



CITY OF MALDEN PLANNING BOARD
NOTICE of DECISION

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CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 15-01

LOCATION of SUBJECT PROPERTY 341 Forest Street, Malden, MA

NAME of PETITIONER Volunteers of America of Massachusetts, Inc.

NAME of OWNER City of Malden

DATES of PUBLIC HEARINGS January 14, 2015 and February 11, 2015

DATE of DECISION February 11, 2015

DATE of FILING DECISION with CITY CLERK February 25, 2015

DATE of NOTIFICATION to BUILDING INSPECTOR February 25, 2015

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 17, 2015

[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 #15-01)

1. Petitioner is Volunteers of America of Massachusetts, Inc., 441 Centre Street, Jamaica Plain, MA 02130.
2. Owner is the City of Malden, Malden Government Center, 200 Pleasant Street, Malden, MA 02148.
3. The petition seeks a special permit under §§700.1.3.1 and 700.13, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden, to alter, structurally change and extend a preexisting nonconforming building and property in the Residence B zoning district for continued nursing /convalescent home use and to remove ledge and alter the grade of the property by more than 25%.
4. The following plans and information were submitted in support of the petition:
 - a) Set of plans (9 pages), "SITE DEVELOPMENT PLAN VOA Malden Assisted Living Facility 341 Forest Street, Malden, Massachusetts Special Permit Submittal-December 4, 2014 Revised and Resubmitted-January 14, 2015," prepared by Mark E. Beaudry, P.E., Meridian Associates, Westborough, MA, which includes revised "Layout & Materials Plan," (Sheet No. 3 of 9) with revision dates January 12, 2015 and February 6, 2015 and "Grading, Drainage & Utilities Plan," (Sheet No. 4 of 9), with revision date January 12, 2014 *[sic]*.
 - b) Color rendering, "Site Development Plan-Special Permit Submittal VOA Malden Assisted Living Facility 341 Forest Street-Malden, Massachusetts 8414 Rendering 1_14_15," dated January 14, 2015, prepared by Meridian Associates.
 - c) "STORMWATER MANAGEMENT REPORT VOA Malden Assisted Living Facility 341 Forest Street, Malden, Massachusetts," dated December 4, 2014, prepared by Meridian Associates, Westborough, MA, that includes calculations, operation and maintenance plan.
 - d) "VOA Malden Assisted Living Facility Controlled Blast Plan 341 Forest Street, Malden, Massachusetts 01960," dated October 1, 2014, prepared by Main Drilling & Blasting, Inc., Milford, MA.
 - e) "Final Report, McFadden Manor Redevelopment Transportation Study," dated December 2, 2014, prepared by Keri Pyke, P.E., PTOE, Howard/Stein-Hudson Associates, Inc., Boston, MA.
 - f) "Memorandum, 341 Forest Street/McFadden Manor Redevelopment Response to Traffic Peer Review," dated January 13, 2015, prepared by Elizabeth Peart, Keri Pyke, PTOE, Howard/Stein-Hudson Associates, Inc., Boston, MA.
 - g) "Fire Truck Turning Exhibit VOA Malden Assisted Living Facility 341 Forest Street Malden, Massachusetts," dated January 12, 2015, prepared by Meridian Associates.
 - h) "Sight Distance Exhibit VOA Malden Assisted Living Facility 341 Forest Street Malden, Massachusetts," dated January 15, 2015, revised February 4, 2015 prepared by Meridian Associates.
 - i) "Traffic Access Management Plan for Construction VOA Malden Assisted Living Facility Malden, MA," undated, unsigned, and "Traffic Access Management Plan VOA Malden Assisted Living Facility 341 Forest Street Malden, Massachusetts," dated January 22, 2015, prepared by Meridian Associates.
5. On January 14, 2015, the Planning Board conducted, closed and continued the public hearing and tabled its deliberations and decision to the next available meeting date, pending receipt of the following traffic impact information from petitioner and City's peer review of same: further assessment of sight distance issues at northern driveway: calculations to quantify potential improvement due to proposed modifications and mitigation; and plans and narrative for traffic access/management during construction, that includes but is not limited to: hours and days of construction deliveries, equipment deliveries and excavation trucking to remove ledge from site, including "blackout" periods, i.e., school pick-up/drop off hours; access routes and traffic patterns to and from the site, including proposed use of local roadways, school driveways, northern driveway and Goodhue Street; emergency access for school and housing developments; impacts to school and housing developments re: existing traffic patterns, parking, access; and parking plan for construction and ledge removal vehicles.
6. On February 11, 2015, the Planning Board reopened the public hearing and received additional and/or revised information and public comment regarding sight distance issues, traffic access management during construction, and additional ledge removal.
7. The public hearings complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #15-01):

