



CITY of MALDEN PLANNING BOARD

Minutes of Regular Meeting

Meeting Date: April 10, 2019

Meeting Location: Malden Senior Community Center, Auditorium, First Floor, 7 Washington Street, Malden, MA

I. Call to Order. Chairman Charles Ioven called the meeting to order at 7:00 p.m.

II. Roll Call.

Planning Board Members in attendance:

- Antonucci, Ken
- Chiavelli, Jim
- Chuha, Diane
- Fitzgerald, Patrick
- Hayes, Patrick
- Henry, Eric
- MacCuish, Eric
- Soucy, Henri
- Ioven, Charles, Chair

Planning Board members absent: Ferguson, Charles and Gebreselassie, Tewedaj

Planning Staff in attendance: Michelle Romero, City Planner

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 CITY OF MALDEN MASS.

III. PUBLIC HEARINGS:

A. Special Permits/Zoning/Chapter 12 Revised Ordinances of 1991, as Amended.

1) 109-121 Madison Street (PID 063 307 702A)

§700.1.3.2/To extend & structurally change preexisting nonconforming property in Industrial 2 zoning district/To construct an addition (two stories/12,517 SF) to occupy for industrial use.

The notice of public hearing was read into the record by Planning Board clerk Antonucci. The matter, previously tabled on March 13, 2019, was taken off the table.

Petitioner submitted the following documentation and information:

1. Set of plans, "December 17, 2018 Warehouse (*sp*) Addition 109-121 Madison St Malden, Massachusetts 02148 prepared for Caycort Realty LLC 11 Canal St Malden, MA 02148," that include
 - a) site plan, "Parking Plan of Land Located at 109 Madison Street Malden, MA (Middlesex County), dated October 8, 2018, revised January 23, 2019 (stamped/signed October 25, 2018), prepared by Richard J. Mede Jr., P.L.S., Medford Engineering & Survey, Medford, MA.
 - b) Floor plans, "Existing & Proposed First Floor Plan," "Existing & Proposed Second Floor Plan," "Proposed First and Second Floor Plan," dated December 17, 2018, prepared by Frank Pitts Curtis, Architect, Curtis DiBenedetto and Associates, Winchester, MA.
 - c) "Existing & Proposed Elevations," dated December 17, 2018, prepared by Frank Pitts Curtis, Architect, Curtis DiBenedetto and Associates, Winchester, MA.
2. "Transportation Impact Assessment," dated February 2019, prepared by Vanasse & Associates, Inc., Andover, MA.
3. "109-121 Madison St Malden, MA Occupancy Gross Square Footage Description Diagram," dated April 9, 2019, prepared by Curtis DiBenedetto and Associates, Winchester, MA.

Presentation made by petitioner:

1. Patrick MacDonald, Law Office of Christopher Fallon, 477 Eastern Avenue, Malden, MA 02148, attorney for petitioner.
2. Louis Barretto Jr., 10 Parker Street, Woburn, principal of Caycort Realty, LLC, 11 Canal Street, Malden, petitioner and property owner.

The proposal is to construct an addition containing two stories and 12,551 SF gross floor area, comprised of a first floor (10,334 SF) and mezzanine level (2,217 SF), at the southern end of the existing building. The location of the proposed addition is the fenced area of the lot currently occupied for building, construction & contracting yard and the former location of a portion of the building that was demolished in 2013. The proposed use of the addition is light manufacturing.

The Board received the following testimony during the public hearing:

In favor:

1. Correspondence dated April 10, 2019 from Peg Crowe, Ward 1 City Councilor, 9 Hancock Street.

In Opposition:

1. Harold Ritson, 89 Madison Street, residential abutter.
2. Elisse Lapaix, 90 Madison Street, residential abutter.
3. Michael Lay, 85 Madison Street, residential abutter.

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

1. City's peer review report and recommendations re: traffic impact described in correspondence dated February 19, 2019 and March 21, 2019 from Kenneth J. Petraglia, PE, PTOE.
2. Planning Staff Report and Recommendation dated April 10, 2019.

