

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 10, 2008

Hearing opened at 7:32 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee, presiding.

All members were present.

Present at the hearing was Christine and William Lane.

The following PETITION was the subject of the hearing.

15-09 Christine Lane for CWL Holdings LLC: Grant a Special Permit to construct a two-family dwelling at 43 Cotton Street located in a flood plain and shown on Assessor's Map 5 as Lot 13.

Introduced and made part of the record were the following:

- A. Petition 15-09 submitted by Christine Lane, CWL Holdings, LLC with accompanying plan prepared by James E. Gaffney, Registered Professional Land Surveyor, James E. Gaffney Co., 55 St. Jean Avenue, Leominster, Massachusetts, entitled "Board of Appeals Plan" Land In Leominster, MA, prepared for CWL Holdings, LLC, September 10, 2008, Plan No 6193.

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 10, 2008, continued

- B. Notice of public hearing published in the Sentinel & Enterprise on October 20, 2008 and October 27, 2008.
- C. Positive letters of recommendations from the Planning Board, Director of Inspections and the Conservation Commission.
- D. A letter from the Health Director recommending that the builder keep the first floor elevation of the dwelling as high as practicable, that a foundation drain be incorporated into the foundation construction, and the final grading of the site should not impact any other abutting properties.
- E. A letter from the Department of Public Works requesting the applicant provide flood zone calculations, which can be reviewed by the applicable boards/departments, before a recommendation can be made on this petition.

Christine Lane, managing partner of CWL Holdings, said they want to construct a two-family duplex style dwelling at 43 Cotton Street. She said several years back there was a triple decker unit on the property and approximately in 1999 it was torn down and has remained vacant since. She said there has been a lot of rehabilitation in that area including a recent multi unit, low income housing on Cotton Street and other proposed projects with the warehouse buildings to bring up the area. She said they want to take this vacant piece of property and put a nice two family on it. She said Cotton Street and Adams Street is a mix of two and three families along with some warehouse/ industrial/commercial type of properties.

Councillor Rowlands read the recommendations.

Councillor Rowlands asked Ms. Lane if they were familiar with the Department of Public Works request regarding the applicant provide flood zone calculations.

Ms. Lane said no, and said as part of their paperwork they have flood elevation from the land surveyor.

Councillor Dombrowski asked if the variance process was started with the Zoning Board of Appeals.

Ms. Lane said yes and we have a date of November 19, 2008.

Councillor Dombrowski asked if they have started the process of Site Plan Approval with the Planning Board.

Ms. Lane said they are going to wait until they are granted permission from the Zoning Board of Appeals and then continue the process.

Councillor Dombrowski asked if they will be creating any additional impervious areas that wasn't there before with the new construction.

Ms. Lane said no, same as what was previously there when the dwelling was there. She said the footprint is smaller than what was there and they have provided for off-street parking.

Councillor Lanciani said the other house they constructed on the corner of Manchester and Union Street has improved the neighborhood 150% and said if you do anything like that on the corner of Cottage Street it is going to be a plus. He said the only thing they are in front of us for is the flood plain and he has no problem with that.

Councillor Rowlands said he wants clarification from the Conservation Commission regarding no loss in flood plain storage and the Department of Public Works regarding flood zone calculations.

Ms. Lane said this is very minimally in the flood zone. She said the entire lot is not in the flood zone. She said there are certain corners in sections of it so it is a minimal issue. She said the surveyor explained to her that there are only a couple of corners which are in the flood plain by less than two feet where they cross over. The entire lot is not in question. She said the flood plain elevation is 407 feet and two corners are at 406.07 feet and two other corners are 405.15 feet and 404.76 feet.

The copy from the land surveyor with the flood elevation listed was handed out.

Councillor Marchand said he didn't think it was significant and during the Site Plan Approval process it will be dealt with. He said it is a small amount of land to hold up the project and he is ready to vote.

Councillor Dombrowski agreed.

Councillor Tocci agreed.

Councillor Marchand asked Ms. Lane what her timeline was.

Ms. Lane said as soon as possible and after this gets approved we have to go for purchasing the property. She said they have a Purchase & Sale which will expire before the end of the year so the sooner they can move this along the better.

No one spoke in favor or in opposition of this petition.

HEARING ADJOURNED AT 7:38 P.M.

Lynn A. Bouchard, City Clerk
And Clerk of the City Council

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 10, 2008

The hearing opened at 7:43 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee, presiding.

The following PETITION was the subject of the hearing:

Relative to amending Chapter 21 of the Revised Ordinance entitled "Water and Sewers" by amending Section 21-13 (b) relative to water service and the responsibility for the installation of the service pipe, stopcock valve and other fixtures. (Legal Affairs Petition 3-09)

No one in the audience spoke in favor or in opposition of this ordinance.

No Councillors spoke regarding this ordinance.

HEARING ADJOURNED AT 7:50 P.M.

Lynn A. Bouchard, City Clerk
And Clerk of the City Council

REGULAR MEETING OF THE CITY COUNCIL, NOVEMBER 10, 2008

Meeting was called to order at 8:00 P.M.

