

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

November 28, 2016

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

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

Staff Present: Stephen Rolle, Division of Planning and Regulatory Services
Michael Antonellis, Division of Planning and Regulatory Services
John Kelly, Department of Inspectional Services
David Horne, Department of Inspectional Services

Call to Order – 5:30 pm

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. **800 & 828 Grafton Street (ZB-2016-051)**

Amendment to Special Permit: To allow a Multi-family low-rise dwelling in a RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #11).

Petitioner: Dominic Paldino, of Chanty Realty Trust
Present Use: Presently on the premises at each property is a single-family detached dwelling with associated site improvements.
Zone Designation: RL-7 (Residence, Limited) zoning district
Petition Purpose: The Zoning Board of Appeals previously granted a Special Permit for the construction of a Multi-family low-rise dwelling at 800 Grafton Street. The petitioner now seeks to amend this Special Permit to include an additional property at 828 Grafton Street and, in doing so, expand the proposed structure, increasing the number of proposed dwelling units, parking and related site work.

Public Hearing Deadline: 12/22/16

Upon a motion by Mr. Valeri and seconded by Mr. Loew the board voted 5-0 to postpone to January 23, 2017.

List of Exhibits:

- Exhibit A: Special Permit Application; received October 18 2016; prepared by Vader Realty LLC.
- Exhibit B: Site Plan; dated October 18, 2016; prepared by HS&T Group, Inc.
- Exhibit C: Special Permit Findings of Fact and Decision; 800 Grafton Street; ZB-2016-060; received by City Clerk on March 24, 2016 (included in application materials).
- Exhibit D: Approved Special Permit Plan of Land; titled "Special Permit Site Plan"; 800 Grafton Street; dated November 9, 2015 (included in application materials).
- Exhibit E: Rendering; undated; preparer unknown.
- Exhibit F: Site Plan; dated October 18, 2016; revised January 6, 2017; prepared by HS&T Group, Inc.

2. 88 Birch Street (ZB-2016-054)

- Special Permit:** To allow a Lodging House use in a RG-5 Zone (Article IV, Section 2, Table 4.1, Residential Use #8)
- Special Permit:** To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and landscaping requirements (Article IV, Section 7)
- Variance:** For relief from the parking requirements for a lodging house use (Article IV, Section 7)
- Petitioner:** Gold Star Builders, Inc.
- Present Use:** Presently on the premises is a multi-family structure along with associated off-street parking.
- Zone Designation:** RG-5 (Residence, General) zoning district and partially within a BG-2.0 (Business, General) zoning district
- Petition Purpose:** The petitioner seeks to construct an addition to the existing structure, to convert the use into a lodging house (with a total of 31 bedrooms), and an off-street parking area, along with related site improvements.

Public Hearing Deadline: 12/23/16

Constructive Grant Deadline – Variance: 1/27/17

Upon a motion by Mr. Valeri and Seconded by Mr. Loew the board voted 5-0 to postpone to December 19, 2016.

List of Exhibits:

- Exhibit A: Special Permit Application; received October 19, 2016; prepared by Attorney Donald O’Neil.
- Exhibit B: Proposed Building Plan; dated February 25, 2016; prepared by B&R Survey, Inc.
- Exhibit C: Elevations & Floorplans; dated June 3, 2016; prepared by Acropolis Design Consultants.
- Exhibit D: Declaration of Easement & accompanying Easement Plan; May 2016.
- Exhibit F: Worcester Fire Department Comments; dated November 22, 2016.

Unfinished Business

3. 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 another 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 presented the petition and stated the relief requested and gave an overview of the supplemental information which included a business plan, proposed rendering of plantings and a revised plan of land. The business plan provides policies and procedures of Healing Heart which addressed hours of operation, room occupancy, smoking, fire arms, drug use, parking, noise and pets. Additionally, the business plan includes a feasibility study and plan for fund raising.

Attorney Borenstein then gave a detailed overview of the proposed plantings which include arborvitae. Additionally the parking plan has been updated per DPRS comments.

Mr. Abramoff asked for staff comments.

Mr. Antonellis gave an overview of the recommended conditions of approval.

Mr. Abramoff opened the hearing to the public.

