



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 14-17

LOCATION of SUBJECT PROPERTY 10 Florence Street, Malden, MA

NAME of PETITIONER Daniel Gattineri

NAME of OWNER Dosi Dough Realty Trust

DATE of PUBLIC HEARING November 12, 2014

DATE of DECISION November 12, 2014

DATE of FILING DECISION with CITY CLERK November 25, 2014

DATE of NOTIFICATION to BUILDING INSPECTOR November 25, 2014

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT December 15, 2014

[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 #14-17)

1. Petitioner, Daniel Gattineri is Trustee of owner, Dosi Dough Realty Trust, 30 Mystic Avenue, Winchester, MA 01890.
2. The petition seeks a special permit under §§300.3.2.6 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden, to allow multifamily residential dwelling use and to extend a preexisting nonconforming use in the Central Business zoning district.
3. The following plans and information were submitted with the petition: "Site Plan 10 Florence Street (Tax Map 51 Lot 327) Malden Massachusetts," dated August 2, 2014, prepared by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA; "Parking Garage Plans Typical Floor Plans Roof Plan Building Section 10 Florence Phase 2 10 Florence Street Malden Massachusetts," dated July 23, 2014, prepared by Daniel F. DiLullo, Reg. Architect, DiLullo Associates Inc., Melrose, MA; "Open Space Plan," dated November 10, 2014, prepared by Daniel F. DiLullo, Reg. Architect, DiLullo Associates Inc., Melrose, MA; sketch, "Addition to 10 Florence Street," undated and unsigned; and memorandum, "Trip Generation Assessment 10 Florence Street, Malden, MA," dated August 4, 2014, prepared by Kenneth P. Cram, P.E., Bayside Engineering, Woburn, MA.
4. Petitioner requested a waiver of filing requirements for a traffic impact study, Section E.9, *Rules and Procedures of Malden Planning Board*, and the Planning Board considered the request at a public meeting on September 10, 2014 and October 8, 2014.
5. The public hearing complied with the statutory notice requirements of the Massachusetts General Laws, Chapter 40A, §11.
6. After the public hearing closed on November 12, 2014, petitioner requested that the decision be tabled or that the petition be allowed to be withdrawn without prejudice.

FINDINGS of FACT (Case #14-17):

The City of Malden Planning Board finds the following facts:

1. The property is the current site of a principal building containing six stories, occupied for multifamily residential dwelling use on floors two through six, namely, sixty dwelling units; a convenience store on the ground level; a bank ATM open kiosk area on the ground level; and an open parking garage on the ground level, which extends below grade under an accessory three-level parking deck structure also located on the subject property.
2. The proposal is to construct a five-story addition at the northern end of the property, on top of the middle/at-grade level of the existing parking deck structure.
3. The City Building Inspector has determined that the proposed addition is not a separate building because connected with the existing building by the underground/below-grade parking level.
4. The proposed addition contains thirty dwelling units on floors two through six, comprised of 25 one-bedroom units, 640 to 770 square feet in size, and five two-bedroom units, 1150 square feet in size.
5. The subject property is located in the Central Business zoning district.
6. The existing multifamily dwelling was constructed in 2005 and the convenience store sometime after that; both predate current use regulations requiring a special permit and are preexisting nonconforming, per §§300.3 and 700.1 of the Ordinance.
7. The proposed multifamily residential use, 3 to 6 stories, is allowed by special permit in the Central Business zoning district, per §300.3.2.6 of the Ordinance.
8. The convenience store was constructed without permits; obtained an occupancy permit on November 12, 2014; and has a current permit from the Malden Board of Health for a dumpster, exterminator, food service (ice cream, milk, retail foods) and tobacco & nicotine delivery products; the bank ATM kiosk area was installed around 2007 without permits and is currently vacant.
9. Direct abutters to the north and east are a multifamily residential dwelling with two stories and eight units and accessory garage; to the south, a business school, restaurant, bank ATM and coffee shop, and to the west, the MBTA right-of-way; to the east, on the other side of Florence Street, is a City-owned park and multifamily residential dwelling with five stories and eighty units.
10. Surrounding land uses are the MBTA Malden Center rapid transit, commuter rail and bus station, located less than 300 feet away; Malden Government Center/City Hall and Police Station; a club/lodge; single, two and multi-family dwellings; and the Residence B zoning district abuts to the north and east.
11. The existing building does not comply with dimensional controls for density and is 19% deficient, per §§400.1.2.6 and 400.3 of the Ordinance.
12. When the existing multifamily dwelling was constructed, the subject property was larger in size and included an adjacent parcel, and the Board of Appeal granted a variance on October 17, 2002 to allow a minor violation of density, namely, 2%.
13. The proposal significantly exacerbates the existing violation of density to create a 46% deficiency.
14. The existing building does not comply with dimensional controls for minimum usable open space; currently provides no useable open space, except for a small landscaped area in the front yard, adjacent to large utility transformers; and is nearly 100% deficient, per §§400.1.2.6 and 400.3 of the Ordinance.