Decision: The Planning granted a special permit subject to the following conditions: 1) All development shall be as per plans, except where modified by these conditions; 2) Install and maintain pavement markings as per site plan, except eliminate space #1 and #47; 3) Maintain driveway located between 89 Madison Street and 97-99 Madison Street closed and gated for emergency access only or abutting residential access; maintain driveway on Green Street (at southwestern corner) closed and gated for emergency and transformer access only; maintain center driveway on Green Street closed and gated for emergency access only; 4) At the Green Street and Bell Rock Street intersection, remove faded STOP Lines at the former approaches to Medford Street and install a ONE-WAY sign that will ensure visibility for westbound Medford Street traffic; 5) Install and maintain privacy fencing along all property lines abutting the park and all residential dwellings, except along length of driveway between 89 and 97-99 Madison Street; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Install and maintain landscaping of yard areas on Madison Street and Green Street; 8) Plant four trees on Madison Street with approximate value of \$2,000.00 (total), location to be determined by Ward City Councilor; and 9) Use of the addition is restricted to only light manufacturing or manufacturing. The decision is described in Case #19-01 (attached).

Record of Votes: The vote on the motion to grant with conditions was seven in favor, two opposed, and the motion passed (7-2).

	Yes	No	Absent	Abstained	Not Voting
ANTONUCCI	X				
CHIAVELLI Associate	X				
CHUHA	X				

FERGUSON Associate		X
FITZGERALD	X	
GEBRESELASSIE		X
HAYES	X	
HENRY		X
MacCUIISH		X
SOUCY	X	
IOVEN Chair	X	

Motion by Fitzgerald, seconded by Antonucci.

2) 138 Eastern Avenue at 140 Eastern Avenue (PID 086 269 904)

§§300.3.2.5 & 700.1.3.2/To amend Special Permit (Case #15-10)/to allow retail sales use of 1st floor for food market/store with deli & butcher.

The notice of public hearing was read into the record by Planning Board clerk Antonucci.

Petitioner submitted the following documentation and information:

1. Site plan, "Plan of Land in Malden," dated September 2, 2015, revised through March 18, 2019, prepared by Robert E. Grover, P.L.S., P.E., Melrose, MA.
2. Floor plan, "Mineirao Market 140 Eastern Ave., Malden, MA," dated January 2019, prepared by Sergio Oreg, Oreg Consulting, Charlestown, MA.
3. Request for waiver of the filing requirements for floor plans of other floors and building elevations because no changes are proposed to these areas.

The proposal is to occupy the vacant area on the first floor, approximately 3,000 SF, for retail sales use by a "high-end" food market/store with deli, butcher and bakery, a Brazilian specialty foods market. The proposed use is prohibited by Condition 2 of the special permit granted in Case #15-10, which provides, "The first floor may only be occupied for daycare; general offices, including corporate/administrative offices of a contractor; retail services; and/or artist/live work space; any other use is prohibited."

Presentation made by petitioner:

1. Matthew Campbell, 114 W. Foster Street, Melrose, MA 02176, attorney for petitioner.
2. Richard V. Gottschalk Jr., 7 Nelson Way, Wilmington, MA 01887, property owner.
3. Francisco Valadares Silva, 110 Central Ave, Malden, MA 02148, proposed tenant, owner and operator of market.

The Board received the following testimony during the public hearing.

In favor:

1. Valteir Rosa, 96 Old Village Lane, North Andover, friend and former owner of Somerville market.
2. Neal Anderson, Ward 7 City Councilor, 56 Mills Street, Malden.

In Opposition:

None.

