

**CITY OF LOWELL
ZONING BOARD OF APPEALS
MONDAY, MAY 18, 2020
VIA ZOOM
AT 7:00 P.M.**

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL.

The Meeting was called to order at 7:00 p.m. by Zoning Board Chair Marty Chambers and City Clerk Susan Ullery called roll.

Present: Boardmembers Canfield, Salzwedel, Yankovich, DeVore and Chair Chambers.

Absent: None.

Also Present: City Manager Mike Burns, City Clerk Susan Ullery, City Treasurer Suzanne Olin, Police Chief Steve Bukala, DPW Director Dan Czarnecki, LL&P General Manager Steve Donkersloot and Williams and Works Planner Andy Moore.

2. APPROVAL OF THE CONSENT AGENDA.

- Approval of the Agenda.

IT WAS MOVED BY SALZWEDEL and seconded by DEVORE to approve the agenda as written.

YES: Boardmembers Canfield, DeVore, Salzwedel, Yankovich and Chair Chambers.

NO: None. ABSENT: None. MOTION CARRIED.

3. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.

There were no comments.

4. NEW BUSINESS.

a. Public Hearing – 1242 E. Main Street Non-Use Variance Application.

Andy Moore of Williams and Works explained that Ryan Gould has submitted an application for a variance on his property located at 1242 E. Main Street (PN 41-20-01-326-013). The applicant is proposing to construct an accessory building on the subject property and is seeking relief from three provisions in Section 4.08 of the Zoning Ordinance, which relate to accessory buildings located in front yards, accessory building size, and a hard-surfaced driveway.

The subject property is approximately 3.6 acres in the SR Suburban Residential district. The applicant is proposing to construct a 1,600 square foot accessory building in the front yard, near the East Main Street right-of-way. This would be accessed through an additional paved driveway off East Main Street. The applicant is requesting two variances. The first variance is from Section 4.08 F of the Ordinance, which states:

F. Detached accessory buildings shall be located:

1. A minimum of ten (10) feet from any main building;
2. A minimum of three (3) feet to any side or rear lot line, as measured to the eave of the building;

3. No nearer than the front yard setback required for the main building.

The applicant's proposed location for the accessory building meets requirements 1 and 2; however, the applicant is seeking relief from requirements 3, which requires all accessory buildings to be located no nearer than the front yard setback for a main building. The applicant has instead proposed an accessory building adjacent to the East Main Street right-of-way.

Additionally, Section 4.08 G (1)(b) states that the maximum total floor area for all accessory buildings associated with single and two-family dwellings, including the garage, is 1,200 square feet on lots 9,000 square feet or greater. The applicant has proposed a 1,600 square foot building. Additionally, the boundary survey indicates a shed on the property near the dwelling, the size of which is unknown. Therefore, the maximum allowed accessory building area would be exceeded by at least 400 square feet.

Finally, the applicant is not proposing to connect a hard surface driveway to the building which is required by Section 4.08 (L).

City Clerk Susan Ullery read a letter into record from Steve Parker at 1132 East Main Street, Brenda Haveman of 1225 East Main Street who were in support of the variance request.

Moore went through the Standards to see if they are met accordingly to the ordinance. To approve a variance, the Board of Zoning Appeals must find that all of the standards presented in Section 21.04 B. are met.

Part 1. Variance Review Standards – Front Yard Setback

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district; Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use of development of the property immediately adjoining the property in question, the literal enforcement of this requirements of this ordinance would involve practical difficulties.

Remarks: The applicant's property is located almost entirely within the Grand River's 100- year floodplain. The applicant stated that EGLE will not permit the structure to be built within the floodplain. The front yard setback for the SR Suburban Residential district is 30 feet, while the applicant is proposing to place the accessory building adjacent to the East Main Street right-of-way boundary. Although a setback dimension is not specified, this appears to make the setback approximately 0-10 feet according to the site plan. The applicant's front property line closely corresponds to the boundary of the 100-year floodplain, so the proposed accessory building location appears to be the option that would provide the smallest impact on the floodplain.

Compared to other SR Suburban Residential properties, the applicant's situation appears to be unique. There are limited properties in this district that are also within the floodplain. The few properties that are both in the SR district and entirely within the floodplain have limited or no residential development. Therefore, the applicant's situation appears unique within the SR Suburban Residential district. Because essentially the entire property is within the floodplain, there are exceptional natural features on the property that prohibit the applicant's ability to comply with the front yard setback requirement. The Board may find this standard met.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

The applicant's property is almost entirely within the 100-year floodplain and is also in the SR Suburban Residential district. This combination is relatively unique within the City, with limited development on parcels of a similar nature. The situation of this parcel does not appear to be so general or recurrent as to make practical the formulation of a general regulation. The Board may find this standard met.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Accessory buildings are a relatively common property right in the SR Suburban Residential district. There are a few accessory buildings on nearby properties, although they are not abundant. Because the property is located close to the border between the City of Lowell and Lowell Charter Township, different standards are present for accessory buildings. Nearby parcels along M-21 in Lowell Charter Township appear to have more accessory buildings than nearby parcels in the City. Overall, accessory buildings appear to be general present throughout the broader area around the subject property. The applicant is not seeking any financial return as a result of the accessory building construction. The Board may find this standard met.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

The construction of an accessory building at the proposed location would likely not be significantly detrimental to adjacent properties or the surrounding neighborhood. The subject property is heavily wooded, which is expected to provide natural screening of the building for adjacent properties. The number of trees removed could impact screening and therefore building's effect on surrounding properties. The Board may discuss the extent of required tree removal that would be necessary to build the accessory building and how this would affect screening.

