

LOWELL BOARD OF ZONING APPEALS MEETING

January 12th, 2023

Vice Chairman Ben Clemens called the meeting to order at 6:12pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Ben Clemens, Bryan Schuch, Tom Cartwright Jim Konradi, and Shane Lawrence. Also present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building.

ELECTION OF OFFICERS:

Chairman - Mr. Cartwright nominated Ben Clemens for chairman of the BZA for 2023. No other nominations were heard. Nominations were closed. Mr. Schuch seconded Mr. Cartwright's motion. The motion was passed with a roll call vote of all ayes.

Vice Chairman- Mr. Konradi made a motion to nominate Shane Lawrence for Vice Chairman of the BZA for 2023. No Other nominations were heard. Nominations were closed. Mr. Cartwright seconded Mr. Konradi's motion. The motion was passed with a roll call vote of all ayes.

Secretary – Mr. Lawrence made a motion to nominate Bryan Schuch for Secretary of the BZA for 2023. No other nominations were heard. Nominations were closed. Mr. Konradi seconded Mr. Lawrence's motion. The motion was passed with a roll call vote of all ayes.

APPROVAL OF MINUTES:

Mr. Lawrence made a motion to approve the December 8th, 2022, regular meeting minutes, seconded by Mr. Konradi and carried by voice vote of all ayes.

OLD BUSINESS: NONE

NEW BUSINESS:

BZA #23-002 - 2107 E. COMMERCIAL AVE -

Petition for the following variances from developmental standards of Town of Lowell Zoning Ordinance

§155.038 - (B) - district standards – front setback

§155.104 - (A)(1)(a) - total square footage of allowed signage
- (b)(3) - pylon sign

Kurt Geiger, Excel Engineering. He is representing Black River Bells. They are proposing a Taco Bell at 2107 E Commercial. He stated the setback is currently 50' from SR2. They are proposing 43' a difference of 7'. This will allow them to establish a typical prototype for a dual drive-through quick serve restaurant. With their proposed setback this would permit a bypass lane for the dumpster enclosure which is at the northeast corner of the site. This would keep the dumpster in a more secluded area.

Mr. Geiger stated the town sign code allows for square footage based on the linear foot of the length of the building. The proposed building's footprint is small. Based on that they

would be allowed 71' sq. ft. of signage. They are requesting 341 sq. ft. This includes all site signage and building signage. He discussed the signage branding of Taco Bell. He discussed the sign package that was submitted to the Board. He stated it indicates all the requested signage and the sq. ft. for each one. The total requested is 341.

He stated the proposed pylon sign would be in the front yard and the maximum height would be 20'. He stated this is congruent with the other pylon signs in the area and it would also be adjacent to the height of the building.

Mr. Konradi asked what the hindrance would be if they had to maintain the 50' front setback. Mr. Geiger stated that if the setback were to stay at 50' they would have to relocate the dumpster or eliminate one of the drive-throughs. He stated that in the last few years the bulk of the traffic at quick serve restaurants has been the drive-through versus dine in. He continued, getting rid of one of the drive-throughs would impede their business operations. He stated they are maximizing the use of the space on this parcel. Discussion on front setback of Speedway. Mr. Oman stated the initial submittal of engineering plans indicated the dumpster near the front of the property, it was staffs desire to have it in the rear. Discussion on the location of the dumpster.

Mr. Oman stated that signage has been presented as a package like the Dunkin request. The approval would be for the entire sign package if that is what the Board's desires. Mr. Oman stated, normally the menu board and directional signage does not get included in the total signage count. If there is a sign that the Board does not want to approve include that in the motion. Mr. Oman stated typically only the trademarked items are included in the total signage count. Mr. Lawrence asked the petitioner if this sign package deviates from the normal quick service restaurant signages. Mr. Geiger stated no. He stated the highest one is the pylon sign which is similar to the other business along route 2 that has this type of sign. He stated most of the signage is necessary for business operations. He discussed each signage area and their square footage. Their branding wall graphics do count for a lot of square footage, but it is essential for identification.

Attorney Bennett stated she wanted to discuss the legal parameters with the Board. She stated she respects the fact that he is stating this is necessary for operations, however, there are legal standards required from this Board. Attorney Bennett stated the staff report reflects the signage square footage as 240', which was from a prior submittal that is incorrect it should be 341 sq. footage. Mr. Geiger stated the first submittal did not include the artwork on the sides of the exterior walls and they added dimension to the pylon sign. Attorney Bennett stated per town ordinance 71 sq. ft. would be allowed for signage and that no one site shall have more than 150 sq ft of total signage. For the record the request is at 341 sq. ft. they are allowed 71 sq. ft., the variance requested is 270 sq. ft. which also exceeds the ordinances mandate of no more than 150 sq. ft. total allowed. Attorney Bennett stated a pylon sign is not permitted per ordinance. There are existing pylon signs that were previously installed with or without a variance the Board is not bound by any other property to grant the same. It is not a consideration for the Board what one property has there is not a binding effect. Attorney Bennett discussed each of the statutory considerations as laid out in the staff report.

Mr. Lawrence asked what the total feet was. Attorney Bennett stated 341 sq. ft. Mr. Lawrence asked if that included the drive-through signs. Attorney Bennett stated that includes all the requested signage on the property. Attorney Bennett stated for the legality of this petition they need to consider everything. She stated the ordinance does not set out exceptions, the ordinance does not say that the signage is only building signage, or only directional or menu board. The ordinance is silent as to any of those limitations. Mr. Lawrence stated he did not realize that a menu board would be considered signage. Attorney Bennett stated signage is defined as anything with a message. She discussed the exceptions.

Mr. Clemens opened the public hearing.

Ken Novak, 18007 Holtz Rd. He stated his property is north of this project. He has concerns about drainage and would like a fence. He stated his yard has a lot of lumber and trees in it and he does not want the kids on his property, it is a liability for him. He already has people from Speedway trespassing on his property. He stated he does have some fencing across his yard from when Spring Run was built. His business is in the back of the property, and he tries to keep his curb appeal up. Mr. Oman stated the meeting after this will be discussing the engineering. Mr. Novak stated ok he just wanted to let everybody know where he was at.

No remonstrances were online. The public hearing was closed.

Mr. Schuch made a motion to approve the variance for the front setback, seconded by Mr. Lawrence and carried with a roll call of all ayes.

Mr. Konradi made a motion to approve the total square footage request for signage as 341 sq. ft., and the installation of a pylon sign, seconded by Mr. Lawrence and carried with a roll call vote of all ayes.

Mr. Konradi made a motion to accept the staff report as the findings of fact with the modifications discussed of the total square footage requested for signage, and the front setback of 42', seconded by Mr. Cartwright, and carried with a roll call vote of all ayes.

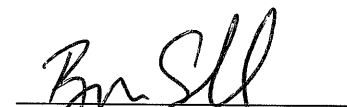
PUBLIC COMMENT: NONE

ANNOUNCEMENTS: Next regularly scheduled meeting is on, February 9th, 2023

ADJOURNMENT:

With no further comments or questions, Mr. Cartwright made a motion to adjourn the meeting at 6:45pm, seconded by Mr. Lawrence and carried with a roll call vote of all ayes.


Ben Clemens, Chairman


Bryan Schuch, Secretary