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

1. Planning Staff Report and Recommendation dated April 10, 2019.

Decision: The Planning Board modified the special permit granted in Case #15-10 and granted a new special permit, subject to the following eleven conditions: 1) All development shall be as per plans, except as modified by these conditions; floor plan may only be revised subject to Board of Health approval; 2) Nine (9) parking spaces shall be provided on-site for use of residential tenants only; residential access only via Eastern Avenue, no access via Phillips Court and maintain gated fence; screen with privacy fencing along northern and eastern sides; parking layout must conform to §500 of zoning ordinance and shall be maintained as depicted on a site plan submitted to the City; and no parking is allowed in the driveway; 3) The first floor may only be occupied for general offices, including corporate/administrative offices of a contractor; retail services; retail sales (<5,000 SF gfa); and/or artist/live work space; and convenience store, supermarket, restaurant and any other use is prohibited; 4) Dumpsters are prohibited, unless sited and screened per §500.3.5.8 of Ordinance, and in accordance with Board of Health regulations; 5) Maintain landscaped front yard; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Maintain bicycle parking for three bikes; 8) No outside storage allowed; 9) The sale of alcohol, tobacco, vapor products and accessories, and lottery is prohibited; 10) Bakery may only be accessory to a food market; and 11) Any "live-kill" or slaughter is prohibited. The decision is described in Case #19-02 (attached).

Record of Votes: The vote on the motion to grant with conditions was nine in favor, none opposed, and the motion passed (9-0).

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstained</u>	<u>Not Voting</u>
ANTONUCCI	X				
CHIAVELLI Associate	X				
CHUHA	X				
FERGUSON Associate			X		
FITZGERALD	X				
GEBRESELISSIE			X		
HAYES	X				
HENRY	X				
MacCUISH	X				
SOUCY	X				
IOVEN Chair	X				

Motion by Antonucci, seconded by MacCuish.

IV. PUBLIC MEETINGS:

A. Status update items.

- 1) Master Plan Steering Committee. Ioven updated the Board; next meeting is April 22, 2019.
- 2) Community Preservation Committee. Antonucci provided an update.
- 3) Housing Production Plan Advisory Committee. Romero provided an update.

V. Old and New Business.

VI. Next Meeting. Ioven announced the date of the next regular meeting is May 8, 2019.

VII. Adjournment. The meeting adjourned at 9:36 p.m.

Approved by: Charles D. Ioven 05/21/2019
 Charles Ioven
 Chairman, Malden Planning Board



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

CASE NUMBER 19-01
 LOCATION of SUBJECT PROPERTY 109-121 Madison Street, Malden, MA
 NAME of PETITIONER and OWNER Caycort Realty LLC
 DATES of PUBLIC HEARING March 13, 2019 and April 10, 2019
 DATE of DECISION April 10, 2019
 DATE of FILING DECISION with CITY CLERK April 24, 2019
 DATE of NOTIFICATION to BUILDING INSPECTOR April 24, 2019
 FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 14, 2019
[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk]

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PROCEDURAL HISTORY (Case #19-01):

1. The subject property is known as and numbered 109-121 Madison Street and by City Assessor's Parcel Identification #063307702A.
2. Petitioner is the property owner, Caycort Realty LLC, 11 Canal Street, Malden, MA, c/o Louis Barretto Jr., 10 Parker Street, Woburn, MA.
3. At the public hearing, petitioner was represented by its attorney, Patrick MacDonald, Law Office of Christopher Fallon, 477 Eastern Avenue, Malden, MA 02148.
4. The petition seeks a special permit under §700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to structurally change and extend a preexisting nonconforming property in the Industrial 2 zoning district.
5. Petitioner submitted the following plans and information with the petition, which are incorporated by reference into this decision: Set of plans, "December 17, 2018 Warehouse (sp) Addition 109-121 Madison St Malden, Massachusetts 02148 prepared for Caycort Realty LLC 11 Canal St Malden, MA 02148," that include a site plan, "Parking Plan of Land Located at 109 Madison Street Malden, MA (Middlesex County), dated October 8, 2018, revised January 23, 2019 (stamped/signed October 25, 2018), prepared by Richard J. Mede Jr., P.L.S., Medford Engineering & Survey, Medford, MA; floor plans, "Existing & Proposed First Floor Plan," "Existing & Proposed Second Floor Plan," "Proposed First and Second Floor Plan," and "Existing & Proposed Elevations," dated December 17, 2018, prepared by Frank Pitts Curtis, Architect, Curtis DiBenedetto and Associates, Winchester, MA; "Transportation Impact Assessment," dated February 2019 and correspondence dated March 18, 2019, prepared by Vanasse & Associates, Inc., Andover, MA; and "109-121 Madison St Malden, MA Occupancy Gross Square Footage Description Diagram," dated April 9, 2019, prepared by Curtis DiBenedetto and Associates, Winchester, MA.
6. The public hearing opened on March 13, 2019; no testimony was received; the Board considered and granted petitioner's request, made via email dated March 4, 2019, to table the public hearing until a neighborhood meeting with the Ward City Councilor may be held; and the public hearing reopened on April 10, 2019.
7. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11, and in addition, the notice of the April public hearing was mailed to abutters.

