



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

CASE NUMBER 20-15

LOCATION of SUBJECT PROPERTY 71-73 Highland Avenue, Malden, MA

NAME of PETITIONER and OWNER William E. Horrigan

DATE of PUBLIC HEARING November 19, 2020

DATE of DECISION November 19, 2020

DATE of FILING DECISION with CITY CLERK December 1, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR December 1, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT December 21, 2020

[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 #20-15):

1. The property is known as and numbered 71-73 Highland Avenue and by City Assessor's Parcel number 042 212 203.
2. The petitioner is the property owner, William E. Horrigan, 5 Horseshoe Drive, Lynnfield, MA 01940.
3. At the public hearing, petitioner represented himself, with his wife, Diane Horrigan, and was also represented by his attorney, Patrick P. MacDonald, 479 Eastern Avenue, Malden, MA 02148.
4. This petition filed in Permit Application # RES 033516-2020 seeks a special permit under Section 12.28.010(D) of Chapter 12, Revised Ordinances of 2020 as Amended, of the City of Malden (the "Ordinance") to allow extension, structural changes, and change of use of a preexisting nonconforming use and property in the Residence A zoning district, namely, to construct an addition and convert the existing three-family dwelling to a four-family dwelling.
5. The following plans were submitted in support of the petition: Set of plans, "Project Location Addition 71-73 Highland Avenue, Malden, MA 02148," dated January 25, 2020 and revised November 10, 2020, prepared by Sami E. Kassis, P.E., Design by Sami, LLC, Walpole, MA, that includes proposed Elevations; proposed Floor Plans for Basement, First Floor, Second Floor and Third Floor; photos of the existing dwelling; and a floor plan breakdown with a "Proposed Floor Area Summary" and proposed and existing unit areas; and a site plan, "Plot Plan in Malden, Mass.," dated March 13, 2020, prepared by Alexander Crucio, P.L.S., Gloral Associates, Wakefield, MA, a revised version of which was received on November 19, 2020.
6. In accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, Massachusetts General Laws, Chapter 30A, §18, and Governor Baker's March 23, 2020 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, and due to the COVID-19 pandemic, the public hearing was held virtually and petitioners and members of the public attended and participated remotely via technological means.
7. The public hearing complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-15): The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½ story three-family dwelling and paved parking lot.
2. The proposal is to construct a 2 ½ story addition to the northern side of the existing dwelling; reconstruct the front porches (enclosed and exterior); excavate a portion of the basement of the existing dwelling; enlarge two of the existing dwelling units; create a new, fourth dwelling unit; and convert the property from a three-family dwelling to a four-family dwelling.
3. Under the proposal, the existing first floor unit with two bedrooms will increase in size from 1,013 square feet to 1,472 square feet, and expand to include an "entertainment room" in the basement; the existing second floor unit with two bedrooms will remain the same size, 1,151 square feet and location; the existing attic unit with one bedroom will increase in size to two bedrooms and from 670 square feet to 1,170 square feet, and expand to include the third floor of the proposed addition; and the

new fourth unit will have two bedrooms and 1,433 square feet, located in the basement, first and second floors of the proposed addition.

4. Under the proposal, the total number of bedrooms at the property increases from five to eight, and the total gross floor area increases from 2,974 square feet to 5,482 square feet, an 84% increase.
5. The property is located in the Residence A zoning district.
6. The existing three-family dwelling is prohibited in this district and considered preexisting nonconforming, per §§12.20.030 and 12.28.010.A of the Ordinance.
7. The four-family dwelling use is prohibited in this district, however, may allowed by special permit as an extension or conversion of a preexisting nonconforming use, per §12.28.010.D of the Ordinance.
8. Direct abutters to the north and south are two-family dwellings; to the east, a two-family dwelling and a single-family dwelling; and to the west, on the other side of Highland Avenue, a bank office with drive-thru and two-family dwellings.
9. Surrounding land uses to the east and west are single, two and three-family residential dwellings and business uses to the north, in a Neighborhood Business zoning district at the intersection of Highland Avenue and Medford Street, and to the south, in an Industrial 1 zoning district and Highway Business zoning district that includes the Townline Plaza.
10. The existing building grossly violates current dimensional controls for lot area (61%), front yard setback (60%), one side yard setback (40%), rear yard setback (40%) and density (18%); and is considered preexisting nonconforming, per §§12.16.010 and 12.28.010(A) of the Ordinance.
11. The proposal exacerbates, by more than doubling, the existing density violation from 18% to 39% and maintains the other existing gross nonconformities.
12. The proposed four-family dwelling with eight bedrooms will require a total of eight parking spaces, namely, one space per bedroom, per §12.20.010 of the Ordinance.
13. Eight parking spaces are proposed in the parking area to the north of the dwelling.
14. Under the proposal, more than 50% of the entire lot will remain paved for parking and access, largely comprised of a parking lot area that includes the entire front, side and rear yard north of the dwelling; the existing use does not comply with the current requirement that a minimum of 50% of the front yard, side yards and rear yards be devoted to lawn and/or landscaping area (not paving) and is considered preexisting nonconforming and exempt from, per §§ 12.20.020.17 and 12.28.010.A of the Ordinance; however, the proposal maintains the existing gross nonconformity.
15. The proposal is an overuse of the property.
16. The Ward City Councilor, one of three City Councilors-at-Large and the Ward 5 City Councilor are opposed to the proposal.
17. There is no public support of the proposal.
18. The proposal is more detrimental to the neighborhood.

DECISION (Case #20-15): On November 19, 2020, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition for a special permit.

RECORD of VOTES (Case #20-15): On November 19, 2020, the vote on the motion to deny the petition was six in favor, three opposed, and the motion passed (6-3):

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

Motion by Fitzgerald, seconded by Antonucci.

[Absent: Chuha, Gray.]

I hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: _____
Michelle A. Romero, City Planner