



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CASE NUMBER 16-05

2016 FEB 23 A 10:44

LOCATION of SUBJECT PROPERTY 23-25 Clark Street, Malden, MA

NAMES of PETITIONERS and OWNERS David and Marielle Sherrer-Crosbie

CITY CLERK'S OFFICE
MALDEN, MASS.

DATE of PUBLIC HEARING February 10, 2016

DATE of DECISION February 10, 2016

DATE of FILING DECISION with CITY CLERK February 23, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR February 23, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT March 14, 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.]

PROCEDURAL HISTORY (Case #16-05):

1. Petitioners are owners, David and Marielle Sherrer-Crosbie, 110 Highland Road, Somerville, MA 02144.
2. The petition seeks a special permit under §700.1.3.1, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance"), to alter, structurally change and extend a preexisting nonconforming property in the Residence A zoning district and to change use of the property from three-family residential dwelling use to four-family residential dwelling use.
3. The plans submitted with the petition are: "BUILDING REMODEL 23-25 Clark Road Malden, MA," prepared by JK Development Group, Dunstable, MA, including, Site Plan (A-0), dated February 3, 2016 prepared by Joshua Kelly, Reg. Architect, JK Development Group; and Existing Exterior Elevations (A-1), Proposed Exterior Elevations (A-2), Existing/proposed First Floor (A-3), Existing/Proposed Second Floor (A-4) and Existing/Proposed Third Floor (A-5), all dated January 30, 2016.
4. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #16-05):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story building, used as a three-family dwelling, containing a total of nine bedrooms and 3,365 square feet, configured as follows: a four-bedroom unit on the first floor containing 1,380 square feet; a four-bedroom unit on the second floor containing 1,335 square feet; and a one-bedroom unit on the third floor containing 650 square feet.
2. The proposal is to construct additions to the front (southern side) and rear (northern side) of the existing half-story or top floor that total 685 square feet in size and expand this floor to a full third story; to renovate the interior of the dwelling; and to use the property as a four-family dwelling, containing a total of eight bedrooms and 4,050 square feet, configured as follows: a three-bedroom unit on the first floor containing 1,380 square feet; two, one-bedroom units on the second floor, each containing 542 square feet; and a three-bedroom unit on the third floor containing 1,232 square feet.
3. The property is located in the Residence A zoning district.
4. The three-family residential use is prohibited in this district and is a preexisting nonconforming use that began in 1957 when converted from a two-family, per §§300.3.2.3 and 700.1.1 of the Ordinance.
5. The proposed four-family residential use is prohibited in this district, per §300.3.2.3 of the Ordinance.
6. The proposal extends and changes the nonconforming use to another nonconforming use, per §700.1.3.1 of the Ordinance.
7. The direct abutter to the north is a single-family dwelling; to the east, two-family dwellings; to the south, a three-family dwelling; and to the west, on the other side of Clark Street, three-family dwellings.
8. Surrounding land uses are residential.
9. The building on the property grossly violates most dimensional controls, namely, lot area (71% deficient); front yard setback (56% deficient); one side yard setback (48% deficient); open space (13%

deficient); and density (39% deficient); and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.

10. The proposal exacerbates the existing violations to create a 55% deficiency of density and a 35% deficiency of open space; and maintains all other nonconformities.
11. The proposal requires eight parking spaces, namely, three spaces for the existing three-family use and two spaces for the two new bedrooms in the dwelling unit on the third floor, per §§500.1.2.3 and 700.1 of the Ordinance.
12. The proposal provides seven parking spaces on-site and is deficient one space or 13%.
13. The site plan depicts a parking layout with access via a driveway, 11 ½ feet in width, that runs along the southern side of the dwelling, and access via a parking aisle, 11 ½ feet in width, that runs along the northern side of the dwelling.
14. The parking layout is nonconforming, given that the width of the driveway is grossly deficient, namely, 3 ½ feet or 23% deficient for a one-way driveway and 6 ½ feet or 36% deficient for a two-way driveway; and the width of the parking aisle is grossly deficient, namely, 12 ½ feet or 52% deficient for one-way or two-way circulation.
15. The nonconforming layout provides unfeasible access and requires unreasonable maneuvering, such as cars parked in the angled spaces being required to back out down the parking aisle, around a corner of the building and down the driveway, onto the street.
16. The property has a long history of violations of work without permits, including violations in 1981, 2007 and 2015 and by petitioners.
17. There are trash, debris and construction materials in the yard; according to petitioners, the debris in the yard was left in the building by former tenants.
18. The existing dwelling unit on the third floor does not have a second means of egress.
19. All dwelling units are currently vacant.
20. Petitioners stated their intention to reside at the property with their children after the property is renovated.
21. Petitioners purchased the property in June 2015 as a three-family dwelling.
22. One residential abutter is in favor of the proposal.
23. One residential abutter is opposed to the proposal.
24. The proposal is an overuse of the property, exacerbates existing gross violations of dimensional controls and provides a nonconforming parking layout with grossly deficient access.
25. The proposal will be more detrimental to the neighborhood.

DECISION (Case #16-05):

Pursuant to the foregoing Findings of Fact, the Planning Board denied the petition.

The vote to deny the special permit was eight in favor, one opposed:

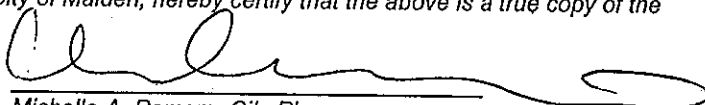
Antonucci, yes; Chiu, yes; Chuha, no; Fitzgerald, yes; Hayes, yes; MacCuish, yes; Mzaouakk, yes; Wolff, yes; Ioven, yes.

Motion by Hayes, seconded by Antonucci.

[Absent: Henry, Lawhorne]

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