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a two-story principal building, currently vacant and most recently operated by the City as a nursing home, known as McFadden Manor; and a single-story accessory garage building, currently used by the Malden Housing Authority.
2. The subject property, as depicted on the most recent 1997 Approval Not Required subdivision plan, currently consists of approximately two acres or 86,355 square feet, and includes a portion of the shared driveway off Forest Street that runs along the northern side of the lot and is used for access/egress by the subject property, the abutting City residential property and the abutting City elementary school.
3. Under the proposal, the boundaries of the subject property and abutting City properties will be reconfigured via the Approval Not Required subdivision control process to correct inadvertent discrepancies; the proposed reconfiguration will increase the lot area of the subject property to approximately 2.3 acres or 99,099 square feet and revise existing lot lines to include additional land to the east, and to exclude land containing the shared access/egress driveway that runs along the northern side and land containing the accessory garage, to be merged with abutting City property; as used hereinafter, "subject property" or "property" refers to the proposed reconfigured lot.
4. The petitioner is the proposed developer and pending owner of the subject property, pursuant to a Land Disposition Agreement with the City dated June 30, 2014, entered subsequent to a Request for Proposals issued by the City.
5. The proposal is to completely renovate the existing building on the property, containing a gross floor area of 35,191 square feet, and rehabilitate the site, including installing a circular main driveway at the front of the building, additional parking lot to the north of the building, community garden and park, courtyard, gazebo, patio areas and walkways; and to construct a 4 ½ -story "wing" addition, containing 42,331 square feet of gross floor area, to the rear (eastern) side of the existing building.
6. The proposal is to alter the grade of the property to prepare the site for the proposed addition and to use blasting to remove approximately 3,000 cubic yards of ledge, with only accessory use of other mechanical means to remove approximately 100 cubic yards of ledge.

