

**LOWELL BOARD OF ZONING APPEALS MEETING
November 12th, 2020**

Will Farrellbegg called the meeting to order at 6:03pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, Shane Lawrence, Jim Konradi, and Will Farrellbegg. Tom Cogdill and Manny Frausto were absent. Mr. Konradi participated in the meeting via electronic media. Also present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building.

Mr. Lawrence made a motion to appoint Will Farrellbegg to chair the meeting, seconded by Mr. Konradi and carried with a roll call vote of all ayes.

Mr. Farrellbegg read:

This meeting will be convened as a hybrid in person and electronic meeting, pursuant to Governor Holcomb's Executive Orders 20-04, 20-09, 20-25 and extended by Executive Order 20-47, allowing such meetings, pursuant to IC 5-14-1.5-3.6 for the duration of the emergency. Those wishing to participate electronically can do so by joining the meeting on the GoToMeeting platform.

APPROVAL OF MINUTES:

Mr. Lawrence made a motion to approve the September 10th, 2020 regular meeting minutes, seconded by Mr. Konradi and carried by roll call vote of all ayes.

NEW BUSINESS:

BZA # 20-012 - SPECIAL USE - PROPERTY ADDRESS: PARCEL NORTH OF 18275 BURR -petition for a special use as identified in the Town of Lowell Zoning Ordinance §155.034(3)(a)(2) R4 District –and land use matrix §155.043 -residential uses has been filed by Mannik Smith Group, 1160 Dublin Rd. #100, Columbus, OH for their client: Trilogy Real Estate Lowell, LLC. This is for property located at approx. parcel north of 18275 Burr St. Lowell, IN Petition is to build an assisted living facility on the parcel.

Kris Holeyfield, from Mannik Smith Engineering stated he is representing Trilogy Health Services. He stated they own the property at 18275 Burr and the property south of them. They are petitioning to allow the construction of an assisted living facility in the R4 zoning district. He stated it is a special use in the town's zoning code. They are proposing to construct a memory care facility with some duplex units.

Mr. Farrellbegg asked if this was in connection with Cedar Creek. Mr. Holeyfield stated yes, Cedar Creek is the continuing care facility to the south and this fulfills their campus desire to have the duplex units, continuing care and the memory facility. Mr. Farrellbegg asked if the duplexes are purchased or rented. Mr. Holyfield stated the individual units are by lease only, Trilogy owns, maintains and operates the property. Mr. Oman referred to a site plan that the Board received prior to the meeting. Mr. Lawrence asked how many beds were in the memory care. Mr. Holeyfield stated he believes 25-30. He stated the parking would be a single stall per 3 beds. He stated the duplexes are single story. Mr. Holeyfield stated there is an amenity center on the property that the duplexes would also have access to. That structure is attached to the memory care facility. Mr. Konradi asked if there are garages attached to the duplexes. Mr. Holeyfield

stated there is a single car attached garage for each duplex and in addition a tandem space, which gives the tenants 2 spaces each. Mr. Holeyfield stated there is not extra parking for the duplexes but there is parking for the facility and visitors of the facility. He stated historically the tenants do not drive. Discussion followed.

Mr. Farrellbegg opened the public hearing, no remonstrances were heard in person or via electronically. The public hearing was closed.

Mr. Oman stated staff feels it fits with existing health care facility. He stated the duplexes are an allowed use in R4, the memory care facility is a special use. Staff is supporting forwarding a favorable recommendation to the town council.

Mr. Lawrence made a motion to forward to the Town Council a favorable recommendation, for a special use variance, seconded by Mr. Konradi and carried with a voice vote of all ayes.

Mr. Lawrence made a motion to adopt the staff report as the Findings of Fact, seconded by Mr. Konradi and carried with a roll call vote of all ayes.

MOTION PASSES 3-0

BZA # 20-013-405 E. MAIN PROPOSED LOT 1 - a variance from developmental standards of the terms of the Town of Lowell Zoning Ordinance §155.034(B) District Standards of lot area and width has been filed by Eric Padgett 405 E. Main St., Lowell, IN 46356 for property located at 405 E. Main St., Lowell, IN, Parcel #45-19-23-412-006.000-008. This parcel is zoned R4.

Eric Padgett, 405 E. Main St., stated he is looking to split his lot and build a residence next door.

