



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

RECEIVED

CASE NUMBER 18-02

LOCATION of SUBJECT PROPERTY 471-473 Eastern Avenue at 471 Eastern Avenue, Malden, MA

NAME of PETITIONER Royal Food Enterprises, Inc.

NAME of OWNER 471 Eastern Avenue, LLC

DATES of PUBLIC HEARING November 8, 2017, January 10, 2018 and February 7, 2018

DATE of DECISION February 7, 2018

DATE of FILING DECISION with CITY CLERK February 21, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR February 21, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 13, 2018

[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.]

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CITY CLERK'S OFFICE
MALDEN, MASS.

PROCEDURAL HISTORY (Case #18-02):

1. Petitioner is Royal Food Enterprises, Inc., c/o Yusuf Yassin, 30 Pine Ridge Road, Boston, MA 02126.
2. Property owner is 471 Eastern Avenue, LLC, c/o Andreas A. Tsitos, 148 Main Street, Malden, MA 02148.
3. Petitioner and owner are represented by Attorney Patrick P. MacDonald, 15 Ferry Street, Malden, MA 02148.
4. The petition seeks a special permit under §300.3.4.12, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow a restaurant in the Industrial 1 zoning district.
5. The following plans were submitted in support of the petition at the time of filing: site plan, "Existing Conditions Plan of Land 471 Eastern Avenue Malden, MA (Middlesex County), dated September 20, 2017, revised October 24, 2017, prepared by Richard J. Mede, PLS, Medford Engineering & Survey, Medford, MA; "Mortgage Inspection Plan," dated May 13, 2013, prepared by Richard J. Mede, Jr., PLS, ABV Survey, Medford, MA; floor plan of existing building, undated, unsigned, that depicts all six storefronts; and floor plans, "471-471 Eastern Ave, Malden," dated July 28, 2017, prepared by David D. Choi, Registered Architect, Boston, MA, with as-built plan, proposed floor plan, fire alarm plan and front elevation & hood details.
6. On November 8, 2017, the Planning Board opened the public hearing, received public testimony and tabled the public hearing and its decision, to allow petitioner to provide the following information requested by the Board: a revised site plan with parking plan that includes one ADA compliant parking space at the northwestern corner of the building (first parking space, located closest to building, adjacent to ramp); eliminates the parking space (7.7 by 20.3 by 8.6 feet) at the southeastern corner of the lot (northwestern corner of 85 Faulkner Street) located between the building and travel lane proposed to run east to west from Faulkner Street; and provides the maximum number of parking spaces of dimensions required by current zoning (9 by 18 feet); and a revised floor plan that indicates the locations of the doorways and egresses to the building.
7. On December 12, 2017, petitioner submitted a revised site plan, "Existing Conditions Plan of Land 471 Eastern Avenue Malden, MA (Middlesex County)," dated September 20, 2017, revised through November 20, 2017, prepared by Richard J. Mede, PLS, Medford Engineering & Survey, Medford, MA, that depicts a proposed new parking layout.
8. On January 10, 2018, the Planning Board reopened the public hearing, and tabled the public hearing and its decision, to allow petitioner additional time to provide the revised floor plan previously requested by the Board.
9. On January 23, 2018, petitioner submitted a revised floor plan, "471-473 Eastern Ave, Malden, Proposed," (A2) dated July 28, 2017, and a revised "Fire Alarm Plan," (A3) dated July 30, 2018 prepared by David D. Choi, Architect, Boston, MA.
10. On February 7, 2018, the Planning Board reopened the public hearing, received public testimony and made a decision.
11. The City posted notice of each tabled public hearing with the City Clerk and mailed notice to abutters.
12. The public hearings complied with notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #18-02):

The City of Malden Planning Board finds the following facts:

1. The subject property, known as and numbered 471 Eastern Avenue, is the site of a two-story building that is currently vacant and under renovation, and has a total 7200 square feet of gross floor area and six separate storefronts, numbered and configured as follows: 471 Eastern Avenue with 850 square feet on the first floor; 473 Eastern Avenue with 650 square feet on the first floor; 475 Eastern Avenue with 1100 square feet on the first floor; 477 Eastern Avenue with 1100 square feet on the first floor; 479 Eastern Avenue with 1100 square feet on the first floor; and 481 Eastern Avenue with 2400 square feet, comprised of 1200 square feet on the first floor and 1200 square feet on the second floor.
2. The subject area of the petition is 471 and 473 Eastern Avenue, and the proposal is to combine the two storefront spaces to create one premise of 1,500 square feet, for use as a bakery/café-style restaurant with eighteen seats.
3. The proposal is to install a kitchen that comprises the majority of the entire premises, namely, all 650 square feet of 473 Eastern Avenue and 150 square feet of 471 Eastern Avenue; the proposed kitchen will include various cooking equipment and food preparation and storage fixtures, including a walk-in cooler, freezer, hood range, griddle, deep-fat fryer, two ovens, floor mixer, refrigerated and unrefrigerated display cases, and sandwich bar.
4. Petitioner is the proposed business operator and tenant with a long-term lease, for ten years with a five year option.
5. The subject property is located in the Industrial 1 zoning district.
6. The proposed restaurant may be allowed by special permit in this district, per §§300.3.4.12 and 300.7 of the Ordinance.
7. Direct abutters to the south are a single-family dwelling and a two-family dwelling; to the west, on the other side of Bryant Street, a car wash; to the east, on the other side of Faulkner Street, a multifamily dwelling; and to the north, on the other side of Eastern Avenue, a self-storage facility under construction.
8. Abutting zoning districts are Highway Business to the west, Residence B to the east, and Residence A to the south.
9. Surrounding land uses are residential, institutional, business and industrial.
10. The proposed restaurant use is not in conflict with surrounding land uses.

