



CITY of MALDEN PLANNING BOARD

Minutes of Regular Meeting

Meeting Date: April 12, 2023

Meeting Location: Malden City Hall, Herbert L. Jackson City Council Chamber, 215 Pleasant Street, Malden, MA

I. **Call to Order.** Chairman Charles Ioven called the meeting to order at 7:00 p.m.

Ioven announced that under the provisions of the Open Meeting Law, attendees are informed that this meeting is being recorded by Urban Media Arts, formerly known as Malden Access Television, and that he has not been notified that any other video or audio recording of this meeting will occur.

II. **Roll Call.** Ioven chaired the meeting and took a roll call.

Planning Board Members in attendance:

Antonucci, Kenneth

Chuha, Diane (*joined the meeting at approximately 7:30 p.m.*)

Gebreselassie, Tewedaj

Gray, Resa

Hayes, Patrick

Henry, Eric

MacCuish, Eric

Stone, Stephanie

Verma, Vikas, Ronnie Raj

Ioven, Charles, Chair

Planning Members absent: Soucy, Henri.

Planning Staff in attendance: Michelle Romero, City Planner.

III. PUBLIC HEARINGS

A. **Zoning: Special Permits,** Title 12, Chapter 12, Code of City of Malden (MCC).

1. **410 Ferry Street** (Parcel ID #084 403 301) Permit Application #CMID 050516-2022)/§12.28.010(D)(1)/To alter, structurally change, extend & change use of preexisting nonconforming property in Residence A zoning district/To construct dormer & addition to 3rd floor, reconstruct two-story porch/deck, renovate & convert existing building from medical laboratory use to two-family dwelling.

The notice of public hearing was read into the record by Antonucci.

Petitioner submitted the following documentation and information:

- 1) Site plan, "Certified Plot Plan Showing Proposed Parking Located at 410 Ferry Street Malden, MA," dated March 17, 2023, prepared by George C. Collins, P.L.S., Charlestown, MA.
- 2) Set of plans, "Interior & Deck Renovation-Dormer Roof Addition 410 Ferry St, Malden, MA 02148," dated November 16, 2022 with revisions through April 12, 2023, prepared by Nazieh R. Hammouri, P.E., RISE Architecture, 71B Clinton Street, Malden, MA, that contains: Cover page (C-100) with photos, "Aerial View," and "Existing House;" Gross Area Plan (A-100) with Existing Area and Proposed Area; Existing Floor Plans of Basement Floor and 1st Floor (A-101), 2nd Floor and Attic Floor (A-102); Existing Elevations, Front and Right (A-103) and Rear and Left (A-104); Demolition Floor Plans, Basement and 1st Floor (A-105), 2nd Floor and Attic Floor (A-106); Proposed Floor plans, Basement Floor and 1st Floor (A-107), 2nd floor and Attic Floor (A-108); and Proposed Elevations, Front and Right (A-109), Rear and Left (A-110).

The proposal is to extend, renovate and convert the building from medical laboratory to a two-family dwelling; one dwelling unit will contain two bedrooms and 2,210 square feet, located on the basement and first floor; and the second unit will contain four bedrooms and 1,761 square feet, located on the second and third floors.

Presentation by petitioner:

1. Ronie Teixeira, 72 McKinley Street, Revere, MA, contractor.

The Board opened the public hearing and received the following testimony during the public hearing:
In favor: None.

In opposition: None.

The Board closed the public hearing.

The Board received and reviewed the following documentation and information at the meeting:

1. Planning Report & Recommendation dated April 12, 2023 w/attachments.
2. Determination of Malden Historical Commission dated April 3, 2023.

Decision: The Planning Board granted the petition for a special permit, subject to the following six conditions:

1. All development shall be as per plans, except as modified by these conditions.
2. The maximum number of bedrooms is six.
3. The front porch and balcony and rear porches/decks may not be enclosed.
4. Basement may be used for storage, utilities, laundry and living or playroom; no bedroom or kitchen are allowed.
5. Compliance with the recommendations and requirements of the determination of the Malden Historical Commission in its decision dated April 3, 2023, per Title 4.24, MCC, to maintain the front façade and columns of the existing building; the decision is incorporated herein by reference.
6. Install and maintain all open space as lawn/grass and landscaped in yard areas, as per plan. Paving shall be limited to parking area shown on the plan.

