



CITY OF MALDEN PLANNING BOARD
NOTICE OF DECISION

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CASE NUMBER 17-02

LOCATION of SUBJECT PROPERTY 54 Eastern Avenue, Malden, MA

NAME of PETITIONER New England Communities, Inc.

NAME of OWNER 54 Eastern Ave Malden LLC

DATE of PUBLIC HEARING March 8, 2017

DATE of DECISION March 8, 2017

DATE of FILING DECISION with CITY CLERK March 22, 2017

DATE of NOTIFICATION to BUILDING INSPECTOR March 22, 2017

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT April 11, 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 #17-02):

1. Petitioner is New England Communities, Inc., 405E Dedham Street, Newton Centre, MA 02459.
2. Owner is 54 Eastern Ave Malden LLC, 54 Eastern Avenue, Malden, MA 02148, for which Bread of Life, Inc. is the sole and managing member.
3. The petition seeks to amend the special permit granted in Case #15-17 under §§300.3.2.5 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden ("Ordinance"), to allow reconstruction of a preexisting nonconforming property in the Highway Business zoning district for multifamily residential dwelling use and general offices with accessory food pantry and meals programs, to revise the approved plans to allow all new construction, and to extend the expiration date of the special permit.
4. The following plans and information were submitted in support of the petition: "54 Eastern Ave Malden, MA Planning Board Review January 30, 2017 Bread of Life, Inc. Metro North Housing Corp New England Communities Inc 54 Eastern Ave Malden, MA," dated January 30, 2017 with revisions dated February 15, 2017, prepared by Resolution Architects, Natick, MA, that includes: Previous Plan; Site Development Plan; Truck Turning Template; Ground Floor Plan; 2nd/3rd Floor Plan; Front Elevation; and "Existing Conditions Plan of Land in Malden, MA," dated January 25, 2012, prepared by Hancock Associates, Danvers, MA; and Memorandum dated January 30, 2017 from Marc Slotnick, President New England Communities, Inc. and Randy Johnson, Resolution Architects.
5. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. The subject property is the subject of decisions by the Planning Board in Case #13-09, which approved the structural change, extension and alteration of the existing building, namely, demolition of the two-story brick southern section, renovation of the two-story northern section and construction of a three-story addition at the northeastern side of the lot, and approved use of the property for general offices with accessory food pantry and meals programs and for a multifamily dwelling with fourteen residential units; in Case #14-05 which amended and extended the special permit granted in Case #13-09; and in Case #15-17, which amended and extended the special permit granted in Case #14-05.
7. The special permit granted in Case #15-17 provides that the special permit shall expire on June 30, 2017, unless construction has commenced pursuant to a building permit.
8. The special permit in Case #13-09 was granted on March 13, 2013, and, as described in memoranda from the City Solicitor dated October 11, 2016 and December 22, 2016, this petition for a special permit is exempt from amendments of the Ordinance, for which the publication of the first notice of public hearing was after the date of granting, namely, the moratorium on permits for multifamily dwellings, ordained by City Council Paper 541/2015 as amended by City Council Paper 387/2016; open space requirements, ordained by City Council Paper 334/2016; parking requirements, ordained by City Council Paper 334/2016; and lot size requirements, ordained by City Council Paper 270/2015.

FINDINGS of FACT (Case #17-02):

The City of Malden Planning Board finds the following facts:

1. Petitioner is the developer of the project and will be the property manager.
2. Owner's sole and managing member is Bread of Life, Inc., a long-standing local non-profit anti-hunger agency, which since 2013, occupies the existing building for general offices and operates the accessory food pantry and meals programs at the property, and which will continue to do so under the proposal.
3. Under the proposal, Metro North Housing Corp. is the future operator and owner of the proposed housing.