Mr. Sidenberg of 911 Pleasant Street inquired about pet policy, background checks and transportation of guests. Additionally, he stated concerns about noise from cars, a part time employee which may produce noise and that there is no parking on Pleasant Street and voiced concerns over property value.

Attorney Borenstein stated that 3rd party background checks will be conducted for employees only. Parking will be in the rear of the property only. The “part time” employee will be present on the property and not commuting to and from during work hours and also discussed funding for the project. The purchase and sale is contingent upon receiving financing.

Paul Ford, 907 Pleasant Street, stated concerns over viability of the project and that it fall into disrepair.

Alternate member, Mr. Dillon, was seated to vote.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the board voted 5-0 to approve the requested Special Permit to allow a Temporary Shelter in a RS-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #15) and Variance for relief from the side yard setback on the westerly side of the property for the distance between the existing structure and the required side lot lines as of November 2016, from the side-yard setback dimensional requirement for another permitted use in a RS-7 Zone (Article IV, Section 4, Table 4.2) with the following conditions of approval:

1. That six (6) copies of final revised plans are submitted to the DPRS prior to the issuance of a building permit showing the following conditions:
 - a. Revise the Zoning Summary Table to reflect the following:
 - b. Indicate that the existing dimensions pertain to its former use as a single-family residence;
 - c. Indicate that the required dimensions pertain to the proposed use as a temporary shelter.
 - d. Notate on the plan the relief requested from the Zoning Board of Appeals.
2. All parking spaces shall be marked.
3. The property shall be used as a temporary housing for family or caretakers of patients undergoing medical treatment, and not for other temporary housing arrangements.
4. Healing Heart Hospitality House, Inc. shall operate and manage the property.
5. That the property not be expanded or extended to provide additional guestrooms.
6. That the front-yard remains landscaped and not be used for parking.
7. That Healing Heart Hospitality House, Inc. shall provide landscaping in compliance with the supplemental application materials or as modified by agreement between Healing Heart Hospitality House, Inc. and any neighbor directly abutting any proposed landscaped property.
8. That the premises be operated generally in accordance with the information and materials submitted by Healing Heart Hospitality House, Inc.
9. Provided that the project is constructed in substantial accordance with the final revised plans on file and provided it is in accordance with plot plan submitted on file with the City of Worcester and in compliance with all governmental codes.

The Board also approved a waiver of the application requirement to label all abutters and abutters thereto within 300 ft. on the plan and providing a plan meeting the required specifications.

List of Exhibits

- Exhibit A: Special Permit & Variance Application; received September 27, 2016; prepared by Healing Hearts 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.
- Exhibit D: Revised Plan of Land; dated September 16, 2016; Revised November 18, 2016; prepared by Graves Engineering, Inc.
- Exhibit E: Pictures; Stamped received November 23, 2016.
- Exhibit F: Business Plan; Healing Heart Hospital House; November 2016.

New Business

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

Variance: For relief from the parking requirement for a two-family dwelling in a RL-7 Zone (Article IV, Sec. 7)

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

Mr. Khudhur present the petition and stated that he intends to connect the present single-family residence and onsite garage in order to create a two-family residence and the requested relief is needed in order to provide additional unit. There are only 2 parking spaces that can be currently provided in the existing driveway.

Mr. Kelly stated that the garage must be attached to the home in order to become a two-family structure and eligible for relief under the zoning ordinance. Mr. Rolle stated that the conversion would create a two-family and relief is needed due to the change of use.

Mr. Rolle asked if the garage will be totally converted to living space. The applicant stated it will.

Mr. Khudhur stated that cars can be parked on the side of the driveway. Mr. Abramoff asked if the parking can be stacked. Mr. Kelly stated that the driveway is not wide enough. Mr. Haddon stated that the driveway is encroaching onto the neighboring property.

Mr. Rolle gave an overview of potential options for the applicant.

Mr. Abramoff asked the applicant to explore alternate options that did not include cutting into the front yard to provide parking.

Mr. Abramoff opened the hearing to public comment.

Rachel Manly, 826 Pleasant Street, stated that she has concerns about the design of the parking, but no contention to conversion to a multifamily.

Councilor Rosen stated that he represents residents who intend on keeping this area residential in character. Mr. Rosen stated concerns over business moving into residential areas.