The decision is described in Case #23-04 (attached).

Record of Votes: On the motion by Antonucci, seconded by MacCuish, to grant the petition for a special permit, subject to six conditions, the vote was nine in favor, none opposed, and the motion passed (9-0).

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Recused</u>	<u>Not Voting</u>
ANTONUCCI	X				
CHUHA			X		
GEBRESELISSIE	X				
GRAY	X				
HAYES	X				
HENRY	X				
MacCUISH	X				
SOUCY			X		
STONE	X				
VERMA	X				
IOVEN Chair	X				

Note: Antonucci's original motion was to grant the special permit, seconded by MacCuish, and prior to taking the vote, Antonucci amended the motion to grant the special permit subject to six conditions, and MacCuish amended the second to second the amended motion.

Ioven announced that Stone and Verma would both participate on the next petition.

- 2. 76 Granville Avenue (Parcel ID# 104 712 208) and Granville Place (no #) (Parcel ID #104 712 206) (Proposed combined development site) Permit Application # CMID 051372-2022/§12.28.010(D)(1)/To reconstruct, extend & structurally change preexisting nonconforming property and use in Residence A zoning district/To demolish existing dwelling & construct new four-family dwelling.**

The notice of public hearing was read into the record by Antonucci.

Petitioner submitted the following documentation and information:

- 1) Set of plans, "MALDEN, MASS. #76 Granville Avenue & Granville Place," dated December 5, 2022, revised March 9, 2023, prepared by Peter J. Ogren, P.L.S., Hayes Engineering, Inc., Wakefield, MA, that include:
 - a. Topographic/Demolition Plan (Sheet 1 of 6)
 - b. Layout Plan (Sheet 2 of 6)
 - c. Grading & Drainage Plan (Sheet 3 of 6)
 - d. Utilities Plan (Sheet 4 of 6)
 - e. Detail Sheets (Sheets 5 and 6 of 6)
- 2) Set of plans, "76 Granville Ave Malden, MA Motzkin- The Saratoga Trust," dated December 5, 2022, revised April 6, 2023, prepared by David N. O'Sullivan, Registered Architect, O'Sullivan Architects, Inc., Reading, MA, that include the following for the proposed new dwelling:
 - a. Site plan with landscaping, parking layout, First Floor and Lower Level.
 - b. Building cross sections.
 - c. Floor plans: First Floor-Unit Layout; Second Floor-Unit Layout; Top Floor-Unit Layout.
 - d. Elevations: Corner of Granville Ave & Granville Place, 3 Bedroom Unit Entry, Back Corner from Granville Place, Driveway Elevation, Front Elevation, Granville Place Elevation.
- 3) "76 Granville Ave-Existing Plans, Malden, MA Motzkin- The Saratoga Trust," dated February 7, 2023, prepared by O'Sullivan Architects, Inc., Reading, MA, that depict the Existing First, Second and Top Floors (for existing dwelling).
- 4) "Open Space Exhibit Plan in Malden, Mass., #76 Granville Avenue & Granville Place," dated April 10, 2023, prepared by Peter J. Ogren, P.E., Hayes Engineering, Inc., Wakefield, MA.

The proposal is to demolish the existing dwelling and construct a new dwelling for continued use as a four-family dwelling, at the proposed combined development site comprised of 76 Granville Avenue and no #Granville Place. The proposed dwelling will be significantly larger than the existing dwelling (footprint 68% increase and gross floor area 72% increase); contain a total of eight bedrooms; 7,523 square feet; two parking spaces in a garage under and six surface parking spaces. Access for six of the parking spaces is via Granville Place.

Presentation by petitioner:

1. Jonathan Stone, architect, O'Sullivan Architects, 606 Main Street, Reading, MA.

[At approximately 7:30 p.m. Chuha joined the meeting, after petitioner’s presentation had begun, and Ioven announced that Chuha would not be participating.]

The Board opened the public hearing and received the following testimony during the public hearing:

In favor:

1. Frank Bonanno, 82 Granville Avenue, Malden.

In opposition:

1. Lily Macovei, 89 Bayrd Road, Malden.
2. Melissa Ekstein, 11 Granville Place, Malden.
3. Marjorie Pearlstein, 1 Fairview Avenue, Malden.
4. Arthur Bergh, 71 Granville Avenue, Malden.
5. Barbara Murphy, Ward 5 City Councilor, 28 Forest Street, Malden.

