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CITY of MALDEN PLANNING BOARD 2016 JUL 19 P 5:30
NOTICE of DECISION

CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 16-17

LOCATION of SUBJECT PROPERTY 160 Eastern Avenue, Malden, MA

NAME of PETITIONER Richard Gottschalk, Jr.

NAME of OWNER 616 Broadway Nominee Trust

DATE of PUBLIC HEARING July 13, 2016

DATE of DECISION July 13, 2016

DATE of FILING DECISION with CITY CLERK July 19, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR July 19, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT August 8, 2016

[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 #16-17):

1. Petitioner is Richard Gottschalk, Jr., trustee for owner, 616 Broadway Nominee Trust, 110 Eames Street, Wilmington, MA 01887.
2. The petition 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 structurally change and extend a preexisting nonconforming property and use in the Central Business zoning district, namely, to construct a new principal building and multiple accessory structures for building, construction and contracting use.
3. The following plans were submitted: Site plan, "PLAN OF PROPOSED CONSTRUCTION 160 EASTERN AVENUE MALDEN, MASSACHUSETTS (MIDDLESEX-SOUTH REGISTRY)," dated July 5, 2016 (stamped/signed July 7, 2016), prepared by Paul J. Tyrell, P.L.S., Greater Boston Surveying and Engineering, Weymouth, MA; and plans, "PROPOSED FLOOR PLAN 160 EASTERN AVE.-MALDEN, MA.," dated May 16, 2016, prepared by Cornerstone Architects Inc., N. Chelmsford, MA, which include building elevations.
4. The public hearing complied with statutory notice requirements of Massachusetts General Laws, Chapter 40A.

FINDINGS of FACT (Case #16-17):

The City of Malden Planning Board finds the following facts:

1. The subject property is located on the northern side of Eastern Avenue and eastern side of Phillips Court.
2. The subject of this petition is the northern portion of the lot, namely, 20,074 square feet, currently used as a landscaping contractor's yard by petitioner and the site of a single-story building, various storage containers, equipment, materials and dumpsters; access is via Phillips Court, a private way and dead-end, off Eastern Avenue.
3. The proposal is to construct a new principal building, 6,000 square feet (60 by 100 feet) in size; made of corrugated steel with a concrete foundation; containing six bays with overhead doors, each 14 by 14 feet in size; and to be used to store landscaping equipment.
4. Under the proposal, the existing concrete building, approximately 660 square feet in size, will be demolished.
5. The proposal includes installation of seven accessory structures onsite, namely, material storage bins, to store mulch, sand, salt and snow: five bins will be 20 feet in width, 20 feet in length and 6.75 feet in height; two bins will be 20 feet in width, 30 feet in length and 6.75 feet in height; the bins are constructed of 2,500 pound concrete blocks; and the bins may be moved with a machine and reconfigured in other locations on-site.
6. Under the proposal, the southern portion of the property, namely, 5,261 square feet, will continue its current use as an offsite parking facility for a nearby used car dealer, with a parking layout for eighteen vehicles; this area is separated from the landscaping contractor's yard, enclosed on all sides with chain-link fence and has gated access via Eastern Avenue; petitioner leases the area to Malden Auto Brokers, which has an outdoor parking license for 18 cars (City Council Paper #204/2016), that restricts use to storage of vehicles for the business operated at 225 Eastern Avenue and prohibits advertising, showing or sales of vehicles at the subject property.
7. The subject property is located in the Central Business zoning district; the property was originally classified as part of the Industrial 1 zoning district and previously classified as part of the Highway Business zoning district.
8. The Central Business zoning district continues to the west; the Highway Business zoning district abuts to the south; and the Residence A zoning district begins to the north, on the other side of the abutting MBTA property.
9. The building, construction and contracting use is prohibited in this district, predates the current Ordinance and is considered preexisting nonconforming, per §§300.3.5.1 and 700.1 of the Ordinance; and the offsite parking facility is allowed by right in this district, per §300.3.6.2 of the Ordinance.
10. The direct abutter to the north is the MBTA R.O.W., a portion of which is used by petitioner and a portion of which is used as the multimodal recreational trail, Bike to the Sea Path/Northern Strand Community Trail; to the east, a restaurant and a multifamily residential dwelling with six stories and 86 units, under construction, per the special

