

**CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD**

NOTICE OF DECISION

**Section V-V of the Methuen Comprehensive Zoning Ordinance
Methuen Center Smart Growth Overlay District Plan Approval**

Date of Application: 10-24-22
Date of Hearing: 11-09-22, 02-08-23, 03-15-23
Date of Decision: 03-24-23

Applicant and Property Owner: JOWAMAR Companies, LLC
300 Broadway
Methuen, MA 01844

Premises Affected: 269 Broadway (621-52-2)
2 Osgood Street (612-52-3)
Methuen Center Smart Growth Overlay District

2023 MAR 24 AM 9:30

Referring to the above petition for Plan Approval in accordance with Section V-V of the Methuen Comprehensive Zoning Ordinance and M.G.L. 40R so as to allow the construction of three-story mixed-use building containing 12 residential dwelling units on the second and third floor and 2,500 SF of non-residential space on the first floor. At a public hearing held on March 15, 2023 the Community Development Board voted UNANIMOUSLY (5-0) to APPROVE WITH CONDITIONS this Plan Approval.

This is to certify that the above action was taken in compliance with the statutory requirements of M.G.L. Ch. 40R. A copy of this decision was filed with the City Clerk on March 24, 2023 and the plans referred to in the decision are on file with the Community Development Board.

City of Methuen Community Development Board

By: _____

Stephen F. DeFeo, Jr., Chairman

Any person aggrieved by the Decision of the Board may appeal to the appropriate court in accordance with the provisions of M.G.L. Ch. 40A Section 17 pursuant to M.G.L. Ch. 40R Section 11, within 20 days after the date of filing of this Decision with the City Clerk. Notice of any appeal with a copy of the complaint must also be filed with the City Clerk within such twenty (20) days as provided in M.G.L.Ch.40A Section 17.

I hereby certify that no appeal has been filed in the Methuen City Clerk's Office, within the twenty (20) day appeal period.

Anne J. Drouin, Methuen Acting City Clerk

FINDINGS OF FACT:

JOWAMAR Companies, LLC (Applicant) filed an application for Plan Approval on October 24, 2022. The applicant submitted a complete application, which was noticed and reviewed in accordance with Section V-V Methuen Center Smart Growth Overlay District of the City of Methuen Comprehensive Zoning Ordinance and MGL Chapter 40R.

The applicant proposes a mixed-use development located at 269 Broadway and 2 Osgood Street. The project includes the construction of a three-story building containing 2,500 SF of commercial space on the first level and 12 residential units on the 2nd and 3rd floors. The proposed building has a building footprint of ±8,270 SF. The total area of the project site is approximately 13,200 SF and provides approximately 82 feet of frontage on Broadway (Rt. 28) and 178 feet on Osgood Street. Both parcels are currently vacant. A 3,000 SF single story building was previously located at 2 Osgood Street and has since been demolished.

The public hearing on the above referenced application was opened by the Community Development Board (Board) on November 9, 2022 and closed on March 15, 2023.

The Board heard presentations from Meera Cousens and James Hanley from Civil Design Consultants, Inc.; Thomas Galvin, Mark Yanowitz, and Galen Anderson, from LYF architects, and from the applicant Johan Lopez, JOWAMAR Companies, LLC. The Board received correspondence from the City's Fire Department, Engineering Department, Police Department, Historic Planner, and the Board's peer review agent TEC. The Fire Department determined that the Department has access to the proposed building from both Broadway and Osgood Street, the building will be constructed with non-combustible materials on the exterior, and an approved fire suppression system will be installed and maintained. As such, the Fire Department agreed to waive Section 9-91 of the City Code relating to fire lanes and did not have an issue with the Board waving the side setback requirement. The Board received written correspondence and testimony in opposition to the project from Brenda and Charles Haryslak, 8 Ditson Place. Saba Hashem, 14 East Prospect Street, spoke in favor of the project and its affordable housing component.

