



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CASE NUMBER 17-07

LOCATION of SUBJECT PROPERTY 155 Main Street, Malden, MA

NAME of PETITIONER and OWNER Huang Hai Feng

DATES of PUBLIC HEARINGS July 12, 2017 and September 13, 2017

DATE of DECISION September 13, 2017

DATE of FILING DECISION with CITY CLERK September 27, 2017

DATE of NOTIFICATION to BUILDING INSPECTOR September 27, 2017

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 17, 2017

[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 #17-07):

1. Petitioner is the owner, Huang Hai Feng, 172 Willis Avenue, Medford, MA 02155.
2. Petitioner was represented by Attorneys Roberto DiMarco and Kathryn Welk, Walker & DiMarco, P.C., 350 Main Street, Malden, MA 02148.
3. 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 and change use of a preexisting nonconforming property in the Residence A zoning district from medical/dental offices and single-family dwelling to a two-family dwelling.
4. The following plans were submitted with the petition: "Site Plan 155 Main Street, Malden, Mass.," dated March 11, 2015 and December 16, 2015, prepared by Tuan V. Nguyen, P.E., T Design, LLC, Milton, MA; and a set of plans, "Proposed Change of Use & Addition 155 Main Street Malden, MA," dated October 30, 2014, with revision date March 17, 2017, prepared by Arthur K.F. Choo, Choo & Company, Inc., Quincy, MA, that include Existing Floor Plans, Proposed Floor Plans and Proposed Elevations.
5. On May 13, 2015 in Case #15-04 the Planning Board allowed the withdrawal without prejudice of a petition to convert the first floor of the subject property from medical/dental office to a second dwelling unit with three bedrooms and construct an addition to the second floor to expand the existing dwelling unit to three bedrooms.
6. On July 12, 2017, immediately following petitioner's presentation and prior to receiving any public testimony, the Planning Board tabled the public hearing and its decision on the petition to seek the opinion of the City Solicitor as to whether the petition is properly before the Board and whether the property's preexisting nonconforming status has been extinguished, per §700.1.5 of the Ordinance, given that the portion of the property that is the subject of the petition has been vacant and not used for more than two years.
7. The petition is properly before the Planning Board, in accordance with the opinion of the City Solicitor Kathryn Fallon, as described in the memorandum dated September 12, 2017.
8. The Planning Board reopened and conducted the public hearing on September 13, 2017.
9. Abutters were notified of both public hearings; the public hearings complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.
10. After the public hearing on September 13, 2017 and during the Planning Board's final deliberations regarding proposed conditions for a special permit that may be granted, petitioner requested that the petition be denied.

FINDINGS of FACT (Case #17-07):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a two-story principal building and an accessory shed.
2. The first floor of the building is vacant and was last used as a medical/dental office; and the second floor is occupied as a single-family residential dwelling.
3. The proposal is to eliminate the medical/dental office use and convert the first floor to a second residential dwelling unit containing two bedrooms and 945 square feet.
4. The proposal requires interior alterations to remove the existing offices and create the new dwelling unit.
5. Under the proposal, the second floor will continue use as a dwelling unit, with two bedrooms and 671 square feet.
6. Under the proposal, the property would be used as a two-family residential dwelling.
7. The property is located in the Residence A zoning district.
8. The existing single-family dwelling use is allowed in this district, per §300.3.2.1 of the Ordinance.
9. The most recent medical/dental office use, now classified as a medical center use, is prohibited in this district and considered preexisting nonconforming, per §§300.3.4.8 and 700.1 of the Ordinance.
10. The proposed two-family dwelling use is prohibited in this district, however, may be allowed by special permit as a conversion of a preexisting nonconforming use, per §§300.3.2.2 and 700.1.3.1 of the Ordinance.

11. Direct abutters to the north, south and east of the subject property are two-family dwellings; and to the west, on the other side of Main Street, is a public park, Bell Rock Park.
12. Surrounding land uses are residential.
13. The property contains 2,575 square feet and grossly violates current dimensional controls for single-family dwellings for lot area, front yard, one side yard, rear yard setback, lot coverage and density; and the property is considered preexisting nonconforming, per §§400.1.2.1, 400.1.4.8, 400.2 and 700.1 of the Ordinance.
14. The proposal increases the deficiencies of lot area to 9,925 square feet or 80%, and of density to 5,425 square feet or 68%; creates an open space violation; and maintains other violations, per §400.1.2.2.1 of the Ordinance.
15. No parking is currently provided on-site, and the deficiency is preexisting nonconforming, per §700.1 of the Ordinance.
16. The proposal requires four parking spaces, namely, one space per bedroom, per §500.1.2.2 of the Ordinance.
17. Under the proposal, two on-site parking spaces will be created in a driveway, 23 feet by 23 feet in size, on the southern side of the building in the front and side yards, which currently are grass and used as open space.
18. Installation of a stormwater management system is proposed to address drainage issues created by the proposal.
19. The proposed parking spaces are head-on and would be accessible only via a proposed curb-cut off Main Street.
20. The proposed curb-cut would require the approval of the City's Department of Public Works and the approval of the State, Massachusetts Bay Transportation Authority, given the location of an existing bus stop.
21. If the City and State do not approve the proposed curb-cut, the proposed parking will not be installed.
22. The proposal will eliminate at least two existing on-street parking spaces, given the proposed curb-cut.
23. Petitioner has never occupied the property and does not intend to occupy the property.
24. Petitioner intends to allow his parents to live in one dwelling unit and to rent the second unit for rental income.
25. There is no public support or anyone in favor of the petition.
26. The Ward City Councilor and one City Councilor-at-Large are in opposition to the proposal to convert the property to a two-family dwelling, due to concerns with overuse of the property and increased violations of lot size, density and open space; however, the Councilors support the residential conversion of the property to remove the medical office use, provided that the property is used only as a single-family residential dwelling.
27. The residential abutter at 159 Main Street is in opposition to the proposal; this abutting property shares one side wall with the building on the subject property and both properties were originally part of the same property.
28. After the public hearing closed and during the Board's final deliberations regarding proposed conditions for a special permit that may be granted, petitioner stated that he has absolutely no intention to develop the property as a single-family dwelling and requested that the Board deny the petition as proposed.
29. The proposal will be more detrimental to the neighborhood.

DECISION (Case #17-07):

On July 12, 2017, the Planning Board tabled the public hearing and its decision.

On September 13, 2017, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition.

RECORD of VOTES (Case #17-07):

On July 12, 2017, the vote on the motion to table the public hearing and decision was nine in favor, none opposed: Antonucci, yes; Chiu, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Fitzgerald, seconded by Antonucci. [Absent: Chuha. Present but not voting: Soucy]

On September 13, 2017, the vote on the motion to deny the petition was eight in favor, one opposed: Antonucci, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, no; Soucy, yes; Wolff, yes; Ioven, yes.

Motion by Fitzgerald, seconded by Hayes. [Absent: Chiu. Present but not voting: Chuha.]

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