CITY of MALDEN PLANNING BOARD  
Minutes of Regular Meeting  
Meeting Date: December 12, 2018  
Meeting Location: Malden Senior Community Center, Auditorium, First Floor, 7 Washington Street, Malden, MA  

I. Call to Order. Planning Board Chairman Charles Ioven called the meeting to order at 7:00 pm.  

II. Roll Call.  
Planning Board Members in attendance:  
Antonucci, Ken  
Chiavelli, Jim  
Chuha, Diane  
Ferguson, Charles  
Fitzgerald, Patrick  
Gebrselassie, Tewedaj  
Hayes, Patrick  
Henry, Eric  
MacCuish, Eric  
Soucy, Henri  
Ioven, Charles, Chair  

Planning Staff in attendance: Romero, Michelle, City Planner  

III. PUBLIC HEARINGS:  
A. Special Permits/Zoning/Chapter 12, Revised Ordinances of 1991, As Amended.  
1) 91-95 Main Street and 97-101 Main Street, Malden, MA/§§300.3.2.5 and 700.1.3.2, Ch. 12/ To structurally change and extend preexisting nonconforming property in a Neighborhood Business zoning district and to allow multifamily dwelling use, up to 3 stories.  

The notice of public hearing was read into the record by Planning Board clerk Antonucci.  

Petitioner submitted the following documentation and information:  
1. “Certified Plot Plan 91-101 Main Street, Malden, MA. (Middlesex County),” dated August 4, 2018, prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA.  
2. Set of plans, “Proposed Renovations to 91-101 Main Street Malden, MA,” dated July 9, 2018, prepared by JMK Designs, Bedford, NH, that include proposed and existing floor plans and elevations.  

Presentation made by petitioner:  
1. Andreas Tsitos, 12 McCall Road, Winchester, MA, for 91-101 Main Street LLC, 148 Main Street, Malden, MA, petitioner and property owner.  
2. Patrick MacDonald, Law Office of Christopher Fallon, 477 Eastern Avenue, Malden, MA 02148, attorney for petitioner.  

The proposal is to construct an addition to the second floor to join the two existing second floors to create one second floor with 5,282 square feet, to be used for eight dwelling units: seven units with one bedroom, 477 to 680 square feet in size; and one unit with two bedrooms, 799 square feet in size. Under
the proposal, business use of six storefront units on the first floor will continue, and business use of the two vacant commercial units on the existing second floors will be discontinued.

The Board opened the public hearing and received the following testimony during the public hearing:

In favor:
None.

In opposition:
1. Peg Crowe, Ward 1 City Councillor, 9 Hancock Street, Malden.
2. Marie Gantreau, 17 Acorn Street, Malden, residential abutter.
3. Craig Spadafora, City Councillor at Large, 75 Elm Street, Malden.
4. Rosemarie Baglio, 170 Emerald Street, Malden, MA, owner of abutting property, 21-23 Tufts Street.
5. Correspondence dated December 12, 2018 from Mayor Gary Christenson.

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:
2. Correspondence dated October 23, 2018 from Kenneth Petraglia, P.E., P.T.O.E., containing City’s peer review of petitioner’s “Transportation Impact Assessment.”
3. Email correspondence dated December 6, 2018 from Nelson Miller, Building Commissioner re: shared wall (“party” wall) between two buildings and merger of properties.

After the public hearing closed, petitioner requested that the petition be allowed to be withdrawn without prejudice.

Decision: The Planning Board allowed the petition to be withdrawn without prejudice.

The decision is described in Case #18-13 (attached).

Record of Votes: The vote on the motion to allow the petition to be withdrawn without prejudice was six in favor, three opposed, and the motion passed (6-3):

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Motion by Motion by Antonucci, seconded by Fitzgerald.
2. 215 Salem at 209-215 Salem Street §300.3.4.8, Ch 12/To allow Medical Center Use of property in the Neighborhood Business zoning district/Chiropractor's office.