Mr. Padgett stated lot 1 variance is dependent on proposed lot 2 variance getting approved. Lot 1 is the existing house. Mr. Oman stated the proposed variance for lot 1 is for area and width of the existing house. This property is zoned R4, and is legal non-conforming. Because of his intent to subdivide the property and build another residence that would change the status to illegal non-conforming. He needs a variance on area and width for the existing house since it does not meet the minimum zoning requirements of R4. If lot 2 is approved the existing garage would become part of lot 2. He would then need to build an attached garage onto the existing house on lot 1. Mr. Oman referred to the proposed survey that was being projected on the screen. He discussed the outline of the parcel. He stated the area surrounding this property is also zoned R4. The R4 Zoning was updated to allow single family housing a few years ago, however the area and width were not adjusted and they are large for a single-family house. Mr. Oman stated the garage on lot 1 would be in line with the house. Lot width requirement for R4 is 150', his is 82.5. Lot area requirement for R4 is 20,000 sq. ft. his proposal is 12,330. Mr. Oman stated the proposed area and width for lot 1 are in line with our R2 single family requirement.

Mr. Konradi asked for clarification on the variances. Mr. Oman stated it is for lot standards so that he can subdivide. He had to seek the variances before he can do his subdivision.

Mr. Farrellbegg opened the public hearing.

Janet Benko, 419 E. Main discussed the grading that was previously done. She stated because of that this lot is high and it makes her lot lower and she gets more water. She is concerned about stormwater flooding her out.

Teresa Parker, 420 Cottage Grove. She stated they get more water on their lot also, the backyard floods and it never did before. Discussion followed.

Mr. Oman stated the petitioner will not be changing his grade. He will be adding impervious surface. It will eventually hit the ground and go the way it always has.

Attorney Bennett stated the Board should discuss both the petitions concurrently. She further discussed. She stated for voting purposes, they have to be kept separate but for discussion since they are interchangeable and affect neighboring homeowners you can discuss together. Discussion followed.

Mr. Oman discussed the variances on lot 2, which include interior side yard setback, area and width. He stated the existing garage will go with the new house. He stated the entire parcel will get subdivided into 2 lots if the variances get approved.

Ms. Benko asked if the lot was getting split in half? Front and back? Mr. Oman stated no, about right down the center. Mr. Oman referred to the survey that was on the screen to indicate where the lots would be divided and further discussed the layout and garages. Ms. Benko asked if the new residence was going to be a 2 story? Mr. Padgett stated yes, 3 bedroom and 2 baths. Ms. Benko asked about the façade of the structure. Mr. Padgett stated he was considering a partial brick veneer on the lower part. He stated there would be a slab foundation. Ms. Benko stated that she would like to talk to the petitioner about the huge trees that border their property on the side. It was decided that they would discuss that after the meeting.

Mr. Oman discussed the drainage and the route it takes off the property. Discussion followed. Mr. Oman stated the grading is not going to change. Water will leave the lot how it is currently. A question was asked if by putting more structures on the property would that make more water. Mr. Oman stated not more water but the water will move faster. He discussed the particulars.

Mr. Farrellbegg closed the public hearing for BZA #20-013 lot 1 405 E. Main. For the record there was nobody on electronically to remonstrate.

Mr. Oman stated the staff did not have any issues with the variances that are being requested.

Mr. Lawrence made a motion to approve the variance of developmental standards from the requirements of the Town of Lowell Land use and Development Code 155.034 (B), in order to subdivide the current property and have a new lot with an area of 12,3000 square feet, for a variance of 7,670 square feet, subject to approval of the subdivision plat from the Plan Commission, seconded by Mr. Konradi and carried with a voice vote of all ayes.

Mr. Konradi made a motion to approve the variance of developmental standards from the requirements of the Town of Lowell Land use and Development Code 155.034 (B), in order to subdivide the current property and have a new lot with an width of 82.50 feet, for a variance of 67.50 feet, subject to approval of the subdivision plat from the Plan Commission, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. Konradi made a motion to accept the staff report as the Findings of Fact, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

BZA # 20-014 - 405 E. MAIN PROPOSED LOT 2 - a variance from developmental standards of the terms of the Town of Lowell Zoning Ordinance §155.034(B) District Standards of lot area, width and side setback has been filed by Eric Padgett 405 E. Main St., Lowell, IN 46356 for property located at 405 E. Main St., Lowell, IN, Parcel #45-19-23-412-006.000-008. This parcel is zoned R4.

Mr. Padgett stated he would like to build a 2-story residence without a basement. He stated the garage and driveway would stay where it is currently located.

Mr. Konradi asked if the direction of the garage doors that currently open to the South were changing. Mr. Padgett stated no. He stated there is a 30' section for turnaround, he realizes it is tight but it is doable.

Mr. Farrellbegg opened the public hearing.

