



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

CASE NUMBER 21-06

LOCATION of SUBJECT PROPERTY 304 Lynn Street, Malden, MA

NAME of PETITIONER and OWNER Premium Properties, Inc.

DATE of PUBLIC HEARING May 12, 2021 DATE of DECISION May 12, 2021

DATE of FILING DECISION with CITY CLERK May 18, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR May 18, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT June 7, 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 #21-06):

1. The subject property is known as and numbered 304 Lynn Street and by City Assessor's Parcel Identification #166 550 017.
2. Petitioner is the property owner, Premium Properties, Inc., 158 Cranbrook Drive, Holden, MA 01520.
3. At the public hearing, petitioner was represented by Gary Baker, 35 Cheney Street, Needham, MA.
4. The petition filed in Permit Application #RES 036992-2021 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 from general offices and single-family dwelling to two-family dwelling.
5. The following plans were submitted with the petition: site plan, "PLAN OF LAND located at 304 Lynn Street Malden, MA PREPARED FOR: PREMIUM PROPERTIES, INC.," dated March 28, 2021, prepared by Thomas P. Bernardi, P.L.S., Massachusetts Survey Consultants, Gloucester, MA; and set of plans, "Alteration & Change of Use to One unit: 304 Lynn Street, Malden, MA," dated July 27, 2020, prepared by Thomas Bakalars, Reg. Architect, Thomas Bakalars Architects, P.C., Boston, MA, that includes: Title sheet with Building Summary, and Existing & Proposed First Floor Plan.
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 were held virtually and petitioner and 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 #21-06): The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story single-family dwelling with an attached single-story commercial space/former storefront, currently vacant and most recently used for general offices.
2. The proposal is to renovate and convert the interior of the entire commercial space, approximately 787 square feet in size, to a residential dwelling unit with one bedroom; and to maintain the existing three-bedroom dwelling unit, resulting in a two-family residential dwelling use of the property.
3. The property is located in the Residence A zoning district.
4. The single-family dwelling use is allowed by right in this district; and the general office use is prohibited in this district and was allowed by special permit in Case #16-08 as a conversion of a preexisting nonconforming use, namely, retail sales/Florist, per §12.28.010.D.3 of the Ordinance.
5. The proposed two-family dwelling use is prohibited in this district and may be allowed by special permit as a conversion of a preexisting nonconforming use, per §12.28.010.D.1 of the Ordinance.
6. The direct abutters to the north, east and west are single-family dwellings; and to the south, on the other side of Lynn Street, are single-family dwellings and the Holy Cross cemetery.
7. Surrounding land uses are residential, and mostly all single-family dwellings, with an occasional two or three-family dwelling.

8. The proposal eliminates a nonconforming business use of property in the Residence A zoning district and converts the property to entirely residential use.
9. As occupied for residential and business use, the building on the property grossly violates most dimensional controls, except frontage, rear yard setback, lot coverage and height, and the property is considered preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
10. The proposal increases the existing nonconformities of lot area from 40 to 52%, density from 20% to 25%, and one side yard setback; maintains the front and rear yard setback violations; and creates new violations of frontage and side yard setback, per §§12.16.010 and 12.16.020 of the Ordinance.
11. The site plan labels the rear yard, "Open space," however, it is entirely paved, used for parking and does not comply with certain "Usable Open Space Requirements for All Districts," namely, that usable open space shall not be used or considered for off-street parking or vehicular access or egress, and that all open space shall be pervious, visible to the public and a minimum of 50% shall be located in yard setback areas, where setbacks are required, per §12.16.080 of the Ordinance.
12. The existing business and residential use of the property requires a total of five parking spaces, per §§12.20.010 and 12.20.020.15 of the Ordinance.
13. Under the proposal, the two-family dwelling with a total of four bedrooms requires four spaces, namely, one space per bedroom, per §§12.20.010 and 12.20.020.15 of the Ordinance.
14. Five parking spaces are proposed in the existing two driveways and a paved area of the front yard.
15. The proposed parking layout is nonconforming regarding parking more than two vehicles in tandem configuration, per §12.20.020.B of the Ordinance.
16. Currently, the majority of the front yard, both side yards and the entire rear yard are paved for parking, and the property does not comply with landscaping requirements that require no more than 50% of the front, side and rear yards to be paved, per §12.20.020.17 of the Ordinance.
17. The lawn was removed and entire rear yard paved over, after owner purchased the property in 2016.
18. The slats on the chain link fencing along the eastern side are in need of repair or replacement.
19. The site plan contains an inaccurate note, "Existing Building (Dashed) to be razed 696 +/- SF," which refers to the greenhouse that was demolished in 2016.
20. There is no public support of the petition.
21. There is no public opposition to the petition.
22. As modified by the conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

DECISION (Case #21-06): On May 12, 2021, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following seven conditions: 1) All development shall be as per plans, except as modified by these conditions; 2) Basement may be used for storage, laundry and utilities only, and may not be used for any bedroom or other residential living space; 3) The maximum number of bedrooms is four (4); the attic may not be used as finished living space, including bedrooms; 4) Paved areas shall be limited to two side driveways and front parking area depicted on the plan; 5) No more of the front yard may be paved; remove pavement from the rear yard (from building to rear property lines) and install and maintain landscaping, at minimum, of a single area of 1,000 SF; 6) Repair and/or replace sidewalks adjacent to the property, subject to satisfaction of DPW Director; and 7) Repair/replace fencing and/or slats in chain link fence on eastern side.

RECORD of VOTES (Case #21-06): The vote on the motion to grant a special permit with seven conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Ferguson, yes; Fitzgerald, yes; Gray, yes; Hayes, yes; Henry, yes; Soucy, yes; Ioven, yes.

Motion by Soucy, seconded by Antonucci. [Absent: Gebreselassie, MacCuish.]

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

By: 
Michelle A. Romero, City Planner-