms. Encarnacion then stated that at the last meeting the fire department said that they would like to walk the home, but no appointment was made. She then stated that the construction was started and the footings were installed. She then stated that she is not trying to ask for something that is unreasonable and that she just wants to make the property more fitting for her family. She then stated that she only needs enough parking for one car as she is the only one that drives. She then stated that she does not want to affect anyone else's parking situation. She then stated that she would like the board's approval because she has been paying mortgage on the property and she wants to do what is right.

Captain Delaney then stated that he did get to visit the site today and the buildings on both sides are extremely close as well as the building in the rear. He then stated that it would be difficult for the fire department to support the proposal, but if allowed the building would definitely need to be sprinkled. He then stated that accessing the property would be extremely difficult.

Commissioner Palumbo then stated that there is no way to access the rear of the property without going through the neighbor's property. He added that the house is built on an angle which gets smaller in the area that the addition is being proposed. He then stated that the work was stopped initially because the work was being done without a permit. He then stated that the building permit was denied March 7th and that he just does not know of any way that this can be done.

Ms. Encarnacion stated that she did not start the work on the building without a permit. Mr. Palumbo stated that a building permit was never filed. Ms. Encarnacion stated that holes were dug and the footings

were placed, but she never started the project. Mr. Palumbo then stated that according to the building department, digging and installing footings constitutes starting a project.

With no further discussion,

The members of the board voted and the results are as follows:

Richard Rivera, Chair- No

Beatrice Taveras- No

Frank Campos- No

Jose Rosario- No

The applicant's variance was passed with a vote of 0-4.

2, 6-8,10 Sanborn Street

Ken Daher

Present to address the members of the board were Frank Giles and Ken Daher.

Mr. Giles stated that this is the second month that the project that has been before the board and initially they had proposed a two family home on the left and a single family home on the lot on the right. He then stated that after meeting with the neighbors and listening to the suggestions made by the Land Use Planner, the left lot will be left vacant and the right lot will only be a single-family home. He stated that this will save the trees in the area and give the birds that frequent the location places to nest. He added that the proposed single-family home will be a lot less intrusive as well and that the home will have off-street parking. He then showed images of the property to the members of the board. He then stated that one tree will be removed because it is damaging the pavement, but two more trees will be planted in its place.

Mr. Rivera then asked if the plan is going to be to focus on development on the Kingston Street side. Mr. Giles stated that this is correct and that the application will be modified to reflect the change. He then stated that he would like to go forward and hopefully get the project accepted tonight.

Mr. McCarthy then stated that he is happy to see these developments and that there was a meeting amongst the city departments and that there was some concern because Everett Street is very busy. He then stated that the lot on the Kingston Street side was less problematic. He added that it is a nice neighborhood and a good place to raise a family. He added that the only issue is the density on the lot. He stated that the city has no position on that, but if it was a subdivision the city would be looking at it a lot differently. He then stated that he would leave it up to the board's discretion.

Mr. Daher then stated that the initial proposal was because there were three individual lots on three different deeds with three different addresses therefore it appeared that these lots would be fitting for three separate buildings. He then stated that he has built in the city for 40 years and all of the homes that he has constructed are sold to residents of the city who just look for alternative living arrangements.