



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

CASE NUMBER 21-04

LOCATION of SUBJECT PROPERTIES 91-95 Main Street and 97-101 Main Street, Malden, MA

NAME of PETITIONER and OWNER 91-101 Main Street LLC

DATE of PUBLIC HEARING April 28, 2021

DATE of DECISION April 28, 2021

DATE of FILING DECISION with CITY CLERK May 4, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR May 4, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 24, 2021

[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 #21-04):

1. The subject properties are known as and numbered, 91-95 Main Street and by City Assessor's Parcel Identification #078 354 405A and known as and numbered, 97-101 Main Street and by City Assessor's Parcel Identification #078 354 405B.
2. Petitioner is the property owner of both properties, 91-101 Main Street LLC, 148 Main Street, Malden, MA, c/o Andreas Tsitos, 12 McCall Road, Winchester, MA.
3. At the public hearing, petitioner was represented by its contractor, Scott M. Fitzpatrick, Scott M. Fitzpatrick & Son, LLC, 67 Maplewood Street, Malden, MA.
4. A single petition was filed for a proposal involving both properties: regarding 91-95 Main Street, permit application #CMID-034537-2020 seeks a special permit under Section 12.28.010.D.1 of Chapter 12, Revised Ordinances of 2020 (the "Ordinance") to allow the alteration, structural change and change of use of preexisting nonconforming property in the Residence A zoning district to a multifamily dwelling; and regarding 97-101 Main Street, permit application #CMID 036483-2020 seeks a special permit under Sections 12.12.030 and 12.28.010.E of the Ordinance to allow the alteration, structural change, extension and change of use of preexisting nonconforming property in the Neighborhood Business zoning district to a multifamily dwelling.
5. The following plans and information were submitted with the petition: "Certified Plot Plan 91-101 Main Street, Malden, MA. (Middlesex County)," dated August 4, 2018, prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA; and set of plans, "Proposed Renovations to 91-101 Main Street Malden, MA," dated January 23, 2020, prepared by JMK Designs, Bedford, NH, that includes Existing Plans for First and Second Floor, Existing Elevations (front, right, left, rear) and Proposed Plans for First and Second Floor.
6. In accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, M.G.L. c. 30A, §18, Governor's March 23, 2020 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, and Governor's COVID19 Order No. 63, the public hearing was held virtually, and petitioner and the public attended and participated remotely via technological means.
7. The public hearing on the petition was held concurrently with the public hearing on a related petition filed in permit application #CMID-032572-2020 regarding a nearby property, 11 Cross Street, seeking a special permit under Section 12.12.030 of the Ordinance to allow an offsite parking facility in the Neighborhood Business zoning district, for which the Planning Board rendered a decision in Case #21-05.
8. 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 #21-04):

The City of Malden Planning Board finds the following facts:

1. The subject properties are two abutting parcels, currently and historically owned by the same owner; each parcel is the site of one, two-story building; the buildings are separated on the first floor by a "fire wall," which is a shared wall or "party wall;" and under the proposal, an addition will join the buildings into one building.
2. The combined first floors consist of six storefront units and currently, two are occupied for salon & beauty supply businesses; one, for a salon/barbershop; one for adult foster care offices; and two are vacant; and the second floor consists of two vacant units, one previously occupied for offices and one for a karate studio.
3. The proposal is to construct an addition to join the two existing second floors to create one second floor with 5,282 square feet; with the new, combined second floor to be used for a total of nine dwelling units, ranging from 342 to 600 square feet in size, and consisting of seven units with one bedroom, and two studio units.

4. Under the proposal, business use of the first floors will continue.
5. The property 91-95 Main Street is located in the Residence A zoning district.
6. Regarding 91-95 Main Street, the prior recreation for gainful business use of the second floor and existing and proposed continued retail services and retail sales uses of the first floor are preexisting nonconforming uses that are prohibited in this district and may predate the current Ordinance or were allowed by special permit, per §§12.12.030 and 12.28.010.A of the Ordinance; and the proposed multifamily dwelling, up to three stories, use of the second floor, is prohibited in this district, however, may be allowed by special permit as a change of use of a preexisting nonconforming use to a residential use, per §§12.12.030 and 12.28.010.D of the Ordinance.
7. The property 97-101 Main Street is located in the Neighborhood Business zoning district.
8. For 97-101 Main Street, the prior general office use of the second floor and existing and proposed continued general office and retail services uses of the first floor are allowed in this district; and the proposed multifamily dwelling, up to three stories, use is allowed by special permit in this district, per §12.12.030 of the Ordinance.
9. Considering both properties combined, the direct abutter to the south is a two-family dwelling; to the east, a furniture manufacturing business; to the west, on the other side of Main Street, various businesses, including retail sales and services, convenience store, some with multifamily residential uses above; and to the north, on the other side of Cross Street, a vacant storefront, formerly used for retail sales and service.
10. Surrounding land uses are business, residential and Bell Rock Park.
11. The subject properties are considered preexisting nonconforming, and considering both properties combined, the proposal exacerbates existing dimensional violations of lot area from 31% to 63%, front side yard setback from 20-50% to 73-83%, and side yard setbacks from 94 to 97%; and creates new, gross violations of density, namely, 49%, and open space, namely, 100% deficiency, per §12.16.010 of the Ordinance.
12. The proposal requires a total of thirty parking spaces, namely, nine parking spaces for the proposed residential use, or one space per bedroom, and twenty spaces for the business use of the first floors, per §§12.20.010 and 12.20.02.15 of the Ordinance.
13. There is no parking on-site at the subject properties, and the properties are considered preexisting nonconforming, per §12.28.010.A of the Ordinance.
14. Nine parking spaces for the proposed dwelling units are proposed to be provided at the proposed parking lot at 11 Cross Street.
15. At the public hearing, petitioner stated it will make improvements to roadway paving, sidewalks and trees.
16. At the public hearing, petitioner stated one of the one-bedroom units would be designated as affordable housing.
17. Outside storage of various debris and trash in the passageway behind the buildings is an on-going issue.
18. The proposal increases the gross floor area of the second floor of the buildings by 2,108 square feet or 66%, and the overall size of the existing buildings by 2,233 square feet or 27%.
19. The proposal is an overuse of the subject properties.
20. The Ward 1 City Councilor, one of the three City Councilors-at-Large, the owner of an abutting property and one Malden resident are in favor of the proposal.
21. There is no public opposition to the proposal.
22. One residential abutter expressed concerns regarding pedestrians in that area.
23. The proposal would be more detrimental to the neighborhood.
24. The proposal is not in the interest of the common good.

DECISION (Case #21-04):

On April 28, 2021, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition.

RECORD of VOTES (Case #21-04):

On April 28, 2021, the vote on the motion to deny the petition was five in favor, four opposed, and the motion passed (5-4):

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

Motion by MacCuish, seconded by Hayes. [Absent: Ferguson, 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