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BOARD OF APPEALS

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Minutes of January 21, 2016 at 6:30 PM
Herbert L. Jackson Council Chamber, Government Center
200 Pleasant Street, Malden, MA

The Board of Appeal meeting duly called in accordance with the City of Malden Ordinance and its by-laws was held in the Council Chamber, Malden Government Center, 200 Pleasant Street, Malden on Thursday evening, January 21, 2016 at 6:30 p.m.

Members Present: Chairman, James O'Brien; Claire Croken; Shannon Brandano; Fire Chief, Jack Colangeli; John King and Deano Summers

The meeting was called to order by Chairman, James O'Brien at 6:30 p.m. Mr. O'Brien announced that there are five (5) Board members voting this evening and it is required that at least four (4) Board members of the five (5) need to vote for the approval or dismissal of any variance on any of these petitions tonight.

PETITION OF: (tabled November 19, 2015)

Daniel McLean, for a **variance** of Sections 400.1.2.1, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for single-family dwellings, namely, **to construct a single-family residential dwelling**, as per plans, at the property known as and numbered **Woodland St. Malden, MA** also known as Assessor's Parcel ID #148-627-784.

The property is described in the Assessor's records as 9,300.06 sq. ft. of undeveloped land in a Residential A district.

The proposed changes are described in the application and shown on the plans submitted therewith: Certified Plot Plan of Lots 13 & 14 Woodland St. dated December 6, 2014 and revised January 16, 2015 with the location of the proposed single family dwelling, 1st fl. Floor Plan, Foundation Plan and Elevations.

All statutory notices have been met and this petition is properly before the Board.

Attorney George Warren appeared before the Board representing the petitioner. Mr. Warren stated that the property has been owned by members of the petitioner's family since the late 1800's. Thirty years ago the Board of Appeals granted a variance to allow a single-family dwelling to be built on the property. Unfortunately, at that time, no building permit was issued and the variance expired. Mr. Warren explained that Mr. and Mrs. McClean are retired; they would like to build a single-family duplex on the property and live in it themselves.

Mr. Warren stated that the petitioner has tried to reach-out to the neighbors to discuss any concerns they might have but, the neighbors have not been receptive. The petitioner has addressed some issues that he thinks the neighbors would have concerns about, such as, parking, blasting, ledge removal, flooding and water run-off issues. The petitioner has hired a Geotechnical Engineer, testing has been done and recommendations have been made, including a significant drainage system consisting of a berm on the left side of the property to alleviate any potential flooding issues and a leeching field that should be more than adequate.

Gary Wyrosdic, Architectural Designer and General Contractor stated that 4 pits have been excavated down to 6 or 7 feet. The drainage plan is a culvert system with holding tanks for the over-run that are tied to the city sewer/storm drain system. There will also be a berm system around the perimeter of the property. Mr. Wyrosdic stated that the proposed drainage system would be a betterment to the property and the neighborhood.

Mr. Wyrosdic stated that there is a roof Leader system that will also tie into the city storm drains

John King asked Mr. Wyrosdic how far down the storm drains go, how big the tanks are and if any portion of Bowman Street was a City accepted street.

Mr. Wyrosdic stated that he wasn't sure if the street was an accepted City street, the storm drains tie into Bowman Street and the holding tanks around the perimeter are 12 feet.

Shannon Brandano asked Mr. Wyrosdic if he spoke to the City Engineer.

Mr. Wyrosdic stated that he had spoken to the City Engineer who approved the drainage plan and Mr. Wyrosdic was expecting a letter of approval from Mr. Russell.

Fire Chief, Jack Colangeli stated there was a letter from the City Engineer dated November 10, 2015 regarding a preliminary plan of drainage improvements. The City Engineer could not approve the drainage plans at that time because no test pits, borings and/or soils analysis had been done.

O'Brien asked if there was anyone who would like to speak in favor of the petition.

Hearing and seeing none that portion of the hearing was closed.

O'Brien asked if there was anyone who would like to speak in opposition of the petition.

Mr. John Cardarelli, 34 Durso Ave. stated that he has been a resident for 52 years. He is very familiar with the area, particularly the flooding. Mr. Cardarelli also stated that currently the drainage system on Bowman St. is inadequate and he is opposed anything that could add to the flooding issues in the neighborhood.

Mr. Kevin Larson, 44 Bowman St., stated that he has been a resident of Malden for 53 years, 27 years on Bowman St. Mr. Larson remembers on October 6, 1988 the ledge was being blasted to construct a house when a large boulder fell off the mountain and almost killed the Breslin Family. He is concerned about falling rocks and asks the Board not to allow any variance for any construction. He also stated that there have been countless geological surveys conducted and Woodland & Bowman Streets are one ledge.