Jan Benko, 410 E. Main. She stated she would like to know which side of the building the driveway is going to be on. Mr. Padgett stated on the east side, it is staying in the same location. Ms. Benko asked what Mr. Padgett was going to do with the dirt that would be excavated from the hole for the new house. Mr. Padgett stated he will be taking it off site. Ms. Benko stated she is still scared about the trees.

Mr. Farrellbegg closed the public hearing. For the record there was no one on electronically to remonstrate.

Mr. Oman stated the staff approves the variances. Discussion followed. Mr. Oman stated the side yard setback minimum requirement in R4 is 15', petitioner is proposing a 10' he would need a 5' variance. He continued, the minimum yard width in R4 is 150, petitioner is proposing 82.50, for a variance of 67.50. Minimum area in R4 is 20,000 sq. ft., petitioner is proposing 13,276 for a variance of 6724.

Attorney Bennett asked Mr. Oman if the proposed residence was a duplex. Mr. Oman stated it can be the zoning allows it. Mr. Padgett stated ideally it would be a duplex. He showed a sketch to the Board of his proposed residence. Attorney Bennett stated you are allowed by zoning to have a 2-4 family residence. She asked the petitioner if the location of the driveway or the issue with the garage change if he builds a multi-family unit. Mr. Padgett stated no. Discussion followed on how the residence would be divided if it is multi family. It would be a 2-story side by side.

Mr. Lawrence asked the petitioner if a duplex is built who gets the garage? Discussion followed.

Attorney Bennett stated that the plat would be brought in front of the Plan Commission. Attorney Bennett stated that R4 does allow 2 accessory structures. Discussion followed. Mr. Lawrence stated the problem he has is there is only one entrance which would only allow one car. Discussion followed on the garage and the driveway. Attorney Bennett discussed the Boards availability to put conditions on the variance.

Mr. Farrellbegg stated he is ok with a single-family house, but not a duplex, due to parking and driveway issues. Mr. Konradi stated he feels 30' is not enough room to turn a car into the garage. Discussion followed on motions.

Mr. Lawrence made a motion to approve the petitioners requested developmental variance from the requirements of the Town of Lowell Land Use and Development code 155.034 (B), in order to subdivide the current property and have a new lot with an area of 13,276 sq. ft. for a variance of 6,724 sq. ft. subject to:

- A. Plan Commission approval of the subdivision plat
- B. It must be a single-family home
- C. The house has a front setback of 40' instead of 50'

Seconded by Mr. Konradi and carried with a voice vote of all ayes.

Mr. Lawrence made a motion to approve the petitioners requested developmental variance from the requirements of the Town of Lowell Land Use and Development code 155.034 (B), in order to subdivide the current property and have a new lot with a width of 82.50', for a variance of 67.50' subject to:

- A. Plan Commission approval of the subdivision plat
- B. It must be a single-family home
- C. The house has a front setback of 40' instead of 50'

Seconded by Mr. Konradi and carried with a voice vote of all ayes

Mr. Lawrence made a motion to approve the petitioners requested developmental variance from the requirements of the Town of Lowell Land Use and Development code 155.034 (B), in order to subdivide the current property and have a side yard setback of 10', for a variance of 5' subject to:

- A. Plan Commission approval of the subdivision plat
- B. It must be a single-family home
- C. The house has a front setback of 40' instead of 50'

Seconded by Mr. Konradi and carried with a voice vote of all ayes

Mr. Lawrence made a motion to accept the staff report with the conditions that were proposed by the Board as the Findings of Fact, seconded by Mr. Konradi and carried with a voice vote of all ayes.

OLD BUSINESS:

BZA #19-015 506 Gatewood Terrace – extend variance developmental standards approved 11/14/19. 30x30 Accessory Structure. 700 sq. ft. variance.

Mr. Williams Neaves, 506 Gatewood Terrace stated that he needed an extension on his variance. He had intended to build his garage this spring however, he had to do some foundation work on his house and the money he had allocated for the garage was used to pay for that. Attorney Bennett stated the board can extend the variance for a period of one year.

Mr. Lawrence made a motion to extend the variance for BZA #19-015, 506 Gatewood Terrace for one year, seconded by Mr. Konradi and carried with a roll call vote of all ayes.

PUBLIC COMMENT: NONE

ANNOUNCEMENTS: Mr. Farrellbegg stated the next regularly scheduled meeting is on December 10th, 2020 at 6pm.

ADJOURNMENT:

With no further comments or questions, Mr. Lawrence made a motion to adjourn the meeting at 7:10pm, seconded by Mr. Konradi and carried with a voice vote of all ayes.

Manny Frausto, President

Thomas Cogdill, Secretary