



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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2017 NOV 16 P 3:48

CASE NUMBER 17-11

LOCATION of SUBJECT PROPERTY 114 Broadway, Malden, MA

NAME of PETITIONER McDonald's Corporation

NAME of OWNER Archland Property I, LLC

DATE of PUBLIC HEARING November 8, 2017

DATE of DECISION November 8, 2017

DATE of FILING DECISION with CITY CLERK November 16, 2017

DATE of NOTIFICATION to BUILDING INSPECTOR November 16, 2017

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT December 6, 2017

[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.]

CITY CLERK'S OFFICE
MALDEN, MASS.

PROCEDURAL HISTORY (Case #17-11):

1. Owner is Archland Property I, LLC, 1370 Avenue of the Americas, 21st Floor, New York, NY 10019.
2. Petitioner is tenant, occupant and business operator, McDonald's Corporation, 211 McDonald's Drive, Oak Brook, IL 60523.
3. The petition seeks a special permit under §§300.6, 300.15 and 300.11, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance"), to alter and extend a fast-food restaurant and accessory drive-thru in the Highway Business zoning district and Flood Plain district.
4. The following plans were submitted in support of the petition: "Site Development Plans for: Proposed McDonald's with Drive-thru, Location of Site: 114 Broadway, Town of Malden Middlesex County, Massachusetts. Map 125, Lot 118," dated December 31, 2016, prepared by John A. Kucich, P.E., Bohler Engineering, Southborough, MA, that includes a Demolition, Soil Erosion & Sediment Control Plan, and a Grading & Drainage Plan; "Boundary & Topographic Survey, McDonald's USA, LLC, 114 Broadway Lot 118, Block 481, Map 125 City of Malden, Middlesex County Commonwealth of Massachusetts," dated December 5, 2016, prepared by Gerry L. Holdright, PLS, Control Point Associates, Inc., Southborough, MA; "Site Plan," McDonald's 114 Broadway, Malden, MA Middlesex County, dated December 31, 2016, revised through October 6, 2017, prepared by John A. Kucich, P.E., Bohler Engineering, Southborough, MA; "Proposed Stacking Exhibit," McDonald's, 114 Broadway Malden, MA Middlesex County, dated December 31, 2016, revised June 7, 2017, prepared by J.A. Kucich, Bohler Engineering, Southborough, MA; floor plan, "Arcade Conversion Baseline MRP-Retain Mansard," (Sheet A1.0), dated December 21, 2016, prepared for McDonald's USA, LLC, prepared by John A. Baer, Reg. Architect, CPH Professional Services Corporation, Sanford, FL; and "Seating Layout Plan 114 Broadway Malden Massachusetts," dated May 5, 2017, revised through September 6, 2017, prepared by JBI-interiors, Long Beach, CA.
5. Petitioner requested a waiver of Section E.9, *Rules and Procedures of Malden Planning Board*, filing requirements for a traffic impact study, via correspondence dated April 28, 2017 from William J. Squires, Esq., Boston, MA, with a "Parking & Traffic Study," dated April 14, 2017, prepared by Ron Muller, P.E., Ron Muller & Associates, Hopkinton, MA; and the Board considered this request at a public meeting on June 14, 2017.
6. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #17-11):

The City of Malden Planning Board finds the following facts:

1. The property is located on the western side of Broadway, also known as state highway Route 99.
2. The property is the site of a one-story building, 2,551 square feet in size, with dine-in seating for 38 and a single-lane drive-thru that accommodates eleven vehicles, occupied as a fast-food restaurant.