FINDINGS of FACT (Case #19-01):

The City of Malden Planning Board finds the following facts:

1. The property contains 68,529 square feet of lot area, extends between Madison Street and Green Street, and is the site of one building with a total gross floor area of 25,767 square feet, consisting of a first floor with 20,874 square feet and a second floor with 4,892 square feet.
2. The property is currently occupied for manufacturing with accessory offices by a tenant, Top Flight Technologies, an aerospace company, which occupies 11,403 square feet on the first floor and second

floors of the part of the building known as 109 Madison Street; for retail sales in conjunction with on-site warehousing by a tenant, Sid Harvey, an HVAC company, which occupies 14,363 square feet of the first floor of the part of the building known as 18 Green Street and also known as 89 Rear Madison Street; and for general contracting and parking by petitioner's business, L & L Services, a trucking, excavation, demolition, dirt/concrete removal, snow removal, equipment sales & rental, landscaping company, which occupies 10,334 square feet of the outside yard area known as 121 Madison Street.

3. The proposal is to construct an addition containing two stories and 12,551 square feet of gross floor area, comprised of a first floor with 10,334 square feet, and mezzanine level with 2,217 square feet, at the southern end of the existing building.
4. The location of the proposed addition is the paved, fenced area of the lot, currently used for parking of large trucks, construction vehicles and equipment by petitioner's building, construction & contracting business; and currently also the site of six storage containers, which are owned and used by a company to store bicycles, and the space in the lot is rented from petitioner.
5. The location of the proposed addition is the approximate former location of a portion of the building that was demolished by petitioner in 2013.
6. The subject property is located the Industrial 2 zoning district.
7. Regarding current use of the property, the retail sales only in conjunction with on-site warehousing use is allowed by special permit and variance granted by the Board of Appeal in 1994, and the building, construction & contracting use and manufacturing use are allowed by right, per §300.3.5 of the Ordinance.
8. Petitioner expects the likely use of the proposed addition will be light manufacturing, which is a use allowed by right in this district, per §300.3.5.10 of the Ordinance.
9. According to petitioner, an existing tenant of the property may expand and occupy the addition; to date, there is no definite tenant, and regardless, petitioner intends to build the addition; petitioner intends to market the property for uses allowed under the Ordinance; and petitioner may use the proposed addition to park and store trucks and equipment related to its contracting business.
10. Various institutional, business and industrial uses are allowed by right in the Industrial 2 zoning district, including, club/lodge, daycare center, religious facilities, general offices, recreation for gainful business, retail sales with less than 5,000 square feet of gross floor area, retail services; building, construction & contracting; manufacturing & repair; research & development; and light manufacturing; and various other business and industrial uses are allowed by special permit, per §300.3 of the Ordinance.
11. Any use of the proposed addition and the existing property must comply with the Ordinance, and any proposal that increases or creates new violations of dimensional controls or parking requirements will require seeking a variance.
12. Direct abutters to the north are two-family dwellings and a four-family dwelling; to the south, a single-family dwelling, a public park with field, court and playground, and an offsite parking facility for the manufacturing business to the west on the other side of Green Street; to the east, on the other side of Madison Street, are two-family dwellings and a four-family dwelling; to the west, on the other side of Green Street, a manufacturing business and an offsite parking facility; and to the north on the other side of Bow Street, a manufacturing business and vacant lot used for parking.
13. The Residence B zoning district abuts to the north, east and south; the Residence A zoning district abuts to the east, on the other side of Madison Street; surrounding land uses are primarily residential to the north, east and south; and to the west is the public multimodal recreational trail, Bike to the Sea/Northern Strand Community Trail, on the other side of which are business and industrial uses on Canal Street.
14. The property predates the Ordinance, grossly violates dimensional controls for side and rear yard setbacks and is considered preexisting nonconforming, per §§400.1, 400.2 and 700.1.1 of the Ordinance.
15. The proposal creates no new violations of dimensional controls and maintains existing violations.

