



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

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CASE NUMBER 16-19

LOCATION of SUBJECT PROPERTY 575 Broadway, Malden, MA

NAME of PETITIONER William Starck Architects

NAME of OWNER CJD Real Estate Limited Partnership

DATES of PUBLIC HEARING June 8, 2016 and August 17, 2016 DATE of DECISION August 17, 2016

DATE of FILING DECISION with CITY CLERK August 23, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR August 23, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT September 12, 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.]*

CITY CLERK'S OFFICE  
MALDEN, MASS.

PROCEDURAL HISTORY (Case #16-19)

1. The petitioner is William Starck Architects, Inc., 126 Cove Street, Fall River, MA, which is the CVS Project Manager and authorized representative for the owner, CJD Real Estate Limited Partnership, c/o Carl J. DeCotis, 35 Belleau Road, Salem, MA; petitioner's authorized agent is State Permits, Inc., 319 Elaines Court, Dodgeville, WI; and at the public hearing, petitioner was represented by Matthew A. Leidner, P.E., Civil Design Group, LLC, 21 High Street, North Andover, MA.
2. The petition seeks a special permit under §700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to alter a preexisting nonconforming property in the Highway Business zoning district, namely, to modify the site plan approved by Site Plan Approval granted on September 9, 2009 (decision dated September 15, 2009).
3. The following plans were submitted in support of the petition: "CVS pharmacy Existing Store #: 8906 575 Broadway Malden, MA 02148," dated December 3, 2015, revised through March 2, 2016, prepared by Matthew A. Leidner, P.E., Civil Design Group, LLC, North Andover, MA, including Site Plan, Existing Conditions Plan, Grading Plan; and "Landscaping Plan," dated August 17, 2016, prepared by Rodney Jacques, Reg. Architect, William Starck Architects, Inc., Fall River, MA.
4. Petitioner requested a waiver of the filing requirements for floor plans and elevations because no changes are proposed.
5. Petitioner requested a waiver of filing requirements for a traffic impact study, Section E.9, Rules and Procedures of Malden Planning Board, via correspondence dated March 2, 2016, prepared by Matthew A. Leidner, P.E., Civil Design Group, LLC, North Andover, MA, and the Planning Board considered this request at a public meeting on April 13, 2016.
6. The public hearing was not held on May 11, 2016 because notice requirements were not met due to newspaper error.
7. The public hearing on June 8, 2016 was tabled, at the petitioner's request, and prior to any public testimony, to allow the petitioner the opportunity to address outstanding issues regarding landscaping.
8. The public hearings complied with the statutory notice requirements of Massachusetts General Laws, c. 40A, §11.

FINDINGS of FACT (Case #16-19)

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a single-story building, with 12,500 square feet of gross floor area, and a drive-thru, occupied for retail sales by CVS Pharmacy.
2. The property is the subject of Site Plan Approval, granted on September 9, 2009 (decision letter dated September 15, 2009).
3. The proposal is to amend the Site Plan Approval to modify the approved site plan to reconfigure parking spaces and on-site sidewalks to improve handicapped accessibility and comply with current accessibility standards.
4. The proposal is to install one new accessible parking space, including pavement markings, signage, ramp and curb painting, in the location of the two existing standard spaces located closest to the building entrance.
5. The proposal includes installation of a designated accessible route, namely, a crosswalk, from the building entrance to the public right-of-way; this requires reconstruction of a portion of the existing sidewalk on the western side of the building and removal of an existing parking space near the existing opening in the rod-iron fence, used to access the public sidewalk.
6. The property is located in the Highway Business zoning district.
7. The existing business use of the property, namely, retail sales of 5,000 square feet or more of gross floor area and accessory drive-thru, are allowed by special permit under the current Ordinance; when constructed, these uses were allowed by right and by site plan review and now are considered preexisting nonconforming, per §§300.3 and 700.1 of the Ordinance.
8. All direct abutters to the east are single-family residential dwellings, except for one two-family; to the north, a property occupied for use by a daycare, automotive maintenance, building construction contractor, and warehouse; to the south, on the other side of Central Avenue, single and two-family dwellings; and to the west, on the other side of Broadway, a club/lodge, wholesale with accessory retail sales, and a motor vehicle repair shop.
9. Surrounding land uses are institutional, business and residential.
10. The building complies with all dimensional controls, per §400.1.4.13 of the Ordinance.
11. The proposal creates no violations of dimensional controls.
12. The retail sales use of the property requires 50 offstreet parking spaces, per §500.1.4.17 of the current Ordinance.
13. There are currently 72 parking spaces on-site.
14. Under the proposal, there will be 70 parking spaces on-site, given that two existing spaces will be eliminated, namely, one near the building entrance and one along the western property line.
15. The parking layout approved by Site Plan Approval, including dimensions of spaces, aisle widths, driveways and drive-thru, comply with all requirements, per §500.2 of the Ordinance; and the proposal maintains compliance.

