



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 16-25

LOCATION of SUBJECT PROPERTY 170-172 Summer Street, Malden, MA

NAMES of PETITIONERS and OWNERS Okba and Lan Benarieb

DATE of PUBLIC HEARING November 9, 2016

DATE of DECISION November 9, 2016

DATE of FILING DECISION with CITY CLERK November 17, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR November 17, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT December 7, 2016

[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 #16-25):

1. Petitioners are the owners, Okba and Lan Benarieb, 13 Emerson Place, Melrose, MA.
2. The petition seeks a special permit under §700.1.3.1, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to extend a preexisting nonconforming use in the Residence A zoning district.
3. The following plans were submitted in support of the petition: "Multi-family Interior Alterations 170 Summer Street Malden, MA," (A-2), dated July 22, 2015, revised November 2, 2015, prepared by Chalernmpol Intha, Reg. Architect, G.B. Brothers Construction, Inc., Boston, MA (depict proposed second floor plan, proposed attic floor plan); "4-Family Interior Alteration 170 Summer Street Malden, MA," (EX-1 and EX-2), dated July 22, 2015, prepared by Chalernmpol Intha, Reg. Architect, G.B. Brothers Construction, Inc., Boston, MA (depict existing first floor plan, existing second floor and existing attic floor); "Site Plan for Okba & Lan Benarieb at 170-172 Summer Street Malden, MA," dated September 18, 2015, revised on September 28, 2016, prepared by William R. Dentremont, P.L.S., C.L.G. Associates, Salem, MA.
4. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #16-25):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story principal building used as a four-family dwelling and an accessory two-car garage.
2. The property is currently configured as a one-bedroom unit on the first floor, 670 square feet in size; a one-bedroom unit on the first floor, 980 square feet in size; a one-bedroom unit on the second floor, 512 square feet in size; and a three-bedroom unit on the second floor, 1,058 square feet in size.
3. The proposal is to renovate and finish the attic to expand the one-bedroom unit on the second floor to provide an additional 961 square feet of living area, comprised of two additional bedrooms, a family room, a second living room and a bathroom on the third floor; under the proposal, this unit would contain three bedrooms and increase from 512 to 1,473 square feet in size.
4. The proposal is also to replace old wooden windows with new, insulated, vinyl windows in three "sunrooms" or porches on the first floor; each of these sunroom/porches is part of, has exclusive access by and is included in the square footage of a different dwelling unit.
5. The property is located in the Residence A zoning district.
6. The four-family residential dwelling use is a preexisting nonconforming use that predates the current ordinance and is prohibited in this district, per §§300.3.2.3 and 700.1.1 of the Ordinance.
7. The proposal increases the habitable area by renovating and finishing the attic and installing insulated windows in the sunroom/porches, and thereby extends the nonconforming residential use, per §700.1.3.3 of the Ordinance.

8. The direct abutter to the west is a two-family dwelling; to the south, a two-family dwelling; to the east, on the other side of Summer Street, a single-family dwelling and a three-family; and to the north, on the other side of Bartlett Street, a multifamily dwelling.
9. Surrounding land uses are residential.
10. The principal building was constructed before 1965 and grossly violates most dimensional controls, including lot area by 59% and density by 35%; and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.
11. The current four-family dwelling use of the property requires a total of eight parking spaces, namely, two per dwelling unit, under the applicable Ordinance; the current use of the property is considered preexisting nonconforming and exempt from the current Ordinance that requires one space per bedroom, per §§500.1.2.3 and 700.1 of the Ordinance.
12. The proposal increases the required parking to ten parking spaces, namely, eight spaces for the existing residential use, and two spaces for the two new bedrooms, per §500.1.2.3 of the Ordinance.
13. The site plan depicts eight parking spaces: four spaces, in two sets of tandem, in an unpaved driveway, 17.6 feet in width, located to the south of the dwelling, with access via Summer Street; two head-on spaces, in the garage located at the southwestern corner of the lot, with access via an unpaved driveway, 16 feet in width, off Bartlett Street; and two tandem spaces, in an unpaved driveway, 16 feet in width, located to the west of the dwelling, access via Bartlett Street.
14. The parking layout is nonconforming, and access for all spaces requires unpractical coordination by tenants to move vehicles, unreasonable maneuvering and backing out onto the streets.
15. Petitioners purchased the property last year; have leases for all units; own several other rental properties in Malden; and are in the process of purchasing another property on Bartlett Street.
16. The proposal to renovate and finish the attic significantly increases the size (by 188%) and number of bedrooms (by 200%) in one of the dwelling units.
17. The proposal increases the total number of bedrooms at the property from six to eight, which is a 33% increase, and the total living area from 3,220 to 4,181 square feet, which is a 30% increase.
18. Residential abutters oppose the proposal due to its detrimental impacts on the neighborhood, given concerns regarding increasing residency, density and parking burdens in the neighborhood.
19. There is no public support of the proposal.
20. The proposal to renovate and finish the attic is an overuse of the property that will be more detrimental to the neighborhood.
21. The proposal to install insulated windows in the existing sunrooms/porches will not be more detrimental to the neighborhood.

DECISION (Case #16-25):

On November 9, 2016, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition in part, as it relates to the renovation and finishing of the attic to expand one of the dwelling units, and to grant the petition in part, as it relates to the installation of new windows in the existing sunrooms.

RECORD of VOTES (Case #16-25):


On November 9, 2016, the vote on the motion to deny the petition in part and to grant the petition in part was nine in favor, none opposed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Henry, yes; MacCuish, yes; Wolff, yes; Ioven, yes.

Motion by Fitzgerald, seconded by Wolff.

[Absent: Lawhorne, Mzaouakk.]

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

By: 
Michelle A. Romero, City Planner