

**LOWELL BOARD OF ZONING APPEALS MEETING**

**May 12<sup>th</sup>, 2022**

Secretary Dave Regan called the meeting to order at 6:07pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, Ben Clemens, Dave Reagan, Tom Cartwright and Jim Konradi. Shane Lawrence was absent. Also present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building and Craig Hendrix, Town of Lowell, Engineer, and Manager.

**ELECTION OF OFFICERS:**

Chairman - Mr. Konradi nominated Dave Regan for chairman of the BZA for 2022. No other nominations were heard. Nominations were closed. Mr. Cartwright seconded Mr. Konradi's motion. Motion was passed with a roll call vote of all ayes.

Vice Chairman- Mr. Cartwright made a motion to nominate Ben Clemons for Vice Chairman of the BZA for 2022. No Other nominations were heard. Nominations were closed. Mr. Konradi seconded Mr. Cartwright's motion. Motion was passed with a roll call vote of all ayes.

Secretary – Mr. Konradi made a motion to nominate Tom Cartwright for Secretary of the BZA for 2022. No other nominations were heard. Nominations were closed. Mr. Regan seconded Mr. Konradi's motion. Motion was passed with a roll call vote of all ayes.

**APPROVAL OF MINUTES:**

Mr. Konradi made a motion to approve the January 13<sup>th</sup>, 2022, regular meeting minutes, seconded by Mr. Cartwright and carried by voice vote of all ayes.

**OLD BUSINESS:** NONE

**NEW BUSINESS:**

**#22-002 - 448 N. NICHOLS** – Variance from Ordinance §155.031 District Standards (B)Accessory Structure height. Petitioner is requesting to erect an accessory structure that is taller than what is allowed in the above-mentioned ordinance. Petition has been filed by Ryan Dahlberg, 448 N Nichols, Lowell, IN. Parel #45-19-23-301-029.000-008.

Ryan Dahlberg, 448 N Nichols, Lowell, IN. Mr. Dahlberg stated he is petitioning tonight to build his accessory out building at a height of 22.5. The ordinance allows 16'.

Mr. Konradi asked the petitioner if there was a special use for this building that this height was needed for. Mr. Dahlberg stated there will be a loft terrace to overlook the property. His property is a wooded 6-acre lot. There will be a cut out in the side of the roof.

Mr. Oman stated the BZA granted a variance for this size of this structure in January 2022.

Discussion on the safety railing for this loft.

Mr. Dahlberg approached the dais and showed the Board the proposed drawings for the structure and the loft cut out.

Mr. Oman stated staff has no issues with this petition.

Mr. Bill Rankin, 428 N. Nichols, Lowell, IN. Mr. Rankin stated he is the petitioners neighbor, and he sees no issues with the requested height of 22.5'. He stated he will be able to see this structure, but he will gladly view this structure compared to eye sore that was there for 12 years and recently torn down.

No remonstrances were on-line. Mr. Regan closed the public hearing.

Mr. Cartwright made a motion to approve the variance for the requested height of 22.5 ft. for a total variance of 6.5 ft. Motion passed with a roll call vote of all ayes.

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

#### **MOTION PASSED 4-0.**

# 22-003 - 17615 Morse - special use and a variance from developmental standards to operate a veterinarian clinic at approx. 17615 Morse, Parcel #45-19-23-253-004.000-008. Has been filed by Apex Design Build on behalf of Lowell Animal Hospital, 17645 Morse St., Lowell, IN. Petitioning the following Zoning Ordinances:

**\*Special Use:**

§155.038 (A)(3) and 155.043 Land Use Matrix

**\*Variance Developmental Standards:**

§155.034(B) District Standards front yard setback

§155.080 (A)(C)(11) parking standards,

This parcel is zoned B2.

Jason Bergwerff, Apex Media, 9550 W Higgins Rd. Rosemont, IL 60018. He is representing Lowell Animal Hospital. He stated the property is located at 17615 Morse St.