Attendance was taken by a roll call vote; all members were present.

The Committee on Records reported that the records through October 27, 2008 were examined and found to be in order. The records were accepted.

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE.

C-35 Relative to the appropriation of \$9,500.00 to the Municipal Building Expense Account; same to be transferred from the Excess and Deficiency Account.

C-36 Relative to the appropriation of \$1,850,000.00 to the Contributory Retirement Expense Account; same to be transferred from the follow Miscellaneous General Fund Expense Accounts:

OPEB Contributions Expenses – Current Year	\$1,000,000.00
OPEB Contributions Expenses – Prior Year	\$ 505,000.00
Group Insurance Expenses – Prior Year	\$ 345,000.00

C-37 Relative to the appropriation of \$23,795.00 to the Mayor's Salary and Wages Account; same to be transferred from the Excess and Deficiency Account.

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE and given REGULAR COURSE. A hearing was set for November 24, 2008 at 6:55 P.M. Vt. 9/0

20-09 National Grid and Verizon New England, Inc: Lanides Lane: Install two jointly owned poles on Lanides Lane beginning at a point approximately 962 feet north of the centerline of the intersection of Hamilton Street and continuing approximately 150 feet in a northerly direction.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE and given REGULAR COURSE

21-09 Sergeant Richard J. Kinney: Place "No Parking" signs on both sides of Mohawk Drive west of Lock Drive.

The following PETITION was received, referred to the PUBLIC SAFETY COMMITTEE, given REGULAR COURSE and referred to the Department of Public Works and the Mayor.

22-09 David E. Rowlands: Install street lights from the top of Joslin Street to the intersection of Day Street.

REGULAR MEETING OF THE CITY COUNCIL, NOVEMBER 10, 2008, continued

The following APPOINTMENT was received, referred to the WAYS & MEANS COMMITTEE and given REGULAR COURSE.

Historical Commission – Rocco Palmieri – term to expire April 15, 2011
(to fill the unexpired term of Ann Fraturelli)

Councillor Rosa, Chairman of the Finance Committee, read the Financial Report for the City into the record. Account balances are as follows:

Excess and Deficiency Account (Free Cash)	\$3,496,314.50
Emergency Reserve Account	\$10,900.00
Stabilization Account	\$8,814,399.72
Interest earned for FY-09	\$80,929.75

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 9 “yeas”

C-23 Relative to the appropriation of \$780,293.19 to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Seven Hundred Eighty Thousand Two Hundred Ninety Three Dollars and Nineteen Cents (\$780,293.19) be appropriated to the Water Department Capital Outlay Expense Account; same to be transferred from the Excess and Deficiency Account.

C-32 Relative to the appropriation of \$1,500.00 to the Cemetery Expense Account; same to be transferred from the Emergency Reserve Account.

ORDERED: - that the sum of One Thousand Five Hundred Dollars (\$1,500.00) be appropriated to the Cemetery Expense Account; same to be transferred from the emergency Reserve Account.

RE: Repair of two pillars at the entrance to the cemetery.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was RATIFIED. Vt. 9 “yeas”.

C-34 Relative to the appropriation of \$40,000.00 to the Sanitation and Drainage Expense Account; same to be transferred from the Excess and Deficiency Account.

Upon request of the PUBLIC SERVICE COMMITTEE, the following COMMUNICATION was TABLED FOR STUDY. Vt. 9/0

16-09 David Rowlands: Accept Forsythia Road and Wisteria Drive as public ways.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was AMENDED. Vt. 8 “yeas” and 1 “nay”; Councillor Dombrowski opposed. Amended to reflect in the in city rate to \$2.30 and out of city rate to \$5.40 effective October 1, 2008. Upon request of the LEGAL AFFAIRS COMMITTEE the following PETITION was given FURTHER TIME. Vt. 5 “yeas” and 4 “nays”; Councillors Salvatelli, Rowlands, Freda and Rosa opposed. The record shall reflect that this amendment was requested by the petitioner.

84-08 Roger Brooks: Amend Chapter 21, Section 21-22.3 entitled “Sewer User Rate Schedule” to increase the in city rate from \$1.70 per unit to \$2.30 per unit and the out of city rate from \$4.00 per unit to \$5.40 per unit effective October 1, 2008.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED WITH CONDITION. Vt. 9 “yeas”. The condition of this Special Permit is that confirmation from the Conservation Commission that there is no net loss in compensatory flood storage is received.

15-09 Christine Lane for CWL Holdings LLC: Grant a Special Permit to construct a two-family dwelling at 43 Cotton Street located in a flood plain and shown on Assessor’s Map 5 as Lot 13.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9 “yeas”. A hearing is scheduled for November 17, 2008 at 7:30 P.M.

17-09 Elizabeth Kelley, agent for Walton Whitney Investors V, LLC: Grant a Special Permit for emergency repairs to an eroded section of the Nashua River dike as shown on Assessor’s Map 567 as lots 12, 2C, 5, 13, and 19, located within the flood plain.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was TABLED. Vt. 7 “yeas” and 2 “nays”; Councillors Freda and Marchand opposed.