On March 15, 2023, upon a motion by Mr. Comei and seconded by Mr. Boes, the Board voted to close the public hearing. Upon a motion by Mr. Comei seconded by Mr. Boes, the Board voted unanimously (5-0) to Grant Plan Approval with Conditions. The following Board members were present and voted in favor of the project: Stephen DeFeo (Chairman), Michael Comei (Vice Chairman), Neal Hunter (Secretary), Brian Boes, and Heather Plunkett.

The Board made the following findings and granted the following waivers as a basis of their decisions:

1. **Findings pursuant to Paragraph 13(c):** Plan Approval shall be granted by a simple majority where the Board finds that:
 - a. The applicant has submitted the required fees and information as set forth herein.
 - b. The Project and Site Plan meet the requirements and standards set forth in this Section V-V, or a waiver has been granted therefrom (see below for waivers granted).

- c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.
 - d. As this is a project subject to the affordability requirements of subsection 4, compliance with condition (ii) above shall include written confirmation by the monitoring agent that all requirements of that section have been satisfied. The board may attach conditions to the plan approval decision that are necessary to ensure substantial compliance with subsection 4, or to mitigate any extraordinary adverse potential impacts of the project on nearby properties.
- 2. **Findings pursuant to Methuen Center Design Guidelines:** The Board finds that the Project generally meets the Guiding Principles and Design Guidelines to advance compact development, historic preservation, walkable neighborhoods and the protection of natural features in the design or redesign of Project sites; and to emphasize the importance of appropriate building scale, a relationship between historical and contemporary design, and the renovation and adaptive reuse of existing buildings in the MCSGOD. The project was reviewed and conceptually approved by the Methuen Historic District Commission on December 1, 2022. Final plans will need further review and approval by the Commission.
- 3. **Findings pursuant to Paragraph 4 Housing and Affordability:** The Board finds that the where the Affordable Housing units proposed are Affordable Rental Units not less than 25% of the total housing units in any building containing rental units shall be Affordable Housing. **For this Project, three (3) of the residential units will be designated as an affordable rental unit.** (25% of 12 units = 3 units). At least 10% of the Affordable Housing units shall be wheelchair accessible for the physically disabled.
- 4. **Findings pursuant to Paragraph 10 Off-Street Parking and Loading Regulations:**
 - a. There are 19 off-street parking spaces provided on site.
 - b. For multifamily residential uses, paragraph 10 requires one (1) parking space per dwelling unit plus one guest space per every 5 regular spaces.
 - c. For other non-residential uses, paragraph 10 requires one (1) parking space per 500 SF per gross floor area plus one (1) parking space per 4 employees on a maximum working shift. With 2,500 SF of non-residential space approximately 6 parking spaces would be required. However, under Section VIII-A (3) Exceptions for the Central Business District where the literal interpretation of the standards for off-street parking required herein prove to be infeasible in the Central Business District (CBD) where the use calculations require twenty or fewer parking spaces, then there shall be no parking requirements imposed on the use. Therefore, no parking spaces are required to be provided for the non-residential use.

d. All 19 parking spaces must be constructed, as shown on the plan.

5. **Waivers pursuant to Paragraph 13:** In the interest of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCSGOD and that such waivers will allow the Project to achieve the density, affordability, mix of uses while retaining the historical nature of any existing buildings. The Board determined that these waivers consistent with the overall purpose of the MCSGOD to encourage a diversity of housing opportunities; provide a full range of housing choices for households of all incomes, ages, and sizes; increase the production of a range of housing units to meet existing and anticipated housing needs; provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing; the Community Development Board hereby waives the following dimensional and other requirements of Section V-V:

a. **Paragraph 7 Dimensional Regulations:**

- i. Maximum Density: The maximum density allowed is 30 dwelling units per acre of Developable Land or Substantially Developable Land. The total lot area of the project site is 13,217 square feet therefore the maximum allowable number of dwelling units is 9 units. **The Board waived this requirement to allow a density of 40 units per acre or 12 dwelling units.** On a motion by Mr. Hunter seconded by Mr. Boes the Board voted unanimously to grant this waiver.
- ii. Minimum Yard Setback: The required minimum side set back is 10 feet from the property line. **The Board waived this requirement to allow a side set back of 6.3 feet from the southern property line as shown on the approved plans.** On a motion by Mr. Boes, seconded by Mr. Hunter the Board voted unanimously to grant this waiver.
- iii. Maximum Lot Coverage: The required maximum lot coverage is 70%. **The Board waived this requirement to allow for a maximum lot coverage of 83%.** On a motion by Mr. Boes, seconded by Ms. Plunkett the Board voted unanimously to grant this waiver.
- iv. Minimum Open Space: The minimum required open space required is 30%. **The Board waived this requirement to allow 17% open space.** On a motion by Mr. Comei and seconded by Mr. Boes the Board voted unanimously to grant this waiver.