11. On January 10, 2018, the Planning Board granted a special permit in Case #18-01 for a proposed convenience store to occupy 2200 square feet of the subject property, at premises to be comprised of the two storefronts, 477 and 479 Eastern Avenue.
12. Occupancy of the remainder of the building, namely, 3500 square feet, is unknown at this time and to be determined.
13. The building violates dimensional controls for front yard and rear yard setback and predates the Ordinance, and the property is considered preexisting nonconforming, per §§400 and 700.1 of the Ordinance.
14. The proposal does not increase the existing nonconformities and creates no new violations of dimensional controls.
15. The existing site plan depicts 33 parking spaces, however, most spaces are undersized, the width of the parking aisle at the rear of the building is nonconforming and onsite snow storage and landscaping are deficient, per §500.2 of the Ordinance.
16. The revised site plan depicts a total of 31 parking spaces, 29 spaces of the size required by the Ordinance and two handicap spaces at the northwestern corner of the building; increases the width of the parking aisle at the rear of the building; provides the required snow storage; and includes landscaping with location and species of plantings.
17. The proposed restaurant requires eighteen parking spaces, per §500.1.4.16 of the Ordinance.
18. Petitioner's long-term lease includes the exclusive right to use eighteen parking spaces onsite.
19. The proposal does not increase existing nonconformities or create any new violations of parking requirements.
20. The proposed convenience store, approved in Case #18-01, requires nine parking spaces, the proposed restaurant requires eighteen spaces, and together require 27 of the total 31 parking spaces on-site; only four parking spaces remain available for any use of the remaining 3500 square feet of the building, and petitioner's attorney states property owner is aware of this.
21. According to the Police Traffic Department, there are no regulations or restrictions along Eastern Avenue from Bryant Street to Faulkner Street and on-street parking is allowed in front of the subject property.
22. Petitioner's proposed hours of operation are seven days per week, 7:00 a.m. to 9:00 p.m.
23. Petitioner estimates a total of seven employees, with two employees working on-site at any given time.
24. Petitioner intends to bake artisan breads, make pastries and prepare cooked foods on-site.
25. The proposed restaurant will be self-service and will not offer wait staffed/table service or delivery service.
26. Petitioner expects to receive three deliveries per week from purveyors and suppliers via box trucks.
27. Petitioner proposes to receive deliveries via the front door, located in the storefront area of 473 Eastern Avenue; this door provides direct access to the proposed kitchen.
28. Customer access will be via the front door and rear door, located in the storefront area of 471 Eastern Avenue; both doors provide direct access to the proposed seating area and the rear door provides direct access to the parking lot.
29. Petitioner states that the latest revised floor plan is still not accurate and does not depict the existing front door that will be maintained at the storefront area of 473 Eastern Avenue.
30. The Ward City Councilor is in favor of the proposal.
31. Two residential abutters are in opposition to the proposal due to concerns with trash, rodents, noise, and traffic.
32. The proposed restaurant must comply with the regulations of the Board of Health regarding food, trash and pest control.
33. As modified by the proposed conditions of the special permit, the proposal is in the interest of the common good and will not be more detrimental to the neighborhood.
34. Petitioner consents to the proposed conditions of the special permit.

DECISION (Case #18-02):

On November 8, 2017, the Planning Board tabled the public hearing until receipt of a revised site plan and revised accurate floor plan. On January 10, 2018, the Planning Board tabled the public hearing until receipt of a revised accurate floor plan.

On February 7, 2018, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit, subject to the following eight (8) conditions: 1) All development shall be as per plans, with only minor modifications of floor plan allowed, provided that any increase in seating, expansion of kitchen facilities or installation of additional equipment shall require an amendment of this special permit; 2) Any sale or service of alcoholic beverages is prohibited; 3) Comply with any conditions/requirements of a Plan Review by Board of Health and obtain all necessary permits from Board of Health; 4) Install, repair or replace sidewalks and driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director; 5) Repair, replace, install and maintain privacy fencing along rear (southern) property lines to screen residential abutters; 6) Restaurant must lease eighteen (18) on-site parking spaces from property owner for exclusive use by employees, customers and any third-party delivery service; 7) Submit accurate floor plan showing all doors; and 8) All delivery trucks must park on-site and not in handicap parking spaces.

RECORD of VOTES (Case #18-02):

On November 8, 2017, the vote on the motion to table the public hearing was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Antonucci, seconded by Fitzgerald.

[Present but not voting: Gebreselassie, Soucy.]

On January 10, 2018, the vote on the motion to table the public hearing was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chiu, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Antonucci, seconded by MacCuish.

[Absent: Chuha. Present but not voting: Soucy.]

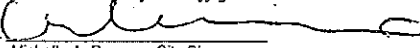
On February 7, 2018, the vote on the motion to grant the special permit was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Ioven, yes.

Motion by MacCuish, seconded by Antonucci.

[Absent: Soucy, Wolff.]

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


Michelle A. Romero, City Planner