4. The proposal is to amend the special permit granted in Case #15-17, specifically: to revise the previously approved plans to reconfigure and redesign the first floor for use as general offices with distribution, delivery and storage areas for the food pantry program, and kitchen and dining areas for the meals program; and the second and third floors for exclusive use by the residential units; to allow complete reconstruction of the property with demolition of the entire existing building and all new construction; and to extend the expiration date of the special permit.
5. Petitioner requests to extend the expiration date of the special permit to December 31, 2018, to allow the ongoing fundraising and the application processes for state and other funding to continue.
6. The revised proposal includes the same program elements as the previously approved proposal, namely, general offices with accessory food pantry and meals programs, and the same amount and kind of housing, namely, fourteen studio apartments that will be affordable and permanent housing for individual adults, with an on-site support staff person.
7. The revised proposal improves efficiency, access and circulation in the building; separates the business and residential uses; and lowers construction costs with a more cost-effective design.
8. The proposed building is designed with one entrance facing Eastern Avenue, which is intended to provide exclusive access for deliveries and loading for the food programs; and one entrance facing the multimodal trail, which will be the main public entrance to the building and will provide access for patrons of the food pantry and meals programs and for tenants of the residential dwelling units.
9. The revised proposal includes shared areas on the first floor, approximately 2,168 square feet in size, consisting of a lobby near the northeastern corner of the building, facing the multimodal trail, and a multi-purpose room with seating occupancy for approximately ninety that will be used for the meals dining program, waiting area for the food pantry program, and group program area and open space for the housing units.
10. Under the revised proposal, the outdoor dining area with seating for sixteen is relocated to the eastern side of the building and will be accessible only via the interior of the building, through the multi-purpose room.
11. Under the revised proposal, the overall size of the building is reduced by approximately 2,500 square feet; the footprint is expanded by approximately 1,000 square feet; and the residential dwelling units are each approximately 300 square feet in size.
12. The subject property is located in the Highway Business zoning district.
13. The existing general offices are allowed by right and the proposed multifamily dwelling up to three stories is allowed by special permit in this district, per §§300.3.4.9 and 300.3.2.5 of the Ordinance.
14. Under the proposal, the food pantry and dining/meals programs will be accessory to the general office use.
15. The direct abutters to the east are a motor vehicle repair shop and a building, construction and contractor's yard; to the west, a religious facility; to the north, the abandoned railroad right-of-way, a portion of which has been developed by the City into the public multimodal recreational trail, Bike to the Sea Path/Northern Strand Community Trail, and the other portion of which is a public parking lot managed by the Malden Redevelopment Authority; and to the south, on the other side of Eastern Avenue, a coffee shop restaurant with drive-thru.
16. Surrounding land uses are institutional, business and industrial.
17. The proposal is not in conflict with surrounding land uses.
18. The proposed change of use of the preexisting nonconforming property is not more detrimental to the neighborhood.
19. The existing building violates dimensional controls for front yard, one side yard and rear yard setback and is preexisting nonconforming, per §§400.1.4.9 and 700.1 of the Ordinance.
20. The proposal eliminates the existing gross front yard setback violation; eliminates an encroachment and reduces the existing gross western side yard setback violation; increases the previously approved rear and side yard setback violations; creates a new violation of building coverage; and maintains previously approved nonconformities of density and open space, per §§400.1.2.5, 400.1.4.9, 400.2 and 400.4 of the Ordinance.
21. Under the proposal, open space is provided outside, in landscaped areas around the building and an outdoor dining area; and inside, in a study area on the second floor and the multi-purpose room on the first floor.
22. Some open space is nonconforming regarding dimensional requirements, per §400.8.2 of the Ordinance.
23. The project directly abuts the public multimodal recreational trail, Bike to the Sea Path/Northern Strand Community Trail.
24. The violations of dimensional controls created or increased by the proposal will not be more detrimental to the neighborhood.
25. The reconstruction of the preexisting nonconforming building will not be more detrimental to the neighborhood.