- b. **Paragraph 8 Development Controls:** If an existing building adjacent to a new Project is setback at a distance that exceeds the minimum front-yard setback (zero front-yard setback required), the new building shall match the front-yard setback of the

immediately adjacent existing building. The adjacent building located at 265 Broadway is setback approximately 17.8 feet from the property line. **The Board waived this requirement to allow a front-yard setback of approximately 9.1 feet from the property line on Broadway noting that the upper floor overhang is setback 7 feet from the property line.** On a motion by Mr. Boes, seconded by Mr. Hunter the Board voted unanimously to grant this waiver.

6. **Waiver of Section VIII-B(5)(a)** of the Methuen Comprehensive Zoning Ordinance requires that surfaced areas of off-street parking areas be set back a minimum of 7.5 feet from all buildings and lot lines. **The Board waived this requirement to allow the parking spaces to the south to be constructed approximately 4 feet from the southern property line and the parking spaces to the east be constructed approximately 2 feet from the eastern property line.** On a motion by Mr. Boes, seconded by Ms. Plunkett the Board voted unanimously to grant this waiver.

Special Conditions: The Community Development Board finds that this project generally complies with the City of Methuen Zoning Ordinance requirements as listed in Section V-V but requires conditions to be fully in compliance. The Community Development Board hereby grants an approval to the applicant provided the following conditions are met:

1. Trash pick-up and recycling are the responsibility of the property owner. Trash and recycling will be placed in individual containers and will be stored in the Trash Storage Area with Fence Enclosure as shown on the approved plans.
2. **Prior to final issuance of the Plan Approval:**
 - a. An Affordable Fair Housing Marketing and Residential Selection Plan (AFHMP) must be submitted for review and approval by DHCD under the 40R program.
 - b. A final site plan set must be submitted to the Community Development Board for review and approval prior to endorsement of the plans.
 - c. The Architectural plans must be revised to designate the 3 proposed affordable rental units including one designated as wheelchair accessible. The specific location of these affordable rental units in the building is subject to final review and approval by DHCD.
 - d. The Applicant is providing 12 residential parking spaces. These spaces must be specifically marked on site with appropriate signage designating one parking space for each of the 12 units plus 2 guest parking spaces.
3. **Prior to the start of any site work:**
 - a. The Community Development Board must endorse the final site plan.

- b. One certified copy of the recorded decision including the final site plan must be submitted to the Community Development Office.
- c. A bond in the amount of five thousand (\$5,000) dollars shall be posted for the purpose of insuring that the site is constructed in accordance with the approved plan and that a final as-built plan is provided showing the location of all on-site structures.
- d. Prior to any construction activity of any kind associated with the project, the Project Owner shall submit to the Community Development Department a proposed phased construction sequence schedule (timetable/bar chart), said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage system, stabilization, earth removal and stockpiling. This schedule once established shall not be deviated from and may only be modified by agreement between the Project Owner and the Community Development Department.

4. Prior to issuance of the Building Permit:

- a. **As per Paragraph 4 Marketing Plan:** The Affordable Fair Housing Marketing and Residential Selection Plan (AFHMP) must be approved by DHCD under the 40R program prior to issuance of a building permit for a project.
- b. **As per Paragraph 4(f) Monitoring Agent:** The Monitoring Agent shall ensure that items (i) through (v) are completed prior to Building Permit Issuance, and on a continuing basis thereafter as needed.
- c. **As per Paragraph 4(e) Affordable Housing Restriction:** Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and prior to such recording has been approved by DHCD under the 40R Program. A revised Affordable Housing Restriction must be submitted for review and approval by DHCD.