The notice of public hearing was read into the record by Planning Board clerk Antonucci.

Petitioner submitted the following documentation and information:
2. "Floor Plan Chiropractor Office Done Deal LLC 215 Salem Street Malden, MA 02148," dated December 6, 2018, prepared by Maxwell Architects, LLC, Somerville, MA.
3. Request for a waiver of the filing requirements for floor plans for other floors and building elevations because no changes are proposed to these areas.

Presentation made by petitioner:
1. Dr. Ramsey Gilbert, 127 Smith Place, Cambridge, MA 02138, petitioner and proposed occupant.
2. Kyle Cabral, 14 Bancroft Street, Lynnfield, MA 01940, property manager for property owner, Done Deal LLC, c/o Scott Heffer, Manager, 375 Harvard Street, Brookline, MA 02446.

The proposal is to use the existing single-story storefront, approximately 394 to 425 square feet on the first floor, for a chiropractor's office. Under the proposal, the whole space will be used as one large room, and except for the existing handicapped accessible bathroom, no partitions or separate rooms currently exist and none are proposed; three separate treatment areas, each approximately eight feet by eight feet in size, will be created by hanging fire-retardant curtains on tracks installed on the ceiling, similar to those used in a hospital; each area will have a table and may be used for consultation, intake and treatment. No changes are proposed to the 2 ½ story, three-family dwelling with eight bedrooms, to which the storefront is attached.

The Board opened the public hearing and received the following testimony during the public hearing:

In favor:
1. Barbara Murphy, Ward 5 City Councilor, 28 Forest Street, Malden, MA.

In opposition:
1. Rosemarie Baglio, 170 Emerald Street, Malden, MA, owner of abutting property, 223 Salem Street.

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

Decision: The Planning Board granted a special permit, subject to the following four conditions: 1) All development shall be as per plans unless modified by these conditions; 2) The special permit authorizes use of 394 SF for a chiropractor's office only, and occupancy is limited to one single business/practice; any expansion or other medical center use of the property shall require a special permit/amendment of this special permit; 3) No dumpster is allowed on-site; and 4) Repair/replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director.

The decision is described in Case #18-14 (attached).

Record of Votes: The vote on the motion to grant the special permit with conditions was nine in favor, none opposed, and the motion passed (9-0).
Yes  No  Absent  Abstained  Not Voting
ANTONUCCI  X
CHIAVELLI Associate  X
CHUHA  X
FERGUSON Associate  X
FITZGERALD  X
GEBRESELASSIE  X
HAYES  X
HENRY  X
MacCUISH  X
SOUCY  X
IOVEN Chair  X

Motion by MacCuish, seconded by Antonucci.

IV. PUBLIC MEETINGS:
A. Request for Waiver of Rules & Procedures/Filing Requirements (Section E.9)
Traffic Impact Study/Building w/>10,000 SF gfa.
1) 200 Exchange Street (PID #051 278 801)/Underlying Special Permit Petition- §300.3.4.8/To allow medical center use of property in Central Business zoning district/medical offices healthcare practice (8,000 SF on 1st Floor).

The Board received and reviewed the following documentation at the meeting:
1. Correspondence dated November 26, 2018 from Thomas P. Callaghan, Jr. One Centre Street, Malden, Attorney for Partners Community Physicians Organization, requesting a waiver of the filing requirements for a traffic impact study.
2. Correspondence dated December 6, 2018 from Kenneth Petraglia, P.E., P.T.O.E., re: City’s peer review of petitioner’s request for waiver.

Decision: The Planning Board granted petitioner’s request for a waiver of the filing requirements.

