



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

CASE NUMBER 21-14

LOCATION of SUBJECT PROPERTY 47 Francis Street, Malden, MA

NAMES of PETITIONERS and OWNERS Changlon Lin and Changdian Lin

DATES of PUBLIC HEARING May 12, 2021 and December 8, 2021

DATE of DECISION December 8, 2021

DATE of FILING DECISION with CITY CLERK December 21, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR December 21, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 10, 2022

*[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 #21-14):**

1. The subject property is known as and numbered, 47 Francis Street and by Assessor's Parcel #012 051 109.
2. Petitioners are the property owners, Changlon Lin and Changdian Lin, 50 Francis Street, Malden, MA 02148.
3. Petitioners were represented by Architect Kui Kyle Xue, Up Design Build, 14 Emerald Street, Newton, MA, at the public hearing on May 12, 2021, and by Attorney Christopher G. Fallon, 99 Highland Avenue, Malden, MA, at the public hearing on December 8, 2021.
4. The petition filed in permit application # CMID 035946-2020 seeks a special permit under Title 12, Chapter 28, Section 010(D), Code of the City of Malden (the "Ordinance"), to alter, structurally change and extend a preexisting nonconforming property and use in the Residence A zoning district, a three-family dwelling.
5. The following plans were submitted in support of the petition: site plan, "Plot Plan Existing Conditions Parcel ID# 132-51-109 47 Francis Street Malden, MA," dated November 9, 2020, prepared by Timothy R. Callahan, P.L.S., Hawk Consulting, Inc., Douglas, MA; fire plan, "2nd & 3rd Flr- Fire Pro, Job: 3 Unit Residence 47 Francis St. Malden, MA NFPA 13R Fire Sprinkler Addition," dated November 7, 2020, prepared by MetroSwift Sprinkler Corp, Peabody, MA; and set of plans, "47 Francis St Malden, MA," dated October 15, 2021, prepared by Kui Xue, Reg. Architect, Newton, MA, that contains demolition plans for Basement, First Level, Second Level, Attic Level, Roof ; proposed floor plans for Basement, First Floor, Second Floor, Attic Level, Roof plan; new and existing elevations for front - Francis St, west, rear/north, Beltran St; Proposed and Existing 3D Views; Proposed and Existing Section views; and framing plans for First Floor, Second Floor, Attic Level, Roof.
6. On May 12, 2021, the Planning Board opened the public hearing, received no public testimony and tabled the public hearing, to allow petitioner to obtain review and determination of the Malden Historical Commission pursuant to Title 4, Chapter 24, Code of the City of Malden, the Demolition & Alteration Delay Ordinance.
7. Pursuant to Title 4, Chapter 24, Code of the City of Malden, the Demolition & Alteration Delay Ordinance, the Malden Historical Commission made a determination on June 17, 2021 that the existing building is a Preferably Preserved Building and rendered a decision on November 8, 2021 to allow the proposed alterations of the building to proceed prior to the expiration of the 12-month delay period, subject to owner's compliance with the following requirements: the alterations shall maintain the roofline with gables, maintain shingle-style siding and preserve architectural features, as depicted and in accordance with the plans, "47 Francis Street Malden, MA," dated October 15, 2021 prepared by Kui Xue, Registered Architect, Up Design & Building LLC, Newton, MA.
8. Petitioner revised the proposal and plans to incorporate the recommendations and requirements of the Historical Commission, in accordance with Title 12, Chapter 12, Section 010(C) of the Ordinance.
9. On December 8, 2021, the Planning Board reopened and held the public hearing and rendered a decision.
10. 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 held on December 8, 2021 was mailed to abutters.

**FINDINGS of FACT (Case #21-14):** The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½ story, three-family dwelling that is currently vacant and under renovation, with the interior completely gutted; and an accessory garage.
2. The proposal is to renovate the interior of the building; construct dormer additions to the attic/third floor; remove two stairs with landings and basement entry dormer at the rear, northern side; install a fire sprinkler system; and to continue the three-family dwelling use of the property.
3. The existing dwelling was most recently used for three dwelling units, with an approximate total 3,000 square feet and six bedrooms, comprised of one unit on the first floor with approximately 1,125 square feet; a second unit with space on the first and second floors, containing approximately 750 square feet; and a third unit with space on the second floor, containing approximately 1,125 square feet; and basement and attic used for storage.