The Board closed the public hearing.

The Board received and reviewed the following documentation at the meeting:

1. Planning Report & Recommendation dated April 12, 2023.
2. Memorandum from Yem Lip, City Engineer, dated April 12, 2023.

Decision: The Planning Board denied the petition for a special permit.

The decision is described in Case #23-05 (attached).

Record of Votes: On the motion by MacCuish, seconded by Antonucci, to deny the petition, the vote was eight in favor, one opposed, and the motion passed (8-1).

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Recused</u>	<u>Not Voting</u>
ANTONUCCI	X				
CHUHA					X
GEBRESELASSIE	X				
GRAY	X				
HAYES	X				
HENRY		X			
MacCUISH	X				
SOUCY			X		
STONE	X				
VERMA	X				
IOVEN Chair	X				

IV. PUBLIC MEETING.

- A.** 36 Charles Street (Parcel #062 239 910)/ Permit # CMID-040598-2021/
Title 12.12.190/To Extend Expiration Date of Special Permit (Case # 202-22)/Marijuana
Establishment, Marijuana Retailer.

The Board received and viewed the following documentation at the meeting:

1. Planning Report & Recommendation dated April 12, 2023.
2. Appeal Form dated April 3, 2023 with petitioner’s request for extension of special permit (Case #202-22).

3. Decision of City Council, Special Permit Case #202-22.
4. Planning Board Report & Recommendation to City Council dated March 9, 2022.

Decision: The Planning Board recommends to the City Council approval of the extension of the special permit granted in Case #202-22 for one year, and only provided the special permit is subject to the following twenty (20) conditions of Case #202-22:

1. Peer review petitioner’s Response to Traffic Peer Review Comments dated February 25, 2022 and implement any recommended mitigation.
2. This special permit authorizes marijuana retailer use of only 4,006 SF of the first floor, as per plans, and specifically: 1,794 SF for retail space, 1,446 SF for delivery area and indoor trash storage, and the remainder for accessory offices and common areas. All other areas of the building, labeled, “Storage,” totaling 9,018 SF, shall remain vacant and shall be used for no purpose whatsoever, including storage by the marijuana retailer, and any use or occupancy shall require an amendment to this special permit.
3. The loading and delivery area may be used for parking during retail hours.
4. Install bicycle parking onsite for four bicycles, accessible to customers and employees.
5. Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of DPW Director.
6. Implement Transportation Demand Measures regarding rideshare and parking attendant.
7. All development shall be as per plans, including landscaping of the northwest portion of the lot, except as modified by these conditions.
8. The special permit is non-transferable and non-assignable.
9. Design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission.
10. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet.
11. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises.
12. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building.
13. Any outside storage of any kind is prohibited.
14. Any outside display of any kind is prohibited.
15. Incorporate odor control technology and provisions, and ensure that emissions do not violate M.G.L. c.111 § 31C, including but not limited to those specified for odors.
16. Prior to issuance of any final occupancy permit, submit copies of the following licenses and approvals: a) A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance; b) Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and c) Any required license and/or approvals issued by the Malden Board of Health.
17. Mitigation based on preliminary peer review and after the six-month traffic study is conducted.
18. The Petitioner shall work with the City and the abutting property owners to connect the Spot Pond Greenway Project to the bike path.
19. Provide five (5) off-site parking spaces.
20. The hours of retail operation shall be 9:00 A.M. to 9:00 P.M.

The decision is described in the Planning Board Report & Recommendation dated April 12, 2023 (attached).

Record of Votes: On the motion by Antonucci, seconded by Hayes, to make this recommendation to the City Council, the vote was nine in favor, none opposed, and the motion passed (9-0).

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Recused</u>	<u>Not Voting</u>
ANTONUCCI	X				

CHUHA	X		
GEBRESELASSIE	X		
GRAY	X		
HAYES	X		
HENRY	X		
MacCUISH	X		
SOUCY		X	
STONE	X		
VERMA			X
IOVEN Chair	X		

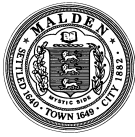
B. Status Updates.

- 1) Community Preservation Committee. Henry provided an update.