16. Existing and proposed uses of the existing building with the proposed addition require a total of 44 parking spaces and four loading bays/spaces: 15 parking spaces and one loading bay/space for the existing warehouse use; 14 parking spaces and one loading bay/space for the existing manufacturing use; 15 parking spaces and one loading bay/space for the proposed light manufacturing use of the proposed addition; and no parking spaces for the building, construction & contracting use that occupies only exterior yard and no building area, per §§500.1.5 and 500.2.18 of the Ordinance.
17. The site plan depicts a total of 48 parking spaces on-site and three loading spaces in the two parking lots onsite: one located on the northwestern corner of the lot, with access via one existing curb-cut on Green Street, 14 parking spaces and one loading area; and one located on the southeastern side of the lot, with access via two existing curb-cuts on Madison Street, 34 spaces and two loading bays/spaces.
18. There are access and maneuverability issues with two parking spaces, labeled #1 and #47 on the plan.
19. Currently, three existing curb-cuts are not used for vehicular access by petitioner or current tenants of the property, namely, the driveway on Madison Street that runs between two residences at 89 Madison Street and 97-99 Madison Street; the curb-cut on Green Street, adjacent to a landscaped yard area at the southwestern corner of the building, that is fenced and gated; and the middle curb-cut on Green Street, adjacent to the parking lot used by the part of the building known as 18 Green Street, that is fenced and gated.
20. According to petitioner, abutting residences use the driveway between 89 Madison Street and 97-99 Madison Street to access their back yards; the southwestern curb-cut on Green Street is used to access the transformer; and the middle curb-cut on Green Street is not used.
21. The City's peer review of petitioner's "Transportation Impact Assessment," and of petitioner's response dated March 18, 2019, are described in correspondence dated February 19, 2019 and correspondence dated March 21, 2019, respectively, from Kenneth Petraglia, P.E., P.T.O.E, and contain recommendations regarding parking spaces with access and maneuverability issues, restricting access of unused driveways on Green Street and Madison Street, and safety mitigation at a nearby intersection.
22. As part of its current business operations at the subject property, petitioner sometimes starts construction vehicles and heavy equipment, such as snow removal/plowing equipment, during early morning hours and nights, to drive or move them off the site.
23. Petitioner also owns the abutting properties at 7 Bow Street, 65 ½ Madison Street, 17 Green Street and 125 Madison Street; and the property at 11 Canal Street, Malden.
24. With the addition, petitioner may relocate all or some of the commercial vehicles and equipment related to its contracting business from the subject property to another property in the neighborhood, 7 Bow Street, or to its property at 11 Canal Street; and the storage containers will be removed.
25. The proposed addition includes five "roll-up" garage doors: one door at the northeastern corner, with a loading space and vehicular access via the parking lot on Madison Street; and four doors on the southern side, with an 8-foot wide walkway in the side yard setback area and no vehicular access.
26. In the future, petitioner may seek to demolish the abutting residential property to the south, 65 ½ Madison Street, with the intent to provide access and parking for the proposed addition, however, that is not part of the current petition and that use of that property may not be allowed by the Ordinance.
27. Petitioner and Ward 1 City Councilor held a neighborhood meeting on March 27, 2019.
28. Petitioner agrees to plant four trees along Madison Street at an approximate value of \$2,000.00.
29. The Ward 1 City Councilor is in support of the proposal.
30. Three residential abutters oppose the proposal due to the current effects of the existing industrial use and potential impacts of the industrial expansion on the residential neighborhood.
31. Petitioner consents to all proposed conditions of this special permit.
32. As modified by the conditions of the special permit, the proposal would be no more detrimental to the neighborhood.

