

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF LIVINGSTON
NEW JERSEY**

Application #: 2016-23-V
Decided: September 27, 2016
Memorialized: October 25, 2016

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the Application and plans filed in this matter, and the testimony and evidence presented at the hearing on September 27, 2016, the following findings of fact and conclusions are made:

1. The Applicants is: The Landmark Pub, LLC.
2. The Property is commonly known as 259 West Mount Pleasant Avenue and is taxed as Block 4004, Lot 6. The property is in the R-4 Zone.
3. The Applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrears.
4. The Applicant proposes to construct new seasonal outdoor seating area.
5. The application is for a use not permitted in the R-4 zone.
6. The following persons testified at the hearing: The Applicant, by Lee George, a Member, the Applicant's architect, John Buchholz.
7. The Applicant was represented by Brielle M. Tavaglione, Esq.
8. The following persons objected to or expressed interest the application at the hearing: Alan Baren, 9 Claremont Avenue, Matt Lang, 269 West Mt. Pleasant Avenue, Robert Lewis, 6 Wildwood Avenue, Janis Lewis, 6 Wildwood Avenue, Joyce Gore, 7 Claremont Avenue, Lorenzo Cruz, 12 Claremont Avenue, Seth Chang, 3 Claremont Avenue and Bernice Weill, 5 Claremont Avenue.
9. The following conditions were agreed to by the Applicant:
 - a. Existing garage to be renovated. The overhead door will be repaired or replaced. The garage door will be kept closed except during deliveries. A side door entrance will be installed for employees to use rather than the garage door facing Claremont Avenue. New side door to remain closed at all times.
 - b. Parking lot must remain in good condition at all times.

- c. Repair/replace fencing along rear property line closest to Wildwood Avenue. The fence will run to the corner of the garage to prevent "cut through". All perimeter fencing will be kept in good repair.
- d. Applicant will post signage within the restaurant encouraging all patrons to park in the lot provided and not on neighboring streets.
- e. Old outdoor seating area to be refurbished with landscaping.
- f. ADA compliant access isle to be constructed from restaurant entrance around to the new outdoor seating area.
- g. The serving of patrons will cease at 9:30 pm, and the gate will be closed at 10:00 pm (once all patrons have vacated) so that no new patrons or loitering may occur.
- h. NO smoking, NO music or television and NO outdoor heaters to be used in the outdoor seating area.
- i. All fencing to be earth tone/beige in color.
- j. An 8-foot earth tone fence will be installed around the dumpster area.
- k. Applicant will investigate the possible installation of a guard rail on the Mount Pleasant side of the building.

10. The Applicant has satisfied the statutory requirements of N.J.S.A. 40:55D-70(d)(1) for the relief sought by demonstrating that the purposes of the Municipal Land Use Law (MLUL) would be advanced by the proposed structures, and the benefits of the variance substantially outweigh any detriment. The Board found that there will be no substantial detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance.

11. Now, therefore, be it **RESOLVED** by the Zoning Board of Adjustment of the Township of Livingston that, the application herein submitted is granted the following variances from the Ordinance:

- (a) The Applicant shall be permitted to construct a new seasonal outdoor seating area in conformity with the plans it had submitted;
- (b) A variance is granted to build an eight-foot (8') enclosure around the dumpsters on the Property (fence to be earth tone/beige in color); and
- (c) A variance is granted to allow a six-foot (6') fence around the proposed seating area.

This approval is subject to all other requirements of the Township ordinances, building code, and the right of appeal by any interested party. Also, as required by Livingston Ordinance 170-27(A), construction must be commenced within one year of the date hereof or the variance shall expire.

Copies of the Applicant's survey showing the proposed improvements and architectural plans are attached hereto as an exhibit to indicate the final version thereof.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on September 27, 2016 in which Board voted seven in favor and none opposed to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



JAMES HOCHBERG

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Livingston on September 27, 2016 by the affirmative votes of Mr. Hochberg, Mr. Nardone, Mr. Gilman, Mr. Vieira, Ms. Hwang, Mr. Bier and Mr. Resnick, they being all the Members present and eligible to vote.

PLANNING ADMINISTRATOR:



JACKIE COOMBS-HOLLIS

Prepared by: Alan Ozarow, Esq.