V. Next meeting: Regular meeting – May 10, 2023

VI. Adjournment: 9:26 p.m. (On the motion by Chuha, seconded by Gray, all voted in favor and the motion passed).

Approved: Charles Ioven, Chair



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

CASE NUMBER 23-04

LOCATION of SUBJECT PROPERTY 410 Ferry Street, Malden, MA

NAME of PETITIONER and PROPERTY OWNER Ronie Construction Inc.

DATE of PUBLIC HEARING April 12, 2023

DATE of DECISION April 12, 2023

DATE of FILING DECISION with CITY CLERK April 19, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR April 19, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 9, 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 #23-04):

1. The subject property is known as and numbered 410 Ferry Street and by City Assessor's parcel identification number 084 403 301.
2. Petitioner is the property owner, Ronie Construction Inc., c/o Ronie Teixeira, 72 McKinley Street, Revere, MA, who is the contractor.
3. At the public hearing on April 12, 2023, petitioner was represented by Ronie Teixeira.
4. The petition filed in permit application #RES 054907-2023 seeks a special permit under Title 12, Chapter 28, Section 010(D)(1), Code of the City of Malden, to alter, structurally change, extend and change use of a preexisting nonconforming property in the Residence A zoning district, namely, to convert the property to a two-family residential dwelling.
5. The following plans were submitted in support of the petition: Site plan, "Certified Plot Plan Showing Proposed Parking Located at 410 Ferry Street Malden, MA," dated March 17, 2023, prepared by George C. Collins, P.L.S., Charlestown, MA; and set of plans, "Interior & Deck Renovation-Dormer Roof Addition 410 Ferry St, Malden, MA 02148," dated November 16, 2022 with revisions through April 12, 2023, prepared by Nazieh R. Hammouri, P.E., RISE Architecture, 71B Clinton Street, Malden, MA, that contains a Cover page (C-100) with photos, "Aerial View," and "Existing House;" Gross Area Plan (A-100) with Existing Area and Proposed Area; Existing Floor Plans for Basement Floor and 1st Floor (A-101), 2nd Floor and Attic Floor (A-102); Existing Elevations of Front and Right (A-103), Rear and Left (A-104); Demolition Floor Plans for Basement and 1st Floor (A-105), 2nd Floor and Attic Floor (A-106); Proposed Floor Plans for Basement Floor and 1st Floor (A-107), 2nd floor and 3rd Floor (A-108); Proposed Elevations of Front and Right (A-109), Rear and Left (A-110).
6. Pursuant to the City's Demolition & Alteration Delay Ordinance, Title 4.24, Code of the City of Malden, the Malden Historical Commission approved the proposal, subject to the requirements of its decision dated April 3, 2023, namely, that the building's existing front façade and columns shall be maintained.
7. The current petition is not precluded by law as a repetitive petition, per Massachusetts General Laws, Chapter 40A, §16, because this petition is substantively different from the prior petition to convert the property to a three-family dwelling, which was denied by the Planning Board on February 8, 2023 in Case #23-02.
8. 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 #23-04):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a 2 ½-story building that is vacant and interior renovation has begun under a building permit (Permit # CMID-047603-2022).
2. There is a construction dumpster on-site, and the site was recently cleaned of all other trash, debris and litter.
3. The proposal is to construct a dormer addition to the third floor, to reconstruct and extend the two-story porch/deck at the rear/side at the northeastern corner of the building, and to renovate and convert the existing building from medical laboratory use to a two-family dwelling with a total of six bedrooms.
4. Under the proposal, one unit has two bedrooms and a total of 2,210 square feet, located on the first floor and basement, and includes two playrooms and a laundry room in the basement, for use and access only by this unit; and the second unit has four bedrooms and a total of 1,731 square feet, located on the second and third floors, and includes a storage room on the third floor, 224 square feet in size with a ceiling height of 5'10"; and each dwelling unit will have two full bathrooms and one half-bathroom.