DECISION (Case #19-01):

On March 13, 2019, the Planning Board granted petitioner's request to table the public hearing.

On April 10, 2019, pursuant to the foregoing findings of fact, the Planning Board granted the petition subject to the following conditions: 1) All development shall be as per plans, except where modified by these conditions; 2) Install and maintain pavement markings as per site plan, except eliminate space #1 and #47; 3) Maintain driveway located between 89 Madison Street and 97-99 Madison Street closed and gated for emergency access only or abutting residential access; maintain driveway on Green Street (at southwestern corner) closed and gated for emergency and transformer access only; maintain center driveway on Green Street closed and gated for emergency access only; 4) At the Green Street and Bell Rock Street intersection, remove faded STOP Lines at the former approaches to Medford Street and install a ONE-WAY sign that will ensure visibility for westbound Medford Street traffic; 5) Install and maintain privacy fencing along all property lines abutting the park and all residential dwellings, except along length of driveway between 89 and 97-99 Madison Street; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Install and maintain landscaping of yard areas on Madison Street and Green Street; 8) Plant four trees on Madison Street with approximate value of \$2,000.00 (total), location to be determined by Ward City Councilor; and 9) Use of the addition is restricted to only light manufacturing or manufacturing.

RECORD of VOTES (Case #19-01):

On March 13, 2019, the vote on the motion to table the public hearing was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chiavelli, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

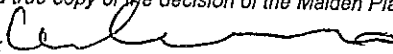
Motion by MacCuish, seconded by Henry. [Absent: Chuha, Ferguson.]

On April 10, 2019, the vote on the motion to grant a special permit with conditions was seven in favor, two opposed, and the motion passed (7-2):

Antonucci, yes; Chiavelli, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, no; MacCuish, no; Soucy, yes; Ioven, yes.

Motion by Fitzgerald, seconded by Antonucci. [Absent: Ferguson, Gebreselassie.]

I hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: 
Michelle A. Romero, City Planner



CITY OF MALDEN PLANNING BOARD
NOTICE of DECISION

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CASE NUMBER 19-02
LOCATION of SUBJECT PROPERTY 140 Eastern Avenue, Malden, MA
NAME of PETITIONER and OWNER K & R Realty Trust
DATE of PUBLIC HEARING April 10, 2019 DATE of DECISION April 10, 2019
DATE of FILING DECISION with CITY CLERK April 22, 2019
DATE of NOTIFICATION to BUILDING INSPECTOR April 22, 2019
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 13, 2019
[Anv appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]

PROCEDURAL HISTORY (Case #19-02):

1. The subject property is known as and numbered 140 Eastern Avenue and by City Assessor's Parcel Identification #086269904.
2. Petitioner is the property owner, K & R Realty Trust, 144 Eastern Avenue, Malden, MA, c/o Richard V. Gottschalk, Jr., 7 Nelson Way, Wilmington, MA.
3. At the public hearing, petitioner was represented by its attorney, Matthew Campbell, 114 West Foster Street, Melrose, MA.
4. The petition seeks to amend the special permit granted in Case #15-10 under §300.3.2.5, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance"), to allow retail sales use of the first floor.
5. The special permit granted in Case #15-10 reinstated the lapsed special permit granted in Case #13-23.
6. Petitioner submitted the following plans with the petition, which are incorporated herein by reference into this decision: a site plan, "Plan of Land in Malden," dated September 2, 2015, revised through March 18, 2019, prepared by Robert E. Grover, P.L.S., P.E., Melrose, MA; and a floor plan, "Mineirao Market 140 Eastern Ave., Malden, MA," dated January 2019, prepared by Sergio Oreng, Oreng Consulting, Charlestown, MA.
7. Petitioner submitted a waiver of the filing requirements for floor plans of other floors and building elevations because no changes are proposed to these areas.
8. Petitioner did not file a new request for a waiver of Section E.9, Rules and Procedures of Malden Planning Board (Filing Requirements, Traffic Impact Study) with the current petition; and the Planning Board granted petitioner's previous request for a waiver pursuant to the special permit granted in Case #13-23 and Case #15-10.
9. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #19-02):

