



**CITY of MALDEN PLANNING BOARD
NOTICE of DECISION**

CASE NUMBER 20-05

LOCATION of SUBJECT PROPERTY 109-121 Madison Street, Malden, MA

NAME of PETITIONER and OWNER Caycort Realty LLC

DATE of PUBLIC HEARING February 12, 2020

DATE of DECISION February 12, 2020

DATE of FILING DECISION with CITY CLERK February 24, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR February 24, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 16, 2020

[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 #20-05):

1. The subject property is known as and numbered 109-121 Madison Street and by City Assessor's Parcel Identification #063307702A.
2. Petitioner is the property owner, Caycort Realty LLC, 11 Canal Street, Malden, MA, c/o Louis Barretto Jr., 10 Parker Street, Woburn, MA, who represented himself at the public hearing.
3. The petition seeks to amend the special permit granted on April 10, 2019 in Case #19-01 under §700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") that allows construction of an addition to the preexisting nonconforming building at the subject property, subject to those nine conditions specified therein; and specifically, to eliminate Condition 9, which restricts use of the addition to light manufacturing or manufacturing.
4. No new plans were submitted with the current petition, and no changes are proposed to the following plans approved with the special permit granted in Case #19-01, except where the plans identify use of the addition is light manufacturing: Set of plans, "December 17, 2018 Warehouse (sp) Addition 109-121 Madison St Malden, Massachusetts 02148 prepared for Caycort Realty LLC 11 Canal St Malden, MA 02148," with site plan, "Parking Plan of Land Located at 109 Madison Street Malden, MA (Middlesex County), dated October 8, 2018, revised January 23, 2019 (stamped/signed October 25, 2018), prepared by Richard J. Mede Jr., P.L.S., Medford Engineering & Survey, Medford, MA; floor plans, "Existing & Proposed First Floor Plan," "Existing & Proposed Second Floor Plan," "Proposed First and Second Floor Plan," and "Existing & Proposed Elevations," dated December 17, 2018, prepared by Frank Pitts Curtis, Architect, Curtis DiBenedetto and Associates, Winchester, MA; and "109-121 Madison St Malden, MA Occupancy Gross Square Footage Description Diagram," dated April 9, 2019, prepared by Curtis DiBenedetto and Associates, Winchester, MA.
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-05):

The City of Malden Planning Board finds the following facts:

1. All facts found in the special permit granted in Case #19-01, except as modified herein.
2. As presented at the public hearing in April 2019 for the special permit granted in Case #19-01, and as indicated on the plans approved with that special permit, petitioner expected the proposed addition would be occupied for light manufacturing use.
3. The revised proposal seeks to allow use of the proposed addition for any use that is allowed "by right" in the Industrial 2 zoning district.
4. The property remains as currently occupied as when the special permit was granted in Case #19-01, namely: 11,403 square feet of the existing building for manufacturing use by tenant, Top Flight Technologies, an aerospace company; 14,363 square feet of the existing building for retail sales in conjunction with on-site warehousing by tenant, Sid Harvey, an HVAC company; and 10,334 square feet of the outside yard area for building, construction & contracting by petitioner, L & L Services, a trucking, excavation & demolition, dirt & concrete removal, snow removal, equipment sales & rental, landscaping business.
5. As approved by the special permit granted in Case #19-01, the addition increases the total gross floor area of the existing building by 33% from 25,767 to 38,318 square feet; and the revised proposal does not change the size of the addition.
6. As approved by special permit granted in Case #19-01, the proposed addition will be constructed at the southern end of the existing building, in the location of the paved, fenced area of the lot, currently used for parking of large trucks, construction vehicles and equipment by petitioner's building, construction & contracting business, and also the site of six storage containers and outdoor storage of signage; and the revised proposal does not change the location of the addition.
7. To date, the approved addition has not been constructed.
8. At the public hearing, petitioner stated his interest in using the property for industrial use; however, to date, petitioner has not identified a tenant or begun marketing.
9. The property has been classified as part of the Industrial 2 zoning district since 2015.
10. The following uses are allowed "by right" in the Industrial 2 zoning district: club/lodge; daycare center; religious facilities; general offices; recreation for gainful business; retail sales with less than 5,000 square feet of gross floor area; retail services; building, construction & contracting; manufacturing & repair; research & development; light manufacturing; and public service corporation, per §300.3 of the Ordinance.
11. Other uses that may be allowed by special permit in the Industrial 2 zoning district are motel-hotel; medical center; restaurant; retail sales with greater than 5,000 square feet of gross floor area; adult uses; body art; convenience store;