Mr. Keith Austin, 72 Bowman St., stated that the petitioner's property abuts the rear of his property and presented the Board with an eight (8) minute video of neighborhood flooding taken in 1998. The video captures water flowing like a brook on the edge of the petitioner's property, behind 66 Bowman St.

Shannon Brandano asked if anyone opposing the petition had anything current to add.

Jessica Wightman, 21 Constance St. presented the Board with a video of flooding from September 30, 2015, of Constance St. in the direction of Home and Bowman Streets. The video displayed flooding in the streets, driveways and backyards of the neighborhood.

Kim Sterrett, 73 Bowman St. stated that snow removal and storage will be an issue. Currently, the front of the petitioner's lot is used for snow storage.

Ward 6 City Councillor, Neil Kinnon presented the Board with recent pictures of the property and the surrounding area. Councillor Kinnon stated due to the flooding on the property it is a heavily watered area that has grown thick reeds and the property only has 20 feet of frontage, which is considerably less than the minimum of 50 feet required by the City.

Maria Luise, Special Assistant to the Mayor, 1410 Eastern Ave. spoke in opposition.

Chairman O'Brien read letters of opposition from Councillors at Large, Craig Spadafora and David D'Arcangelo.

Joan Paolin, 64 Bowman St., stated the property has not been occupied for 30 years. Thirty of growth has built up the ground.

Fire Chief, Jack Colangeli stated he is familiar with the area, the rock and fire concerns. The ground would need altering and he could not support this petition.

O'Brien asked if there was anyone else who would like to speak in opposition of the petition. Hearing and seeing none that portion of the hearing was closed.

Fire Chief, Jack Colangeli made motion to deny the petitioners request, seconded by Deano Summers.

Motion Carried – All opposed.

Vote: O'Brien, yes; Croken, yes; Brandano, yes; Colangeli, yes; Summers, yes.

PETITION OF:

Joel Minnich on behalf of Radical Radiator Restoration for a variance of Section 400.1.5.2, of Chapter 12 of the Revised Ordinances of 1991, as amended, of the City of Malden, dimensional controls for manufacturing and repair, namely, **to vary the required lot size for use as a manufacturing/repair facility**, as per plans, at the property known as and numbered **946 Eastern Avenue, Malden, MA** (also known by City Assessor's Parcel ID #127-433-307).

All statutory requirements were met and this petition was properly before the Board.

The property is described in the Assessor's records as a Factory with an Industrial Building consisting of 1 Unit and 3 Half-Bathrooms on approximately 13.112 sq. feet of land.

The proposed changes are described in the application and shown on the plans submitted therewith; Ec-1 Site Plan of Land, Ec-3 Floor Plan of Land and Ec-3 Building Elevations Plan of land all dated December 14, 2015.

The petitioner appeared, represented by Attorney John Parcellin. Mr. Parcellin stated that Mr. Minnich, while in college, worked in Somerville and then opened a shop in Everett. Mr. Minnich purchased the property at 946 Eastern Avenue in July of 2015 and opened Radical Radiator. Radical Radiator refurbishes cast iron home heating radiators. The radiators are pressure tested with water sandblasted and spray painted. They do not manufacture or repair any radiators.

Mr. Parcellin also stated that the property was formally used as a recycling facility which caused some vehicle congestion. The petitioner's proposal does not require parking and would be less detrimental to the area.

John Kings asked the petitioner if there was any hazardous waste onsite. Mr. Minnich stated that there was no hazardous waste onsite.

Fire Chief Colangeli asked the petitioner if he was aware of the Notice of Activity and Use Limitations filed by the Department of Environmental Protection.

Mr. Minnich stated that he was aware of the Activity and Use Limitations and had discussed the issues with Lieutenant Halpin of the Malden Fire Department and the Building Inspector.

Chairman O'Brien read a letter from Ward 6 City Councilor, Neil Kinnon, in favor of the petition into the record.

O'Brien asked if there was anyone who would like to speak in favor of the petition. Hearing and seeing none that portion of the hearing was closed.

O'Brien asked if there was anyone who would like to speak in opposition of this petition. Hearing and seeing none that portion of the hearing was closed.

Shannon Brandano made motion to grant this petition, seconded by Claire Croken.

Motion Carried – All in favor.

Vote: O'Brien, yes; Croken, yes; Brandano, yes; Fire Chief, Jack Colangeli, yes; John King, yes.