The City of Malden Planning Board finds the following facts:

1. All facts found in the special permit granted in Case #15-10, except as modified herein.
2. The subject property is the site of a two-story building that is currently occupied for a multifamily residential use by six dwelling units on the second floor (five with two bedrooms, one with one bedroom) and for retail services use by a window tinting business in approximately 3,000 square feet of the first floor; the remainder of the first floor is vacant.
3. The proposal is to occupy the vacant area on the first floor, approximately 3,000 square feet, for retail sales use by a "high-end" food market/store with deli, butcher and bakery, namely, a Brazilian specialty foods market.
4. The owner and operator of the proposed market is Francisco Valadares Silva, 110 Central Avenue, Malden, who has a proposed lease agreement with property owner for five years with two five-year options to renew, for the interior building space, exterior yard area near the northeastern corner of the building, and six parking spaces on-site in the eastern side of the rear parking lot.
5. The subject property is located in the Central Business zoning district.
6. The existing residential use, dwelling, multifamily, up to three stories, is allowed by special permit granted in Case #15-10.
7. The existing business use, retail services, is allowed by right in this zoning district, per §300.3.4.15 of the Ordinance.
8. The proposed business use, retail sales with less than 5,000 square feet of gross floor area, is allowed by right in this zoning district, per §300.3.4.13.1 of the Ordinance; however, is prohibited by Condition 2 of the special permit granted in Case #15-10, which provides, "The first floor may only be occupied for daycare; general offices, including corporate/administrative offices of a contractor; retail services; and/or artist/live work space; any other use is prohibited."
9. Since the special permit was granted in Case #15-10, Phillips Court continues to provide access for abutting industrial businesses, namely, the U-Haul and petitioner's landscaping business; and a multifamily residential dwelling with 86 units and an industrial building with 6,000 square feet for petitioner's landscaping business were constructed in the immediately surrounding area.
10. The proposal complies with applicable dimensional controls, per §400.3 of the Ordinance.
11. The proposal requires no parking, per §500.2.8.1 of the Ordinance, and creates no violations of parking requirements.
12. The site plan submitted with the petition depicts 22 parking spaces, configured as head-on in the parking lot located behind the building and a proposed additional space located in a snow storage area.
13. The parking layout on the site plan has nonconforming widths for the parking aisle (23 feet) and access/egress driveway (17 feet), as allowed by variance granted on May 19, 2016, and complies with Condition 1 of the special permit granted in Case #15-10.
14. The site plan depicts "residential" parking on the western side of the rear parking lot, namely, nine spaces, separated from access via Phillips Court by fencing with an emergency gate and with access/egress via the driveway off Eastern Avenue at the western side of the building and lot, which is in compliance with Condition 1 of the special permit granted in Case #15-10.
15. The site plan depicts "commercial" parking on the eastern side of the rear parking lot, namely thirteen spaces, with access/egress via Phillips Court, and separated from the residential parking area by fencing.