7. The proposal is to use the renovated and expanded property for an assisted living facility for the elderly, comprised of eighty (80) units, containing a total of eighty-six (86) beds, namely: fifty-nine (59) beds for residents who require assisted living services; twenty-three (23) beds for residents who require "memory care" services; and four beds for residents who require a lower level of assistance with daily living activities and may arrange for particular assisted living services on an as-needed basis.
8. The subject property is located in the Residence B zoning district.
9. The most recent use of the property, nursing/convalescent home, is allowed by right in this district, per §300.3.2.6 of the Ordinance.
10. The proposed assisted living facility is considered a nursing/convalescent home and the proposal thereby extends this use.
11. Direct abutters to the north and south are multifamily residential dwellings, containing two stories and 85 units, owned and operated by the Malden Housing Authority as senior housing; to the east is a public elementary (K-8) school, the Forestdale School; and to the west, on the other side of Forest Street, are single-family dwellings.
12. Surrounding land uses are residential, consisting of mostly single-family dwellings, a few two-family dwellings, and multifamily dwellings used as public senior housing.
13. The proposed use is not in conflict with abutting or surrounding land uses.
14. The accessory garage building does not comply with the rear yard setback requirement for the principal building, and the property is considered preexisting nonconforming, per §§400.1.4.7, 400.7.7 and 700.1.1 of the Ordinance.
15. The proposal creates new nonconformities, namely, the proposed addition will violate dimensional controls for the northern side yard setback by approximately 13.2 feet or 66%, and height by 1 ½ stories or 50%, per §400.1.4.7 of the Ordinance.
16. Given the topography of the property and the design and siting of the proposed addition, the accessory garage will be the building closest to the addition and the existing principal building will largely obscure the addition from view on Forest Street.
17. The nonconformities created by the proposal will not be more detrimental to the neighborhood.
18. The nonconformities created by the proposed reconfiguration of the subject property and abutting properties will be legalized by special permit and variance, per §§700.1.3.1 and 800.4 of the Ordinance.
19. The most recent nursing/convalescent home use of the property provided 61 beds and required 31 parking spaces and one loading space; 24 parking spaces were provided; the use was deficient seven spaces or 23%; and the property is considered preexisting nonconforming, per §§500.1.4.5 and 700.1.1 of the Ordinance.
20. The proposal to provide 86 beds requires 43 offstreet parking spaces and one loading space, per §500.1.4.5 of the Ordinance.
21. The proposal provides a total of 41 parking spaces and one loading space; the proposal is deficient two parking spaces or 5%; the proposal reduces the existing deficiency.
22. The proposed parking spaces will be provided in existing parking lots located in the northeastern corner and southern side of the site; and in the proposed new driveway at the front of the building and new parking lot on the northern side of the site.
23. The proposed loading dock, service area, dumpster, generator and transformer are located in the new parking lot on the northern side of the site.
24. The proposal complies with all parking requirements regarding layout, except for the parking aisle in the southwestern parking lot, which violates minimum width requirements by 8 feet or 33%, per §500.2.2 of the Ordinance.
25. Whereas the property is currently vacant, some of the existing parking spaces are being used by the school; under the proposal, all existing parking on the property is required for the use of the assisted living facility.
26. Petitioner is willing to construct additional parking for use of the school on the abutting City property.
27. The City's peer review of traffic information submitted by the petitioner, including the Transportation Study, Memorandum and sight distance calculations, is described in correspondence dated January 13, 2015, correspondence dated January 29, 2015 and email correspondence dated February 5, 2015 from Kenneth Petraglia, BETA Group, Inc. and includes recommendations for safety mitigation for site access, sight distance issues and traffic/access management during construction.
28. To address safety concerns regarding the shared driveway located to the north of the site and mitigate the sight distance issues for vehicles approaching the drive from the north and south and traffic exiting, the proposal includes: lowering the height of the existing retaining wall onsite at the corner of the driveway by eighteen inches; installing proper "advance warning" signage on Forest Street with the size, message/image, and advance distance from the drive in accordance with the Manual on Uniform Traffic Control Devices and at locations to be determined by the Malden Traffic Commission; installing a STOP sign and line at the drive; and installing mirror(s) on Forest Street opposite the driveway.
29. To ensure pedestrian safety on and around the site, the proposal includes the installation of crosswalks across all site drives and across the driveway that runs between the site and the abutting school.
30. To ensure vehicular safety, the proposal includes the installation of STOP signs and STOP lines at all driveways, and design and installation of signs and landscaping adjacent to project driveways to avoid sight line restrictions.
31. The traffic and traffic patterns to be generated by the proposed assisted living facility will not adversely impact the neighborhood.
32. The proposal is to alter the grade and remove ledge from the site for the foundation of the proposed addition, court yard, drainage and utilities.
33. Under the proposal, blasting will be used to remove approximately 3,000 cubic yards of ledge for the proposed addition.
34. The proposed blasting operation involves the use of hydraulic drills with a vacuum dust control system, mounted on a rig/CAT dozer, to drill holes for the explosives; hydraulic drilling along the perimeter of the existing building, known as "line drilling," to weaken adjacent material; and an excavator to place blasting mats, remove and load fragmented material onto trucks to be hauled offsite.
35. The proposed ledge removal by blasting is estimated to take 1½ to 2 months or 6 to 8 weeks, using two blasts per day, Monday through Friday.
36. Approximately 300 to 320 truckloads, using 10 yard dump-trucks, will be required to remove from the site the estimated 3,000 cubic yards of ledge; however, fewer truckloads, using 20 yard dump-trailers, will be required.
37. Blasting at the subject property is subject to regulations contained in Section 3.5B and 3.5C, Chapter 3, Revised Ordinances of 1991, Amended, of the City of Malden, which, prior to issuance of a permit for blasting, require a public hearing by the City Council, following which the City Council must make recommendations to the Fire Chief relative to the conditions, restrictions and limitations they deem necessary to protect the health, safety and welfare of residents in the blast area; and may require a public informational meeting where the blaster appears to answer all questions and provide information required by the Fire Chief.
38. City blasting regulations contain limits regarding vibration levels, standards and requirements that are stricter than those provided by state law.
39. The Malden Fire Chief may restrict the hours of operation for the blasting operations.
40. The proposal includes limited additional ledge removal via mechanical means other than blasting, namely, hydraulic hoe-ramming, to remove approximately 100 cubic yards that may be encountered during site work for the foundation and utilities; this type of ledge removal would be done intermittently, after blasting operations are concluded, and during the early site development process.
41. Ledge will be removed from the site as excavated and not stockpiled onsite, except in limited quantities until a truckload is accumulated.
42. Most excavated ledge will not be reused onsite, and a crusher will not be brought on-site to process the rock for reuse.
43. To ensure safe and convenient traffic flow for abutters, students, parents and school employees during construction and ledge removal, and to ensure that commercial construction traffic, including all equipment and vehicles used for ledge excavation and removal, does not negatively

