

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

CASE NUMBER 23-01

LOCATION of SUBJECT PROPERTY Highland Avenue, Malden, MA

NAME of PETITIONER and PROPERTY OWNER 62-64 Street Realty Trust

DATES of PUBLIC HEARING December 14, 2022 and January 11, 2023

DATE of DECISION January 11, 2023

DATE of FILING DECISION with CITY CLERK January 18, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR January 18, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT February 7, 2023

[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 #23-01):

1. The subject property is known as an unnumbered lot on Highland Avenue and by City Assessor's parcel identification number 002 014 447.
2. Petitioner is the property owner, 62-64 Street Realty Trust, c/o Anthony Centrella, Trustee, 34 Woodruff Avenue, Medford, MA.
3. At the public hearing, petitioner was represented by its attorney, Thomas P. Callaghan, Jr., One Centre Street, Malden, MA; engineer, Richard A. Salvo, P.E., Engineering Alliance, 194 Central Street, Saugus, MA; industrial seismologist, Richard Groll, Hollis, NH; and Anthony Centrella, Trustee of 62-64 Street Realty Trust, who is also the developer and contractor.
4. The petition filed in permit application #CMID 047277-2022 seeks a special permit under Title 12, Chapter 28, Section 130, Code of the City of Malden, to allow ledge removal and alteration of grade to prepare the property to construct a single-family dwelling.
5. The following plans were submitted in support of the petition: a) set of plans, "Site Plan 695A Highland Ave (Tax Map 2 Block 14 Lot 447) Malden, Massachusetts," dated June 3, 2022, revised December 5, 2022, prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA, that includes the following: Site Plan (Dwg. No. 1), Cross Sections (Dwg. No. 2) and Erosion Control Plan (Dwg. No. 3); b) set of plans, "New Single Family Dwelling 695A Highland Avenue Malden, MA," dated March 24, 2022, prepared by Vision Design & Construction, Inc., Wakefield, MA, that includes: Aerial and Street Views, Elevation Drawings, Basement Plan, First Floor Plan, Second Floor Plan, Attic Floor plans, First/Second Floor Framing Plan, Attic/Roof Framing Plan; c) correspondence dated June 3, 2022, from Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA, that describes the site, proposal, stormwater management plan and drainage calculations; d) correspondence dated January 6, 2023 from Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA to City Engineering Department re: revised drainage calculations; and e) correspondence dated June 3, 2022, from Richard J. Groll, Industrial Seismologist, Hollis, NH, that describes the proposed excavation and geo-technical information regarding ledge to be removed.
6. On December 14, 2022, the Planning Board opened the public hearing and immediately considered petitioner's request to table the hearing, made via correspondence dated December 7, 2022 from petitioner's attorney, Thomas P. Callaghan; the Board took no public comment and tabled the hearing to the next available date.
7. On January 11, 2023, the Planning Board took the matter off the table, held the public hearing and rendered a decision regarding the petition.
8. The public hearings complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11, and in addition, the notice of the public hearing held on January 11, 2023 was mailed to abutters.

FINDINGS of FACT (Case #23-01):

The City of Malden Planning Board finds the following facts:

1. The property currently has no street number assigned; is located between 695 and 705 Highland Avenue; is referenced in the application as 695A Highland Avenue; and was formerly part of 695 Highland Avenue and separated via an Approval Not Required subdivision plan of land endorsed by the Planning Board in 2014.
2. The property is the site of a vacant lot with exposed ledge outcroppings, trees and other vegetation.
3. The proposal is to remove ledge, or "excavate rock," from the property and to alter the grades of the lot to prepare for the siting and construction of a single-family dwelling with three bedrooms and garage under.

