



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

RECEIVED

2014 SEP 12 A 11: 28

CASE NUMBER 14-12

LOCATION of SUBJECT PROPERTY 54-72 Summer Street, Malden, MA

NAME of PETITIONER Chao Yu

NAME of OWNER 54-72 Summer Street LLC

DATE of PUBLIC HEARING September 10, 2014

DATE of DECISION September 10, 2014

CITY CLERK'S OFFICE  
MALDEN, MASS.

DATE of FILING DECISION with CITY CLERK September 12, 2014

DATE of NOTIFICATION to BUILDING INSPECTOR September 12, 2014

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 2, 2014

*[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 #14-12)

1. Petitioner is the tenant and business operator, Chao Yu, 224 Kennedy Drive, #609, Malden, MA.
2. Property owner is 54-72 Summer Street LLC, 105A Ferry Street, Malden, MA, represented by Andreas Tsitos, 4 Ravine Road, Winchester, MA.
3. The petition seeks a special permit under §§300.3.4.12 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to alter and change use of a portion of a preexisting nonconforming property for restaurant use in a Neighborhood Business zoning district.
4. The following plans and information were submitted in support of the petition: floor plan of first floor and basement, untitled, undated, unsigned; "Prepare Area Elevation View," untitled, unsigned, undated; and a list and specifications sheets of kitchen equipment, untitled, unsigned, undated.
5. Petitioner requested a waiver of filing requirements regarding updated site plan, floor plans of the entire building, building exterior elevations because no changes to these areas are proposed.
6. Petitioner requested a waiver of filing requirements for a traffic impact study, Section E.9, *Rules and Procedures of Malden Planning Board*, and the Planning Board considered the request at a public meeting on August 13, 2014.
7. The public hearing complied with statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #14-12):

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a four-story building containing fifty-two residential apartments and eleven storefronts.
2. The subject of the petition is the storefront known as and numbered 62 Summer Street, approximately 600 square feet in size, located on the first floor of the building.
3. The proposal is convert the premises to a coffee and tea shop with seating for twelve (12).
4. The proposed kitchen comprises approximately one quarter of the premises and contains limited cooking equipment and food preparation facilities, namely, tea dispensers, coffee brewer, blender, shaker machine, cup sealing machine, induction cooktop, microwave, sandwich grill, ice machine, ice bin, refrigerators, veggie sink, and cleaning sinks.
5. The proposal includes a bakery display, cashier counter and restroom; and 90-square foot storage room in the basement.
6. The interior of the subject premises is being renovated, and no other changes to the building or site plan are proposed.
7. The property is located in a Neighborhood Business zoning district.
8. The subject premises is currently vacant and was most recently occupied for general offices.
9. The proposed restaurant use is allowed by special permit in this district, per §§300.3.4.12 of the Ordinance.
10. The other storefronts on the first floor are occupied by various businesses, namely, retail sales and services, general offices, and building, construction & contracting, which are allowed by right or by special permit, or are preexisting nonconforming uses, per §§300.3 and 700.1 of the Ordinance.
11. The second, third and fourth floors of the building are occupied for multifamily residential dwelling use, which is a preexisting nonconforming use, per §§300.3.2.6 and 700.1 of the Ordinance.
12. In December 2013, the Planning Board granted a special permit in Case #13-38 to convert nine rooming house units to studio residential dwelling units, thereby increasing the total number of multifamily residential dwelling units to fifty-two; and completion of this project is pending this week.
13. The direct abutters to the north and south are multifamily dwellings, and to the west, four-family dwellings and a multifamily dwelling; and to the east, on the other side of Summer Street, are a restaurant and multifamily dwelling containing six dwelling units and three vacant storefronts.
14. The Residence A zoning district abuts the property to the west; the Neighborhood Business zoning district continues to the north, east and south; and the Central Business zoning district begins less than 100 feet to the south.
15. Surrounding land uses are residential, a public parking garage, county courthouse and rapid transit/commuter rail station.
16. The proposed restaurant is not in conflict with surrounding land uses.

