



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

RECEIVED

CASE NUMBER 16-20

LOCATION of SUBJECT PROPERTY 260 Washington Street, Malden, MA

NAME of PETITIONER Privitera Realty

NAME of OWNER 260 Washington Street LLC

DATES of PUBLIC HEARING February 10, 2016, June 8, 2016 and August 17, 2016

DATE of DECISION August 17, 2016

DATE of FILING DECISION with CITY CLERK August 31, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR August 31, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT September 20, 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.]*

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CITY CLERK'S OFFICE  
MALDEN, MASS.

PROCEDURAL HISTORY (Case #16-20):

1. Petitioner is Frank Privitera, Privitera Realty, 59 Union Square, Somerville, MA, the authorized representative of owner, 260 Washington Street LLC; at the public hearing, petitioner was represented by its general contractor, Robert Pecci, 16 Skywood Drive, Stoneham, MA, and its architect, Daniel F. DiLullo, DiLullo Associates Inc., 16 Crystal Street, Melrose, 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 structurally change and extend a preexisting nonconforming property in a Neighborhood Business zoning district.
3. The following plans were submitted in support of the petition, "Entrance Renovations 260 Washington Street Malden, MA," dated September 16, 2015, revised through March 26, 2016, prepared by Daniel F. DiLullo, Reg. Architect, DiLullo Associates Inc., Melrose, MA, that include proposed and existing elevations, proposed and existing entry level and garage level plans; and a wall section plan (revised through April 28, 2016); and a site plan, "Plot Plan 260 Washington Street Malden, Mass.," dated April 21, 2016, prepared by Edward J. Farrell, P.L.S., Woburn, MA.
4. Petitioner requested a waiver of filing requirements for floor plans and certain exterior elevations of the building because no changes to these areas are proposed.
5. The public hearing was not held on January 13, 2016 because notice requirements for publication were not met.
6. On February 10, 2016, the Planning Board opened the public hearing and prior to any public testimony, tabled the hearing to allow petitioner to provide additional information, clarification and detailed plans, namely, materials of the proposed retaining walls and staircase sidewalls; safety measures to protect the proposed columns supporting the new porch, adjacent to the driveway and garage door; existing and proposed open space and building coverage; easement and access rights of the property via Grove Street; a site plan prepared by a licensed professional that depicts existing conditions, all retaining walls, fences, paving, grades, proposed limits of construction, lot lines, footprint and dimensions of the building and yard setbacks.
7. On June 8, 2016, the Planning Board reopened the public hearing and following public testimony, tabled the hearing to allow petitioner to provide easement and access rights of its property via Grove Street; if parking is currently used and/or proposed at the rear and/or southern side of the building, to provide a parking plan that conforms to the Ordinance; and to mark (with paint) the southern property line on the pavement; and to allow the City to provide information regarding the abutting City-owned property, 6 Grove Street, namely, easement and access rights; the purpose of the fencing at the northeastern corner of the building; and a determination whether pavement should be removed from the side and rear of the building.
8. On August 17, 2016, the Planning Board reopened the public hearing and following public testimony, deliberated and made a decision on the petition.
9. The City posted notice of each tabled public hearing with the City Clerk and mailed notice to abutters.
10. The public hearings complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #16-20):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a multifamily residential dwelling with three stories, eighteen units and parking garage on the partially below-grade basement level.
2. The proposal is to renovate and upgrade the front entrance of the property by removing the existing steel entrance platform, 36 square feet in size, and constructing a new porch of composite decking and wood, 96 square feet (6 by 16 feet) in size, supported by fiberglass columns on stone piers with concrete footings, and covered by a roof, supported by fiberglass columns and capped with decorative columns and railings; removing the existing steel and concrete stairs and constructing new stairs of composite, wood, stone and granite; removing existing stone retaining walls and constructing new retaining walls with fieldstone; and renovating the existing driveway with brick pavers.
3. The property is located in a Neighborhood Business zoning district.
4. The multifamily residential dwelling use, up to three stories, is allowed by special permit in this district under the current Ordinance; was allowed by variance in 1969; and is considered nonconforming, per §§300.3.2.5 and 700.1.1 of the Ordinance.
5. The proposal extends the nonconforming use, per §700.1.3.2 of the Ordinance.
6. Direct abutters to the north are a restaurant with three-family dwelling and a vacant land-locked parcel; to the west, a three-family dwelling; to the south, the Oak Grove Community Center building, which is currently closed and not in use; and to the east, on the other side of Washington Street, the MBTA Oak Grove Rapid Transit Station.