26. The proposal requires a total of 54 offstreet parking spaces under applicable zoning, namely, 26 spaces for the general offices to occupy approximately 6,600 square feet, and 28 spaces for the multifamily dwelling, per §§500.1.2.5, 500.1.4.12 and 500.2.18 of the Ordinance.
27. The revised proposal provides the same parking layout as the previously approved proposal: to create five parking spaces on-site, configured as head-on, located along the southwestern property line, and to modify the existing curb-cut on Eastern Avenue to provide two-way access/egress.
28. The revised proposal, like the previously approved proposal, addresses existing site access/egress safety issues and eliminates unsafe conditions of the existing driveway.
29. On-street parking on Eastern Avenue, adjacent to the subject property, is allowed as restricted by posted signage; parking is available in the abutting public parking lot; and petitioner reports having an agreement with the nearby Sacred Hearts Church of Malden, to use parking spaces in the Church's nearby parking lot.
30. Bicycle parking is not required per §500.2.22 of the Ordinance; however, the proposal includes bike parking in the rear yard.
31. The proposal does not require a loading bay/space, per §§500.1.2.5 and 500.1.4.12 of the Ordinance; however, a loading area is proposed, located at the southeastern corner of the building.
32. Bread of Life uses its own box truck for deliveries and will control deliveries and use of the parking spaces.
33. The general offices will be used only by Bread of Life and will not be rented.
34. Historically, Bread of Life staff and patrons of its food programs, and residents of the proposed housing, typically do not have vehicles.
35. The proposal provides direct pedestrian access via the abutting public multimodal trail that traverses the City.
36. The subject property is located approximately 2,200 feet from the Malden Center MBTA public transit station.
37. The violations of parking requirements created or increased by the proposal will not be more detrimental to the neighborhood.
38. For the previously approved proposal, the Board granted a waiver of the traffic impact study filing requirements, conditionally subject to resolution of issues regarding truck access/egress and site distance for exiting vehicles, as recommended in the City's peer review report contained in correspondence dated July 25, 2012 from BETA Group, Inc., namely: to address safety issues of vehicles and pedestrians entering/exiting the site, maximize the site distance by using low landscaping abutting sidewalks and install safety signage and pavement markings for vehicles and pedestrian crossings at site drive, including stop sign, "pedestrian crossing" sign, and "caution vehicles exiting" sign; and to address access/egress issues for all vehicles, pedestrians and truck deliveries, designate the loading space with pavement markings, and provide a site plan with an "auto-turn" template to show that all vehicles, including delivery trucks, can turn around to exit the site head-on.
39. It is unacceptable and creates a traffic and safety hazard to have any vehicle backing out onto Eastern Avenue.
40. Petitioner submitted an "auto-turn" template that demonstrates that truck vehicles, 22 feet in length, can turn on-site by making a "three-point" turn and traversing three parking spaces, which must be vacant to allow the maneuvering of the truck.
41. The traffic and traffic patterns generated by the proposal use will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
42. In its correspondence dated March 7, 2017, the Malden Board of Health/Department of Public Health recommends conditions requiring plan review for the food service and pantry; rental unit inspections; posting of owner's name; trash compactor and storage totes for solid waste disposal; and regulating construction and temporary dumpsters.
43. The revised proposal includes the same stormwater management system, recycling and trash storage, fencing and screening, as the approved proposal.
44. The Ward City Councilor, two of the three City Councilors-at-Large, and the Mayor support the proposal.
45. Several members of the public are in favor of the proposal.
46. There is no public opposition to the proposal.
47. The proposal is in the interest of the common good.

DECISION (Case #17-02):

Pursuant to the foregoing Findings of Fact, the Board granted a special permit subject to the following sixteen (16) conditions:

1. The residential dwelling units shall be used exclusively as studio apartments, each occupied by only one adult tenant, managed by and with on-site supported living program services to be provided by Metro North Housing Corp or a similar service-provider.

2. The food pantry and meals programs must be accessory to the general office use of the property; the general offices shall be used exclusively by Bread of Life or a single similar entity.
3. The entire development shall be as per plans, including the "Previous Plan," dated January 30, 2017 (Sheet #C0.b) (except for building footprint), and except as modified by these conditions.
4. Antennas on the rooftop or any part of the building's exterior are prohibited, except for emergency City antennas.
5. All utilities, HVAC and associated equipment on the rooftop shall be screened visually.
6. Any and all balconies are prohibited.
7. No permanent dumpster will be permitted on site after completion of construction; the permanent building must have a trash compactor; storage totes for use with trash compactor are permitted.
8. Compliance with all requirements described in Board of Health/DPH letter dated March 6, 2017.
9. Maximize site distance by using low landscaping abutting sidewalks; install safety signage and pavement markings for vehicles and pedestrian crossings at site drive, including stop sign, "pedestrian crossing" sign, and "caution vehicles exiting" sign.
10. Repair or replace sidewalks, driveways and perform necessary incidental work adjacent to the property to the satisfaction of the DPW Director.
11. Obtain DPW approval for proposed new and/or modified curb-cut.
12. Designate loading space with pavement markings.
13. Install and maintain fencing, gate, landscaping, bicycle rack and bench adjacent to Northern Strand Community Trail/ Bike to the Sea Path, subject to review and approval by Ward City Councilor; install cameras and lighting in locations abutting property, to be determined by Ward City Councilor and Malden Police; and maintain cleanliness of that portion of the Northern Strand Community Trail/Bike to the Sea Path abutting the property, including, but not limited to, litter control and removal of overgrown vegetation.
14. Maintain property clean and clear of all debris; no outside storage allowed.
15. Install onsite underground stormwater management system, final design subject to review and approval of City Engineer.
16. This special permit shall expire on December 31, 2018, unless construction has commenced pursuant to a building permit.

RECORD of VOTES (Case #17-02):

The vote on the motion to grant a special permit with conditions was nine in favor, none opposed:

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

Motion by Antonucci, seconded by Lawhorne.

[Absent: Fitzgerald.]

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.

By: 
 Michelle A. Romero, City Planner