

**MINUTES OF THE PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER**

**November 7, 2016**

**WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER**

**Zoning Board Members Present:** Lawrence Abramoff, Chair  
Timothy Loew  
George Valeri  
Vadim Michajlow, Vice-Chair  
Robert Haddon, Alternate Member  
Thomas Dillon, Alternate Member

**Zoning Board Members Absent:** Joseph Wanat

**Staff Present:** Stephen Rolle, Division of Planning and Regulatory Services  
Domenica Tatasciore, Division of Planning and Regulatory Services  
John Kelly, Department of Inspectional Services

**Call to Order** – 5:30 pm

**Approval of the Minutes** – Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the board voted 5-0 to approve the minutes for September 19, 2016.

**Requests for Continuances, Extensions of Time, Postponements, Withdrawals**

**1. 828 Pleasant Street (ZB-2016-047)**

**Variance:** For relief from the side-yard setback dimensional requirement for a two-family dwelling in a RL-7 Zone (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the rear-yard setback dimensional requirement for a two-family dwelling in a RL-7 Zone (Article IV, Section 4, Table 4.2)

**Petitioner:** Rowaid Khudhur

**Present Use:** Presently on the property is a single-family detached dwelling and an accessory structure, used as a garage, along with associated off-street parking.

**Zone Designation:** RL-7 (Residence, Limited) zoning district

**Petition Purpose:** The applicant seeks to convert the structures into one two-family detached dwelling, by connecting the two existing structures with an addition and converting the garage into a dwelling unit, along with associated site improvements.

**Public Hearing Deadline:** 11/30/16

Constructive Grant Deadline – Variance: 1/4/17

Upon a motion by Mr. Valeri and seconded by Mr. Loew the board voted 5-0 to postpone the petition to November 28, 2016 and extend the public hearing deadline to December 22, 2016.

*List of Exhibits:*

- Exhibit A: ZBA – Variance Application; received September 26, 2016; prepared by Rowaid Khudhur.
- Exhibit B: Plot Plan; undated; preparer unknown.
- Exhibit C: Fire Department Comments; dated October 5, 2016.

**2. 525 Lincoln Street (ZB-2016-048)**

**Special Permit:** To allow a food service drive-through use in a BG-4.0 Zone (Article IV, Section 2, Table 4.1, Business Use #6)

**Special Permit:** To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and also landscaping requirements (Article IV, Section 7)

**Petitioner:** Lincoln Street Chicken, LLC

**Present Use:** Presently on the premises is a vacant commercial structure located within Lincoln Plaza, along with associated off-street parking areas.

**Zone Designation:** BG-4.0 (Business, General) zoning district and partially within a BL-1.0 (Business, Limited) and located within the Water Resource Protection (WR(GP-3)) Overlay District

**Petition Purpose:** The petitioner seeks to demolish the existing vacant commercial structure and construct a food-service establishment, which includes a drive-through, along with associated site improvements and modifications to the parking layout.

**Public Hearing Deadline:** 12/1/16

Upon a motion by Mr. Valeri and seconded by Mr. Loew the board voted 5-0 to postpone the petition to January 23, 2017 and extend the public hearing deadline to February 28, 2017.

*List of Exhibits*

- Exhibit A: Special Permit Application; received September 27, 2016; prepared by Lincoln Street Chicken, LLC.
- Exhibit B: Special Permit Plan for Lincoln Street Chicken, LLC; dated September 23, 2016; prepared by Dynamic Engineering Consultants, P.C.
- Exhibit C: Rendering, Elevations & Floor Plans; dated April 18, 2016 and revised September 2, 2016; prepared by Architrave Group, P.C. (included in the plan set).
- Exhibit D: Fire Department Comments; received October 5, 2016.
- Exhibit E: E-mail from Esther Hazzard from ISD; received October 25, 2016.

## New Business

### 3. 395 (aka 393 & 381) Chandler Street (ZB-2016-046)

- Special Permit:** To allow a Food Service – including the consumption/sale of alcoholic beverages and/or providing dancing and/or entertainment – use in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #8)
- Petitioner:** Aurelio Metohu
- Present Use:** Presently located on the premises are two commercial structures, along with associated surface parking.
- Zone Designation:** BL-1.0 (Business, Limited) zoning district with a portion within a RL-7 (Residence, Limited) zoning district
- Petition Purpose:** The applicant seeks to add alcohol sales to the existing food-service use, along with associated site improvements.

