



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

RECEIVED

CASE NUMBER 16-07

LOCATION of SUBJECT PROPERTY 53 Malden Street, Malden, MA

NAME of PETITIONER and OWNER Beyond Realty LLC

DATE of PUBLIC HEARING April 13, 2016

DATE of DECISION April 13, 2016

DATE of FILING DECISION with CITY CLERK April 20, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR April 20, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 10, 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.]

2016 APR 20 A 11:15

CITY CLERK'S OFFICE
MALDEN, MASS.

PROCEDURAL HISTORY (Case #16-07):

1. Petitioner is the owner, Beyond Realty LLC, c/o Keith Zhong, 19 Revere Street, Milton, MA 02186.
2. The petition seeks a special permit under §700.1.3.1 of Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to alter, structurally change and extend the preexisting nonconforming three-family residential dwelling use of the property in the Residence A zoning district.
3. The following plans and information were submitted with the petition: Set of plans, "53 MALDEN STREET, MALDEN, MA 02148," dated December 22, 2015, prepared by Waiman Chan, P.E., Jessy Design-Build, LLC, Braintree, MA, that includes proposed floors plans for basement, first floor, second floor and attic; elevation plans for south, west, north and east; foundation plan and framing plans for first floor, second floor, attic and roof, dated October 1, 2015; and existing floor plans for basement, first floor, second floor, attic, dated September 5, 2015; "SITE PLAN," and "FIRST & SECOND FLOOR PLANS," dated February 29, 2016, prepared by Waiman Chan, P.E., Jessy Design-Build, LLC, Braintree, MA; Fire protection (sprinkler plan), "Piping Plan Area-1," dated November 3, 2015, prepared by William E. Newell, P.E., Adams Fire Protection, Inc., Bridgewater, MA; and memorandum, "Supplemental information," dated March 2, 2016, prepared by Waiman Chan, P.E.
4. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #16-07):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story, three-family dwelling, damaged by fire in 2015 and currently vacant.
2. The proposal is to remove and reconstruct two existing exterior staircases used for access/egress; one will be relocated from the western side to the rear of the dwelling and one will be relocated at the rear of the dwelling; and to reconstruct the existing exterior staircase used for access/egress at the eastern side of the dwelling.
3. The proposal includes renovation and rehabilitation of the interior and exterior of the dwelling, including installing new siding and roof; enclosing window and door openings that are being eliminated; installing new window and door openings; and minor reconfiguration of the interior layouts of the units.
4. The proposal includes installation of a fire sprinkler system.
5. The proposal improves the functionality and safety of the property and brings the property into compliance with current building and fire codes.
6. Under the proposal, the three-family dwelling will remain configured as three, two-bedroom units, with the following size and locations: one unit, 640 square feet in size, on the first floor; one unit, 910 square feet in size, on the first and second floors; and one unit, 798 square feet in size, on the second floor.
7. No living space is proposed in the basement or attic; the basement will be used for storage, utilities and laundry and accessible by all units; and the attic will be used for storage and accessible by only one unit.
8. The property is located in the Residence A zoning district.
9. The three-family residential dwelling use is a preexisting nonconforming use that is prohibited in this district and predates the Ordinance, per §§300.3.2.3 and 700.1.1 of the Ordinance.
10. The proposal enlarges the exterior staircases and thereby extends the use, per §700.1.3.1 of the Ordinance.
11. The proposal does not increase the living space and does not change the number of bedrooms and bathrooms.
12. Direct abutters to the north and west are two-family dwellings, to the east, a two-family dwelling and a single-family dwelling; and to the south, on the other side of Malden Street, two-family dwellings.

13. Surrounding land uses are largely residential and mostly two-family dwellings; nearby uses are a religious facility, club/lodge and contractor.
14. The proposal is not in conflict with surrounding land uses.
15. The building predates the Ordinance, grossly violates all dimensional controls except height, and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.
16. The proposal increases the existing violation of rear yard setback and building coverage, and maintains the other existing nonconformities.
17. The violations of dimensional controls created by the proposal will not be more detrimental to the neighborhood.
18. The preexisting nonconforming three-family dwelling use of the property requires a total of six parking spaces, namely, two per dwelling unit, under the applicable Ordinance; the property is exempt from the parking requirements of the current Ordinance, which would also require six parking spaces, namely, one space per bedroom, per §500.1.2.3 of the Ordinance.
19. The site plan depicts four parking spaces in the existing driveway, approximately 10 feet in width by 65 feet in length, located on the eastern side of the dwelling; all proposed parking spaces do not meet the minimum dimensions, namely, 8 ½ by 17 feet, and are configured in a nonconforming layout, namely, tandem, per §§500.2.1 and 500.2.2 of the Ordinance.
20. The proposal maintains the existing nonconformities and creates no new violations of parking requirements.
21. According to petitioner, on-site parking will be for tenants' use only, however, spaces will not be assigned.
22. On-street parking is allowed, and there is parking congestion in the neighborhood.
23. The fire protection plan depicts eight bedrooms, however, the architect's floor plans depict six bedrooms.
24. The Building Inspector recommends removal of the closets and doors from the dining rooms as they indicate potential use as bedrooms.
25. The Ward 2 City Councilor is in favor of the petition.
26. There is no public opposition to the petition.
27. The proposal will not be more detrimental to the neighborhood.
28. Petitioner consents to the proposed conditions of this special permit.

DECISION (Case #16-07):

On April 13, 2016, pursuant to the foregoing Findings of Fact, the Planning Board granted the special permit subject to the following eight conditions: 1) All development shall be as per plans, provided that unit layouts are per the floor plans not as per the fire protection plans, and except as modified by these conditions; 2) Basement may be used for storage, laundry and utilities only, and may not be used for any bedroom or other residential living space; 3) Maximum number of bedrooms is six (6); attic may not be used as finished living space, including bedrooms; 4) Remove closet and door from dining room in Unit 1B; remove door from dining room in Unit 2A; 5) Remove all debris and trash from yard immediately upon issuance of this special permit and maintain clean and clear during all construction activities; 6) Maintain landscaping of yard areas as per site plan; 7) Onsite parking shall be for use of the residents; and 8) Repair and/or replace adjacent sidewalks, subject to satisfaction of DPW Director.

RECORD of VOTES (Case #16-07):

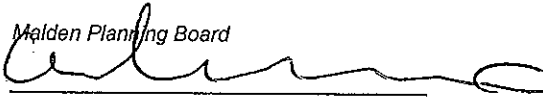
The vote on the motion to grant a special permit with eight conditions was nine in favor, none opposed:
 Antonucci, yes; Chiu, yes; Chuha, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Mzaouakk, yes;
 Wolff, yes; Ioven, yes.

Motion by Chuha, seconded by Lawhorne.

[Present but not voting: Fitzgerald. Absent: Henry.]

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