4. Under the proposal, the dwelling will be constructed in “dual elevations,” with the proposed two-car garage at a lower elevation, and the dwelling as “slab on grade” with no basement, at a higher elevation.
5. The total excavation for the proposal is approximately 1,221 cubic yards, comprised of 1,177 cubic yards for the dwelling, garage and yard areas, and 44 cubic yards for the utility trenches for water, sewer and gas.
6. The excavation and removal of ledge/rock are expected to take three to four weeks and fifty (50) truckloads.
7. The only proposed methods/means to remove ledge are using a hydraulic breaker attached to an excavator to mechanically pulverize rock, and possibly, a hydraulic drill may be used to “perforate the rock in order to weaken the mass” to expedite progress.
8. According to petitioner, the rock to be removed is highly fractured and relatively soft.
9. The City Engineer reviewed the proposal, erosion prevention plan, drainage calculations and stormwater management plan and provides comments and recommendations in a memorandum dated January 10, 2023 regarding the revised proposal.
10. The site plan depicts the six-foot water main located in Highland Avenue, and petitioner intends to file for the required permit and approval of the Massachusetts Water Resource Authority (MWRA), including the “8(m)” permit, the permit required by Section 8(m) of Massachusetts General Laws Chapter 372 of the Acts of 1984.
11. The property is located in the Residence A zoning district.
12. The proposed single-family dwelling use is allowed in this district, per §12.12.030 of the Ordinance.
13. All direct abutters to the north, east and west are single-family dwellings, and to the south, on the other side of Highland Avenue, single and two-family dwellings; and surrounding land uses are residential.
14. The proposal complies with all dimensional controls and parking requirements for single-family dwellings, per §§12.16.010 and 12.20.010 of the Ordinance.
15. The revised site plan for the proposal depicts retaining walls less than six feet in height and proposed ledge cuts six feet in height, in compliance with the maximum height allowed, six feet, per §12.16.070.H of the Ordinance.
16. Petitioner and the Ward 3 City Councilor held a neighborhood meeting to discuss the proposal in June 2022.
17. There is no public support of the proposal.
18. Three residential abutters are in opposition to the proposal.
19. The Ward 3 City Councilor and City Building Commissioner were in attendance at the public hearing.
20. As modified by the conditions of the special permit, the proposal is not detrimental to the neighborhood.
21. As modified by the conditions of the special permit, the proposal will not adversely affect the general welfare or public safety.

DECISION (Case #23-01):

On December 14, 2022, the Planning Board found no exigent circumstances for the tabling request and waived its Rules and Procedures (Section C.1.g) regarding the advance notice required for tabling.

On December 14, 2022, the Planning Board tabled the public hearing to the next available meeting; the Board directed that notice of the tabled public hearing be mailed to abutters.

On January 11, 2023, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following fifteen 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/excavation may be done only by hydraulic hammer mounted on an excavator and may include pre-drilling holes; and any ledge/rock removal/excavation 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 and proof of mailing.
- 5) During any ledge removal activity, place seismograph on site and at the following properties or property line with 705 Highland Avenue; 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 and necessary 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 the 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, 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. Comply with all recommendations of City Engineer, as stated in memorandum dated January 10, 2023 which is incorporated herein by reference.
- 13) Submit as-built site plan, including driveway, all 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.
- 15) There shall be no activity under this special permit unless and until any and all required MWRA permits and approvals are provided to the City.

RECORD of VOTES (Case #23-01):

On December 14, 2022, on the motion by Antonucci, seconded by MacCuish, to waive the Rules and Procedures regarding tabling, the vote was nine in favor, none opposed, and the motion passed (9-0).


Antonucci, yes; Chuha, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Verma, yes; Ioven, yes. [*Soucy, absent*].

On December 14, 2022, on the motion by Antonucci, seconded by MacCuish, to table the public hearing, the vote was nine in favor, none opposed, and the motion passed (9-0).

Antonucci, yes; Chuha, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Verma, yes; Ioven, yes. [*Soucy, absent*].

On January 11, 2023, on the motion by Antonucci, seconded by Soucy, to grant a special permit subject to fifteen conditions, the vote was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes. [*Verma, absent*].

I, hereby certify that the above is a true copy of the decision of the Malden Planning Board. By: 
Michelle A. Romero, City Planner