Catherine Mulligan, 842 Pleasant St, stated that she opposes the proposal.

Mr. Abramoff suggested a continuance to allow the applicant to deal with the number of suggestions by the board.

Mr. Khudhur stated that no business use is proposed for the development.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow, the board voted 5-0 to continue the item to January 23, 2017 and extend the constructive grant approval deadline February 28, 2017.

List of Exhibits:

Exhibit A: ZBA – Variance Application; received September 26, 2016 and revised on November 8, 2016; prepared by Rowaid Khudhur.

Exhibit B: Plot Plan; undated; preparer unknown.

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

5. 3 Academy Street (ZB-2016-052)

Special Permit: To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

Petitioner: Harvey Remodeling, LLC

Present Use: Presently on the premises is a single-family detached dwelling with associated off-street parking and associated site improvements.

Zone Designation: RS-10 (Residence, Single-Family) zoning district

Petition Purpose: The petitioner seeks to construct a second-story addition to the existing single-story portion of the existing structure, along with associated site work.

Public Hearing Deadline: 12/22/16

Timothy Fitzgerald gave an overview of the project and relief requested.

Mr. Antonellis stated that the petition is for an additional floor on an existing 1 story structure.

Mr. Abramoff opened the hearing to public comment.

Andy O'Donnell, 4 Military Road, stated support for the application.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, 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 special permit with conditions as noted in the staff memo as well as to approve requested waiver to list abutters within 300 feet.

List of Exhibits:

Exhibit A: Special Permit Application; received October 18, 2016; prepared by Harvey Remodeling, LLC.

Exhibit B: Plan of Land; dated August 5, 2016; prepared by Robert O'Neil.

Exhibit C: Rendering; prepared by Harvey Remodeling, LLC. Dated October 18, 2016

6. **134 Madison Street (ZB-2016-053)**

Special Permit: To allow a Retail Sales, including retail with incidental fabrication assembly, in a MG-2.0 Zone (Article IV, Section 2, Table 4.1, Business Use #26)

Special Permit: To allow a Service Shop, Personal Services, Use in a MG-2.0 Zone (Article IV, Section 2, Table 4.1, Business Use #27)

Petitioner: Joseph J. O'Grady

Present Use: Presently on the premises is an existing non-conforming commercial structure.

Zone Designation: MG-2.0 (Manufacturing, General) zoning district and within the Commercial Corridors Overlay District, Canal District Subarea (CCOD-C)

Petition Purpose: The petitioner seeks to renovate the existing structure and proposes to use the property as a tattoo studio and retail store along with associated site improvements.

Public Hearing Deadline: 12/22/16

Attorney Mark Borenstein presented the petition and stated that the existing structure is long standing and recently renovated in 1991 for a fly-fishing store. The property is located near the old Wyman-Gordon plan, the structure is nonconforming, there is no proposed extension of the building and the relief sought is for the use as only the interior will be modified. A waiver was requested from the requirement to label abutters.

Mr. Rolle stated that only two special permits are necessary for relief given the location within the CCOD. There is no requirement for parking given there is no expansion of the structure.

Mr. Kelly asked when the last use was present. Mr. Borenstein said that it was of June of 2016 and it was retail use.

Mr. Kelly stated that the only change of use would be to personal services and handicap accessibility may be required.

Mr. Abramoff opened the hearing to public comment. No one was present.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, 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 special permits with conditions as noted in the staff memo as well as to approve requested waiver to list abutters within 300 feet.

List of Exhibits:

Exhibit A: Special Permit Application; dated October 18, 2016; prepared by Joseph J. O'Grady.

Exhibit B: Schematic Plan; dated October 14, 2016; prepared by Graves Engineering, Inc.

Exhibit C: Comments from Fire Department; received November 1, 2016.

7. **10 (aka Lot 4) & 12 (aka Lot 5) Paradox Drive (ZB-2016-055)**

12 (aka Lot 5) Paradox Drive (Existing)

Variance: For relief from the frontage dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the side-yard setback dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

10 (aka Lot 4) Paradox Drive

Variance: For relief from the frontage dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Charbel H. and Christine L. Najem

Present Use: Presently on the premises at 12 Paradox Drive (aka Lot 5) is an existing non-conforming single-family detached dwelling with associated site improvements and located on Lot 4 (aka 10 Paradox Drive) consists of an undeveloped lot.