The applicant is proposing a paved driveway off East Main Street to access the building. Currently, the applicant's driveway provides two access points off East Main Street, forming a "V" on the property and combining into one driveway in the parcel's interior. It's unclear whether this paved driveway would extend from an existing curb cut or require a new curb cut on East Main Street. If a new curb cut is desired, the applicant would have to obtain a permit from MDOT. The presence of three access points on one property could increase the potential for hazardous vehicle interaction along East Main Street and should be further considered. However, the applicant has also indicated that EGLE will not permit any material added into the floodplain area, which may necessitate the proposed driveway location to avoid the floodplain. Emergency vehicle access should also be considered to ensure the accessory building would be accessible. The Board may address driveway design with the applicant.

Lastly, the building materials and proposed design of the building were not indicated in the application. Section 4.08 J provides standards for building design, including compatibility with the main building and neighborhood. The Board may discuss screening, building materials, and driveway access from East Main Street with the applicant to determine the extent to which the

proposed location would impact the neighboring area. Subject to those discussion, the Board may find that this standard is met.

5. The variance will not impair the intent and purpose of this ordinance.

The purpose of the Zoning Ordinance includes the provision for appropriate relationships between uses of land and their locations. Given that the applicant's property is almost entirely in the floodplain, the proposed location for the accessory building appears to allow a use that is generally permitted in the SR Suburban Residential district in an are that protects the floodplain to the greatest extent possible. Therefore, the Board may find this standard met.

6. That the immediate practical difficulty caused the need for the variance request was not created by any action of the applicant.

The practical difficulty causing the variance request is not created by the action of the applicant. The subject property is within the 100-year floodplain and the construction of an accessory building in locations permitted by the ordinance is not allowed by EGLE. The Board may find this standard met.

Moore indicated he is comfortable with the request regarding the location in the front yard. He is proposing to pave a portion of the drive, which will help with runoff onto East Main Street.

Boardmembers DeVore, Salzwedel, Yankovich, Chair Chambers and Boardmember Canfield agreed that the standards for the location of the accessory building were met.

Part 2. Variance Review Standards – Accessory Building Size

Moore explained the ordinance requires that when an applicant constructs a home or an accessory building, the applicant must provide a hard surfaced drive all the way to the building. He does indicate there will be a paved drive near the accessory building just not all the way up to it. The overall intent of this is to minimize dust and runoff. Moore noted the applicant has a larger parcel, heavily wooded and not close to neighbors.

Standards are the same and Moore is comfortable with this being approved.

Chambers questioned if millings could be required as a condition. Moore said the City has approved this in the past and this would be fine to approve.

Salzwedel asked if the drive was going to be paved all the way to the street? Gould stated he would prefer to go with millings up to it. He noted he would be willing to pave an apron and the use millings as far as far back as the DEQ would allow. Chambers confirmed he would pave from the street to the barn? Gould responded yes, it would be paved from the street to the barn or 50 to 60 feet and then a paved apron up to the building.

Boardmember Salzwedel, Yankovich, Chair Chambers, Boardmembers Canfield, and DeVore all agreed on the hard surface driveway requirement.

Part 3. Variance Review Standards – Accessory Building Size.

Moore explained this did not come through on the request but as they were reviewing they found the size is larger than what is allowed. Moore did not believe there was a good enough reason that would require such a variance. Gould explained he owns four boats all of which are in use throughout the summer as well as other things to store. He lives on a large piece of property and has a lot to maintain.

Moore stated if this is built he would not be permitted to build an additional accessory building.

Boarbmember Yankovich, Chair Chambers, Boardmembers Canfield, DeVore and Salzwedel all agreed the requested size was appropriate.

IT WAS MOVED BY CANFIELD and seconded by DEVORE to grant the variance for the placement of the accessory building.

YES: Chair Chambers, Boardmembers Canfield, DeVore, Salzwedel and Yankovich.

NO: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY DEVORE and seconded by YANKOVICH to grant the variance for the hard surfaced driveway which includes an asphalt apron from East Main Street to the accessory building and then millings for approximately 50 to 60 feet from the accessory building.

YES: Boardmembers Canfield, DeVore, Salzwedel and Yankovich and Chair Chambers.

NO: None. ABSENT: None. MOTION CARRIED.

IT WAS MOVED BY DEVORE and seconded by SALZWEDEL to approve the size of the accessory building as presented.

YES: Boardmembers DeVore, Salzwedel, Yankovich, Chair Chambers and Boardmember Canfield.

NO: None. ABSENT: None. MOTION CARRIED.

5. **BOARDS AND COMISSION REPORTS.**

There were none.

6. **COUNCIL COMMENTS.**

There were none.

7. **ADJOURNMENT.**

IT WAS MOVED BY SALZWEDEL and seconded by DEVORE to adjourn at 7:33 p.m.

YES: 5. NO: NONE. ABSENT: 1. MOTION CARRIED.

DATE:

APPROVED:

Chair Marty Chambers

Susan Ullery, City Clerk