He stated there are 2 lots that are owned by Lowell Animal Hospital. The northern lot currently has a 3500 sq. ft. veterinary clinic on it. The southern parcel is vacant land. The current building is too small, and they would like to build another building that is 7500 sq. ft on the southern lot. This lot had a flood plane on it however, there was a letter of map revision from FEMA to adjust it to a flood way. This puts constraints on the parcel, along with the arterial frontage setback requirements and utility easements. These restrictions make the parcel very narrow and essentially not buildable.

The first variance would be for a special use. The property is zoned B2. The zoning district allows for a veterinary clinic with a special use variance. The northern lot received a special use in 2017. Since they are required to plat these lots as a subdivision, they need to request a special use variance again. The 2<sup>nd</sup> variance is the front yard setback so that they can build in the some of the ROW arterial. They will also need a variance on parking. They are requesting that the original building remain on the northern lot as an accessory structure. Attorney Bennett stated that does not require a variance. Discussion followed.

Mr. Bergwerff asked Mr. Oman to display the rendering that he provided on the monitor. He discussed the existing parking lot on the northern parcel. He discussed the potential location for additional parking in the flood way with the need for approval from FEMA. He discussed the

requirements FEMA would put on them for that parking lot if it was granted. He discussed the west side of the southern lot which has ROW for utilities.

He discussed the phases of parking. They believe they could get to 77 parking spaces. Ordinance requires 54. Discussion on the existing parking lot. Parking area 3 & 4 would need DNR approval. By phasing the parking lot this will allow them to start building while waiting for DNR approval. He stated the LOMR letter from the DNR has been interpreted by the Lowell Animal Hospital as stating that they could build in the flood way. This is what needs to be reviewed by the DNR to clarify their position on this. This process could be a short or long.

The current parking lot is 21 spaces and will be modified to 30. An additional 19 spots will be added around the building. They are 6 spots short of the required 54 by ordinance. If they are allowed to put parking in the flood way, they will get to 77 spaces.

The ingress/egress would be reduced to 24 ft. since it is currently too large for Lowell's standards. He stated the dumpsters would be put in an enclosure. The parking lot will be restriped. He displayed rendering of the new building and elevations.

Attorney Bennett stated the petitioner is proposing site plan and preliminary plat tonight. She discussed the variances and how they were all intertwined with each other and the potential conditions the Board could propose on each of them, starting with the special use that is only a recommendation from this Board to the Town Council.

Attorney Bennett stated for the record this is 3 parcels not 2 which was stated earlier in the meeting. She stated the parcel numbers and each of their locations. Mr. Oman displayed the GIS map on the monitor for the Boards examination of each of the parcels in question. Discussion on the existing structure on the original lot being an accessory building.

Mr. Oman discussed his staff report. He stated the existing special use that was granted in the past on the northern lot has conditions of no outside kennels and no boarding of animals except, when necessary, after a medical procedure. Mr. Bergwerff stated the intention of the owner is to have the new facility adhere to these same conditions. Mr. Oman discussed his staff report and each condition. Attorney Bennett interjected when necessary. She discussed the special use variance in length. She discussed the conditions on each variance.

Mr. Oman showed the flood way to the Board using the GIS map on the monitor. He discussed the process that a previous owner of the parcel went through with FEMA to get the map amendment.

Mr. Regan opened up the public hearing on all three variances.

Ms. Susan Geist, 17619 Morse St. Lowell, IN. She stated she owns the parcel next to this one and operates a childcare center on the parcel. She stated she has many issues; this is a complex undertaking. She stated she is not opposed to it. But the creek behind these parcels do flood. She discussed a past flood. She stated the proposed building is large on a small parcel. She does not want her playground unusable. She would like some time to run these variances through some of her professionals. She stated she called the DNR and was told that they have one permit but there are others they need to apply for, and they would be difficult to grant. She stated she would like to have this meeting postponed until she can get more information. She stated she never did see the renderings. She stated she is not against this she takes her animals there she just does not want it to impact her property or business. She discussed the animals that get loose when arriving at the