- supermarket; substance abuse treatment center; licensed massage therapy salon; medical marijuana treatment center; marijuana establishments; adult day health center; kennel; motor vehicle repair shop; wholesale & distribution; self-storage facilities; towing; asphalt, brick, concrete & soil recycling; and offsite parking facilities, per §300.3 of the Ordinance.
12. Direct abutters and surrounding land uses to the north, east and south are residential dwellings, and industrial to the west, and are the same as when the special permit was granted in Case #19-01.
 13. The property predates the Ordinance, grossly violates dimensional controls for side and rear yard setbacks and is considered preexisting nonconforming, per §§400.1, 400.2 and 700.1.1 of the Ordinance.
 14. The proposed addition is an extension of a preexisting nonconforming property and requires a special permit, per §700.1.3.2 of the Ordinance.
 15. Use of the proposed addition for light manufacturing creates no new violations of dimensional controls and maintains existing violations, per §§400.1.5.10 and 400.2 of the Ordinance; however, use of the proposed addition for manufacturing and repair; building, construction and contracting; or research and development, creates a new side yard setback violation, namely, four feet or 27%, on the southern side, per §400.1.5 of the Ordinance.
 16. At the public hearing, petitioner stated that he will not agree to reduce the size of the addition.
 17. Existing and proposed approved uses of the existing building with proposed addition require a total of 44 parking spaces and four loading bays/spaces, per §500.2.18 of the Ordinance.
 18. Per the site plan approved with the special permit granted in Case #19-01, there are 46 spaces onsite and three loading spaces, and two of the 48 spaces depicted are to be eliminated due to access and maneuverability issues, per Condition 2 of that special permit.
 19. The revised proposal to occupy the addition for any uses allowed “by right” may affect compliance with parking requirements and may create deficiencies, depending on the use of the addition.
 20. If the addition is occupied for club/lodge, religious facilities, general offices, recreation for gainful business, retail sales or services or public service corporation, which are uses allowed “by right,” the proposed addition alone will require more parking spaces than the total number of parking spaces currently on-site, and will create gross parking deficiencies for property, which would require seeking a variance, per §500.1 of the Ordinance.
 21. If the addition is occupied for building, construction and contracting or research and development use, which are allowed “by right” uses, the proposed addition will require the same number of parking spaces and comply with parking requirements, as approved by the special permit granted in Case #19-01, per §500.1.5 of the Ordinance.
 22. Prior to granting the special permit in Case #19-01, the traffic impacts of the proposed addition were evaluated using trip generation rates for “General Light Industrial” use and peer reviewed by the City.
 23. The revised proposal to allow other use of the proposed addition may affect traffic impacts, which the City has not reviewed.
 24. The Ward 1 City Councilor and Mayor are in favor of the revised proposal.
 25. One residential abutter is in opposition to the revised proposal due to concerns with parking, traffic and noise from the current industrial use of the property.
 26. As modified by proposed conditions of the special permit, the revised proposal is in the interest of the common good.

DECISION (Case #20-05):

On February 12, 2020, pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #19-01 and granted a new special permit subject to the following nine (9) conditions: 1) All development shall be as per plans, which are incorporated herein by reference, except as modified by these conditions; 2) Install and maintain pavement markings as per site plan, except eliminate space #1 and #47; 3) Maintain driveway located between 89 Madison Street and 97-99 Madison Street closed and gated for emergency access only or abutting residential access; maintain driveway on Green Street (at southwestern corner) closed and gated for emergency and transformer access only; maintain center driveway on Green Street closed and gated for emergency access only; 4) At the Green Street and Bell Rock Street intersection, remove faded STOP Lines at the former approaches to Medford Street and install a ONE-WAY sign that will ensure visibility for westbound Medford Street traffic; 5) Install and maintain privacy fencing along all property lines abutting the park and all residential dwellings, except along length of driveway between 89 and 97-99 Madison Street; 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 7) Install and maintain landscaping of yard areas on Madison Street and Green Street; 8) Plant four trees on Madison Street with approximate value of \$2,000.00 (total), location to be determined by Ward City Councilor; and 9) Use of the addition is restricted to only light manufacturing; manufacturing; building, construction & contracting; or research and development.

RECORD of VOTES (Case #20-05):

The vote on the motion to modify the special permit granted in Case #19-01 and grant a new special permit subject to nine (9) conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by Chuha.

Absent: Fitzgerald, MacCuish.

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