



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CASE NUMBER 17-06

LOCATION of SUBJECT PROPERTY 297 Highland Avenue at 289-299 Highland Avenue, Malden, MA

NAME of PETITIONER Paws Up, LLC

NAME of OWNER MKJ Li, LLC

DATE of PUBLIC HEARING July 12, 2017

DATE of DECISION July 12, 2017

DATE of FILING DECISION with CITY CLERK July 19, 2017

DATE of NOTIFICATION to BUILDING INSPECTOR July 19, 2017

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT August 8, 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.]

PROCEDURAL HISTORY (Case #17-06):

1. Petitioner is are the current tenant, Paws Up, LLC, c/o owners, Matthew McCarthy, 383 Maverick Street, East Boston, MA and Vincent Valenti, 157 Boston Street, Salem, MA.
2. Owner is MKJ Li, LLC, 100 Plymouth Avenue, Milton, MA.
3. The petition seeks a special permit under §300.3.4.28, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow kennel use of a preexisting nonconforming property in a Neighborhood Business zoning district.
4. The following plans and information were submitted in support of the petition: a drawing, "299 Highland Avenue, Malden, MA," with an aerial view of the property and photo image of the building/view from Charles Street, dated June 14, 2017, and "299 Highland Avenue, Malden, MA Floor Plan," dated June 16, 2017, not to scale, prepared by Justin Hockensmith, West, Bridgewater MA; and a portion of a plan, "Alterations to Retail Store, 291-297 Highland Avenue," dated June 1, 1994, prepared by Laurence L. Rubin, A.I.A., Wellesley Hills, MA, that depicts the footprint of the building.
5. Petitioner requested a waiver of the filing requirements for a site plan and building elevations.
6. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #17-06):

The City of Malden Planning Board finds the following facts:

1. The property is located on the eastern side of Highland Avenue, at the corner of Charles Street.
2. There is a single-story building on the property, with a total gross floor area of 8,078 square feet, and two storefronts, currently occupied for retail services: one by a florist and one by a doggy daycare.
3. The subject of the petition is the premises occupied by the doggy daycare, approximately 4,000 square feet.
4. Petitioner is the owner and operator of the existing doggy daycare, which also offers behavioral, obedience and puppy training services to individuals and class groups with a maximum size of four.
5. The proposal is for petitioner to operate a kennel and offer boarding as part of its existing business.
6. The proposal does not expand the size of the premises currently occupied and maintains the existing floor plan.
7. The subject property is located in a Neighborhood Business zoning district.
8. The existing retail services use is allowed by right in this district, per §300.3.4.15 of the Ordinance.
9. The proposed kennel use is allowed by special permit in this district, per §300.3.4.28 of the Ordinance.
10. The direct abutters to the east are a single-family dwelling and a two-family dwelling; to the south, a restaurant and retail services; to the north, single-family dwellings; and to the west, a multifamily dwelling.
11. Surrounding land uses on Highland Avenue are a public charter school, restaurants and retail sales; and on Charles Street, Russell Street and Whitman Street, single and two-family residential dwellings.
12. The proposed kennel use is not in conflict with surrounding land uses.
13. The property violates current dimensional controls for front yard, one side yard, rear yard setback and lot coverage; and is considered preexisting nonconforming, per §§400.1.4.14 and 700.1 of the Ordinance.
14. The proposal maintains the existing violations and creates no new nonconformities, per §§400.1.4.14, 400.1.4.23 and 400.2 of the Ordinance.
15. The current use of the entire property for retail services requires 32 parking spaces, namely, 4 spaces per 1,000 square feet of gross floor area, per §500.1.4.17 of the Ordinance.
16. There appears to be adequate space to park two to three vehicles onsite, in a paved driveway at the rear of the building, configured in a nonconforming layout, with access via an existing curb-cut on Charles Street.
17. The parking violations and deficiencies are preexisting nonconforming, per §700.1 of the Ordinance.
18. Kennels have the same parking requirements as retail services, and the proposal does not create any new violations, per §§500.1.4.17, 500.1.4.28 and 500.2.18 of the Ordinance.
19. According to petitioner, petitioner has rights to use the driveway and its employees park in the driveway.

20. There is no onsite parking for customers.
21. On-street parking on Highland Avenue adjacent to the site is allowed as restricted by posted signage.
22. The existing hours of operation of the daycare are Monday through Saturday, 6:00 am to 7:30 pm; according to petitioner, peak drop-off hours are 6 am to 8 am and peak pick-up hours are 5 pm to 7 pm.
23. On Sundays, petitioner's business is currently only open for training services and not for daycare.
24. Under the proposal, the kennel will provide overnight boarding but will not be open to the public overnight; and the daycare will not be open and there will be no pick-up or drop-off during overnight hours.
25. The traffic and traffic patterns generated by the proposal will not adversely impact surrounding streets or create a traffic or safety hazard.
26. Petitioner's existing premises include indoor lounge and play areas.
27. A portion of the rear yard adjacent to the building is partially covered by a roof, enclosed with stockade fencing, separated from the driveway and accessible only from inside the building or via the garage door at the rear of the building; this area is used by the doggy daycare for supervised activity and training.
28. According to petitioner, the dogs are not taken outside for walks during the day.
29. According to petitioner, dogs at the daycare use disposal pads and "pet turf" to go to the bathroom indoors, and dogs at the proposed kennel will do the same.
30. Petitioner stores trash, including pet waste, in one of the two dumpsters located at the rear of the building in the driveway area; and the dumpster is picked up twice weekly.
31. The trash barrels and debris near the easternmost rear portion of the building do not belong to petitioner.
32. Petitioner's doggy daycare business does not use cages, and the proposed kennel will not use cages.
33. Petitioner's business currently provides daycare services for an average of thirty-five dogs per day.
34. Petitioner employs one staff person on-site per ten dogs.
35. The maximum number of employees on-site at one time is four.
36. Petitioner expects to provide overnight boarding for a maximum of eight to ten dogs at a time.
37. Petitioner expects to employ one staff person to stay overnight on-site for the kennel.
38. The existing interview room, approximately 191 square feet, will be used for overnight boarding; the employee staff person will stay on a daybed and the dogs will stay on dog beds in this room.
39. The proposal will not be more detrimental to the neighborhood.
40. According to petitioner, there are no state regulations for doggy daycares or kennels regarding the number of animals per square foot or number of employees per animal.
41. The City Council intends to establish licensing regulations for kennels.
42. Petitioner's business opened at the property six months ago and currently has over 250 clients.
43. According to the Ward 2 City Councilor, there have been no complaints since the daycare opened.
44. According to petitioner, there is a demand and need for the proposed kennel services.
45. Petitioner submitted a petition in favor of the proposal, signed by several Malden residents and numerous business patrons and clients, who are residents of other cities and towns.
46. The Ward 2 City Councilor, one of three City Councilors-at-Large, and the Mayor are in favor of the proposal.
47. There is no public opposition to the proposal.
48. The proposal is in the interest of the common good.

DECISION (Case #17-06):

On July 12, 2017, the Planning Board granted a special permit subject to the following five conditions: 1) Any kennel use must be accessory to a doggy daycare use; 2) Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director; 3) Clean rear yard of all debris; 4) Obtain licenses from City Council for kennel use and for extended/overnight hours; and 5) Maximum of fifteen (15) animals may be boarded overnight.

RECORD of VOTES (Case #17-06):

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

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

Motion by Antonucci, seconded by MacCuish.

[Absent: Chuha. Present but not voting: Gebreselassie.]

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