REGULAR MEETING OF THE CITY COUNCIL, NOVEMBER 10, 2008, continued

18-09 Claire Freda: Amend the Special Permit section of the Leominster Zoning Ordinance by adding that an acknowledgement be recorded at the Registry of Deeds putting potential buyers and future owners of proposed residential uses that are in or abut commercial or heavy industrial districts or any potential adverse pre-existing use in the immediate area that pre-dates the residential uses. Proof of recording shall be provided prior to the issuance of a building permit.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9/0

C-33 Dean J. Mazzeo, Mayor: Request that Sandra Leach be exempt from Chapter 268A (20B) Conflict of Interest as she is currently employed by the City of Leominster and will be taking on a position at the Recreation Department.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITION was GRANTED. Vt. 9/0

19-09 George Deglaoui for Deghan Inc: Grant a second hand license to buy and sell scrap gold under the name of George Deglaoui d/b/a Deghan Inc., Hannoush Jewelers at 100 Commercial Road.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following APPOINTMENT was CONFIRMED. Vt. 9
“yeas”

Emergency Management – Admin Unit, Timothy O’Dell

Under Old Business, Councillor Rowlands asked that a discussion and review of the water rate take place at the next President’s Drinking Water Oversight Committee meeting.

Councillor Rowlands said he has contacted, by email, a representative in charge of the MORE Grants in Boston and asked if our legal services were covered under the grant and if there was a dollar limit. He said the reply was the legal services are covered under the administration cost and there is no limit but the total administration cost has to be reasonable. He said any legal services that were part of the land acquisition are not covered as part of the grant. Councillor Rowlands said the receipts would be sent into Boston and they would refund the City for that cost. He asked the representative if Leominster has sent them any for legal services and the answer was no, only for some engineering services and some purchase of some pipe. He said the MORE Grant is divided into three phases of a \$1,000,000.00 total. Phase 1 is not contingent upon anything and Phase 2 and 3 are contingent upon the PWED which approval is at the end of December. He said he understands that if it covered by the grant we send the bill to Boston, they refund us and the person gets paid. If it is not covered by the grant we send the bill to the developer and he pays the bill and said he believes this isn’t happening yet. He said it looks like there is some bookkeeping that needs to be done to send the bill to the appropriate places so they can get paid.

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for December 8, 2008 at 7:15 P.M. Vt. 8 “yeas” and 1 “nay; Councillor Freda opposed.

1st Reading Ordinance – Relative to amending Chapter 22–Sections 22-24 by removing “Mixed Use Development Projects” and inserting in its place a new Section 22-24 creating “Industrial Mixed Use Overlay Districts” (Small and Large) and modify the Table of Uses Section 22-26 to reflect said changes. (Legal Affairs Petition 95-08)

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 6 “yeas” and 2 “nays; Councillor Freda and Lanciani opposed. Councillor Tocci abstained due to a possible conflict of interest.

The City of Leominster
In the year two thousand and eight

An Ordinance amending Chapter 21 of the Revised Ordinances entitled “Water and Sewers.”

Be it ordained by the City Council of the City of Leominster, as follows:

Chapter 21 of the Revised Ordinances entitled “Water and Sewers” is hereby amended by deleting Section 21-13(b) in its entirety and inserting in its place the following, said amendment to take effect on July 1, 2009:

(b) This sub-section shall apply to any new installation of service pipes. Service pipes shall be of such sizes and materials as the director shall reasonably determine in accordance with industry standards. All work shall be done by an insured and cash security or bonded contractor approved by the department. All expense of laying such pipe from the main line to and through the cellar wall or to other place desired, together with the cost of the same and of the stopcock and valve shall be paid by the property owners and inspected and approved by the department in accordance with industry standards. The entire cost of any service of a seasonal or temporary nature such as a construction trailer shall be paid by the property owner. The service pipe, valve and any fixtures involved in the installation of service pipes shall be installed by the property owner at his or her expense.

REGULAR MEETING OF THE CITY COUNCIL, NOVEMBER 10, 2008, continued

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for November 24, 2008 at 7:00 P.M. Vt. 9/0

1st Reading Ordinance –Relative to amending Chapter 21, Article II of the Revised Ordinances entitled “Water Department” by adding Section 21-13.2 “Water Line and Sewer Main Line Protection Plans” which establishes standards and minimum requirements for persons or businesses that seek to offer water line and/or sewer main line protection plans to homeowners. (Legal Affairs Communication C-153)

Under New Business, a motion was made by Councillor Rosa and seconded by Councillor Nickel to send a letter to the Mayor that the Council would entertain a communication to raise water rates by five cents to cover the replacement of water lines on City property. Vt. 9/0

A motion was made by Councillor Rowlands and seconded by Councillor Nickel to send a communication through the Mayor’s Office to the Planning Department to put together suggestions and changes to our zoning law that would resolve the problem of what streets that are unable to become accepted.

MEETING ADJOURNED AT 9:20 P.M.

Lynn A. Bouchard, City Clerk
And Clerk of the City Council