16. The following current conditions of the property are in need of repair, maintenance and/or rehabilitation: faded pavement markings for on-site circulation patterns; damaged rod-iron fencing at southwestern corner and along western side; missing vinyl privacy fencing at northeastern corner near Broadway drive; missing evergreen shrubs along eastern property line; and poorly maintained landscaping of all areas, not in accordance with the plan approved by Site Plan Approval.
17. Petitioner intends to address and resolve outstanding issues regarding landscaping, fencing and pavement markings.
18. The City's peer review recommended approval of petitioner's request for a waiver of Section E.9, Rules and Procedures of Malden Planning Board (Filing Requirements, Traffic Impact Study), subject to compliance with the recommendations described in correspondence dated March 17, 2016 from BETA Group, Inc., namely, proposed STOP lines should be accompanied by STOP signs; and the crosswalk at the entrance to the building should be textured.
19. There is no public opposition to the proposal.
20. As modified by the proposed conditions, the proposal is not more detrimental to the neighborhood.
21. Petitioner consents to the proposed conditions of the special permit.

DECISION (Case #16-19)

On April 13, 2016, the Planning Board waived the filing requirements for a traffic impact study, subject to compliance with the recommendations of the City's peer review.

On June 8, 2016, the Planning Board tabled the public hearing to the next available meeting.

On August 17, 2016, based on the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following eighteen conditions: 1) All development shall be as per plans, except as modified by these conditions; 2) The drive-thru shall be for pharmacy use (drop off/pick up prescriptions) only and no other sales of any kind; 3) Maintain and repair fencing along all eastern property lines, including fence separating site from right-of-way driveway off Central Avenue used by residential abutters; this fencing shall be vinyl privacy style and eight (8) feet in height; 4) Install and maintain evergreen shrubbery, a minimum of 4 feet in height at time of planting, inside fence along all eastern property lines; 5) In the event the dumpster and compactor create nuisance conditions, i.e., smells, noise, rodents, for residential abutters, dumpster and compactor shall be relocated, subject to review by the Planning Board; 6) Direct and screen lighting and sound system for drive-thru away from abutting residential properties; 7) Perform litter control throughout entire site a minimum of three (3) times daily; 8) Maintain and repair low, rod-iron fencing as screening/barrier at back of sidewalk along Broadway and Central Avenue; 9) Maintain one inverted u-shaped bicycle rack to accommodate two bicycles; 10) Compliance with §300.1.2.7 of zoning ordinance re: sidewalks; 11) All signage subject to Sign Design Review; 12) Install and maintain electronic security system for shopping carts; employ shopping cart retrieval service; 13) Compliance with §11.73 of City Code re: Municipal Storm Drainage System; 14) No display or sale of any merchandise outside the building; 15) Compliance with all conditions/requirements described in Board of Health/DPH correspondence dated September 9, 2009; 16) Repaint and maintain pavement markings for on-site circulation patterns; 17) Rehabilitate landscaped areas and maintain as per site plan originally approved, dated 8/25/09, prepared by Lynnfield Engineering, Inc., or a comparable plan that is submitted to City; and 18) Install traffic mitigation recommended by City peer review in correspondence dated March 17, 2016.

RECORD of VOTES (Case #16-19)

On May 11, 2016, the vote on the motion to waive filing requirements for a traffic impact study was nine in favor, none opposed: Antonucci, yes; Chiu, yes; Chuha, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Mzaouakk, yes; Wolff, yes; Ioven, yes.

*Motion by Antonucci, seconded by Lawhorne. [Present but not voting: Fitzgerald. Absent: Henry.]*

On June 8, 2016, the vote on the motion to table the public hearing was eight in favor, none opposed: Antonucci, yes; Chiu, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

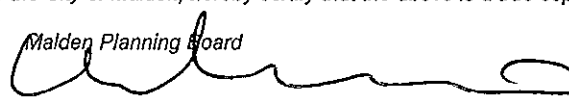
*Motion by Lawhorne, seconded by Antonucci. [Absent: Chuha, Henry, Mzaouakk.]*

On August 17, 2016, the vote on the motion to grant the special permit with conditions was seven in favor, none opposed: Antonucci, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; Wolff, yes; Ioven, yes.

*Motion by Chuha, seconded by Lawhorne. [Absent: Chiu, Henry, MacCuish, Mzaouakk.]*

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:

Malden Planning Board  
  
 Michelle A. Romero, City Planner