5. The proposed dormer addition increases the gross floor area of the third floor from 484 to 626 square feet.
6. Under the proposal, the rear decks will remain unenclosed and increased in size from 112 to 160 square feet.
7. The property is located in the Residence A zoning district.
8. The most recent use of the property, medical laboratory, formerly classified as medical & dental offices and now classified as medical center under the Ordinance, was allowed by a special permit granted in Case #88-32; is prohibited in this district and considered nonconforming, per §§12.12.030 and 12.28.010 of the Ordinance.
9. The proposed two-family residential use is prohibited in this district and may be allowed by special permit as a conversion of a nonconforming use, per §§12.12.030 and 12.28.010.D of the Ordinance.
10. The proposal returns the property to its original use as a two-family residential dwelling and eliminates a nonconforming business use of property in the Residence A zoning district.
11. The direct abutters to the north and west are single-family dwellings; to the east, on the other side of Harvard Street, a two-family dwelling; and to the south, on the other side of Ferry Street, a single-family and four-family dwelling.
12. Surrounding land uses are residential.
13. The existing building, occupied for medical center use, violates dimensional controls for lot area, and front, one side and rear yard setbacks, and is considered preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
14. The proposed two-family residential use of the modified building exacerbates existing violations of lot area from 52% to 63%; maintains existing violations of front yard, one side yard and rear yard setbacks; and creates new nonconformities of density (40%) and height (1/2 story), per §12.16.010 of the Ordinance.
15. The proposed open space complies with all Usable Open Space Requirements, except dimensions, per §12.16.080 of the Ordinance.
16. The proposal complies with parking requirements to provide six spaces onsite, namely, one space per bedroom, per §12.20.010 of the Ordinance; and the proposed site plan depicts six spaces in a nonconforming layout in the existing parking lot at the eastern side of the lot, with access via an existing curb-cut on Ferry Street.
17. There is no public support of the proposal.
18. There is no public opposition to the proposal.
19. As modified by the conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

DECISION (Case #23-04):


On April 12, 2023, pursuant to the foregoing Findings of Fact, the Planning Board granted the petition for a special permit, subject to the following six conditions:

- 1) All development shall be as per plans, except as modified by these conditions.
- 2) The maximum number of bedrooms is six.
- 3) The front porch and balcony and rear porches/decks may not be enclosed.
- 4) Basement may be used for storage, utilities, laundry and living or playroom; no bedroom or kitchen are allowed.
- 5) Compliance with the recommendations and requirements of the determination of the Malden Historical Commission in its decision dated April 3, 2023, per Title 4.24, MCC, to maintain the front façade and columns of the existing building; the decision is incorporated herein by reference.
- 6) Install and maintain all open space as lawn/grass and landscaped in yard areas, as per plan. Paving shall be limited to parking area shown on the plan.

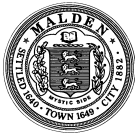
RECORD of VOTES (Case #23-04):

On April 12, 2023, on the motion by Antonucci, seconded by MacCuish, to grant the petition for a special permit, subject to six conditions, the vote was nine in favor, none opposed, and the motion passed (9-0):

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



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

CASE NUMBER 23-05

LOCATION of SUBJECT PROPERTIES 76 Granville Avenue, Malden, MA and Granville Place (no number), Malden, MA (City Assessor's Parcel ID #104 712 206)

NAME of PETITIONER Saratoga Trust

NAMES of PROPERTY OWNERS Saratoga Trust and Malden Realty Trust

DATE of PUBLIC HEARING April 12, 2023

DATE of DECISION April 12, 2023

DATE of FILING DECISION with CITY CLERK April 25, 2023

DATE of NOTIFICATION to BUILDING INSPECTOR April 25, 2023

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT May 15, 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 #23-05):

