



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

CASE NUMBER 20-07

LOCATION of SUBJECT PROPERTY 333-435 Eastern Avenue, Malden, MA

NAME of PETITIONER Wash Depot Holdings I

NAME of OWNER Wash Depot I, Inc.

DATE of PUBLIC HEARING February 12, 2020

DATE of DECISION February 12, 2020

DATE of FILING DECISION with CITY CLERK February 26, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR February 26, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 17, 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 #20-07):

1. The subject property is known as and numbered 333-435 Eastern Avenue and by City Assessor's Parcel Identification #095 419 903.
2. Owner is Wash Depot I, Inc., 14 Summer Street, #302, Malden, MA, which is petitioner's parent company; and petitioner is Wash Depot Holdings I.
3. At the public hearing, petitioner was represented by its attorney, Thomas P. Callaghan, Jr., One Centre Street, Malden, MA; its development consultant, Chris Riley, 18 Autumn Lane, Wayland, MA; and its civil engineer, Mark G. Smith, 53 Eddy Road, Barkhamsted, CT.
4. The petition seeks to amend the special permit granted on August 1, 1988 in Case #88-40 and seeks a special permit under §700.1.3.2 of Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow the extension and structural change of a preexisting nonconforming property in the Highway Business zoning district, namely, to construct a new convenience store and erect a new canopy for the existing gasoline filling station.
5. The following plans and information were submitted in support of the petition: set of plans, "Filling Station Renovation Wash Depot 333 Eastern Ave, Malden, MA 02148," dated November 27, 2019, prepared by Mark G. Smith, P.E., CMG, Sturbridge, MA that contain: "Existing Conditions Plan, Wash Depot, Malden, MA," dated October 17, 2019, and "Layout Plan," (C-1.0), dated November 19, 2019, both prepared by Raymond P. Shea, P.L.S., Holden Engineering & Survey, Inc., Bedford, NH; and "Existing and Proposed Canopy," (A1.0), dated June 28, 2019 with revisions November 14, 2019, and "Conceptual Building Plan and Elevations," (A1.1), dated June 28, 2019, both prepared by MDA Architecture, Millennium Design Associates, Inc., Braintree, MA; Traffic Impact Study, dated October 2019, prepared by Howard Stein Hudson, Boston, MA; memorandum, "Response to Comments," dated December 12, 2019, and memorandum, "Response to Comments," dated February 12, 2020, both from Keri Pyke, P.E., Howard Stein Hudson, Boston, MA; and spreadsheet, "333 Eastern Avenue Malden, Cost Estimate - Mitigation Improvements," dated February 12, 2020, prepared by Howard Stein Hudson.
6. In accordance with the City Demolition and Alteration Delay Ordinance, the Malden Historical Commission made the determination dated November 12, 2019, that the convenience store building is not significant and the demolition permit will not be delayed.
7. The notice of public hearing incorrectly referenced the property is located in the Industrial 1 zoning district.
8. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-07):

The City of Malden Planning Board finds the following facts:

1. The property has a lot area of approximately 88,129 square feet, and is currently the site of three single-story principal buildings, namely, a car wash, 18,655 square feet in size; a convenience store, 660 square feet in size; and a bank automated teller machine (ATM) kiosk, 200 square feet in size; and several accessory structures, namely, a canopy, 2,632 square feet in size; five gasoline pumping stations; vacuum cleaner stations; free standing signs; and an empty payphone kiosk.
2. The proposal is to demolish the existing convenience store and the existing canopy over the gasoline pumps and to construct a new, larger convenience store, with 1,000 square feet of gross floor area and to erect a new, smaller and lower height canopy over the gas pumps, 1,560 square feet in size.
3. The proposal includes replacing the existing five gasoline pumping stations with three, two-sided pumping stations; however, the gas tanks were replaced 10 to 15 years ago and will not be replaced under this proposal.

