



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

CASE NUMBER 18-10

LOCATION of SUBJECT PROPERTY 25-27 Albion Street, Malden, MA

NAME of PETITIONER and OWNER 25-27 Albion Street, LLC

DATE of PUBLIC HEARING October 10, 2018

DATE of DECISION October 10, 2018

DATE of FILING DECISION with CITY CLERK October 17, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR October 17, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT November 6, 2018

[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 #18-10):

1. Petitioner is the owner, 25-27 Albion Street, LLC, 105 Salem Street, Suite B, Malden, MA, c/o Jumanthro Sianturi, 45 Pomeworth Street, Stoneham, MA.
2. At the public hearing, petitioner was represented by Attorney Patrick P. MacDonald, Law Office of Christopher G. Fallon, 15 Ferry Street, Malden, MA.
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 structurally change and extend a preexisting nonconforming property in the Residence A zoning district and to extend the preexisting nonconforming three-family dwelling use.
4. The following plans were submitted in support of the petition: set of plans, "Proposed Renovations to 25-27 Albion Street Malden, MA," dated July 30, 2018, prepared by Phung/Porzio Studio of Architecture, Dorchester, MA, that includes existing and proposed floor plans and proposed elevations with building cross-sections; and "Site Plan at 25-27 Albion Street Malden, MA," dated October 21, 2017, prepared by Robert A. Junior, P.L.S., Westgate Associates, Kingston, MA.
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. On June 13, 2017, in Case #18-06 the Planning Board denied a petition seeking a special permit to change use of the property from a three-family dwelling to a four-family dwelling; however, the current petition, which seeks a special permit to continue and extend the three-family dwelling use, is different on its face from the prior petition and not a repetitive petition that is subject to Massachusetts General Law, Chapter 40A, Section 16.

FINDINGS of FACT (Case #18-10):

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a vacant, 2 ½- story, three-family dwelling and accessory two-car garage.
2. The dwelling was most recently used for three apartments with a total of 3,719 square feet and seven bedrooms, configured as one unit on the first, second and third floors with 1,835 square feet and four bedrooms; one unit on the first, second and third floors with 1,271 square feet and two bedrooms; and one unit on the first floor with 613 square feet and one bedroom.
3. The proposal is to continue the three-family dwelling use and increase the size by adding two new bedrooms; to structurally change and extend the existing building by constructing four, full dormers to the expand the existing half-story (top floor) to a full third story, and enlarging an existing landing/stairs to construct a new roofed porch, approximately 115 square feet in size, including stairs, on the southern side of the first floor.
4. The proposal includes removal of the second story deck with staircase and landing, approximately 70 square feet in size, at the rear of the building; demolition of the garage; extension of the driveway and creation of a parking lot in the rear yard.
5. Under the proposal, the interior of the dwelling will be completely rehabilitated and renovated, and the unit layouts will be altered to be configured as follows: all units will have living space on the first, second and third floors and three bedrooms; two units will have 1,681 square feet; and one unit will have 2,073 square feet and include a family room and study.
6. Under the proposal, the dwelling will have a total of 5,435 square feet of living space and nine bedrooms, which is an overall increase of 1,716 square feet or 46%, and two bedrooms or 29%.
7. The property is located in the Residence A zoning district.
8. The three-family dwelling use is a preexisting nonconforming use that predates the current Ordinance and is prohibited in this district, per §§300.3.2.3 and 700.1.1 of the Ordinance.
9. An extension of the preexisting nonconforming use may be allowed by special permit, per §700.1.3.1 of the Ordinance.
10. The direct abutter to the north is a two-family dwelling; to the south, a single-family dwelling and a four-family dwelling; to the west, single-family dwellings; and to the east, on the other side of Albion Street, single-family dwellings.
11. Surrounding land uses are residential dwellings; Malden High School; the Malden Valley Forum Ice Rink/Arena; the Bike to the Sea Trail/Northern Strand Community Trail located on the abandoned railroad right-of-way; the Salem Street Cemetery; and offices in a Residential Office zoning district on Salem Street.
12. The dwelling on the property predates the Ordinance; grossly violates the lot area requirement by 9,950 square feet or 53%; violates the front yard setback requirement by 40% and density requirement by 2%; and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.
13. The proposal creates a new 20% violation of one side yard setback and maintains all other nonconformities.
14. The existing three-family requires six parking spaces, namely, two per dwelling unit under applicable zoning; and as a preexisting nonconforming use is exempt from current requirements, per §700.1 of the Ordinance.