- impact regular school operations and activities and senior housing developments that abut the site, a Traffic Access Management Plan for Construction dated February 11, 2015 has been agreed to by the petitioner and the City and is incorporated herein by reference; the Plan prescribes access routes and traffic patterns and describes restrictions and prohibitions regarding site access and egress, queuing and use of neighborhood roadways, the shared driveway to the north and the school driveways; incorporates an Exhibit Plan dated January 22, 2015 that depicts staging areas and a construction trailer; and includes a parking plan.
44. The Malden Superintendent of Schools requests that the project developer meet weekly with the Superintendent of Schools and Forestdale School Principal to discuss construction activities and issues that may impact the day-to-day functions at the Forestdale School, as described in correspondence dated January 14, 2015.
 45. The proposal includes a Soil Erosion & Sediment Control Plan.
 46. The proposal includes a Grading, Drainage and Utilities Plan and Stormwater Management Report, which were reviewed by the City Engineer.
 47. The City Engineer recommends requirements regarding the existing water service line, existing sewer service lines and all utility work, as described in email correspondence dated January 7, 2015.
 48. The Malden Board of Health recommends requirements regarding grading, dumpsters and extermination, as described in correspondence dated January 12, 2015.
 49. Petitioner is the local non-profit affiliate of a national human service organization and has experience developing and operating assisted living facilities similar to the one proposed at the subject property.
 50. Under the proposal, assisted living services that will be provided onsite to residents include 24-hour nursing aid services; daily nursing services; social programming; personal care services, i.e., bathing, dressing; medication management; dining; and amenities, i.e., beauty parlor/barber.
 51. The proposal includes offering shared programming with the surrounding community, including the elderly housing and the school.
 52. Under the proposal, ten (10) units will be designated as affordable housing.
 53. The proposal includes historic restoration and rehabilitation of the property, including portions of the original building, porch, exterior façade and stone retaining walls.
 54. Pending financing, petitioner intends to begin the project as soon as possible and to do as much site work as possible when school is not in session, and the proposed construction is expected to take 12 months to complete.
 55. The Ward City Councilor has held several neighborhood meetings regarding the proposal.
 56. The Ward City Councilor, Mayor, Malden Redevelopment Authority, and Ward School Committee Member are in favor of the proposal.
 57. There is no public opposition to the proposal.
 58. As modified by conditions of the special permit, the proposed alteration, structural change and extension of the property are not more detrimental to the neighborhood.
 59. As modified by conditions of the special permit, the proposal will not be detrimental to the neighborhood.
 60. As modified by conditions of the special permit, the proposal will not adversely affect the general welfare or public safety.
 61. Petitioner consents to all proposed conditions of this special permit.

