

CITY OF MALDEN
BOARD OF APPEALS

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**Minutes of the Board of Appeals Public Hearing
May 16, 2018 at 6:30 PM**

**John and Christina Markey Malden Senior Community Center, 7 Washington Street,
Malden, MA 02148**

The Board of Appeal meeting duly called in accordance with the City of Malden Ordinance and its by-laws was held in the John and Christina Markey Malden Senior Community Center, 7 Washington Street, Malden, MA on Wednesday evening, May 16, 2018 at 6:40 p.m. Chairperson O'Brien made an apology to those present for the delayed starting time necessitated by the lack of a Board (5th Member) quorum until 6:40 pm.

Members Present: Chairperson James O'Brien, William Sullivan, Michael Steene, John King and Deano Summers.

PETITION OF:

John Matthews, for a variance of Section 400.1.2.2.1 Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for residential dwellings namely, to convert single family to two family use and violating the minimum lot size requirement for two family dwellings as per plans at the property known as and numbered **1332 Eastern Avenue, Malden, MA** and also known by City Assessor's Parcel ID # **165-500-017**.

The property is described in the Assessor's records as a one family built around 1880 and with 9,000 sf of land.

All statutory notices have been met and this petition is properly before the Board.

The Petitioner appeared before the Board and explained that he purchased the property in August of 2017, has been doing some renovation work and given the size of the current building, he was hoping to convert it to a two family dwelling. Petitioner stated he intends to owner occupy one unit and rent out the other unit upon completion of the renovations.

Board member King questioned the submitted parking plan and the location of one designated spot being directly adjacent to the building. Building inspector O'Callaghan was asked to comment and stated it is allowed.

Member Steene had questions about the floor plan and other building related matters at which time Chair O'Brien stated the City's Building Inspector would still have oversight on those matters. The petition before us is to address whether a variance can be granted for an undersized lot (approx. 9,000 sf rather than the required 12,500 sf required in this zone). Chair also stated that the area where the subject property is located was changed from a Residence A (which does not allow 2 family by right) to a Residence B (which does allow two family).

Chairperson O'Brien opened the meeting for public comment.

Petitioner presented a letter of support from an abutting neighbor, (direct abutter), Mr. Palani Nadarajah, 1332 Eastern Avenue.

No one was present to speak in favor of the variance being granted.

There was no one present to speak in opposition to the variance being granted.

Member Summers made a motion to grant the variance, seconded by Member Steene

Vote: O'Brien yes, Steene yes, Sullivan yes, Summers yes, King yes

Motion carried – 5 in favor 0 opposed

PETITION OF:

James F. Bradley, for a variance of Section 400.1.2.1, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for single family dwellings namely, to construct a single family home violating the frontage requirement of single family dwellings as per submitted plan (#29 Rudolph Street dated 3/8/18 and prepared by Hayes Engineering). The property is currently listed and described in the City Assessor's records as a single family dwelling situated at **29 Rudolph Street** and situated on a 21,619 sf of land and also known by City Assessor's Parcel ID # **145-790-022**.

All statutory notices have been met and this petition is properly before the Board.

The petitioner purchased this property on or about October 30, 2017 and is now proposing to create two separate single family building lots known as Lot 1 with 10,818 sf and Lot 2A with 9,836 sf (see plan #29 Rudolph Street dated 3/8/18) and referenced above.

The petitioner is before the Board asking for relief from the frontage requirement for Lot 2A which currently has 20.27 sf of frontage. There does exist, (see plan) a Lot 2B with 2,046 sf of land and 35.00 feet of frontage. The Lot 2B area has been characterized as being of "Questionable Title" and thus, its 35.00 feet of frontage is not given consideration in meeting the zoning frontage required. Attorney Patrick MacDonald, representing the Petitioner, stated there has been an inability, thus far, to clear title on this section, (Lot 2B) of the property and his contention is that it presents a hardship for the property owner. Attorney MacDonald is requesting a variance be granted for the lack of frontage.