Record of Votes: The vote on the motion to grant the waiver was nine in favor, none opposed, and the motion passed (9-0).  
Yes  No  Absent  Abstained  Not Voting
ANTONUCCI  X
CHIAVELLI Associate  X
CHUHA  X
FERGUSON Associate  X
FITZGERALD  X
GEBRESELASSIE  X
HAYES  X
HENRY  X
MacCUISH  X
SOUCY  X
IOVEN Chair  X

Motion by Chuha, seconded by Antonucci.
B. Status update items.
1) Master Plan Steering Committee. Ioven updated the Board; next meeting is January 28, 2019.
2) Community Preservation Committee. Antonucci provided an update.
3) Housing Production Plan Advisory Committee. Romero provided an update.

V. Old and New Business. None.

VI. Next Meeting. Ioven announced the next regular meeting date is January 9, 2019.

VII. Adjournment. The meeting adjourned at 9:30 pm.

Approved by: ______________________________
Charles Ioven
Chairman, Malden Planning Board
CASE NUMBER 18-13
LOCATIONS of SUBJECT PROPERTY 91-95 Main Street and 97-101 Main Street, Malden, MA
NAME of PETITIONER and OWNER 91-101 Main Street LLC
DATE of PUBLIC HEARING December 12, 2018
DATE of DECISION with CITY CLERK December 21, 2018
DATE of FILING DECISION with BUILDING INSPECTOR December 21, 2018
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 10, 2019
[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 #18-13):
1. Petitioner is the property owner, 91-101 Main Street LLC, 148 Main Street, Malden, MA, c/o Andreas Teitos, 12 McCall Road, Winchester, MA.
2. At the public hearing, petitioner was represented by its attorney, Patrick MacDonald, Law Office of Christopher Fallon, 477 Eastern Avenue, Malden, MA 02148.
3. The petition seeks a special permit under §§300.3.2.5 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the “Ordinance”) to structurally change and extend preexisting nonconforming property in a Neighborhood Business zoning district and to allow multifamily dwelling use, up to 3 stories.
4. The following plans and information were submitted with the petition: “Certified Plot Plan 91-101 Main Street, Malden, MA. (Middlesex County),” dated August 4, 2018, prepared by Richard J. Medei, Jr., P.L.S., Medford Engineering & Survey, Medford, MA; set of plans, “Proposed Renovations to 91-101 Main Street Malden, MA,” dated July 9, 2018, prepared by JMK Designs, Bedford, NH, that include proposed and existing floor plans and elevations; and “Transportation Impact Assessment,” dated October 2018, prepared by Vanasse & Associates, Inc., Andover, MA.
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. After the public hearing closed, petitioner requested that the petition be allowed to be withdrawn without prejudice.

FINDINGS of FACT (Case #18-13):
The City of Malden Planning Board finds the following facts:
1. The subject of the petition are two abutting parcels, both currently and historically owned by the same owner; each parcel is the site of one building; the buildings are separated on the first floor by a “fire wall,” which is a shared wall or “party wall;” under the proposal, an addition will join the buildings into one building and the parcels must be merged, according to Nelson Miller, Building Commissioner, as described in his email correspondence dated December 6, 2018; and both properties and buildings thereon are collectively considered and referred to as “the subject property.”
2. The first floor consists of six “storefront” units and currently, all but one are occupied for business uses; and the second floor consists of two commercial units, previously occupied for business uses and currently vacant.
3. The proposal is to construct an addition to the second floor to join the two existing second floors to create one second floor with 5,282 square feet, to be used for eight dwelling units: seven units with one bedroom, 477 to 680 square feet in size; and one unit with two bedrooms, 799 square feet in size.
4. Under the proposal, business use of the first floor will continue, and business use of the existing second floors will be discontinued.
5. The subject property is considered preexisting nonconforming, and the proposal exacerbates existing dimensional violations, namely, lot area from 31% to 63%, front side yard setback from 20-50% to
73-83%, and side yard setbacks from 94 to 97%; and creates new, gross violations of density, namely, 43%, and open space, namely, 100%, per §§400.1, 400.2 and 700.1.1 of the Ordinance.

6. The proposal requires a total of thirty parking spaces, namely, nine parking spaces for the residential use, or one space per bedroom, and 21 spaces for business use of the first floor, per §§500.1.2.3, 500.1.4 and 500.2.18 of the Ordinance.