15. The garage and existing driveway may provide parking for five to six vehicles in a nonconforming layout.
16. The proposal requires two additional parking spaces, or one space per new bedroom, per §500.1.2.3 of the Ordinance.
17. The proposal requires eight parking spaces for the three-family dwelling, per §§500.1.2.3 and 700.1 of the Ordinance.
18. Under the proposal, the garage would be demolished; six parking spaces, configured as head-on, would be located along the eastern (rear) property line, and the existing driveway would be extended to provide access to the parking spaces.
19. The proposed parking layout maintains the preexisting nonconforming width of the existing driveway and creates a new nonconformity of the parking aisle width, per §§500.2.2 and 500.2.3 of the Ordinance.
20. The proposed parking area and extended driveway comprise nearly the entire rear yard; the proposal creates a new violation of the requirement that 50% of yard areas be devoted to lawn or landscaping, not paving, per §500.2.20 of the Ordinance.
21. At the public hearing, the Board considered several possible modifications of the proposed parking layout that would increase the on-site parking; reduce the amount of rear yard used for parking and access; decrease the parking aisle deficiency; and increase the landscaped buffer area along the rear property line.
22. A "grass driveway with permeable pavers" is proposed for the driveway and parking area but no specifications are provided.
23. Pursuant to its prior petition denied in Case #18-06, petitioner held a meeting with the neighbors and Ward 4 City Councilor; at that meeting petitioner agreed to create condominium units, not rental apartments; to instruct and require all workers and contractors to park on-site; to create a buffer zone along the rear property line by planting "arbor vitae;" and to obtain input from the neighbors regarding the perimeter fencing to be installed; and at the public hearing for the current petition, petitioner affirmed that it intends to still comply with these same representations.
24. Petitioner intends to give each unit exclusive rights to use assigned parking spaces, rather than deed the spaces.
25. The Ward 4 City Councilor is in support of the proposal.
26. Two residential abutters and one resident from another neighborhood in the City are in favor of the proposal.
27. One residential abutter is in opposition to the proposal due to concerns with neighborhood parking issues.
28. Petitioner purchased the property in June 2017 as an investment property.
29. Petitioner acknowledges the property is an "eye sore" and "problematic" for the neighbors in its present condition and state of significant disrepair, which includes a pile of construction debris in the rear yard, overgrown vegetation, missing and broken fencing, broken windows and blocked/covered stairs; and petitioner states that it has arranged to bring a dumpster onto the site the day after the hearing and intends to clean the property.
30. Petitioner has removed two large trees from the property; the proposed site plan depicts areas for landscaping, however, does not provide planting specifications or include a detailed landscaping plan.
31. The Ward 4 City Councilor requests the opportunity to review and approve a detailed landscaping plan for the property.
32. Petitioner expects the proposed condominium units will be owner-occupied but does not agree to a condition requiring this.
33. As modified by the proposed conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
34. Petitioner consents to all conditions of the special permit.

DECISION (Case #18-10):

On October 10, 2018, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following ten conditions: 1) All development shall be as per plans except as modified by these conditions; 2) The maximum number of bedrooms in each unit is three; 3) Submit revised site plan with revised parking layout: all parking spaces shall be 8 ½ x 17 feet; and install eight parking spaces on-site: six as per plan and two in garage location (garage must be demolished); 4) All parking and driveway surfaces shall be constructed with permeable pavers, rated for parking and vehicle traffic and subject to the reasonable approval of the Building Commissioner; 5) Install cedar privacy fencing along northern, eastern and southern property lines; 6) On-site parking shall be for the exclusive use of the residents; 7) Along the rear property line, maintain a four (4)-foot landscaped buffer and plant and maintain "arbor vitae"(which grow to 6-8 feet in height); 8) All three units shall be developed and sold as condominiums; 9) All contractors/laborers must park on-site; and 10) Landscape the site in accordance with a plan that is subject to the reasonable approval of the Ward City Councilor.

RECORD of VOTES (Case #18-10):

The vote on the motion to grant the special permit with conditions was seven in favor, two opposed, and the motion passed:

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

Motion by Fitzgerald, seconded by Antonucci.

Present but not voting: Chiavelli, Ferguson.

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.

Malden Planning Board
 By: 
 Michelle A. Romero, City Planner