1. The subject properties are 76 Granville Avenue, Malden, also known by Assessor's Parcel ID #104 712208, and Granville Place (no number), Malden, also known by Assessor's Parcel ID #104712206.
2. Petitioner is the property owner of 76 Granville Avenue, Saratoga Trust, c/o James Motzkin, Trustee, 99 Granville Avenue, Malden, MA, and also the representative of the property owner of Granville Place, Malden Realty Trust, c/o James R. and Susan M. Motzkin, 99 Granville Avenue, Malden, MA.
3. At the public hearing on April 12, 2023, petitioner was represented by Jonathan Stone, architect, O'Sullivan Architects, 606 Main Street, Reading, MA.
4. The petition filed in permit application #CMID 051372-2022 seeks a special permit under Title 12, Chapter 28, Section 010(D)(1), Code of the City of Malden (Ordinance), to reconstruct, extend and structurally change a preexisting nonconforming property and use in the Residence A zoning district, namely, to demolish the existing four-family dwelling and construct a new four-family dwelling.
5. The Planning Board allowed the withdrawal without prejudice of a similar petition on February 8, 2023 in Case #23-03, and the current petition is not precluded by law as a repetitive petition, per Massachusetts General Laws, Chapter 40A, §16.
6. The following plans and information were submitted in support of the petition: a) set of plans, "MALDEN, MASS. #76 Granville Avenue & Granville Place," dated December 5, 2022, revised March 9, 2023, prepared by Peter J. Ogren, P.L.S., Hayes Engineering, Inc., Wakefield, MA, that include Topographic/Demolition Plan, Layout Plan, Grading & Drainage Plan, Utilities Plan, Detail Sheets; b) set of plans, "76 Granville Ave Malden, MA Motzkin - The Saratoga Trust," dated December 5, 2022, revised April 6, 2023, prepared by David N. O'Sullivan, Registered Architect, O'Sullivan Architects, Inc., Reading, MA, for the new dwelling that include a conceptual site plan with landscaping, parking layout, First Floor and Lower Level; Building cross sections; Floor plans of First Floor-Unit Layout, Second Floor-Unit Layout, Top Floor-Unit Layout; Elevations (revised and for prior proposal) of Corner of Granville Ave & Granville Place, Rear Unit Entry, Granville Place Elevation, Front Elevation, Back Corner from Granville Place; c) floor plans of the existing dwelling, "76 Granville Ave-Existing Plans, Malden, MA Motzkin-The Saratoga Trust," dated February 7, 2023, revised April 6, 2023, prepared by O'Sullivan Architects; and d) "Open Space Exhibit Plan in Malden, Mass., #76 Granville Avenue & Granville Place," dated April 10, 2023, prepared by Peter J. Ogren, P.E., Hayes Engineering, Inc., Wakefield, MA.
7. The Malden Historical Commission approved the proposed demolition, per the Demolition & Alteration Delay Ordinance, Title 4.24, Code of City of Malden, in a decision dated March 15, 2022.
8. 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 #23-05):

The City of Malden Planning Board finds the following facts:

1. The parcel, 76 Granville Avenue, is the site of a vacant, 2 ½ story, four-family dwelling; the parcel, Granville Place has no street number, is vacant land with trees, vegetation, ledge and a dirt area used for parking; and herein, “property” refers to a proposed development site, comprised of both parcels.
2. The proposal is to demolish the existing dwelling and construct a new four-family dwelling at the proposed combined development site.
3. The property is located in the Residence A zoning district.
4. The existing four-family dwelling is prohibited in this district, predates the current Ordinance and is considered preexisting nonconforming, per §§12.20.030 and 12.28.010 of the Ordinance.
5. The proposal extends the four-family dwelling use, and an extension of this preexisting nonconforming use may be allowed by special permit, per §12.28.010.D of the Ordinance.
6. The direct abutters to the north and west are single-family dwellings; to the east, on the other side of Granville Place, a single-family dwelling and two-family dwellings; and to the south, on the other side of Granville Avenue, a single-family dwelling and a two-family dwelling.
7. Surrounding land uses are single and two-family residential dwellings and one multifamily dwelling.
8. The existing dwelling grossly violates all dimensional controls, except height, and is considered preexisting nonconforming, per §§12.16.010 and 12.28.010.A of the Ordinance.
9. The proposal extends the four-family dwelling, and an extension of this preexisting nonconforming building may be allowed by special permit, per §12.28.010.D of the Ordinance.
10. The proposed new dwelling on the proposed combined development site creates a new side yard setback violation, eliminates the rear yard setback violation and reduces the existing violations of lot area, front yard setback and density, per §12.16.010 of the Ordinance.
11. The proposal provides eight parking spaces, or one space per bedroom, as required per §12.20.010 of the Ordinance, in the following layout: two interior parking spaces in one garage underneath the dwelling; and six surface parking spaces, two in the southern front yard and four in the rear yard.
12. Six proposed parking spaces require access via Granville Place, a private way, twelve feet in width.
13. The existing dwelling has a footprint of 1,367 square feet; total gross floor area of 4,372 square feet; and four units with a total of six to eight bedrooms: a studio, 280 square feet in size; a unit with one bedroom, 550 square feet in size; and two units, with two or three bedrooms, 1,050 and 1,125 square feet in size.
14. Under the proposal, the new dwelling will have a footprint of 2,290 square feet; total gross floor area of 7,523 square feet; and four units, with a total of eight bedrooms: all units with two bedrooms, ranging from 1,063 to 2,013 square feet in size.
15. The proposal significantly increases the overall size of the dwelling: the footprint increases by 923 square feet or 68%, and the total gross floor area increases by 3,151 square feet or 72%.
16. The Ward 5 City Councilor and several residential abutters are in opposition to the proposal.
17. The proposal will be more detrimental to the neighborhood because an overuse of the property.