7. There is no parking on-site at the subject property.

8. The Ward 1 City Councilor, one of the three City Councilors at Large, and the Mayor are in opposition to the proposal due to on-going, major issues of parking congestion in the neighborhood that will be exacerbated by the proposal and complete lack of parking for the proposal; the increased violations of dimensional controls and new significant violations of open space and density that will be created by the proposal; and because the proposal is an overuse of the subject property.

9. Two residential abutters oppose the proposal due to lack of parking and parking issues in the neighborhood.

10. There is no public support of the proposal.

11. The proposal is not in the interest of the common good.

12. The proposal would be more detrimental to the neighborhood.

13. Petitioner states that it may be able to revise the current proposal to reduce the number of proposed residential units and may seek to file a new petition for a revised proposal in the future.

**DECISION (Case #18-13):**
On December 12, 2018, pursuant to the foregoing Findings of Fact, the Planning Board allowed the petition to be withdrawn without prejudice.

**RECORD of VOTES (Case #18-13):**
On December 12, 2018, the vote on the motion to allow the petition to be withdrawn without prejudice was six in favor, three opposed, and the motion passed:

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, no; MacCuish, no; Soucy, yes; Ioven, no.

**Motion by Antonucci, seconded by Fitzgerald.**  
[Present but not voting: Chiavelli, Ferguson.]

I hereby certify that the above is a true copy of the decision of the Maiden Planning Board.

By: [Signature]

