



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

CASE NUMBER 21-11

LOCATION of SUBJECT PROPERTY 272-274 Cross Street, Malden, MA

NAME of PETITIONER and OWNER Iwano Investments LLC

DATES of PUBLIC HEARING September 8, 2021 and October 13, 2021

DATE of DECISION October 13, 2021

DATE of FILING DECISION with CITY CLERK October 21, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR October 21, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT November 10, 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 #21-11):

1. The subject property is known as and numbered, 272-274 Cross Street and by Assessor's Parcel #084 405 527.
2. The petitioner is the property owner, Iwano Investments LLC, 399 Ferry Street, Unit B, Malden, MA 02148.
3. At the public hearings, petitioner was represented by its attorney, Thomas P. Callaghan, Jr., One Centre Street, Malden, MA.
4. The petition filed in permit application # CMID-038087-2021 seeks a special permit under Section 12.12.030 of Chapter 12, Revised Ordinances of 2020 (the "Ordinance"), to alter, structurally change, extend and change use of a preexisting nonconforming property in the Residence A zoning district for multifamily residential dwelling use, up to three stories.
5. The following plans were submitted in support of the petition: set of plans, "272-274 Cross St, Malden 272-274 Cross St. Malden, MA 02148," dated June 17, 2021, prepared by Flow Design Architects, including Existing Architectural Site plan, Existing Photos, Existing Floor Plans, Existing Elevations, Existing 3D Views, Proposed Site Plan, floor plans for Proposed Basement, Proposed First Floor, Proposed Second Floor and Proposed Third Floor, Proposed Renders and Proposed Elevations; site plan, "Plan of Land #272-274 Cross Street Malden, MA P.I.D. 084-405-527 Showing Proposed House Addition, Owned by Iwano Investments, LLC," dated February 10, 2021, prepared by John J. Russell, P.L.S., Reading, MA; and site plan, "Open Space Diagram," dated September 28, 2021, prepared by Flow Design Architects.
6. On September 8, 2021, the Planning Board held a public hearing, received testimony from petitioner and members of the public, and tabled the hearing and its decision, to allow petitioner to submit the required site plan that depicts open space.
7. On October 13, 2021, the Planning Board reopened the public hearing, received testimony from petitioner and members of the public and rendered a decision.
8. Pursuant to the Demolition & Alteration Delay Ordinance, Section 4.24, City Ordinances of 2020, the Historical Commission made a determination on July 22, 2021 that the existing single-story accessory building may be demolished without delay.
9. The public hearings complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11, and in addition, the notice of the second public hearing on October 13, 2021 was sent to abutters.

FINDINGS of FACT (Case #21-11):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½ story, three-family dwelling; a single-story accessory building, approximately 270 square feet in size at the front of the lot, currently vacant and originally used as a storefront; and a large shed in the rear yard.
2. The proposal is to expand all floors of the existing dwelling by constructing three-story additions at the northeastern (rear) corner and the southern (front) side and a three-story exterior staircase at the northeastern (rear) corner; to expand the attic into a full third floor; and to convert the property from a three-family dwelling to a multifamily dwelling with five units.
3. The proposal includes demolition of the accessory building at the front of the lot; removal of the shed from the rear yard; and removal of the two-story staircase at the northeastern (rear) corner of the dwelling, the two-story front porches/decks at the southern (front) side of the dwelling, and the stairs at the northwestern (rear) corner.
4. The existing dwelling contains 4,283 square feet, comprised of 1,146 square feet in the basement, 835 square feet in the attic, and 2,302 square feet for the three dwelling units, having a total of six bedrooms and configured as one unit on the first floor with 1,180 square feet and four bedrooms; and two units on the second floor, one with 622 square feet, and one bedroom and one with 500 square feet and one bedroom.
5. Under the proposal, the expanded dwelling will contain 5,354 square feet, comprised of 1,146 square feet in the basement, and 4,208 square feet for the proposed five dwelling units, containing a total of eight bedrooms and configured as follows: one unit on the first floor containing 1,378 square feet, two bedrooms and an "office/study room;" two units on the second floor, one containing 761 square feet and two bedrooms, and one containing 654 square feet and one bedroom; and two units on the third floor, one containing 761 square feet and two bedrooms, and one containing 654 square feet and one bedroom.
6. The proposal increases the total number of bedrooms by two or 33%, the total building space by 1,071 square feet or 25%, and the total space used for residential units by 1,906 square feet or 83%.
7. The proposed "office/study room" in the proposed first floor unit will not be used as an additional bedroom.
8. The property is located in the Residence A zoning district.
9. The three-family dwelling use is prohibited in this district and considered preexisting nonconforming, per §§12.12.030 and 12.28.010 of the Ordinance.
10. The proposed multifamily dwelling use, up to three stories, is prohibited in this district, but may allowed by special permit as a conversion of a preexisting nonconforming use, per §12.28.010.D of the Ordinance.
11. The original business use of the single-story accessory building is considered an abandoned preexisting nonconforming use because not used for more than two years, per §12.28.010.H of the Ordinance.
12. Direct abutters to the north are multifamily dwellings of five units and thirteen; to west, a two-family dwelling; to the south, a two-family dwelling; and to the east, on the other side of Cross Street, two-family dwellings.