3. The proposal is extend the existing building by constructing an addition, approximately 115 square feet in size, on the northeastern side, which increase the footprint to 2,666 square feet in size; to add a second drive-thru lane, adjacent to the existing drive-thru lane, located on the western side of the building, which increases the number of "stacking" spaces for vehicles waiting in the drive-thru lanes from 11 to 15; and to install a curbed landscaped island to separate the two lanes.
4. The proposal maintains the same two-window configuration for the existing drive-thru operation, namely, a cash payment window and a pick-up window, located on the southern side of the building.
5. Under the proposal, the existing freestanding sign at the southeastern corner of the property will be retained; the existing sign in front of the building, 34 square feet in size, will be replaced with an "M" sign, 14 square feet in size; an additional "M" sign will be installed on the northern side of the building, 14 square feet in size; the existing, internally illuminated, menu board sign, 32 square feet in size, will be eliminated; and two digital menu board signs will be installed adjacent to the drive-thru lanes, each 24.8 square feet in size and 71.8 inches in height, and the level of lighting of which adjusts with the ambient lighting.
6. The proposed façade renovations include removal of the existing mansard roof with lighted beams; painting existing clapboard siding with a new light grey color scheme; tiling the walls; and installing efface treatment above the canopy and a corrugated metal finishing system that extends the parapet to hide mechanical rooftop equipment, which increases the building's height by 3 feet to 19 feet.
7. The proposal includes improvements to sidewalks and accessible areas to make them ADA and AAB compliant, and repair and/or replacement of the fencing.
8. The southern portion of the property is located in Zone A of the Flood Plain district.
9. The property is the subject of a special permit granted in Case #94-11 that allowed the construction of the existing building in the Flood Plain.
10. The proposed addition to the building is not located in the area of the property in the Flood Plain.
11. The subject property is located in the Highway Business zoning district.
12. Fast-food restaurant use is allowed by special permit, per §300.3.4.11 of the Ordinance, and the property is the subject of a special permit granted by the Board of Appeal on May 19, 1994.
13. Accessory drive-thru use is allowed by special permit; the existing drive-thru predates the Ordinance and is considered preexisting nonconforming, per §§300.3.4.21 and 700.1 of the Ordinance.
14. The direct abutters to the north are a three-family dwelling and a one-family dwelling; to the south and west, a building, construction & contracting business (landscaping); to the west, on the other side of Lodgen Court, multifamily residential dwellings; and to the east, on the other side of Broadway are the Holy Cross Cemetery and a vehicle retail sales business.
15. Surrounding land uses are residential, institutional, business and industrial.
16. The proposal is not in conflict with surrounding land uses.
17. The existing building complies with all dimensional controls, per §400.1.4.11 of the Ordinance.
18. The proposal creates no violations of dimensional controls.
19. The restaurant use of the existing building requires 64 parking spaces, per §500.1.4.15 of the Ordinance; the property is the subject of a variance of the parking requirements granted on May 19, 1994; and currently, 47 parking spaces are provided on site.
20. The proposal requires 67 parking spaces, per §500.1.4.15 of the Ordinance.
21. Under the proposal, the parking lot is being reconfigured to accommodate the proposed second drive-thru lane, nine parking spaces are eliminated and 38 parking spaces will be provided.
22. The proposal increases the deficiency of parking requirements as to number of spaces.
23. The parking spaces to be eliminated are located along the northern property line abutting residences.
24. Under the proposal, parking spaces are arranged adequately to provide maneuverability.
25. One loading bay/space is required for the existing restaurant, per §§500.1.4.15 and 500.3.5.1 of the Ordinance; none is provided; and a variance of this requirement was granted on May 19, 1994.
26. The proposal does not increase the loading requirements.
27. The proposal complies with dimensional requirements for drive-thrus, per §500.2.4 of the Ordinance.
28. The proposed drive-thru lanes are safe and maneuverable.