17. The property grossly violates dimensional controls for all yard setbacks and density and is preexisting nonconforming, per §§400 and 700.1 of the Ordinance.
18. The proposal maintains the existing nonconformities and creates no new violations of dimensional controls.
19. The current principal uses of the property require a total of 140 onsite offstreet parking spaces: 104 for the multifamily residential use and 36 for the business uses, per §§500.1 and 500.2.18 of the Ordinance.
20. The site plan depicts 27 parking spaces on-site, located in a paved lot at the rear (western) side of the building, accessed via a driveway off Maple Street and conforming as to layout and snow storage, per §500.2 of the Ordinance.
21. The existing parking deficiency, 113 spaces or 81%, is preexisting nonconforming, per §700.1 of the Ordinance.
22. The proposal requires seven parking spaces and increases the total parking required for all principal uses of the property to 145 spaces, per §§500.1.4 and 500.2.18 of the Ordinance.
23. The proposal increases the parking deficiency to 118 spaces, however, maintains the average nonconformity, 81%.
24. Petitioner will have use of one parking space in the onsite parking lot located behind the building.
25. There is on-street parking located immediately adjacent to the property, restricted to one-hour by posted by signage.
26. The increase in violations of parking requirements will not be more detrimental to the neighborhood.
27. The property is located less than 600 feet from the Malden Center MBTA Rapid Transit and Commuter Rail Station.
28. Petitioner expects most customers to be pedestrians, who "pass-by," to and from the courthouse and commuters.
29. Petitioner expects an average capacity of twelve patrons at one time.
30. Petitioner's business typically will have three employees present.
31. Proposed hours of operation are 6 am to 9:30 pm, Monday to Friday and 11:30 a.m. to 10 pm, Saturday and Sunday.
32. Petitioner's business will offer take-out service but no table/wait service and no delivery service.
33. The City's peer review recommends granting petitioner's request for a waiver of Section E.9, *Rules and Procedures of Malden Planning Board* (Filing Requirements, Traffic Impact Study), as described in correspondence dated July 31, 2014 and email dated August 6, 2014 from BETA Group, Inc.
34. The traffic generated by the proposal will not adversely impact surrounding streets or create a traffic or safety hazard.
35. Petitioner's business will prepare beverages, namely, coffee, teas, milk tea and fresh fruit juices and smoothies.
36. Petitioner's business will serve bakery items that are purchased wholesale.
37. Petitioner's business will involve limited food preparation and cooking, namely, heating pre-prepared sandwiches on the sandwich grill/panini press and using the induction burner to boil/make the "bubbles" for the milk/bubble tea.
38. Petitioner will dispose of trash in existing dumpsters, located in an enclosure in the parking lot at the rear of the building; currently, there are two roll-out dumpsters, emptied twice weekly; capacity and frequency will be increased if necessary.
39. Petitioner's business will use disposable cups and plates.
40. The Malden Board of Health reviewed petitioner's plans, in accordance with the state Sanitary Code for Food Establishments and Food Code, and issued a Plan Review dated August 31, 2014, which contains 31 requirements, with which petitioner must comply prior to the issuance of a Permit to Operate a Food Service Establishment.
41. The Ward City Councilor supports the proposal, and there is no public opposition to the proposal.
42. The proposal is in the interest of the common good.
43. The proposal will not be more detrimental to the neighborhood.

DECISION (Case #14-12):

On August 13, 2014, the Planning Board moved to grant a waiver of filing requirements for a traffic impact study, and the motion passed.

On September 10, 2014, pursuant to the foregoing Findings of Fact, the Planning Board moved to grant a special permit subject to the following six (6) conditions, and the motion passed: 1) All conditions of special permit granted in Case #13-38 shall remain in full force and effect; 2) The restaurant may not offer delivery service; 3) Any sale or service of alcoholic beverages is prohibited; 4) Any increase in seating, expansion of kitchen facilities or installation of additional equipment shall require an amendment of this special permit; 5.) All signs require Sign Design Review and a building permit; and 6) Compliance with Board of Health Plan Review dated August 31, 2014.

RECORD of VOTES (Case #14-12):

The vote on the motion to grant a waiver of the filing requirements for a traffic impact study was 8 in favor, none opposed:  
Antonucci, yes; Chiu, yes; Chuha, yes; Danca, yes; Ferratusco, yes; Hayes, yes; Lawhome, yes; Ioven, yes.

The vote on the motion to grant a special permit with conditions was 9 in favor, none opposed:  
Antonucci, yes; Billings, yes; Chuha, yes; Cipriano, yes; Danca, yes; Hayes, yes; Lawhome, yes;  
Mzaouaak, yes; Ioven, yes.