PETITION OF:

Vera Kolber for a variance of Section 400.1.2.1, of Chapter 12 of the Revised Ordinances of 1991, as amended, of the City of Malden, dimensional controls for single-family residential dwellings, namely, **to construct a 15 x 16 foot shed dormer addition to the existing dwelling**, as per plans, at the property known as and numbered **53 Cliff Street, Malden, MA** (also known by City Assessor's Parcel ID #141-796-613).

All statutory requirements were met and this petition was properly before the Board.

The property is described in the Assessor's records as a single-family dwelling containing 1 Unit, 1 Bathrooms, 5 Rooms and 2 Bedrooms on approximately 4,100 sq. feet of land.

The proposed changes are described in the application and shown on the plans submitted therewith; Right Side Elevations, Left Side Elevations and Upper Level Floor Plan.

The petitioner, Vera Kolber, appeared before the Board and explained that the proposed dormer would be used as a bedroom.

John King asked if there were going to be any renovations on the 1st floor of the dwelling.

Jim O'Brien stated that the first floor would remain the same except for the installation of a fireplace.

John King asked if the proposed addition was going to be a second-story of an existing porch.

Jim O'Brien explained that the addition would be similar to an over-hanging Garrison, hanging over approximately 8 feet.

Fire Chief Colangeli explained to the petitioner that adding a bedroom would require hard-wired smoke detectors to be installed.

The property is already non-conforming and the proposed addition would not increase the pre-existing front or side yard set-back violations.

O'Brien asked if there was anyone who would like to speak in favor of the petition.

Hearing and seeing none that portion of the hearing was closed.

O'Brien asked if there was anyone who would like to speak in opposition of this petition.

Hearing and seeing none that portion of the hearing was closed.

Jack Colangeli made motion, seconded by Claire Croken and the Board voted to grant the petitioners request.

Motion Carried – All in favor.

Vote: O'Brien, yes; Croken, yes; Fire Chief, Jack Colangeli, yes; Deano Summers, yes; King, yes.

PETITION OF:

Harry & Rebecca Norris for a variance of Section 400.1.2.1, of Chapter 12 of the Revised Ordinances of 1991, as amended, of the City of Malden, dimensional controls for single-family residential dwellings, namely, **to remove and reconstruct the front exterior stairs and walls at the existing dwelling**, as per plans, at the property known as and numbered **289 Summer Street, Malden, MA** (also known by City Assessor's Parcel ID #009-056-605).

All statutory requirements were met and this petition was properly before the Board.

The property is described in the Assessor's records as a single-family dwelling consisting of 1 Unit, 1 Bath, 2 ¾ Baths, 8 Rooms and 4 Bedrooms on approximately 4,931 sq. feet of land.

The proposed changes are described in the application and shown on the plans submitted therewith; Certified Plot Plan of 289 Summer St. dated Sept. 24, 2014, A-1.1 Title Sheet, A-1.2 Elevations Drawings, A-1.3 Stair Plans and A-1.4 Details.

The petitioners, Harry, and Rebecca Norris who suffers from Osteoporosis, appeared before the Board and explained that the current staircase has 19 very steep stairs in need of repair. The stairs go from the sidewalk straight up to the front entry. The proposed staircase will be constructed of concrete landings and granite stairs. The proposed plan consist of a 4 foot square concrete slab at the sidewalk, 7 stairs on the right, a six foot landing, six stairs to the left, another 4 foot landing and 3 stair to the front porch. The proposed staircase will enhance the overall aesthetic of the dwelling, reinforce the retaining wall and make it easier for Mrs. Norris to go up and down.

John King stated that there was a note on the plans from the City Engineer that said "as shown sidewalks would have to be removed & replaced DPW permit required".

O'Brien asked if there was anyone who would like to speak in favor of the petition.

Richard Teague, 284 Summer St., spoke in favor of the petition.

David Hancock, 5 Ridgewood Rd. also spoke in favor of the petition.

Chairman O'Brien read a letter from direct abutter to the right of the petitioner, James & Cynthia Sippel, 297 Summer St., also in favor of this petition.

O'Brien asked if there was anyone else who would like to speak in favor of this petition. Hearing and seeing none that portion of the hearing was closed.

O'Brien asked if there was anyone who would like to speak in opposition of this petition. Hearing and seeing none that portion of the hearing was closed.

Fire Chief, Jack Colangeli made motion, seconded by Deano Summers and the Board voted to grant the petitioners request subject to clarification and compliance with the City Engineer's note on the approved plans.

Motion Carried – All in favor.

Vote: O'Brien, yes; Croken, yes; Fire Chief, Jack Colangeli, yes; Deano Summers, yes; King, yes.