DECISION (Case #15-01):

On January 14, 2015, the Planning Board moved to continue the public hearing and table its deliberations and decision, and the motion passed.

On February 11, 2014, pursuant to the foregoing Findings of Fact, the Planning Board moved to grant the special permit subject to the following 28 conditions, and the motion passed:

1. The development rights authorized by this special permit may be exercised only by Volunteers of America of Massachusetts, Inc. ("VOA"), affiliates controlled by VOA, including any special purpose entity formed by VOA to pursue this development, all as permitted in the Land Disposition Agreement between VOA and the City dated June 30, 2014.
2. The property shall be used exclusively for an assisted living facility and/or nursing or convalescent home containing a maximum of 80 units with 86 beds used as follows: 59 beds for residents who require daily assisted living services; 23 beds for residents who require "memory care services;" and four beds for residents who require assisted living services on an as-needed basis; number of beds in each care category may be adjusted $\pm 10\%$.
3. Occupancy of all units shall be restricted to elderly persons of a minimum age of 55.
4. All amenity services, i.e., fitness center, beauty/barber, shall be for use of residents only and shall be accessory to the principal assisted living facility/nursing/convalescent home use.
5. All development shall be as per plans, except as modified by these conditions, including ledge removal, landscaping and exterior building façades; minor modification of floor plans may be allowed, subject to reasonable approval of the Building Inspector.
6. Excluding routine utility work, all ledge/rock removal may be by blasting only, with only accessory use of hydraulic drill, hoe-ram and excavator.
7. Ledge may be reused onsite but may not be stockpiled onsite in an amount exceeding 20 cubic yards and may not be processed, crushed or reconfigured onsite.
8. Conduct pre-ledge removal video survey of all buildings within 300-feet of the property lines of the subject property and all buildings on Forest Court and provide video survey to property owner.
9. During any ledge removal activity, place seismograph on site and at the following properties: Forestdale School (74 Sylvan Street); Malden Housing Authority housing (2-32 Sylvan Street and 377-427A Forest Street); nearest residential dwelling on Forest Street and/or Forest Court; and a fourth location to be determined by Malden Fire Chief; submit seismograph tapes to Fire Chief for review daily.
10. Maintain liability insurance of a minimum of \$1,000,000.00/\$3,000,000.00, with the City of Malden named as a loss-payee.
11. During site development, hire fire details as the Fire Chief deems appropriate in his reasonable discretion.
12. During site development, hire police details as the Police Chief deems appropriate in his reasonable discretion.
13. Deliver written notice to all premises within 300 feet of the property lines of the subject property and all premises on Forest Court, indicating the date (s) ledge removal activity will be conducted and daily hours.
14. Prior to issuance of a blasting permit, the developer and its blasting manager will attend a public hearing by the City Council, in accordance with Section 3.5C of the City Ordinances.
15. Prior to issuance of a blasting permit, the developer and its blasting manager shall hold an informational meeting with the Fire Chief, Ward City Councilor and parents/guardians of students of Forestdale School and residential abutters.
16. Hours for blasting operations shall be determined by Malden Fire Chief; hours for commercial construction, including mechanical means of ledge removal, are restricted to Monday through Saturday, 7:00 a.m. to 5:00 p.m.
17. All retaining walls must comply with Section 700.10 of this Ordinance.
18. During site development, implement erosion controls as per plan.