13. Surrounding land uses are residential, a restaurant and Lincoln Commons Park.
14. The principal building predates the Ordinance; grossly violates dimensional controls for lot area and one side yard setback; is deficient of open space and density; and is preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
15. Both accessory buildings, the front building and the rear shed violate yard setback requirements, and the front building predates the Ordinance and is considered preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
16. The proposal maintains the existing lot area deficiency of 57%; eliminates density and open space deficiencies; and exacerbates the existing front yard setback violation from 10% to 40% and existing side yard setback violation from 66% to 75%, per §12.16.010 of the Ordinance.
17. The proposal complies with the open space requirement to provide a total 1,250 square feet of open space, or 250 square feet per unit, per §12.16.010 of the Ordinance; under the proposal, approximately 2,359 square feet of open space, or 471 square feet per unit, will be provided in the front yard and side yards; areas labeled, “not usable,” consist of 825 square feet and do not comply with minimum requirements regarding dimensions for usable open space, per §12.16.080 of the Ordinance.
18. The three-family dwelling complies with applicable parking requirements to provide a total of total 4.5 spaces, or 1.5 space per unit per §12.28.010.A of the Ordinance; no parking is calculated for the accessory building, which has no legal use.
19. Currently, parking is provided in bricked and gravel areas in the rear yard and the paved driveway that runs along the western side of the dwelling and more than 50% of one side yard is paved; the existing parking layout does not comply with requirements and is considered preexisting nonconforming, per §§12.20.020.17 and 12.28.010.A of the Ordinance.
20. The proposal complies with parking requirements to provide a total of eight parking spaces, or one space per bedroom, per §12.20.010 of the Ordinance; eight parking spaces are proposed in the parking area to the rear of the dwelling, all configured as head-on, six located along the northern property line and two along the eastern property line; the proposal maintains the existing driveway and paves most of the rear yard for parking and access; and the yard landscaping/not paving regulation does not apply to multifamily dwellings, per §12.20.020.17 of the Ordinance.
21. The required snow storage area is provided in the northeastern corner of the rear yard, per §12.20.020.11 of the Ordinance.
22. Screening of the proposed multifamily parking area from abutting residential properties along the western, northern and eastern property lines is required, per §12.20.040.A of the Ordinance; existing wooden fencing along northern and eastern property lines is broken, in poor condition and requires replacement.
23. The Ward 7 City Councilor met with the petitioner and neighbors; the Ward Councilor states that the neighborhood supports the proposal; and the Ward Councilor and two residential abutters testified in favor of the proposal.
24. There is no public opposition to the proposal.
25. As modified by the conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

DECISION (Case #21-11):

On September 8, 2021, a Planning Board member made a motion to grant the petition for a special permit; the motion was seconded; the motion was withdrawn after deliberations regarding possible conditions to the special permit; and no vote was taken. *[Motion by Henry, seconded by Chuha; second withdrawn by Chuha, motion withdrawn by Henry.]*

On September 8, 2021, the Planning Board tabled the public hearing and its decision to allow petitioner opportunity to prepare and submit the required site plan that depicts open space; and directed that notice of the tabled public hearing be sent to abutters.

On October 13, 2021, the Planning Board granted a special permit subject to the following eight conditions:

1. All development shall be as per plans unless modified by these conditions.
2. The maximum total number of bedrooms is eight (8).
3. Install and maintain vinyl privacy fencing along western, northern and eastern property lines.
4. Install and maintain all open space, including labeled, “not usable,” in accordance with Open Space Diagram dated September 28, 2021.
5. Install and maintain on-site stormwater management/drainage system, as per plan, subject to City Engineer’s review, approval and reasonable modifications requested.
6. Outside storage of any kind is prohibited, except covered trash and recycling that complies with City ordinances.
7. Install, repair or replace sidewalks, driveways and perform necessary incidental work adjacent to the property to the reasonable satisfaction of the DPW Director.
8. Basement shall be for storage, utilities and laundry only.


RECORD of VOTES (Case #21-11):

On September 8, 2021, the vote on the motion to table the public hearing was nine in favor, none opposed; motion passed (9-0):

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.
[Motion by Henry, seconded by Chuha. Present, Not Voting: Gray, Ferguson].

On October 13, 2021, the vote on the motion to grant a special permit with eight conditions was eight in favor, none opposed, and the motion passed (8-0):

Ferguson, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.
[Motion by MacCuish, seconded by Ferguson. Absent: Antonucci, Chuha, Fitzgerald].

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