Board members Steene and King both asked questions and expressed sentiments as to why the title issue was not resolved prior to, or rather than, at the time of the Petitioner's 10/30/17 property acquisition. Attorney MacDonald stated the probate process for this property would be/is a complicated, lengthy, costly process that involves multiple heirs (many of whom are deceased).

Chairperson O'Brien opened the public comment section of meeting. A letter of support from Nancy Bradley (sister of Petitioner) and property owner occupant directly across the street (28 Rudolph Street) was read into the record.

An email was forwarded to the Board from Lori Tobasco of 20 Maple Terrace, Melrose, MA (within the overall neighborhood) expressing her support for the proposal.

John Ronan, 172 Olive Ave, Malden, stated he abuts the property to the rear and is fully supportive of the proposal being heard by the Board.

No one else appeared to speak in support of this variance request.

No one appeared to speak in opposition.

Chairperson O'Brien asked if there was a motion by any board member.

Member Summers made a motion, seconded by Member Steene that the board grant the variance sought with the following conditions:

1 – There shall be no development of any kind permitted on Lot 2B.

2 – Neither the Petitioner nor any successor in the title shall convey or transfer either Lot 2A or Lot 2B except contemporaneously with the other to the same grantee(s).

Final vote was 5 – 0 in favor of granting the variance with the conditions noted above.

Vote: O'Brien yes, Sullivan yes, Summers yes, Steene yes, King yes.

Motion carried – 5 in favor 0 opposed

PETITION OF:

Kimngan Nguyen-Vo for a variance of Section 400.1.2.1, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for residential dwellings namely, to construct a two story addition violating the setback requirement of single family dwellings as per plans, at the property known as and numbered **20 Summit Terrace, Malden, MA** and also known by City Assessor's Parcel ID # **115-722-207**.

All statutory requirements have been met and this petition is properly before the Board.

The property is described in the City's Assessor records as a one family cape style dwelling situated on a 10,958 sf parcel of land.

Property owner Nguyen-Vo appeared before the Board and explained she would like to build an addition which would include a two car garage on the first level and finished rooms on the upper floor. She indicated, after question from Member King that the proposal would provide needed additional living area and the garage would provide for off street parking.

Chair O'Brien stated the property is, and will remain to be, a single family dwelling only.

Member King pointed out that there was an obvious hardship with respect to the land. Mr. King stated the lot has an irregular shape as well as being five sided.

The meeting was opened for public comment.

No one was present to voice support for this petition.

No one was present to voice opposition for this petition.

Chair O'Brien asked if any member would choose to make a motion.

Member Summers made a motion that the board approve the petitioner's request which was seconded by member Steene.

Vote: O'Brien yes, Sullivan yes, Summers yes, Steene yes King yes

Motion carried by a vote of 5 yes and 0 no

PETITION OF:

Andrew Layman, (Trustee Sharon St. Trust) for a variance of Section 400.1.5.10, Section 400.1.5.10 and Section 500.1.5.10, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for light manufacturing namely, to construct addition violating side and rear setback requirements, increasing nonconforming lot coverage and violating parking space/spaces requirement as per plans, at the property known as and numbered **60 Sharon Street, Malden, MA** and also known by City Assessor's Parcel ID # **127-436-602**.

Chair O'Brien, after requesting copies of tear sheets from Petitioners, indicated that the publication dates did not meet statutory guidelines. O'Brien discussed the process and requirement with the applicants and stated he would make a motion to allow the Petitioners to postpone, without prejudice, their hearing until next month's (June 20, 2018) Board of Appeal hearing date, seconded by Member Steene.

Vote: O'Brien yes, Sullivan yes, Summers yes, Steene yes, King yes

Motion carried by a vote of 5 yes and 0 no

Other Business

None stated.

Next scheduled hearing date June 20, 2018

Motion to adjourn the meeting by member Summers

Seconded by member Steene

Vote: O'Brien yes, Sullivan yes, Summers yes, Steene yes, King yes

Motion carried by vote of 5 yes 0 no

Adjourned at 8:10 p.m.

Respectfully submitted:

By: James O'Brien