



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

CASE NUMBER 20-14

LOCATION of SUBJECT PROPERTY 57 East Border Road, Malden, MA

NAME of PETITIONER and OWNER Gina and Anthony Spadafora

DATE of PUBLIC HEARING October 14, 2020

DATE of DECISION October 14, 2020

DATE of FILING DECISION with CITY CLERK October 22, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR October 22, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT November 12, 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 #20-14):

1. The property is known as and numbered 57 East Border Road and by City Assessor's Parcel number 006 020 043.
2. The petitioners are the property owners, Gina and Anthony Spadafora, 57 East Border Road, Malden, MA.
3. At the public hearing, petitioners represented themselves and were also represented by their contractor, Butch Fonzi, BF Construction, 15 Kelley Road, Wilmington, MA, and engineer, Thad Berry, P.E., ASB Design Group, LLC, 18 Oak Street, Reading, MA.
4. This petition filed in Permit Application # RES 029284-2019 seeks a special permit under Section 12.28.130 of Chapter 12, Revised Ordinances of 2020 as Amended, of the City of Malden (the "Ordinance") to allow removal of ledge and alteration of grade to prepare the site to construct an attached garage and install a driveway.
5. The following plans and information were submitted in support of the petition: "Site Plan, 57 East Border Road Malden, MA," Prepared for Gina and Anthony Spadafora 57 East Border Rd. Malden, MA. 02148," dated May 27, 2020, prepared by Thad D. Berry, P.E., ASB Design Group, LLC, Topsfield, MA, that includes the Erosion Control plan, stormwater management plan and drainage calculations; "Proposed Topographical Site Plan 57 East Border Road Malden, Massachusetts," dated November 11, 2019 (stamped November 20, 2019), prepared by Charles D. Faia, P.L.S., Parsons and Faia, Inc., Lynn, MA; correspondence dated September 1, 2020 (addressed to Board of Appeals) from Thad D. Berry, P.E., ASB Design Group LLC, Topsfield, MA, that summarizes the submission documents and describes the project, site and soil conditions; and correspondence dated May 18, 2020 to Thad Berry, ASB Design Group, LLC from Michael P. Smith, P.E., Geotechnical Engineer, Bruce W. Fairless, P.E. and Frank S. Vetere, P.E., GZA, Amesbury, MA, that evaluates the proposed methods of ledge removal and describes vibration levels and potential impacts.
6. In accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, Massachusetts General Laws, Chapter 30A, §18, and Governor Baker's March 23, 2020 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, and due to the COVID-19 pandemic, the public hearing was held virtually and petitioners and members of the public attended and participated remotely via technological means.
7. The public hearing complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-14):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½ story single-family dwelling with paved driveway and in-ground pool.
2. Exposed ledge outcroppings are visible in the front (southern) and eastern sides of the lot.
3. The proposal is to remove ledge from the site by mechanical processes and to alter the grades of the lot to prepare for the siting of a two-car garage addition, 956 square feet in size, attached to the existing dwelling, with access from East Border Road; and an additional paved driveway that will run along the eastern side and around the back of the proposed garage.
4. The proposal includes installation of a stormwater management system with underground and surface drainage facilities, including catch basins and two "Rain Gardens," which are landscaped planting areas that require minimal maintenance.
5. Under the proposal, ledge will be removed to install the footings and foundation for the garage addition and to install the new driveway at a similar grade to the existing driveway.
6. The proposal requires excavation of approximately 160 cubic yards of ledge and rock.
7. Ledge and rock will be removed from the site using large dump trucks that hold 15-16 and 18 cubic yards, and petitioner estimates the proposal will take an approximate total of twenty trucks and two to three truckloads per day.
8. Some excavated materials will be reused on-site as part of the project.
9. All trucks and equipment for the project will be parked offstreet and on the property during construction.
10. The methods and means to remove ledge is to "break up the bedrock in place" using a track-mounted excavator equipped with hydraulic hammer, also known as hammering or chipping; no other methods are proposed, however, the geotechnical report indicates that "pre-drilling holes" may "assist with loosening the rock."
11. According to petitioner, the ledge removal is expected to take approximately two weeks.
12. The property is located in the Residence A zoning district, and the single-family dwelling use and proposed attached garage are allowed in this district, per §12.12.030 of the Ordinance.