Zone Designation: RS-10 (Residence, Single-Family) zoning district

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling on the undeveloped lot, along with associated site improvements, with no changes proposed to the existing structure located at 12 (aka Lot 5) Paradox Drive.

Public Hearing Deadline: 12/23/16

Constructive Grant Deadline – Variance: 1/27/17

Attorney Donald O’Neil stated the relief requested and stated that the property is in close proximity to an RS-7 zone. Attorney O’Neil gave a description of how the lot is currently configured compared to what is proposed and described how the lots will comply with other dimensional requirements. The petitioner intends to maintain the stone wall which fronts the property and the detached yard shed will be removed as a part of the approval and construction. The petitioner would be will to provide landscaped buffer if the board desires.

Mr. Antonellis stated the staff memo questions.

Attorney O’Neil stated there are no structures proposed to the front yard and the petitioner understands anything constructed would have to comply with front yard setbacks. The petitioner has not specifically designed stormwater mitigation.

Mr. Kelly stated that most single family construction includes perimeter drains and possibly downspout barrels. Attorney O’Neil stated that a perimeter drain is proposed.

Mr. Abramoff opened the hearing to public comment.

Jesse Abdelnour, 8 Paradox, stated that the parcel is not within an RS-7. There is much green space within lot front yards in the area and the curb cut has been added recently. Mr. Abdelnour stated that the lot is too small to sustain a home relative to the character of the neighborhood and that when he purchased his home he was told the lot was unbuildable. There is no housing shortage in Worcester and commented on average time houses are listed before sale. He stated that much of the lot is unusable and maintains a steep incline. Mr. Abdelnour stated that his home exists within 2 feet to the property line and the proposed home is 14.5 feet from his home. Mr. Abdelnour also has concerns about stormwater and erosion issues as a result of the construction.

Mr. Abramoff asked for clarification on how close Mr. Abdelnour's home is to the lot. Mr. Abdelnour restated 2.5 feet. Mr. Abramoff asked how close the dwelling is to the property line. Mr. Abdelnour stated that his garage is within 2 feet of the lot line and the living portion of the home is further away from the line.

Mr. Abdelnour stated that only one third of the lot is buildable. He submitted Exhibit C and Exhibit D and restated concerns including safety.

Mr. Valeri restated Mr. Abdelnour's comment regarding housing and disagreed. Mr. Valeri stated the lot has ample space commenting on the proposed square footage. Mr. Abdelnour stated that only one third of the lot is buildable.

Mr. Michajlow asked if there were alternate development options. Mr. Rolle stated that there are no other feasible development options.

Dheya Kaaed, 5 Paradox Drive, stated that the neighborhood character does not match the proposal relative to yard size and the lot is too small. Stated concerns about parking on the street.

Barbara Zang, 3 Paradox Dr., stated concerns about environmental impact and requested a study. She also stated concerns about aesthetics, parking and safety.

Attorney O'Neil stated that the site work will include parking, yard, landscaping. The petitioner will try to shift the house as far possible away from 8 Paradox to alleviate concerns about proximity, possibly reduce the size, place landscape buffer, and remove the existing shed and not replace unless respecting typical building setbacks.

Mr. Abramoff stated that the plan currently does not show pavement and parking.

Mr. Abramoff suggested a continuance to address those issues.

Charbel Najem, petitioner, stated that the proposal is an investment. The proposed home has a 2 car garage so the parking requirement has been met and no additional driveway is necessary to show compliance.

Mr. Wanat asked about accommodation for turnouts or if vehicles will back out. Attorney O'Neil stated that the intention is to provide a turnaround.

Attorney O'Neil requested continuance to the next meeting to address comments.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat the board voted 5-0 to continue to December 19, 2016 and extending the public hearing deadline to January 30, 2017.

List of Exhibits

Exhibit A: Variance Application; prepared by Donald J. O'Neil, representative; received October 19, 2016.

Exhibit B: Proposed Plot Plan for 12 Paradox Drive; dated October 17, 2016; prepared by B & R Survey, Inc.

Other Business

8. **Communications**

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

Adjournment The board adjourned at 7:45 pm.