7. The Residence A zoning district abuts to the west, north and east; and surrounding uses are residential.
8. The existing building was constructed in 1970, grossly violates most current dimensional controls, and is considered legally nonconforming, as allowed by variance granted in 1969, per §§400.1.2.5 and 700.1.1 of the Ordinance.
9. The proposal nominally increases existing violations of front yard setback and building coverage and maintains other nonconformities.
10. The multifamily use of the property is exempt from current parking requirements, per §§500.1.2.5 and 700.1.1 of the Ordinance.
11. Fourteen parking spaces are provided in the garage located under the building, in a nonconforming layout.
12. The proposal maintains the existing nonconformities and creates no new violations.
13. According to petitioner, tenants of the property currently park at the rear and side of the building; however, petitioner has determined that, due to property boundaries and easements, no parking is feasible at the rear, western side or southern side of the building, and petitioner intends to install "no parking" signage and pavement markings in these areas.
14. Petitioner marked the southern property line of the subject property with pavement paint.
15. Petitioner provided deeds and plans that describe the right-of-way easements of the subject property and abutting properties.
16. Regarding the abutting City-owned property at 6 Grove Street, the City Solicitor is of the opinion that the subject property has a right of way over this City property.
17. Regarding the abutting City-owned property at 6 Grove Street, the City Director of Public Facilities is of the opinion that the fencing at the rear of the building is for safety and the pavement around the building is acceptable.
18. On February 23, 2016, the City received a report that the retaining wall at the front of the property was damaged and collapsed onto the sidewalk; the City issued an order to correct, provide engineer's stamped plans and repair or replace the wall; on June 7, 2016, the City issued a building permit to replace the retaining walls; at the request of the Building Inspector, petitioner provided a detail plan for the northern and southern corners of the new walls where they join the existing walls on abutting properties; and the retaining walls along the front (eastern) property lines of the subject property have been rebuilt.
19. Petitioner and Ward 4 City Councilor hosted a neighborhood meeting on May 23, 2016.
20. The Ward 4 City Councilor is in favor of the proposal.
21. There is no public opposition to the proposal.
22. One residential abutter and two other residents expressed concerns about the easement rights and boundaries of the subject property as they relate to the abutting City-owned property at 6 Grove Street.
23. As modified by conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
24. Petitioner consents to the proposed conditions of this special permit.

DECISION (Case #16-20):

On February 10, 2016, the Planning Board requested additional information, tabled the public hearing to the next available meeting following receipt of the requested information, and directed that notice of the tabled hearing be sent to abutters.

On June 8, 2016, the Planning Board requested additional information, tabled the public hearing to the next available meeting following receipt of the requested information, and directed that notice of the tabled hearing be sent to abutters.

On August 17, 2016, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following four (4) conditions: 1) The entry way, including stairs, and all retaining walls, shall be as per plans; 2) Landscape front yard; 3) Repair and/or replace sidewalks and driveways, including related incidental work, around perimeter of property, to the reasonable satisfaction of DPW Director; and 4) No parking is allowed at rear or side of building; install and maintain signage and pavement markings onsite; and install pavement marking to delineate southern property line.

RECORD of VOTES (Case #16-20):

On February 10, 2016, the vote on the motion to table the public hearing was nine in favor, none opposed:

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

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

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.

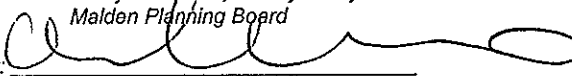
*Motion by Antonucci, seconded by MacCuish. [Absent: Chuha, Henry, Mzaouakk.]*

On August 17, 2016, the vote on the motion to grant the special permit with conditions was six in favor, none opposed:

Antonucci, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; Wolff, yes; Ioven, yes.

*Motion by Antonucci, seconded by Lawhorne. [Present but not voting: Chuha. 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:   
Michelle A. Romero, City Planner