15. The proposal requires an additional 3,000 square feet of open space and maintains the existing gross violation and deficiency.
16. Petitioner stated its intention to use the roof of the existing building for open space and to install artificial turf; however, no screening of numerous rooftop air conditioning units is proposed; no safety barriers are proposed, other than an existing parapet wall, 3½ feet in height; and no seating is proposed.
17. The existing building and the proposal require a total of sixty-eight (68) off-street parking spaces, namely, 0.75 spaces per dwelling unit, and the convenience store and bank ATM require no parking, per §500.2.8 of the Ordinance.
18. The site plan depicts a total of sixty-nine (69) parking spaces onsite, and the proposal is to maintain the existing thirty-three parking spaces on the ground floor/below grade level below the existing building and seventeen spaces on the lower level of the existing parking deck, and nineteen spaces on the existing middle/at grade level of the parking deck structure.
19. Under the proposal, access to the ground floor/below grade parking level under the existing building and proposed new addition will be via the gated driveway on Florence Street, at the southern end of the property, and access to the upper parking level under the proposed addition will be via Florence Street Extension.
20. The existing layout of the parking deck structure, including dimensions of the parking spaces and aisles and the grade of the ramp, may not comply with the Ordinance.
21. The City's peer review recommends conditionally granting petitioner's request for a waiver of Section E.9, *Rules and Procedures of Malden Planning Board* (Filing Requirements, Traffic Impact Study), as described in correspondence dated September 30, 2014 from Kenneth Petraglia, BETA Group, Inc., subject to petitioner's implementation of recommended mitigation, namely, to install a STOP sign and STOP line at the Florence Street Extension approach to Florence Street; and to install NO PARKING signs along the Florence Street Extension.
22. A fire lane was designated on Florence Street Extension as a condition of the variance granted in 2002 for the existing building.
23. Currently and historically, moving trucks used by tenants of the existing building park on Florence Street Extension, blocking access to the parking deck structure and the designated fire lane.
24. Under the proposal, moving trucks would park between the existing building and the proposed addition, which will block access to the parking deck structure.
25. The proposal may exacerbate existing traffic patterns that have adverse impacts to the surrounding streets and create a traffic or safety hazard.
26. Trash for the existing building is stored in an interior trash room; there is also a dumpster outside the building, sited on the middle level of the parking deck structure; and numerous dumpsters and containers belonging to and used by the abutting property, 2 Florence Street, are sited in the rear yard of the subject property.
27. The Ward City Councilor supports the proposal, and the Malden Redevelopment Authority conditionally supports the proposal, provided that the plan incorporates open space.
28. The proposal will be more detrimental to the neighborhood.
29. The proposed use is not in the interest of the common good.

DECISION (Case #14-17):

On October 8, 2014, the Planning Board moved to grant petitioner's request for a waiver of the filing requirements regarding a traffic impact study, subject to petitioner's implementation of mitigation recommended by the City peer review, and the motion passed.

On November 12, 2014, pursuant to the foregoing Findings of Fact, the Planning Board moved to allow the petition to be withdrawn with prejudice, and the motion failed.

On November 12, 2014, pursuant to the foregoing Findings of Fact, the Planning Board moved to deny the petition, and the motion passed.

RECORD of VOTES (Case #14-17):

The vote on the motion to conditionally waive the filing requirements regarding the traffic impact study was seven in favor, none opposed:

Antonucci, yes; Billings, yes; Chuha, yes; Cipriano, yes; Danca, yes; Lawhorne, yes; Ioven, yes.

The vote on the motion to allow the petition to be withdrawn with prejudice was four in favor, five opposed:

Billings, no; Chiu, no; Chuha, yes; Cipriano, no; Danca, yes; Hayes, yes; Lawhorne, no; Mzaouakk, yes; Ioven, no.

The vote on the motion to deny the petition was six in favor, three opposed:

Billings, yes; Chiu, yes; Chuha, no; Cipriano, yes; Danca, no; Hayes, yes; Lawhorne, yes; Mzaouakk, no; Ioven, yes.

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