vet clinic and run towards her business. She would like to see fencing so that she can protect the children that are on the playground. She would like to have a copy of the plans so that an engineer can review them for her. Mr. Regan asked the remonstrator if her playground was fenced in? She stated no. She stated she has never had a need to. She stated the back of her property along the creek is fenced in. She stated since the new proposed building will be closer to her, she has concerns. She said at this time she has an objection until she gets more information. She stated she would like to have a copy of what the Board has. Attorney Bennett stated that is permissible however, Ms. Geist did receive a public hearing notice stating that the documents were available at town hall for viewing prior to the hearing. Ms. Geist stated she did visit with Mr. Oman a couple months ago, but he said everything was tentative. Attorney Bennett stated once you receive the public notice did you come in to view the documents. Ms. Geist said no she just came back in town. Attorney Bennett discussed the public hearing notice laws. Attorney Bennett discussed a special use being a recommendation only from this board. Mr. Oman stated one of the variances that they are requesting is that the building be closer to the road. Ms. Geist stated that would be better. Discussion followed. Mr. Oman discussed the DNR permits that they will need for the stormwater. He discussed the county drainage permits. Attorney Bennett stated about the comment on the permits from the DNR there will not be a structure in the flood way so that permit would not be needed.

Mr. Konradi stated we need to limit the discussion here. Ms. Geist stated her main concern is the flooding. Mr. Hendrix stated that they will have to be 2' above base flood elevation and that will be reviewed and checked at building permit.

No remonstrators were on-line.

Mr. Konradi made a motion to approve the favorable recommendation to the town council for a special use, with the following conditions:

- A. The petitioner shall plat the site location identified as 17615 Morse St., Lowell, IN (parcel #45-19-23-253-004.000-008) and the adjacent properties identified as 17645 Morse St., Lowell, IN (parcel #45-19-23-253-002.000-008) and 17645 Morse St., Lowell, IN (parcel #45-19-23-253-001.000-008) into a 1-lot subdivision; and
  - B. After platting the 1-lot subdivision, the 1-lot subdivision shall be maintained with the existing boundaries and square footage of the original parcels identified in May 2022 by parcel #45-19-23-253-004.000-008 and #45-19-23-253-002.000-008 (before subdividing) and parcel #45-19-23-253-001.000-008 (before subdividing). This condition is breached if any portion of the 1-lot subdivision is later subdivided or not used by the petitioner for the requested special use; and
  - C. The 1-lot subdivision shall have a minimum of 49 parking spaces; and
  - D. Outdoor lighting shall be erected/installed and maintained on all parking areas of the 1-lot subdivision in accordance with the standards set forth in the Town of Lowell Land Use Development code, Sec. 155.080; and
  - E. No outside kennels or non-medical boarding of animals on the 1-lot subdivision.
- Seconded by Mr. Clemons and carried with a roll call vote of all ayes.

**MOTION PASSED: 4-0.**

Mr. Cartwright 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.

Mr. Cartwright made a motion to approve the variance for front setback from 50' to 8' for a total variance of 42', with the condition that the:

- A. Plan Commission approval of the subdivision plat.
  - B. Town Council approval of the special use
- Seconded by Mr. Konradi and carried with a roll call vote of all ayes.

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

- Mr. Konradi made a motion to approve the variance for parking with the conditions,
- A. Plan Commission approval of the one-lot subdivision
  - B. Plan Commission approval of the site plan
  - C. The developer must erect/install and maintain outdoor lighting on all parked areas of the 1-lot subdivision in accordance with the standards set forth in the Town of Lowell Lane use and Development Code, Sec. 155.080 (C)(6).
  - D. Town Council approval of special use.

Seconded by Mr. Cartwright and carried with a roll call vote of all ayes.


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

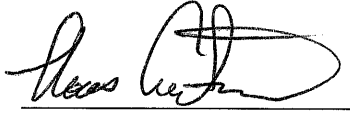
**PUBLIC COMMENT:** NONE

**ANNOUNCEMENTS:** Next regularly scheduled meeting is on, June 9th, 2022.

**ADJOURNMENT:**

With no further comments or questions, Mr. Cartwright made a motion to adjourn the meeting at 7:21pm, seconded by Mr. Clemens and carried with a roll call vote of all ayes.

  
Dave Regan, Chairman

  
Ben Clemons, Secretary