Public Hearing Deadline: 11/26/16

Aurelio Metohu presented the petition and stated that patrons have requested alcohol for the business. Staff of the business already serves the BYOB.

Ms. Tatasciore stated that the Special Permit requested is to allow alcohol use and is not specifically for entertainment as sated on the use table of the ordinance. Ms. Tatasciore also asked to clarify hours of operation and amount of outdoor seating.

Mr. Metohu stated that there will be no change to seating and there are existing 40 outdoor seats for seasonal use only. The hours are 11 am-9 pm weekdays, 11 am-10 pm Friday, Saturday and Sunday.

Ms. Tatasciore stated staff recommended conditions of approval.

Mr. Rolle explained that conditions are suggested in order to provide for better interaction between these business zones (BL-1) since they typical abut residential areas. Mr. Metohu stated that he accepts the proposed conditions.

Mr. Kelly asked for clarification regarding the allowable number of outdoor seating. Mr. Rolle stated that the proposed conditions cover that concern.

Mr. Valeri asked about outdoor seating in the front. Mr. Metohu stated that this is also seasonal.

Mr. Abramoff opened the hearing to public comment.

Ms. Lisa Roland, 28 Carlisle Street, stated that the outdoor seating is bothersome given noisy residents outside. Mr. Kelly stated that all complaints should go to inspectional services.

Upon a motion by Mr. Valeri, and seconded by Mr. Loew, the board voted 5-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri the board voted 5-0 to approve the petition with conditions of approval as stated in the staff review memo and approving the requested waiver of the requirement to label abutters within 300 feet of the plan.

*List of Exhibits*

Exhibit A: Special Permit Application; received September 22, 2016; prepared by Aurelio Metohu.

Exhibit B: Fire Department Comments; dated October 5, 2016.

**4. 915 Pleasant Street (ZB-2016-049)**

**Special Permit:** To allow a Temporary Shelter in a RS-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #15)

**Variance:** For relief from the side-yard setback dimensional requirement for an other permitted use in a RS-7 Zone (Article IV, Section 4, Table 4.2)

**Petitioner:** Healing Heart Hospitality House, Inc

**Present Use:** Presently on the premises is single-family detached dwelling and associated site improvements.

**Zone Designation:** RS-7 (Residence, Single-Family) zoning district

**Petition Purpose:** The petitioner seeks to use the premises as a temporary shelter, along with associated parking and site improvements.

**Public Hearing Deadline:** 12/1/16

**Constructive Grant Deadline – Variance:** 1/5/17

Attorney Mark Borenstein represented the petition. Also present, Carol Lewis and Nancy Whalen, officers of Healing Heart Hospitality Inc.

Attorney Borenstein stated that the intended use would to be as a hospitality house to provide room and board to family members of those undergoing treatment at local hospitals. There will be 5 bedrooms with 2 bedrooms each for a total of 10 maximum guests staying at any one time. A 6<sup>th</sup> bedroom will be for an overnight staff member. Additionally, there will be a quiet room as well as a kitchen, dining and laundry facilities. There are a total of 4 parking spaces proposed, which comply with the regulations in the Zoning Ordinance. A variance is also requested for the side yard setback due to the change of use; there is an increase setback requirement for the existing structure which requires a variance.

Attorney Borenstein went through proposed conditions of approval and stated that Healing Heart is comfortable with all the proposed conditions. Also a request is made for a waiver from the requirement to label abutters and to provide a surveyed plan.

Mr. Rolle stated that suggested conditions were specifically tailored to the use proposed. Mr. Rolle then went over a complete listing of the proposed conditions.

Mr. Abramoff stated that he suggests that all parking spaces be identified and not necessarily paved.

Mr. Abramoff opened the hearing to the public.

David Seidenberg, 911 Pleasant Street, was present to be heard and submitted Exhibit D. Mr. Seidenberg stated that the driveway of 915 Pleasant abuts his property. Mr. Seidenberg went through his handout which showed pictures. He stated that there are possibly 11 cars going to and from the property at all hours. Mr. Seidenberg stated there is not enough space to place 2 parking spaces side by side. This is a narrow

driveway and no place to turn around given the width. The use will generate noise and traffic. There is no parking on street December through April. The lot is too small to support the use.

Micah Shalev, 101 Randolph Road, Dutch Park was present to be heard. Mr. Shalev stated that the city would benefit from the added use and that traffic can be mitigated and provided his support.