16. The site plan does not depict the existing conditions currently on-site which are in violation of §500 of the Ordinance, namely, nine parking spaces currently lined and numbered, located as follows: two parallel spaces in the access/egress driveway at the western end of the building, three head-on spaces in snow storage areas, one parallel space on Phillips Court at the eastern end of the building and three head-on spaces partially on Phillips Court at the northeastern corner of the building; lack of screening with privacy fencing of the northern side of parking lot, as required per Condition 1 of Case #15-10; and two unscreened dumpsters located within 20 feet of property lines at the northwestern corner of the lot in a snow storage area.
17. Petitioner agrees to correct the parking layout and other parking conditions on site that are in violation of the Ordinance.
18. According to petitioner, five parking spaces on-site in the eastern side of the rear parking lot are used by the existing retail services business and six spaces will be used by the proposed market.
19. Petitioner states his intention to possibly reconfigure the parking layout in the future.
20. The proposed market expects 200 to 300 sales per day and 3 to 6 customers in the store at a time, who may spend 10-15 minutes.
21. Petitioner and the proposed market expect customers to park on the street on Eastern Avenue or in the parking lot on-site.
22. The proposed market will have two to three employees working per shift, who may park on-site or use public transportation.
23. The proposed market typically receives deliveries once weekly for groceries and two to three times weekly for meats.
24. The proposed hours of operation are 7 am to 10 pm, Monday to Saturday, until 5 pm Sunday, with the busiest time, 3 pm to 8 pm.
25. The proposed market has a deli area with slicing machine and display cases and a butchery area with meat saw, meat grinder, and sausage maker to prepare meats to sell; there will be no deli sandwiches made and no other food preparation.
26. The proposed market purchases packaged and inspected meats to prepare and sell and does not do "live-kill," or slaughtering.
27. The proposed market will have a bakery with an oven to bake bread with pre-prepared dough; there will be no other cooking.
28. The proposed market will not provide dine-in services and no seating is proposed.
29. The proposed market does not intend to sell alcohol or tobacco products, or lottery.
30. The proposed market does not sell wholesale.
31. The floor plan depicts a dumpster and used oil disposal outside, adjacent to the building; the proposed market intends to use the former but not the latter and will use a contracted waste removal service.
32. The existing dumpsters on-site, located in a snow storage area in the parking lot, are used by residents and existing retail services business; petitioner intends to remove these dumpsters and use recycling and trash barrels, to be located near the building.
33. The proposed market states it has met with the Board of Health and is waiting for approval of its application and floor plan.
34. The proposed market has two other existing locations, one in Somerville for nine years and one in Marlboro for three years.
35. The Ward 7 City Councilor is in favor of the proposal.
36. An individual, who identified himself as a long-time friend of the proposed market and the former owner of the Somerville market, is in favor of the proposal.
37. There is no public opposition to the proposal.
38. Petitioner consents to all proposed conditions of this special permit.
39. As modified by conditions of this special permit, the proposal is in the interest of the common good.
40. As modified by conditions of this special permit, the proposal will not be detrimental to the neighborhood.

DECISION (Case #19-02):

Pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #15-10 and granted a new special permit, subject to the following eleven conditions: 1) All development shall be as per plans, except as modified by these conditions; floor plan may only be revised subject to Board of Health approval; 2) Nine (9) parking spaces shall be provided on-site for use of residential tenants only; residential access only via Eastern Avenue, no access via Phillips Court and maintain gated fence; screen with privacy fencing along northern and eastern sides; parking layout must conform to §500 of zoning ordinance and shall be maintained as depicted on a site plan submitted to the City; and no parking is allowed in the driveway; 3) The first floor may only be occupied for general offices, including corporate/administrative offices of a contractor; retail services; retail sales (<5,000 SF gfa); and/or artist/live work space; and convenience store, supermarket, restaurant and any other use is prohibited; 4) Dumpsters are prohibited, unless sited and screened per §500.3.5.8 of Ordinance, and in accordance with Board of Health regulations; 5) Maintain landscaped front yard; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Maintain bicycle parking for three bikes; 8) No outside storage allowed; 9) The sale of alcohol, tobacco, vapor products and accessories, and lottery is prohibited; 10) Bakery may only be accessory to a food market; and 11) Any "live-kill" or slaughter is prohibited.

RECORD of VOTES (Case #19-02):

The vote on the motion to grant a special permit with conditions was nine in favor, none opposed, and the motion passed (9-0):

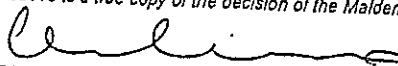
Antonucci, yes; Chiavelli, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by MacCuish.

[Absent: Ferguson, Gebreselassie.]

I hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By:


Michelle A. Romero, City Planner