5. Prior to the Issuance of a Certificate of Occupancy:

- a. The Project Owner must submit a letter from the engineer of the project detailing any portions of the building, landscaping, lighting, and site layout etc. that do not substantially comply with the plans referenced in this decision as endorsed by the Community Development Board and must include a timeline for completion of those items.
- b. A final as-built plan showing final topography, the location of all on-site utilities, structures, curb cuts, parking spaces and drainage facilities, including invert elevation of all storm water structures as appropriate shall be submitted to the Community Development Department and the Engineering Department for review and approval.

- c. If all site related issues, including landscaping, have not been completed at the time the building itself is ready for occupancy, the Community Development Board may authorize the Project Owner to post a security sufficient in the opinion of the Community Development Board, to cover the cost of the City of completing the remaining site items.
 - d. The Applicant must provide a copy of the Affordable Housing Restriction which has been recorded with the appropriate registry of deeds or district registry of the Land Court and prior to such recording has been approved by DHCD under the 40R Program.
- 6. **Prior to the final release of all funds:** The Community Development Board must, by majority vote, make finding that the site is in conformance with the approved plan and decision.
- 7. **During Construction:**
 - a. Construction activities on the site shall conform to the City of Methuen's Ordinances relating to such work.
 - b. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, or other proper storage and disposal methods.
 - c. It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Off-site erosion will be a basis for the Community Development Board making a finding that the project is not in compliance with the plan; provided however, that the Community Development Board shall give the Applicant written notice of any such finding and ten days to cure said condition.
- 8. **Other Conditions:**
 - a. To reduce noise levels the Project Owner shall keep in optimum working order, through regular maintenance, all equipment that shall emanate sounds from the structures or site.
 - b. Any plants, trees, or shrubs that have been incorporated into the Landscaping Plan approved in this decision that die within two years from the date of planting shall be replaced by the owner. All plantings and screening depicted on the approved plans shall remain in perpetuity over the life of the project.
 - c. Within five (5) days of the transfer of ownership of this site in whole or in part, the Project Owner shall notify the Community Development Department of the name and

address of the new owner(s). The Project Owner shall provide the new owner(s) with a copy of these conditions.

- d. The Community Development Board hereby reserves the right to serve notice on applicant of a cease-and-desist work order should a violation of the endorsement, the approval, the conditions, or the restrictions be found to exist. Such cease-and-desist work order, when served in writing, directing itself to the violation occurring, shall act to prohibit all work on the areas as mentioned in such order.
9. This Plan Approval shall be deemed to have lapsed two years after the date of the grant of this approval if a substantial use thereof has not sooner commenced, except for good cause. Such approval may, for good cause, be extended in writing by the Community Development Board upon the written request of the applicant.
 10. The following documents and plans shall be deemed part of the decision:
 - a. Site Development Plans For 269 Broadway & 2 Osgood Street (Parcels 612-52-2 & 612-52-3), Methuen, Massachusetts 01845; Owner/Applicant JOWAMAR Companies, LLC; prepared by Civil Design Consultants, Inc.; Date Issued: October 5, 2022, revised through March 8, 2023; containing the following sheets:
 - i. C-1 Cover Sheet
 - ii. C-2 Existing Conditions Plan
 - iii. C-3 Layout & Material Plan
 - iv. C-4 Grading, Drainage& Utilities Plan
 - v. D-1 Construction Details
 - vi. D-2 Construction Details
 - b. Architectural and Landscape Plans, 2 Osgood Street; prepared for JOWAMAR Companies, LLC; prepared by LYF architects; dates 01/31/23, rev. 03/08/23; containing the following Sheets:
 - i. L100 Landscape Plan
 - ii. A100 Site and ground Level Floor Plan
 - iii. A101 Upper Floor Plans
 - iv. A200 Building Elevations
 - v. A700 3-D Views
 - c. Drainage Report 269 Broadway & 2 Osgood Street, Methuen, Massachusetts; prepared by Civil Design Consultants, Inc.; Applicant; Jowamar Companies, LLC; issued October 5, 2022.