permit granted in Case #13-37; to the west, on the other side of Phillips Court, a truck rental retail services business, and a property currently occupied for contractor's offices by petitioner's landscaping business and proposed for daycare, general offices, retail services and/or artist/live work space on the first floor and six residential dwelling units on the second floor, per the special permit granted in Cases ##13-23 and 15-10; and to the south, on the other side of Eastern Avenue, a motor vehicle repair shop and automotive sales business.

11. Surrounding land uses are business, residential and the Malden High School.
12. The proposal is not in conflict with surrounding land uses.
13. The existing building was constructed by right in 1990 and conforms to current dimensional controls.
14. The proposal creates violations of the western side yard setback for the new building and of the eastern side yard setback and rear yard setback for the accessory structures, per §§400.1.5.1 and 400.7.7 of the Ordinance.
15. The proposal requires seven parking spaces, per §500.1.5.1 of the Ordinance.
16. The site plan depicts five "parking lanes," approximately 10 feet in width and 100 feet in length, located along the northern side of the building, accessed via Phillip Court; the location of these parking lanes may change.
17. The proposed on-site parking layout is nonconforming, per §500.2 of the Ordinance.
18. Petitioner intends to use the on-site parking on a "temporary" basis, for employees and seasonal parking by trucks.
19. Under the proposal, the northern portion of the fence that runs near the western property line will be removed and most existing angled parking spaces along Phillips Court will be eliminated, to allow the proposed access for four of the six bays/overhead doors, on the western side of the proposed new building, directly via Phillips Court.
20. Petitioner states that it has rights under a license to use a portion of the land that abuts the subject property to the north, owned by the MBTA; this land is not part of the proposal; petitioner intends to resume its use of this land for storage and parking for its landscaping business, after petitioner corrects a drainage issue and paves the area.
21. Currently onsite are several dumpsters, used for recyclable landscaping materials, namely, grass clippings, brush and leaves; petitioner has temporarily relocated them from the abutting MBTA land and will return them there.
22. Under the proposal, the metal storage containers currently onsite, containing equipment, will be removed.
23. Under the proposal, the storage containers currently onsite, containing ice-melt, will remain and be stored outside.
24. Petitioner intends to store trash and waste in the material storage bins.
25. The site plan does not depict any dumpsters or storage containers, and the possible locations onsite are limited.
26. The Ward 7 City Councilor is in favor of the petition.
27. There is no public opposition to the petition.
28. As modified by conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
29. Petitioner consents to the proposed conditions of this special permit.

DECISION (Case #16-17):

Pursuant to the foregoing Findings of Fact, the Planning Board granted the special permit subject to the following eight conditions: 1) Install and maintain pavement markings to delineate "parking lanes" as per plan or in alternate location on-site, subject to approval of City Planner; 2) The locations of the material storage bins may be changed, however, no bin may be located less than five (5) feet from the eastern property line abutting 180 Eastern Avenue; 3) Install and maintain privacy fencing along northern and eastern property lines; 4) Install cameras and lighting in locations along Northern Strand Community Trail/Bike to the Sea Path abutting the property to be determined by Ward City Councilor and Malden Police; and maintain cleanliness of that portion of Trail/Path abutting the property, including but not limited to, litter control and removal of overgrown vegetation; 5) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director; 6) Trash storage, including pickup and screening, must comply with Board of Health regulations; 7) No dumpsters for recyclables, i.e., grass clippings, are allowed onsite; and 8) No storage containers are allowed onsite, except three ice-melt containers (not to exceed 2,500 gallons each).

RECORD of VOTES (Case #16-17):

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

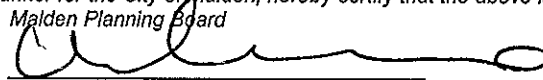
Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Ioven, yes.

Motion by Antonucci, seconded by MacCuish.

[Absent: Henry, Mzaouakk, Wolff.]

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