13. Direct abutters to the east and west are single-family dwellings, and to the north, the Middlesex Fells Reservation; and to the south, on the other side of East Border Road, single-family dwellings and a two-family dwelling.
14. Surrounding land uses are single and two-family residential dwellings.
15. The existing dwelling on the property complies with all dimensional controls and parking requirements, except one side yard setback, §§12.16.010 and 12.20.010 of the Ordinance, and the proposal creates no new violations.
16. The proposal includes construction of retaining walls; the site plan contains the note, "Proposed Face of Ledge or Landscape Block Wall to be Field Determined. Top to Meet Existing Grade;" and the maximum height of any ledge cut or retaining wall is six feet, per §12.16.070.H of the Ordinance.
17. The proposed stormwater management system is designed to mitigate impacts of the proposal regarding drainage and the increased amount of impervious surface, which is 1,400 square feet, according to the site plan.
18. Petitioner is required to give written notice of the dates and hours of ledge removal activity and to conduct a pre-ledge removal survey of buildings, at a minimum, for all properties within 300 feet, per §12.28.130 of the Ordinance.
19. The Ward City Councilor and one of three City Councilors-at-Large are in favor of the proposal.
20. Several residential abutters are generally in favor of the proposal, however, expressed concerns regarding impacts to the neighborhood, including noise, hours of activity, construction trucks and deliveries, potential damage to their homes and property due to vibrations, and related issues.
21. There is no public opposition to the proposal.
22. As modified by the proposed conditions, the proposal is not detrimental to the neighborhood.
23. As modified by the proposed conditions, the proposal will not adversely affect the general welfare and public safety.

DECISION (Case #20-14):

On October 14, 2020, the Planning Board granted a special permit subject to the following fourteen (14) conditions:

- 1) All development shall be as per plans, which are incorporated herein by reference, unless and except as modified by these conditions.
- 2) All ledge/rock removal may be done only by hydraulic hammer mounted on an excavator, and may include pre-drilling holes; and any ledge/rock removal by blasting or any other mechanical or other means is prohibited.
- 3) During site development, implement erosion controls as per plan.
- 4) Offer and conduct pre-ledge removal video and photographic survey of all buildings within 500 feet of the property lines of the subject property, which consent, and provide survey to property owner; before ledge removal begins, provide City with list of all properties surveyed and contacted.
- 5) During any ledge removal activity, place seismograph on site and at the following properties or property line with: 47 East Border Road, 61 East Border Road and 62 East Border Road; submit seismograph tapes to Fire Chief for review daily.
- 6) Maintain liability insurance of a minimum of \$100,000.00/\$300,000.00 with City of Malden named as a loss-payee.
- 7) During site development, hire fire details and provide a fire watch at any time as the Fire Chief deems appropriate and necessary in his reasonable discretion.
- 8) During site development, hire local police details as the Police Chief deems appropriate in his reasonable discretion.
- 9) Deliver written notice to all premises within 500 feet of the property lines of subject property, indicating the date(s) of ledge removal activity will be conducted and hours of beginning and ending daily for the same; submit copy of notice(s) to City.
- 10) The maximum height (post-development) of any ledge cut or retaining wall is six (6) feet.
- 11) The hours of operation for any ledge removal and/or any construction equipment operated for ledge removal or site grading/preparation, and for any construction trucks and deliveries, are 9 am to 4 pm Monday-Friday.
- 12) Install stormwater management system and mitigation, as per plan, with any modifications subject to approval of City Engineer.
- 13) Submit as-built site plan, including addition, driveways, stairs, walkways, retaining walls and ledge cuts.
- 14) Provide construction schedule, and owner, site engineer, geotechnical engineer and contractor shall attend a site meeting with City Engineering Department and City Planner prior to the start of work.

RECORD of VOTES (Case #20-14): On October 14, 2020, the vote on the motion to grant a special permit with fourteen (14) conditions was eight in favor, none opposed, and the motion passed (8-0):

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

Motion by MacCuish, seconded by Chuha . [Absent: Antonucci, Ferguson. Present but recused at start of public hearing: Gray.]

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

By: _____
Michelle A. Romero, City Planner