4. The proposal is to reconfigure the parking layout near the convenience store and ATM, and the proposal seeks to amend the special permit granted in Case #88-40 that allows the bank ATM, and specifically, to eliminate Condition 2, which provides: "Four (4) parking spaces be established easterly of and adjacent to the ATM kiosk for use by ATM patrons."
5. Under the proposal, the car wash building and ATM building will not be changed, and the empty payphone kiosk will be removed.
6. The property is located in the Highway Business zoning district.
7. Direct abutters to the south are residential dwellings, namely, one, two and three-family dwellings, a multifamily dwelling and townhouses; abutters to the west, on the other side of Franklin Street, are a multifamily residential dwelling; to the north, on the other side of Eastern Avenue, business and industrial uses; and to the east, on the other side of Bryant Street, business and residential dwellings.
8. The Residence A zoning district abuts to the south and the Industrial 1 zoning district abuts to the north.
9. The gasoline filling station use is allowed by special permit, predates the current Ordinance and is considered preexisting nonconforming, per §§300.3.4.4 and 700.1 of the Ordinance; the convenience retail sales of food in combination with the gasoline filling station was allowed by special permit granted in Case #87-15; and the car wash and bank ATM are retail services uses that are allowed by right, per §300.3.4.15 of the Ordinance.
10. The property is the subject of special permits with conditions, granted by the Planning Board in Case #82-20, to allow the extension of the car wash use to self-service and construction of an addition; Case #83-7, to modify the hours of operation and traffic regulation for the self-service car wash; Case #85-11, to allow further extension of the car wash use and construction of another addition; Case #86-46, to allow reconstruction of the gasoline filling station islands and canopy and enlargement of the sales kiosk; Case #87-15, to allow the sale of food; Case #88-40, to allow construction of the ATM kiosk; and Case #04-28, to allow installation of temporary remediation equipment to remove gasoline contamination.
11. The existing buildings and structures on the subject property violate dimensional controls for front, side and rear yard setbacks, per §§400.1.4.4, 400.1.4.13, 400.1.4.16, 400.2 and 400.4 of the Ordinance.
12. There are three principal buildings on the lot and the property is preexisting nonconforming, per §700.1.7 of the Ordinance.
13. Current uses of the existing buildings require a total of 43 parking spaces and three loading bays/spaces, per §500 of the Ordinance.
14. The required parking is not provided on site currently.
15. Under the proposal, a total of 45 parking spaces and three loading bays/spaces are required, namely, 37 spaces for the car wash; six spaces for the proposed gasoline filling station convenience store; and two for the bank ATM, per §§500.1.4.4, 500.1.4.7, 500.1.4.17 and 500.2.18 of the Ordinance.
16. Under the proposal, a total of seventeen parking spaces are provided on site: nine in the area at the southeastern corner of the site, on the southern side of the car wash building; six between the ATM and convenience store; and two adjacent to the convenience store, to the north.
17. Cars routinely park onsite in any available open paved areas, including, partially on the sidewalk near the pumps along Eastern Avenue; near the ATM, near Franklin Street; near the freestanding sign, at the corner of Eastern Avenue and Franklin Street; and in the southeastern corner of the lot, near Bryant Street.
18. There is an exclusive line-up area for the drive-thru car wash, as required by §500.2.4 of the Ordinance.
19. Yard areas not paved for parking or access are depicted as landscaped on the site plan, as required, by §500.2.13 of the Ordinance; however, there is no detailed landscaping plan.
20. The proposed dumpster at the northeastern corner of the convenience store must be visually screened from the abutting residences, as required by §500.3.8 of the Ordinance.
21. The wooden fencing that screens the southern property lines from adjoining residential uses, as required by §500.4 of the Ordinance, is in generally poor condition, and petitioner intends to install new privacy fencing.
22. The City's peer review of petitioner's Traffic Impact Study and its follow-up responses are described in correspondence dated November 22, 2019 and February 10, 2020 from Kenneth Petraglia, P.E., P.T.O.E, which includes recommendations regarding safety mitigation.
23. The proposal will improve and modernize the gasoline filling station area layout and circulation pattern.
24. The proposal will upgrade and modernize the convenience store layout.
25. The convenience store currently sells lottery and this will continue; currently does not sell alcoholic beverages and does not intend to; will sell only prepackaged foods; and will have a coffee area with dispensers and does not intend to sublease the area to a coffee shop.
26. According to petitioner, the proposal does not add to the existing amount of impervious surface, and the proposal does not include a stormwater management system or changes to the existing drainage system.

27. The property was previously classified as a Tier Classification Site by the Massachusetts Department of Environmental Protection (RTN 3-19137), the remediation case is closed and the equipment has been removed.
28. Petitioner and the Ward 7 City Councilor held a neighborhood meeting attended by several residents who had no objections to the proposal and supported the proposed upgrades to the property.
29. The Ward 7 City Councilor is in favor of the proposal.
30. There is no public opposition to the proposal.
31. Some conditions of prior special permits are no longer applicable or historically were not complied with; some proposed conditions of this special permit are the same as or revised conditions of previous special permits.
32. As modified by the proposed conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
33. Petitioner consents to all proposed conditions of the special permit.

DECISION (Case #20-07):

On February 12, 2020, pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #88-40 and granted a new special permit subject to the following fifteen (15) conditions:

- 1) All development shall be as per plans, which are incorporated herein by reference and except where modified by these conditions;
- 2) Any sale of alcoholic beverages is prohibited;
- 3) No display or sale of any merchandise outside the convenience store building;
- 4) Install minimum of two trash/litter and one cigarette/ash receptacles on site at either side of main entrance to store; empty all receptacles and perform litter control throughout entire site a minimum of three (3) times daily;
- 5) Line all parking spaces (maintain); designate “no parking” areas with pavement markings and signage;
- 6) Install and maintain curbing and landscaping along northern property line to separate sidewalk from adjacent gasoline filling station pumping area; and install low landscaping at northwestern corner of site, subject to review and approval of Ward City Councilor and remove or repair broken signage;
- 7) Screen all abutting residential properties on entire site with vinyl privacy fencing (install and maintain); and maintain 3-foot landscaped area along the Almont Street property line;
- 8) Enclose dumpster with gated privacy fence;
- 9) Maintain security lighting of property at all times;
- 10) Direct all lighting away from surrounding residential properties;
- 11) No self-service car wash bays are allowed;
- 12) Hours of operation of gas station shall be limited to 6:00 am to 10:00 pm;
- 13) Repair or replace sidewalks, driveways and perform necessary incidental work, around the perimeter of the property, to the satisfaction of the DPW Director;
- 14) As stated in correspondence dated February 12, 2020 from Howard Stein Hudson, make a voluntary contribution to the City of Malden of \$3,500.00 to be used for the purpose of installing traffic safety mitigation, namely, signage and pavement makings on site and adjacent to the site at Franklin Street and Eastern Avenue, as recommended by City peer review report dated November 22, 2019; and
- 15) No sublease or license of any portion of the convenience store.

RECORD of VOTES (Case #20-07):

The vote on the motion to modify the special permit granted in Case #88-40 and grant a new special permit subject to fifteen (15) conditions was eight in favor, one opposed, and the motion passed (8-1):

Antonucci, yes; Chuha, yes; Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, no; Soucy, yes; Ioven, yes.

Motion by Antonucci, seconded by Soucy.

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