DECISION (Case #23-05):

On April 12, 2023, pursuant to the foregoing Findings of Fact, the Planning Board denied the petition for a special permit.

RECORD of VOTES (Case #23-05):

On April 12, 2023, on the motion by MacCuish, seconded by Antonucci, to deny the petition for a special permit, the vote was eight in favor, one opposed, and the motion passed (8-1):

Antonucci, yes; Gebreselassie, yes; Gray, yes; Hayes, yes; Henry, no; MacCuish, yes; Stone, yes; Verma, yes; Ioven, yes. [*Chuha, present, not voting; Soucy, 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

PLANNING BOARD REPORT & RECOMMENDATION

To: Malden City Council
From: Malden Planning Board
Date: April 12, 2023
Subject: **36 Charles Street** (Parcel ID 062 239 910)
Permit Application # CMID-040598-2021/Petition to Extend Special Permit (Case #202-22)
Marijuana Establishment: Marijuana Retailer
Title 12.12.190, Code of City of Malden (MCC) (*All section references herein*)

PROCEDURAL: The Planning Board may submit an advisory report and recommendation re: this petition to the special permit granting authority, the City Council (§12.32.030.B.2).

- The proposal was approved by the City’s Cannabis Licensing and Enforcement Commission (CLEC) to proceed to the zoning process.
- On March 9, 2022, the Planning Board made an advisory recommendation to the City Council that the petition be denied; the Board also recommended conditions to any special permit that might be granted.
- On April 26, 2022, the City Council granted a special permit to allow use of the property for a marijuana retailer, subject to twenty (20) conditions (decision contained in attached Case #202-22)
- On August 9, 2022, the City and petitioner executed a Host Community Agreement.
- Future procedural steps to be taken:
 - Petitioner must apply for a license from the state Cannabis Control Commission (CCC).
 - After obtaining a license from the CCC, the CLEC will review for issuance of a local license.

PETITION: Petitioner is the same petitioner as for the special permit petition approved in Case #202-22, namely, the proposed tenant, doing business as Trinity Naturals.

The petition seeks to extend the expiration date of the special permit granted in Case #202-22 for nine (9) months. The special permit will expire on April 26, 2023 (one year from date of granting, if substantial construction or substantial use has not commenced, per §12.32.030B.7), or unless a later expiration date is specified by special permit.

***Note 1:** The current petition to extend the special permit was filed prior to the expiration date of the special permit, and City protocol is to consider the special permit as still active during the processing stage.*

The petition proposes no changes to the plans approved by the special permit granted in Case #202-22, or the conditions of the special permit granted in Case #202-22.

The original proposal was modified by the special permit granted in Case #202-22, with respect to size of premises and parking, by the following conditions:

2. This special permit authorizes marijuana retailer use of only 4,006 SF of the first floor, as per plans, and specifically: 1,794 SF for retail space, 1,446 SF for delivery area and indoor trash storage, and the remainder for accessory offices and common areas. All other areas of the building, labeled, “Storage,” totaling 9,018 SF, shall remain vacant and shall be used for no purpose whatsoever, including storage by the marijuana retailer, and any use or occupancy shall require an amendment to this special permit.
3. The loading and delivery area may be used for parking during retail hours.
19. Provide five (5) off-site parking spaces.

