

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

CASE NUMBER 23-07

LOCATION of SUBJECT PROPERTY 89 Hancock Street, Malden, MA

NAME of PETITIONER and PROPERTY OWNER Eusebio F. Arruda

DATE of PUBLIC HEARING May 10, 2023

DATE of DECISION May 10, 2023

DATE of FILING DECISION with CITY CLERK May 18, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR May 18, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT June 7, 2023

[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 #23-07):

1. The subject property is known as and numbered 89 Hancock Street and by City Assessor's parcel identification number 079 355 514.
2. Petitioner is the property owner, Eusabio F. Arruda, 85 Hancock Street, Malden MA.
3. At the public hearing on May 10, 2023, petitioner was represented by his architect, Tyrone Yang, Yang Architects, LLC, 19 Pearson Avenue, Somerville, MA, and, also, petitioner represented himself.
4. The petition filed in permit application #CMID 056048-2023 seeks a special permit under Title 12, Chapter 28, Section 010(D)(1), Code of the City of Malden, to extend, structurally change, and alter a preexisting nonconforming use and property in the Residence A zoning district, namely, to construct dormer additions to the existing four-family residential dwelling.
5. The following plans were submitted in support of the petition: Site plan, "Plan of Land Located at 89 Hancock Street, Malden, MA," dated March 30, 2023, revised May 7, 2023, prepared by Thomas P. Bernardi, Professional Land Surveyor, Massachusetts Survey Consultants, Gloucester, MA; and set of plans, "Residential Renovation, 89 Hancock Street, Malden, MA 02148," dated March 31, 2023, prepared by Tyrone L. Yang, Registered Architect, Architectural Design, Yang Architects, LLC, Somerville, MA, that contains Existing Basement Plan (EX-100), Existing First Floor Plan (EX-101), Existing Second Floor Plan (EX-102), Existing Third Floor Plan (EX-103), Existing Front Elevation (EX-301), Existing Side Elevation (EX-302), Existing Rear Elevation (EX-303), Existing Driveway Side Elevation (EX-304), Proposed Third Floor (A-103), Proposed Front Elevation (A-301), Proposed Side Elevation (A-302), Proposed Rear Elevation (A-303), and Proposed Driveway Side Elevation (A-304).
6. 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 #23-07):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story dwelling, with an occupancy permit for four-family dwelling use, and an accessory garage, currently used for storage.
2. The proposal is to construct two "shed" style dormer to the attic/third floor on the northern side, and one "gable" style dormer to the attic/third floor on the southern side, and to renovate the interior of that floor.
3. The property will continue to be used as a four-family dwelling with a total of five (5) bedrooms.
4. The existing unit on the first floor has two bedrooms and 1,562 square feet; one existing second unit on the second floor has one bedroom and 525 square feet; another existing on the second floor has one bedroom and 520 square feet; and the existing fourth unit, on the attic or third floor, has one bedroom and 593 square feet.
5. With the proposed dormers, the unit in the attic/third floor will increase in size from 593 to 803 square feet.
6. The proposal increases the overall total living space in the dwelling from 3,200 square feet to 3,410 square feet, which is an increase of 210 square feet or 7% of total residential living space or 4% of the total building.
7. Under the proposal, no work is being performed in the basement, first floor or second floor.
8. Per petitioner, the second living room on the first floor is mislabeled on the floor plan and it is a dining room.
9. Under the proposal, the basement will continue to be used for storage and utilities.
10. The property is located in the Residence A zoning district.
11. The existing four-family use is prohibited in this district; predates the current Ordinance; and is considered preexisting nonconforming and exempt from compliance, per §§12.20.030 and 12.28.010 of the Ordinance.

12. The proposed extension of this preexisting nonconforming use may be allowed by special permit, per §12.28.010.D of the Ordinance.
13. Direct abutters are, to the north, a single-family dwelling; to the northwest and west, two-family dwellings; to the south, two single-family dwellings and a two-family dwelling; to the east, on the other side of Hancock Street, a single-family dwelling and a two-family dwelling.
14. Surrounding land uses are residential, namely, all single and two-family dwellings, with a nearby three-family dwelling and multifamily dwelling with five units.
15. The existing building on the property grossly violates dimensional controls for lot area and density; violates frontage and side yard setback requirements; predates the current Ordinance; and is considered preexisting nonconforming and exempt from compliance, per §§12.16.010 and 12.28.010.A of the Ordinance.
16. The proposal extends the preexisting nonconforming building, which may be allowed by special permit, per §12.28.010.D.1 of the Ordinance.
17. The proposal maintains all existing violations and creates no new violations of dimensional controls.
18. The four-family dwelling requires six spaces, or 1.5 parking space per unit, under applicable requirements; the property is considered preexisting nonconforming and, although exempt, complies with current requirements to provide five parking spaces, or one space per bedroom, per §§12.20.010 and 12.28.010.A of the Ordinance.
19. Six parking spaces will be provided on-site in the rear yard, with access via the existing driveway and existing curb cut on Hancock Street.
20. The parking layout depicted on the site plan is currently in existence; the layout does not comply with parking aisle widths and driveway width, is considered preexisting nonconforming and exempt from current requirements, per §§12.28.010.A and 12.20.020.B and C of the Ordinance.
21. Snow storage of 275 square feet is proposed in the rear yard, which exceeds the required amount, per §12.20.020.I.6 of the Ordinance.
22. The existing paving of the rear yard for parking and one side yard for the driveway will be maintained; this condition does not comply with the requirements for Landscaping of Yard Areas, per §12.20.020.I.12 of the Ordinance, appears to predate the current Ordinance and may be considered preexisting nonconforming and exempt from current requirements, per §12.28.010 of the Ordinance.
23. More than 50% of the front yard is currently paved for the driveway and an area of the yard has a gravel/compacted stone dust surface and appears to have been used for parking; under the proposal, petitioner intends to remove the gravel from the front yard and install a retaining wall and landscaping.
24. Petitioner intends to renovate the garage and use it for parking in the future.
25. Petitioner intends to renovate the exterior of the dwelling and install hardy plank siding.
26. Petitioner is a licensed contractor, and he will do most of the proposed work at the property.
27. According to petitioner, most of the construction materials and equipment currently being stored on-site in the rear yard are related to the proposed work to be done if this petition is granted.
28. The Ward 1 City Councilor is in support of the proposal.
29. Two residential abutters are in opposition to the proposal.
30. As modified by the conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

DECISION (Case #23-07):


On May 10, 2023, pursuant to the foregoing Findings of Fact, the Planning Board granted the petition for a special permit, subject to the following four conditions:

- 1) All development shall be as per plans, except as modified by these conditions.
- 2) The maximum number of bedrooms is five.
- 3) Basement may be used for storage, utilities, laundry; bedroom(s) and kitchen are not allowed.
- 4) Install and maintain all open space as lawn/grass and landscaped in yard areas, as per plan. Remove gravel and install lawn in front yard. Paving shall be limited to the driveway and parking areas shown on the plan.

RECORD of VOTES (Case #23-07):

On May 10, 2023, on the motion by Henry, seconded by Soucy, to grant the petition for a special permit, subject to four conditions, the vote was nine in favor, none opposed, and the motion passed (9-0):

Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Stone, yes; Verma, yes; Antonucci, yes. [*Chuha, Ioven, absent*].

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