Ermir Hyskaj, 917 Pleasant Street, was present to be heard. Mr. Hyskaj stated that he has concerns over safety and he has spent money to create fence to mitigate noise. Mr. Hyskaj entered Exhibit E to the board. Mr. Hyskaj has concerns over client turnover, many people changing several times during the year and also concerns over quality of life and privacy. Mr. Hyskaj also stated concerns over parking and the noise associated with it, as well as concerns over depreciation of home values as a result of the use.

Mr. Michajlow stated that there are other by-right developments available which may be of more significant impact.

Paul Ford, 907 Pleasant Street, asked what the normal requirement is for setbacks. Mr. Abramoff stated that for a single family residence it is 10 feet. For this proposed use, the setback increases to 20 feet. Mr. Ford asked if there is a condition that if there is a different use from a future owner, will they have to obtain approval from the board? Mr. Abramoff stated that as soon as the property is sold it would have to come back to obtain necessary approvals for certain uses and that there is a condition proposed that would address this.

Mr. Ford stated concerns over property value.

Mr. Seidenberg stated that his concerns are of noise, parking, tax, and decreased home value. Mr. Seidenberg then questioned the ability of the entity to run the organization effectively.

Attorney Borenstein stated that Healing Heart will purchase the home if the application is approved and has agreed to pay \$500,000 for the home should it be approved.

Mr. Valeri asked if this is the first time the petitioner has been in this business; how long people will be staying in the house; and will children be living there? Attorney Borenstein stated that the petitioner has been working with Healing Heart for quite some time but this is the first time they will be purchasing a house to operate in such a way. Attorney Borenstein stated that there are 5 rooms, 1 family per room, at most 2 people per room, and the average stay-time is a few days to a week. Also, that there may be children present.

Mr. Abramoff asked if there is a way to lessen impact on the neighbors. Attorney Borenstein stated that there is already substantial vegetation but the petitioner is open to suggestions. Mr. Abramoff suggested a row of arborvitae on either side.

Mr. Haddon asked if the residents will pay. Attorney Borenstein stated that there is a recommended donation and that if there is a financial hardship no one will be turned away.

Mr. Loew asked about rules and guidelines. Attorney Borenstein stated that the rules and guidelines are not readily available.

Mr. Kelly stated that a change of use permit will be required and ADA may be triggered.

Mr. Hyskaj stated that he is not supportive of the project and the price paid will not affect the house values.

Mr. Shalev stated that several policies in place at Dutch House would help alleviate concerns of the neighbors and these would be the policies of Healing Heart.

Mr. Seidenberg stated that people leaving hospitals typically head home between the hours of 12 am and 6 am.

Mr. Loew asked about average capacity.

Ms. Whalen, president of Healing Heart, gave an overview of the non-profit and the need for it. An average stay is 5-7 days, average reimbursement is \$35-50, and that Sherry's House stated they are not usually full.

Mr. Abramoff stated that the board would like more formal documentation regarding the rules and regulations, and also typical expectations and experience within the industry. Additionally, the board would like to know about screening as well as the composition of the nonprofit board. Mr. Haddon stated that he would like to see a business plan.

Ms. Whalen stated all these items can be provided and may already exist.

Upon a motion by Mr. Abramoff, and seconded by Mr. Valeri, the board voted 5-0 to continue the hearing until November 28, 2016.

*List of Exhibits:*

- Exhibit A: Special Permit & Variance Application; received September 27, 2016; prepared by Healing Heart Hospitality House, Inc.
- Exhibit B: Plan of Land; dated September 16, 2016; prepared by Graves Engineering, Inc.
- Exhibit C: Memo to the Planning Board from the Fire Department; dated October 5, 2016.

**Other Business**

5. **Board Elections of Officers** – The Board shall, by a majority vote, elect both a chairperson and a vice chairperson. Alternates may not participate in this annual election (ZBA Rules & Regulations, Section 3 - as amended 6-29-2009).

Upon a motion by Mr. Valeri, and seconded by Mr. Michajlow, the board voted 5-0 to approve Mr. Abramoff as Chair. Upon a motion by Mr. Loew, and seconded by Mr. Abramoff, the board voted 5-0 to approve Mr. Michajlow as Vice Chair.

6. **Communications**

- a. Draft Waterways License Application No. W16-4720 for Blackstone Gateway Park – notice of approval; from MassDEP; received 10/4/2016.
- b. Issuance of Chapter 91 Waterways License No. W16-4720 for Blackstone Gateway Park; from MassDEP; received 10/27/16.

7. **Signing of Decisions from prior meetings**

**Adjournment**

The board adjourned at 7:00 pm