29. The City's peer review of the requested waiver of filing requirements for a traffic impact study recommends granting the request, subject to satisfactory completion of a summary of existing and future parking related to zoning requirements and satisfactory peer review of the requested parking template plan, as described in correspondence dated June 10, 2017 from Kenneth Petraglia, BETA Group, Inc.; parking compliance with the Ordinance was reviewed during the hearing and the City completed a satisfactory peer review of the parking template plan, "Proposed Car Exhibit," dated June 21, 2017, prepared by J.A. Kucich, P.E., Bohler Engineering, Southborough, MA.
30. Under the proposal, there will be convenient and safe vehicular and pedestrian movement within the site, and to and from the site via the existing driveways on Broadway.
31. The traffic and traffic patterns generated by the proposal will not adversely impact the surrounding streets or create a traffic or safety hazard.
32. Under the proposal, the existing fenced dumpster enclosure, located in the northwestern corner of the lot, will remain; and the dumpster labeled for recycling, that is currently located outside the enclosure and sited in two of the parking spaces, will be moved to the existing enclosure.
33. In its correspondence dated October 30, 2017, the Board of Health recommends conditions and requirements regarding extermination, grading, waste collection, dumpster areas and screening, idling cars, Application for Food Service Establishment, and information regarding the number of meals to determine need for storage and deliveries.
34. In its memorandum dated November 7, 2017, the City Engineer recommends the following: provide revised plan to show utilities; existing and proposed catch basins must meet the four-foot sump requirement and have hoods installed; submit a statement of the current condition and an Operations and Maintenance plan for the existing and new drainage system, including catch basins, external grease trap and paved area; install a rain garden in the southwest interior corner of the lot with an overflow pipe connected to the existing drainage; install pervious landscaped area in the existing paved area where parking spaces will be eliminated; conform with City Storm Water Ordinance; file a Determination of Applicability with Conservation Commission; correct deficiencies in existing sidewalk; close unused curb-cut and reconfigure northern curb-cut; and submit as-built drawings.
35. Under the proposal, the total seating provided in the dining areas increases from 38 to 40.
36. Under the proposal, new ordering kiosks will be installed inside at the entry and employees will provide table service to customers; existing seating will be relocated to the proposed addition.
37. The proposal does not change the current hours of operation of the restaurant, which are seven days a week, 5 am to 11 pm for the restaurant lobby, and until 1:00 am for the drive-thru.
38. The proposal does not change the number of employees, which is currently fifty, with 12 to 14 employees scheduled during peak hours, most of whom walk or take the bus and do not drive.
39. On average, McDonald's derives 85% of its business from the drive-thru.
40. The proposal improves the drive-thru configuration, increases the efficiency of the drive-thru and reduces vehicles' cueing-time onsite.
41. As modified by conditions of the special permit, the proposal is in the interest of the common good.
42. Under the proposal, the number of signs increases but the overall square footage of signs is reduced.
43. The location and height of all freestanding signs are allowed by this special permit; other dimensions and features of signage are subject to the City's Sign Design Review ordinance.
44. Petitioner held a neighborhood meeting on July 13, 2017, and no member of the public attended.
45. One of the three City Councilors-at-Large is in favor of the proposal.
46. The direct residential abutter on Broadway opposes the proposal due to concerns with litter, lighting and accidents by vehicles entering the site with cars parked on-street.
47. As modified by the conditions of the special permit, there will be adequate protection against the spread of litter and debris.
48. As modified by the conditions of the special permit, there will be adequate landscaping and screening with regard to abutting properties.
49. As modified by the conditions of the special permit, there will be adequate protection of adjacent premises against detrimental impacts of lighting.

- 50. As modified by the conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
- 51. Petitioner consents to all proposed conditions of the special permit.

DECISION (Case #17-11):

On June 14, 2017, the Planning Board granted petitioner's request for a waiver of filing requirements for a traffic impact study, subject to the City's satisfactory peer review of the requested parking template plan.

On November 8, 2017, the Planning Board granted a special permit subject to the following eleven (11) conditions: 1) All development shall be as per plans, except as modified by these conditions; 2) Submit detailed landscaping plan that includes locations and species of plantings; 3) Perform litter control throughout entire site a minimum of every four (4) hours, daily; 4) Replace and/or repair and maintain 8-foot privacy fencing along northern and eastern property lines from Broadway to Lodgen Court and along Lodgen Court; and other fencing as per plans; 5) No dumpster may be sited in a parking space and all dumpsters (for trash or recycling) must be screened; 6) Comply with all conditions/ requirements of Board of Health/DPH, described in correspondence dated October 30, 2017, except for yard setback of dumpster; 7) The location of all signs is approved as per plans; maximum height of menu boards is 6 feet; all other dimensions and features subject to Sign Design Review; 8) Install, repair or replace sidewalks and driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director; 9) Adjust, direct and/or shield all lighting on site, in parking lot and on building from residential abutters; 10) Comply with recommendations of City Engineer as described in memo. dated November 7, 2017, except a) excluding curb-cut reconfiguration; b) compliance with rain garden is subject to ability to connect to existing drainage and not eliminate parking; c) compliance with sump requirements, to extent required by law; and 11) Install trash can near northeastern corner of site.

RECORD of VOTES (Case #17-11):

On June 14, 2017, the vote on the motion to grant the request for a waiver of the filing requirements for a traffic impact study was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Antonucci, seconded by Chuha. [Present but not voting: Gebreselassie]


On November 8, 2017, the vote on the motion to grant a special permit with eleven conditions, was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Antonucci, seconded by Henry. [Present but not voting: Gebreselassie, Soucy]

I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

Malden Planning Board



By: _____
Michelle A. Romero, City Planner