



**CITY of MALDEN PLANNING BOARD
NOTICE of DECISION**

CASE NUMBER 19-07

LOCATION of SUBJECT PROPERTY 38 Converse Avenue, Malden, MA

NAME of PETITIONER Tuan Nguyen

NAME of OWNER Jean J. Lacombe

DATE of PUBLIC HEARING November 13, 2019

DATE of DECISION November 13, 2019

DATE of FILING DECISION with CITY CLERK November 20, 2019

DATE of NOTIFICATION to BUILDING INSPECTOR November 20, 2019

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT December 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 #19-07):

1. Petitioner is owner's engineer, Tuan Nguyen, 1248 Randolph Avenue, Milton, MA.
2. Owner is Jean Lacombe, 38 Converse Avenue, Malden, MA.
3. At the public hearing, petitioner represented owner and owner also represented himself.
4. 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 allow the change of use of a preexisting nonconforming property in the Residence A zoning district from a three-family dwelling to a four-family dwelling.
5. The following plans were submitted in support of the petition: set of plans, "Renovation to Living Unit 38 Converse Avenue, Malden, Massachusetts," dated September 18, 2018, prepared by Tuan Nguyen, P.E., T Design, LLC, Milton, MA, that include Existing Barn First Floor, Proposed First Floor Unit, Existing Barn Second Floor, Proposed Barn Second Floor, Existing Rear Elevation View, Existing Left Elevation View; and "Site Plan w/Parking at #38 Converse Street in the City of Malden prepared for: T-Design, LLC," dated July 2, 2018, revised May 8, 2019, prepared by Peter R. McManus, P.L.S., Terra Nova Survey Consultants, Bridgewater, MA.
6. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #19-07):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a three-story dwelling with attached two-story barn, with a total footprint of 2,626 square feet.
2. The dwelling is currently used as a three-family dwelling with a total of 4,503 square feet and nine bedrooms, configured as one unit on the first floor with 1,920 square feet and four bedrooms; one unit on the second floor with 1,663 square feet and three bedrooms; and one unit on the third floor with 920 square feet and two bedrooms; and the barn is currently used for storage.
3. The proposal is to convert the barn into a fourth dwelling unit, with living space on the first and second floors, containing 1,258 square feet and two bedrooms, which will require structural reinforcement and insulation.
4. The property is located in the Residence A zoning district.
5. The three-family dwelling is a nonconforming use that was allowed by the Board of Appeal in 1940, predates the current Ordinance and is prohibited in this district, per §§300.3.2.3 and 700.1.1 of the Ordinance.
6. The proposed four-family dwelling use is prohibited in this district but may be allowed by special permit as a residential conversion of a preexisting nonconforming property, per §§300.3.2.3 and 700.1.3.1 of the Ordinance.
7. The direct abutter to the east is a single-family dwelling; to the south, two two-family dwellings; to the west, a three-family dwelling; and to the north, on the other side of Converse Avenue, a two-family dwelling and a three-family dwelling.
8. Surrounding land uses are all single and two-family dwellings, except for an occasional three-family dwelling.
9. The property predates the Ordinance; grossly violates the lot area requirement by 6,948 square feet or 37% and the front yard and rear yard setback requirements by 40%; and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.
10. The proposal maintains the existing violations and creates a new violation of density, per §400.1.2.3 of the Ordinance.
11. The existing three-family use requires a total of six parking spaces, or two per dwelling unit, under applicable zoning, and is exempt from current requirements of one space per bedroom, per §500.1.2.3 of the Ordinance.

12. The existing driveway may provide parking for four to six vehicles in a nonconforming layout.
13. The proposal is to increase the width of the existing driveway to create parking onsite for eight spaces, configured as one head on-on space in the northeastern corner of the front yard, parallel and adjacent to the driveway, and seven angled spaces along the eastern property line.
14. The proposal requires a total of eleven parking spaces, or one space per bedroom, per §500.1.2.3 of the Ordinance.
15. The proposal creates a new violation of parking spaces, namely, a deficiency of three spaces or 27%.
16. The proposed new parking layout is nonconforming as to aisle width; will require maneuvering and likely involve backing out of parking spaces into and down the driveway; and will require paving a portion of the front yard and more of the eastern side yard.
17. According to owner, if on-street parking is unavailable, tenants are allowed to park on-site in the driveway.
18. According to owner, the existing barn is not used for parking because it has a basement and cannot support it.
19. According to owner, eleven people currently live at the property, namely, owner and his three children in the first floor unit, a family of five in the second floor unit, and two people in the third floor unit; and a twelfth, additional person will be moving into the third floor unit.
20. There is no public support of the proposal.
21. The Ward 1 City Councilor and several residential abutters are in opposition to the proposal due to concerns with density, congestion and neighborhood parking issues.
22. The proposal would be an overuse of the property.
23. The proposal will be more detrimental to the neighborhood.

DECISION (Case #19-07):

On November 13, 2019, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition for a special permit.

RECORD of VOTES (Case #19-07):

The vote on the motion to deny the special permit was eight in favor, one opposed, and the motion passed (8-1):

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

Motion by MacCuish, seconded by Antonucci.

Absent: Ferguson.

I, Michelle A. Romero, City Planner, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: _____
Michelle A. Romero, City Planner