4. Under the proposal, the expanded dwelling will contain a total 4,500 square feet, comprised of three units, one each of the first, second and third floors, and each unit will have two bedrooms and contain 1,500 square feet.
5. Under the proposal, the basement will be used for storage and utilities.
6. The proposed room in the dwelling units labeled, "office," will not be used as an additional bedroom.
7. The property is located in the Residence A zoning district.
8. The three-family dwelling use was allowed by variance granted in 1962; the use is prohibited in this district and considered preexisting nonconforming, per §§12.12.030 and 12.28.010 of the Ordinance.
9. An office in a dwelling unit may be used only as a home occupation, per §12.28.030 of the Ordinance.
10. The direct abutter to the north is a single-family dwelling; to the west, a three-family dwelling; to the east, on the other side of Beltran Street, single-family dwellings; and to the south, on the other side of Francis Street, a single-family dwelling and a two-family dwelling; and on the opposite corner, a single-family dwelling.
11. Surrounding land uses are residential.
12. The dwelling building predates the Ordinance; as a three-family, grossly violates the current dimensional control for lot area and does not conform to the current dimensional controls for front and rear yard setbacks and density; and is preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
13. The proposal does not increase or create any new violations of dimensional controls; reduces the rear yard setback violation; and maintains all other existing nonconformities.
14. Existing lawn/grass and landscaped areas at the front yard and both side yards exceed the required amount of open space and appear to comply with usable open space requirements, per §12.16.080 of the Ordinance.
15. The property complies with applicable parking requirements to provide a total 4.5 spaces, or 1.5 space per unit, per §12.28.010.A of the Ordinance; and although exempt, may also comply with current requirements to provide six spaces, or one space per bedroom, per §12.20.010 of the Ordinance.
16. Parking is currently provided in a gravel and dirt driveway at the northern and eastern sides of the dwelling, and one-car garage at the end of the driveway, with access via a curb-cut off Beltran Street, and in a nonconforming tandem configuration; the layout is considered preexisting nonconforming, per §12.28.010.A of the Ordinance.
17. The proposal maintains the same parking layout and does not increase or create any new nonconformities.
18. Petitioners revised the proposal and plans to incorporate the recommendations and requirements of the Malden Historical Commission to maintain the roofline with gables, maintain shingle-style siding and preserve architectural features.
19. There is no public support of the proposal.
20. There is no public opposition to the proposal.
21. As modified by the conditions of the special permit, the proposal is in the interest of the common good and will not be more detrimental to the neighborhood.

DECISION (Case #21-14):

On May 12, 2021, the Planning Board tabled the public hearing to allow petitioner to seek review of the proposal and determination of the Malden Historical Commission, pursuant to the Demolition & Alteration Delay Ordinance, and revise the proposal if necessary; and directed that notice of the tabled public hearing be sent to abutters.

On December 8, 2021, the Planning Board granted a special permit subject to the following four conditions:

1. All development shall be as per plans, except as modified by these conditions.
2. Maximum number of bedrooms in each unit is two.
3. Maintain front and side yard areas landscaped with lawn/grass.
4. Compliance with all requirements of Determination of Malden Historical Commission dated November 8, 2021, to maintain the roofline with gables, maintain shingle-style siding and preserve architectural features, which are incorporated herein by reference.

RECORD of VOTES (Case #21-14):

On May 12, 2021, the vote on the motion by Fitzgerald, seconded by Henry, to table the public hearing, 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.  
*[Absent: Gebreselassie, MacCuish].*

On December 8, 2021, the vote on the motion by Antonucci, seconded by Gebreselassie, to grant a special permit with four conditions, was eight in favor, none opposed, and the motion passed (8-0):

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

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