19. Install and maintain stormwater management system as per plans, minor modification allowed subject to reasonable approval of City Engineer; implement "Stormwater Management Operation and Maintenance Plan," described in Report dated December 4, 2014 by Meridian Associates.
20. Cut and cap existing water service line at main pipe in Forest Street.
21. Perform camera inspection of two existing sewer service lines, and if determined to be necessary by City Engineer, replace with new pvc pipe.
22. Comply with all requirements regarding grading, extermination and dumpsters described in correspondence dated January 12, 2015 from Malden BOH.
23. While this special permit approves the yard setback nonconformities on the subject property between the proposed new lot lines and the existing building, the proposed addition, the retaining wall between the existing building and the garage and grade of more than 25% in yard setback areas (all as shown on the site plans), the City shall obtain any required variances also for those nonconformities, as well as a variance for setback nonconformities between the accessory garage building and the proposed new lot lines; and the City shall subdivide the subject property and adjacent City property via Approval Not Required subdivision control process to reconfigure lot lines to exclude from the subject property land upon which the shared driveway north of the site and the accessory garage building are sited and to establish the lot lines of the subject property, all as per the Site Plan; no further subdivision shall be allowed.
24. Prior to issuance of an occupancy permit, implement the following mitigation and safety measures: a) install STOP signs and lines at all site driveways; b) reduce height of existing stone wall at northwestern corner of site (at Forest Street and shared driveway north of site) a minimum of 18 inches to increase sight distance; c) install sight distance warning signage on Forest Street with size, message/image, and advance distance from the shared drive north of site, in accordance with Manual on Uniform Traffic Control Devices and approved by Malden Traffic Commission; d) install mirror(s) on Forest Street, opposite shared driveway north of site, size and location approved by Malden Traffic Commission; e) design and maintain signs and landscaping adjacent to site driveways to avoid sight line restrictions; f) restripe crosswalks on Forest Street and Sylvan Street near site; install and maintain pedestrian crossing walkway markings across parking areas, site driveways, school driveway (east of site) and shared driveway north of site.
25. During all phases of ledge removal and commercial construction, the developer and its construction manager shall meet weekly with the Forestdale School Principal, Malden Housing Authority Director and Ward 5 City Councilor to discuss and resolve any issues regarding construction and/or ledge removal.
26. The Traffic Access Management Plan for Construction dated February 11, 2015 is incorporated herein by reference and shall remain in effect during all ledge removal and commercial construction.
27. Repair, grind and repave roadway from Malden-Melrose cityline to southerly side of Sylvan Street; and repair and/or replace sidewalks on Forest Street abutting the site to the reasonable satisfaction of the DPW Director.
28. Install a minimum of seven parking spaces adjacent to school driveway off Sylvan Street, on land owned by Malden Housing Authority and/or City of Malden, as shown on "Layout & Materials Plan," dated February 6, 2015.

RECORD of VOTES (Case #15-01):

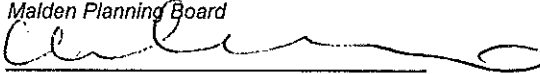
On January 14, 2015, the vote on the motion to table the public hearing was 9 in favor, none opposed:

Antonucci, yes; Billings, yes; Chiu, yes; Chuha, yes; Danca, yes; Hayes, yes; Henry, yes; Mzaouaak, yes; Ioven, yes.

On February 11, 2015, the vote on the motion to grant a special permit with 28 conditions was 8 in favor, none opposed:

Antonucci, yes; Billings, yes; Chiu, yes; Chuha, yes; Danca, yes; Hayes, yes; Mzaouaak, yes; 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: 
 Malden Planning Board
 Michelle A. Romero, City Planner