Michelle A. Romero, City Planner
CASE NUMBER 18-14
LOCATION of SUBJECT PROPERTY 215 at 209-215 Salem Street, Malden, MA
NAME of PETITIONER Ramsey Gilbert
NAME of OWNER Done Deal LLC
DATE of PUBLIC HEARING December 12, 2018
DATE of FILING DECISION with CITY CLERK December 18, 2018
DATE of NOTIFICATION to BUILDING INSPECTOR December 18, 2018
FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 7, 2019
[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 #18-14):
1. Petitioner is the proposed occupant, Dr. Ramsey Gilbert, 127 Smith Place, Cambridge, MA 02138.
2. Property owner is Done Deal LLC, c/o Scott Heeter, Manager, 375 Harvard Street, Brookline, MA 02446.
3. At the public hearing, petitioner represented himself and property owner was represented by its property manager, Kyle Cabral, 14 Bancroft Street, Lynnfield, MA 01940.
4. The petition seeks a special permit under §300.3.4.8, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow a medical center use of property in the Neighborhood Business zoning district, namely, a chiropractor's office.
6. Petitioner requested a waiver of the filing requirements for floor plans for other floors and building elevations because no changes are proposed to these areas.
7. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #18-14):
The City of Malden Planning Board finds the following facts:
1. The property is located on the southern side of Salem Street at the corner of Salem Place.
2. The property is the site of a 2 ½ story three-family dwelling with eight bedrooms, and an attached single-story storefront on the first floor, approximately 394 to 425 square feet in size, which is the subject of the petition.
3. The proposal is to use the storefront for a chiropractor's office.
4. Under the plan, the whole space will be used as one large room, and except for the existing handicapped accessible bathroom, no partitions or separate rooms currently exist and none are proposed.
5. Petitioner proposes to create three separate treatment areas, each approximately eight feet by eight feet in size, by hanging fire-retardant curtains on tracks installed on the ceiling, similar to those used in a hospital; each area will have a table and may be used for consultation, intake and treatment.
6. The subject property is located in the Neighborhood Business zoning district.
7. The subject space is currently vacant and was most recently used for general offices.
8. The proposed chiropractor's office is considered a medical center use, which is allowed by special permit in the Neighborhood Business zoning district, per §300.3.4.8 of the Ordinance.
9. Under the plan, there are no changes to the three-family residential dwelling use of the property.
10. The direct abutter to the west is a three-family dwelling; to the south, a single-family dwelling; and to the east, on the other side of Salem Place, a two-family dwelling; and to the north, on the other side of Salem Street, a gasoline filling & service station and a two-family dwelling.
11. Surrounding land uses are residential and business.
12. The Residence A zoning district abuts the property directly to the south.
13. The proposed chiropractor's offices are not in conflict with surrounding land uses.
14. The building on the subject property predates the current Ordinance, violates all dimensional controls for the current three-family dwelling use and most recent general offices use, except frontage and height, per §§400.1.2.3, 400.1.4.9, 400.2 and 700.1.1 of the Ordinance.
15. The proposed medical center use creates no new violations or nonconformities, per §400.1.4.8 of the Ordinance.
16. The current and most recent use of the property requires a total of eight parking spaces, namely, two spaces for the general office use of 394 square feet, and six spaces for the three-family dwelling, which is exempt from current parking requirements, per §§500.1.2.3, 500.1.4.12, 500.2.18 and 700.1.1 of the Ordinance.
17. The site plan depicts no parking; according to property owner, there is one parking space on-site; however, the driveway on-site in the rear yard may provide several nonconforming spaces.
18. The property does not comply with parking requirements and is considered preexisting nonconforming, per §§500 and 700.1.1 of the Ordinance.
19. The proposed medical center use of the subject space requires two spaces, per §500.1.4.13 of the Ordinance.
20. No on-site parking is proposed for the medical center use.
21. The proposal maintains the existing parking deficiency and creates no new violation of parking requirements.
22. On-street parking is allowed adjacent to the property, however, restricted by posted signage and limited due to existing locations of driveways, fire hydrants, crosswalks and bus stops.
23. Petitioner intends to rent a parking space in the Eastern Avenue area for his own use and then walk to the office.
24. Petitioner expects his patients to use public transportation or a car service, such as Uber.
25. As modified by the proposed conditions of the special permit, the traffic and traffic patterns generated by the proposal will not adversely impact the surrounding streets or create a traffic or safety hazard.
26. Petitioner has been practicing for twenty years in Massachusetts.
27. Petitioner currently operates his business from his residence in Cambridge.
28. Petitioner is the sole employee.
29. Petitioner sees clients by appointment only and does not offer “walk-in” service; typical office visits last 15 minutes to 30 minutes however, some appointments may last 45 minutes to two hours.
30. Petitioner typically sees three to five clients per day and works four to five days per week.
31. Petitioner may see more than one client during the same time-frame.
32. Petitioner's business does not generate biomedical waste; its waste is face/tape paper and cleaning products.
33. Property owner has completely renovated the interior of the subject storefront with new walls, ceilings, insulation, flooring, plumbing and electrical; replaced doors and windows; and will renovate the exterior by repairing damaged siding and flashing, and painting and/or cleaning the exterior wall of graffiti.
34. There are various business uses allowed by right in this zoning district, including general offices, retail sales, retail services and recreation for gainful business, and all would require the same parking as the proposal, per §§300 and 500 of the Ordinance.
35. The Ward 5 City Councilor is in favor of the proposal.
36. One residential abutter opposes the proposal due to concerns with lack of parking in the neighborhood.
37. 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.

DECISION (Case #18-14):  
On December 12, 2018, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit, subject to the following four conditions: 1) All development shall be as per plans unless modified by these conditions; 2) The special permit authorizes use of 394 SF for a chiropractor’s office only, and occupancy is limited to one single business/practice; any expansion or other medical center use of the property shall require a special permit amendment of this special permit; 3) No dumpster is allowed on-site; and 4) Repair/replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director.

RECORD of VOTES (Case #18-14):  
On December 12, 2018, the vote on the motion to grant the special permit with conditions was nine in favor, none opposed, and the motion passed:

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebresellassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

Motion by MacCuish, seconded by Antonucci. [Present but not voting: Chiavelli, Ferguson.] 

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

By: [Signature]
Michelle A. Romero, City Planner