PETITION OF:

Cambridge Health Alliance on behalf of Combined Properties for One-Hundred Ninety-five Canal Street Associates Limited Partnership, for a variance of Sections 500.1.4.13, 500.1.4.27 and 500.3.5.3 of Chapter 12 of the Revised Ordinances of 1991, as amended, of the City of Malden, to amend the variance of parking requirements for medical offices and clinic granted on July 20, 2006, and to vary the parking and loading requirements for an adult day health center use, as per plans, at the property known as and numbered 195 Canal Street, Malden, MA (also known by City Assessor's Parcel ID #058-240-002).

All statutory requirements were met and this petition was properly before the Board.

The property is described in the Assessor's records as an Office Building consisting of 74,220 sq. feet, 1 Unit and 4 Half-Baths on approximately 201,390 sq. feet of land.

The proposed changes are described in the application and shown on the plans submitted therewith; A100.0 Site Layout, A100.1 Floor 1 Overall Plan, A100.2 Floor 2 Overall Plan, A7 Elevations, SKA02 Canopy Renderings.

Andrew M. Fugua, Senior Vice President, General Counsel, Cambridge Health Alliance appeared on behalf of the petitioner. Mr. Fugua stated that Cambridge Health Alliance (CHA) plans to operate an adult day health center at the CHA Malden Care Center clinic at 195 Canal Street that would be accessory to the site's primary medical center use. CHA is requesting a parking variance so that CHA's Elder Service Plan may operate a care center (ESP) at which Elder Service Plan participants may receive counseling, physical and occupational therapies, meals, social work and other supportive services.

The CHA Malden Care Center has 301 off-street parking spaces, a deficiency of 112 parking spaces from the 413 spaces required under the Malden Zoning Ordinance for use of the entire facility as a medical center. The addition of the ESP would increase the number of required off-street parking spaces from 423 to 437 and the deficiency in parking spaces would increase from 112 to 136.

Granting the requested variance will enable CHA to meet an unmet need in the Malden community by enabling more elders in the Malden community to continue living at home and in the community. Elder Service Plan will transport participants to and from the ESP Center by shuttle van. Unlike medical center patients and unlike clients who may transport themselves to an adult day health center use that effectively serves as a social club, Elder Service Plan participants will not be driving themselves to the ESP Center or parking at the site. Thus, CHA anticipates that adding this use will reduce, not increase, parking demands at the CHA Malden Care Center.

Consistent with requirements and expectations of the 2006 parking variance for 195 Canal Street, the requested relief remains subject to further review by the Board of Appeal upon substantial occupancy of the second floor of the CHA Malden Care Center. The parking requirements of the Malden Zoning Ordinance contemplate a fully-occupied building. After giving effect to the proposed Elder Service Plan build-out and other unrelated expected medical center renovations on the first floor, CHA will occupy only 46,908 square feet, or 62 percent, of the CHA Malden Care Center building which has a gross floor area of 75,356 square feet. After giving effect to the build-out of the ESP Center, the total parking requirements for 195 Canal Street as built-out would be 296 off-street parking spaces, and the site has 301.

CHA has built out and uses only 12,873 square feet of space, or 34 percent, of the building's second floor. Under the requested variance, CHA will be required to (1) notify the Board of Appeal upon further build-out and occupancy of the second floor and (2) cooperate with the Board of Appeal to provide it such information as it may need to assess the parking needs and demands of the CHA Malden Care Center. CHA believes that this protection will enable the Board of Appeal to better assess CHA's parking needs at 195 Canal Street as a fully or mostly built-out facility and, more importantly, ensure that these needs are met in a manner that is consistent with the intent and purpose of the Malden Zoning Ordinance.

O'Brien asked if there was anyone who would like to speak in favor of the petition.

Hearing and seeing none that portion of the hearing was closed.

O'Brien asked if there was anyone who would like to speak in opposition of this petition.

Hearing and seeing none that portion of the hearing was closed.

Fire Chief, Jack Colangeli made motion, seconded by Claire Croken and the Board voted to grant the petitioners request.

Motion Carried – All in favor.

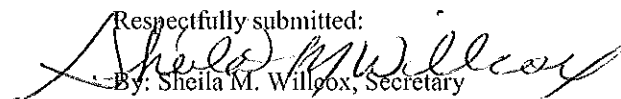
Vote: O'Brien, yes; Croken, yes; Fire Chief, Jack Colangeli, yes; Deano Summers, yes; King, yes.

Fire Chief Colangeli made motion to adjourn seconded by Claire Croken.

Motion carried. All in favor.

Adjourned at 8:25 p.m.

Respectfully submitted:


By: Sheila M. Willcox, Secretary