



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 14-19

LOCATION of SUBJECT PROPERTY 133-137 Pearl Street, Malden, MA

NAME of PETITIONER Joseph Crowley

NAME of OWNER GEM Investment LLC

DATE of PUBLIC HEARING December 10, 2014

DATE of DECISION December 10, 2014

DATE of FILING DECISION with CITY CLERK December 16, 2014

DATE of NOTIFICATION to BUILDING INSPECTOR December 16, 2014

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 5, 2015

[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 #14-19)

1. Petitioner is Joseph Crowley, 12 Pollack Drive, Middleton, MA 01949, who is the President, manager and authorized representative of the property owner, GEM Investment, LLC, 133-137 Pearl Street, Malden, MA 02148.
2. The petition seeks a special permit under §700.1.3.1, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to structurally change and extend a preexisting nonconforming property and use in the Residence A zoning district.
3. The following plans and information were submitted in support of the petition:
 - a) Site plan, "Plot Plan 133-137 Pearl Street Malden, MA," dated November 20, 2014 prepared by Richard J. Mede Jr., P.L.S., ABV Survey, Medford, MA.
 - b) Set of plans, "Pisa Pizza 133 Pearl Street Malden, MA 02148," dated November 14, 2014, prepared by Bryan D. Poisson, Reg. Architect, Approach Architects Inc., Boston, MA, that includes demolition plan, first floor plan and exterior elevations.
 - c) Correspondence dated December 8, 2014 from Bryan Poisson, Approach Architects, Boston, MA.
 - d) "Permit Information (Sheet Number T.1), Pisa Pizza 133 Pearl Street Malden, MA 02148," dated November 14, 2014 and revised December 8, 2014, prepared by Bryan D. Poisson, Reg. Architect, Approach Architects Inc., Boston, MA.
4. The public hearing complied with statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #14-19):

The City of Malden Planning Board finds the following facts:

1. The subject property, located on the corner of Pearl and Charles Streets, is the site of a three-story building, containing a restaurant on the first floor, with an approximate gross floor area of 1,944 square feet and seating capacity of 65; and four dwelling units on the second and third floors, namely, two, two-bedroom units and two, one-bedroom units.
2. The petitioner is the owner and operator of the restaurant, doing business as Pisa Pizza.
3. The proposal is to construct a single-story vestibule addition, approximately 68 square feet in size, namely, 8 by 8.5 feet, with one door, one window, and an exterior landing and stairs, at the northeastern corner of the existing building.
4. The location of the proposed addition is currently an unused, open, paved area in the lot, adjacent to the cooler/freezer.
5. The proposed vestibule addition will be used only by the restaurant's delivery service drivers for pick-up of orders.
6. The proposed vestibule addition will contain portable rack systems for the delivery food orders and driver's delivery carrying bags; will contain no plumbing; and will not be used for storage or food preparation.
7. No other changes to the building or property are proposed.
8. The property is located in the Residence A zoning district.
9. The four-family residential dwelling use and restaurant use are preexisting nonconforming uses that are prohibited in this district, per §§300.3.2.3, 300.3.4.12 and 700.1.1 of the Ordinance.
10. The proposal extends the restaurant use.
11. The direct abutters to the north are a club/lodge and a two-family dwelling; to the west, a two-family dwelling; to the east, on the opposite side of Pearl Street, a City park; to the southeast, on the opposite corner of the intersection, a multifamily dwelling with five units; and to the south, on the opposite side of Charles Street, a multifamily dwelling with six units and two, two-family dwellings.
12. Surrounding land uses are single, two and multifamily residential dwellings; a club/lodge; the City athletic stadium; and the MBTA R.O.W.
13. The proposal is not in conflict with surrounding land uses.

14. The original building was constructed prior to 1977; additions to the restaurant were constructed per special permits granted in Case #95-01 and Case #99-13; the property violates all dimensional controls except requirements for frontage, one side yard setback, rear yard setback and building coverage; and the property is preexisting nonconforming, per §§400.1, 400.2 and 700.1 of the Ordinance.
15. The proposal maintains the existing nonconformities and creates no new violations of dimensional controls.
16. The current use of the property requires a total of thirty-one (31) onsite offstreet parking spaces, namely, eight for the residential units and twenty-three for the existing restaurant use, per §§500.1 and 500.2.18 of the Ordinance.
17. The site plan depicts eighteen (18) parking spaces in the paved lot, located in the northern and western sides of the lot.
18. The proposal increases the nonconformity and violation as to number of parking spaces, given that the expanded restaurant requires twenty-four (24) spaces.
19. The parking layout depicted on a site plan filed with the prior special permits, which provided twenty-two spaces, is no longer feasible due to a patio area with outdoor seating located in the southwestern side of the lot, on Charles Street.
20. The increase in violation of parking requirements will not be more detrimental to the neighborhood.
21. The dumpster and trash storage in the parking lot are not screened or enclosed, as required per the Ordinance and Board of Health regulations.
22. The restaurant has a valid permit issued by the Malden Board of Health for the dumpster, extermination, food manager and food service and is licensed by the Licensing Board to serve food and serve all alcoholic beverages.
23. The proposed addition will not increase the seating capacity or occupancy of the restaurant.
24. The proposal will provide the restaurant's delivery drivers with a direct entrance to the restaurant and will improve safety, given that delivery drivers currently share an entrance/exit to the building with two dwelling units and now must traverse two sets of stairs and a hallway to access the restaurant.
25. The proposal is in the interest of the common good.
26. The entire building contains a fire detection system, in accordance with the requirements of the Malden Fire Department.
27. The proposed addition will be entirely enclosed and the exterior will match the existing building.
28. The Ward City Councilor and a Councilor-at- Large support the proposal, and there is no public opposition.
29. The proposal will not be more detrimental to the neighborhood.

DECISION (Case #14-19):

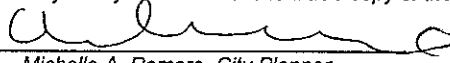
Pursuant to the foregoing Findings of Fact, the Planning Board moved to grant a special permit subject to the following five (5) conditions, and the motion passed: 1) Maximum seating occupancy for the restaurant is 65; any increase will require a special permit; 2) Designate a minimum of four parking spaces on-site for residential tenants of the building; 3) Install and maintain pavement markings for parking spaces; 4) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; and 5) Install and maintain screening of dumpster, in accordance with Board of Health regulations and zoning ordinance.

RECORD of VOTES (Case #14-19):

The vote on the motion to grant a special permit with conditions was 9 in favor, none opposed:

Antonucci, yes; Chiu, yes; Chuha, yes; Cipriano, yes; Danca, yes; Hayes, yes; Henry, yes; Lawhorne, yes; Ioven, yes.

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