



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

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CITY CLERK'S OFFICE  
MALDEN, MASS.

CASE NUMBER 18-04

LOCATION of SUBJECT PROPERTY 45 High Rock Road, Malden, MA

NAME of PETITIONER and PROPERTY OWNER Northern Star Developers, LLC

DATE of PUBLIC HEARING April 11, 2018

DATE of DECISION April 11, 2018

DATE of FILING DECISION with CITY CLERK April 25, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR April 25, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 15, 2018

*[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 #18-04):

1. Petitioner is the property owner, Northern Star Developers, LLC, 85 Maverick Street, Chelsea, MA 02150, represented by Oswaldo Limas III, 44 Rockingham Avenue, Malden, MA 02148.
2. The petition seeks a special permit under §700.13, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to remove ledge and alter the grade of the property known as and numbered, 45 High Rock Road, and also known by City Assessor's parcel identification number 145-790-019.
3. When the petition was filed, petitioner submitted the following plans and information in support of the petition: correspondence dated March 19, 2018 from Richard A. Salvo, P.E., Engineering Alliance, Saugus, MA, describing the project; letter report dated July 18, 2013, from, Glen V. Zoladz, P.E., Geotechnical Services, Inc., providing a pre-ledge excavation (removal) survey; set of plans, "Plan of Land Lot 17-A High Rock Road, Malden, Massachusetts," dated November 10, 2017, prepared by Richard A. Salvo, P.E., Engineering Alliance, Saugus, MA that include Existing Conditions, Site Plan and Erosion Control Plan; and set of plans, "High Rock Road Development 45 High Rock Road Malden, MA 02148," dated March 8, 2018, prepared by Frank Pitts Curtis, Reg. Architect, Designs by Oz, that include Elevations and Floor plans, dated October 25, 2017.
4. At the start of the public hearing, petitioner submitted written proof that outstanding real estate taxes were paid, namely, an original receipt from the City Treasurer indicating payment of \$1,633.79 and date/time- stamped, April 11, 2018/4:00 p.m.
5. Petitioner requested to table the public hearing via email on April 11, 2018 and in person at the public hearing, and as the reason for the request, stated that he is not prepared to move forward with the public hearing as scheduled because his engineer and development team are not present and because he intends to propose a new technology to remove the ledge, to update the documentation, to revise the plans, to provide additional information, and to have a neighborhood meeting.
6. The Board considered petitioner's request and decided to proceed with the public hearing as scheduled.
7. Petitioner was provided the opportunity to present the proposal at the public hearing.
8. Petitioner declined to present the proposal at the public hearing.
9. At the public hearing, the Board reviewed all information and plans that petitioner submitted in support of the petition when the petition was filed.
10. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #18-04):

The City of Malden Planning Board finds the following facts:

1. The subject property is a vacant parcel of land with ledge outcroppings.
2. The property was formerly improved with a stone retaining wall along the western property boundary, along the street; the wall was demolished pursuant to a building permit issued on June 19, 2017 and revoked on October 19, 2017, after the wall was not rebuilt and the property was left in a dangerous and unsafe condition that included piles of debris and dirt, trees felled and on-going erosion issues; after \$2,600.00 in penalty fines, the violations were addressed and fines were paid on March 8, 2018; and to date, the wall has not been rebuilt.
3. The proposal is to remove ledge to prepare the property to construct a single-family dwelling.
4. There are discrepancies between the site plan and other information submitted by petitioner, and specifically, the geotechnical pre-ledge removal survey may be outdated, inaccurate and/or invalid, given that it references observations made during a site visit on April 15, 2013 and is based on an attached Site Layout Plan, dated January 3, 2012, which differs from the site plan for the proposal by depicting a dwelling with a significantly

- smaller footprint, driveway and backyard patio area, no terraced backyard area, different driveway location, and different elevations for garage, slab and top of foundation wall; and given that the conclusions and recommendations of the report are subject to Limitations, as described in Section 5 of Appendix A.
5. According to the correspondence from petitioner's engineer, the proposal is to remove approximately 885 cubic yards of rock ledge and 98 cubic yards of soil, and to excavate and remove all rock/ledge via mechanical processes, namely, "breaking" by hydraulic hammering, drilling and splitting.
  6. According to the plans and/or geotechnical survey, the proposal includes retaining walls and ledge cuts that exceed the maximum height allowed by §400.7.8 of the Ordinance.
  7. The Malden Fire Chief reviewed the proposal and in correspondence dated April 11, 2018 states concerns regarding the validity of the geotechnical survey and provides recommendations regarding the method of ledge removal, placement of seismographs, fire detail and dust control.
  8. Petitioner is in business with the former developer of another property in the City, 62 Seaview Avenue, who began but never completed a ledge removal project at that property; that property is the subject of a special permit granted in Case #14-07 and amended in Case #15-07; the original method used to remove ledge at that property was found to be dangerous and unsafe by the Malden Fire Chief; that property has been the subject of numerous violations and fines by the City for on-going dangerous and unsafe conditions over the last four years; and the project at that property was taken over by a new developer this year.
  9. The standing Ward 6 City Councilor; one City Councilor-at-Large; the prior Ward 6 City Councilor; numerous residents of abutting properties, the surrounding neighborhood and the Maplewood Highlands area of the City; and one residential abutter of 62 Seaview Avenue, oppose the proposal because of its substantially detrimental impacts on existing homes, the neighborhood and surrounding area, and its significantly adverse effects on the public safety and general welfare, and expressed various grave concerns regarding: personal and public safety; dangers and risks to the neighborhood; erosion; flooding; icing; water runoff issues; amount and location of rock ledge to be removed; siting of existing surrounding homes on ledge; history of rock collapse in the area; location of fault lines; property damage; negative effect on property values; capacity of existing drainage and infrastructure to support additional growth; water pressure and water delivery system; noise impacts; trucking traffic; erosion and flooding issues that were caused by petitioner's removal of the retaining wall; petitioner's negative record of safety and maintenance as owner of the subject property; and petitioner's business relationship with the same developer who had a problematic history regarding a ledge removal project at another property in the City, 62 Seaview Avenue.
  10. The proposal is detrimental to the neighborhood.
  11. The proposal will adversely affect the general welfare and public safety.

DECISION (Case #18-04):

On April 11, 2018, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition because the proposal is detrimental to the neighborhood and will adversely affect the general welfare and public safety.

RECORD of VOTES (Case #18-04):

On April 11, 2018, the vote on the motion to deny the petition was nine in favor, none opposed, and the motion passed:

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

*Motion by Antonucci, seconded by MacCuish.*

*[Absent: Wolff.]*

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

  
Michelle A. Romero, City Planner