ZONING: See Planning Board Report & Recommendation dated March 9, 2022 (attached). After the special permit was granted in Case #202-02, the Marijuana Establishment use regulations were amended as follows, and all are applicable to the proposal:

1. Preexisting Nonconforming Buildings. For Marijuana Establishment use of a building lawfully existing or begun prior to the first publication of notice of the public hearing on this Ordinance, or for alteration, conversion or other change to a Marijuana Establishment use lawfully existing or begun prior to the first publication of notice of the public hearing on any amendment to this Ordinance, the City Council must find that any creation or increase in violations of dimensional controls and/or parking requirements will not be more detrimental to the neighborhood; and if the City Council makes the finding that any creation or increase in violations of dimensional controls and/or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls and/or parking requirements may be allowed by the special permit granted by the City Council and shall not require a variance. (§12.12.190.B) (CCP 315/2022, ordained January 3, 2023).
2. Security Plan. Design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission. (§12.12.190.H.2) (CCP 317/2022, ordained 11/1/22).
3. Licenses and Approvals. Prior to issuance of any final occupancy permit pursuant to a special permit granted hereunder, the Marijuana Establishment shall submit copies of the following licenses and approvals:
 - a) A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance;
 - b) Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and
 - c) Any required license and/or approvals issued by the Malden Board of Health. (§12.190.H.9) (CCP 318/2022 ordained November 1, 2022).

The petition does not affect the proposal's compliance with any use regulations for Marijuana Establishments.

DIMENSIONAL CONTROLS: See Planning Board Report & Recommendation dated March 9, 2022 (attached). Since the special permit was granted in Case #202-22, there have been no changes to the dimensional controls that are applicable to the proposal.

The petition does not affect the proposal's compliance with or violations of the dimensional controls.

PARKING AND LOADING REQUIREMENTS: See Planning Board Report & Recommendation dated March 9, 2022 (attached). Since the special permit was granted in Case #202-22, there have been no changes to parking and loading requirements.

The petition does not affect the proposal's compliance with or violations of parking and loading requirements.

FINDINGS REQUIRED to GRANT SPECIAL PERMIT (§12.12.190.G):

For a special permit to be granted, the City Council must find:

- 1) The proposal will not be more detrimental to the neighborhood.
- 2) The proposal is not in conflict with surrounding land uses.
- 3) The proposal is in the interest of the common good.
- 4) The traffic and traffic patterns generated by the proposal will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
- 5) The proposal will not generate any noise, odor, fumes, vibration, heat or other conditions that may be noxious or cause a nuisance to the community, a danger to public health, or impair public comfort and convenience.
- 6) The proposal is not detrimental to the health, safety or welfare of the neighborhood or the city.

PLANNING RECOMMENDATION: That the Planning Board recommends to the City Council approval of a 12-month extension of the special permit granted in Case #202-22, only provided subject to the following twenty (20) conditions:

1. Peer review petitioner's Response to Traffic Peer Review Comments dated February 25, 2022 and implement any recommended mitigation.
2. This special permit authorizes marijuana retailer use of only 4,006 SF of the first floor, as per plans, and specifically: 1,794 SF for retail space, 1,446 SF for delivery area and indoor trash storage, and the remainder for accessory offices and common areas. All other areas of the building, labeled, "Storage," totaling 9,018 SF, shall remain vacant and shall be used for no purpose whatsoever, including storage by the marijuana retailer, and any use or occupancy shall require an amendment to this special permit.
3. The loading and delivery area may be used for parking during retail hours.
4. Install bicycle parking onsite for four bicycles, accessible to customers and employees.
5. Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of DPW Director.
6. Implement Transportation Demand Measures regarding rideshare and parking attendant.
7. All development shall be as per plans, including landscaping of the northwest portion of the lot, except as modified by these conditions.
8. The special permit is non-transferable and non-assignable.
9. Design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission.
10. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet.
11. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises.
12. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building.
13. Any outside storage of any kind is prohibited.
14. Any outside display of any kind is prohibited.
15. Incorporate odor control technology and provisions, and ensure that emissions do not violate M.G.L. c.111 § 31C, including but not limited to those specified for odors.
16. Prior to issuance of any final occupancy permit, submit copies of the following licenses and approvals: a) A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance; b) Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and c) Any required license and/or approvals issued by the Malden Board of Health.
17. Mitigation based on preliminary peer review and after the six-month traffic study is conducted.
18. The Petitioner shall work with the City and the abutting property owners to connect the Spot Pond Greenway Project to the bike path.
19. Provide five (5) off-site parking spaces.
20. The hours of retail operation shall be 9:00 A.M. to 9:00 P.M.

***Note 2:** These conditions are the same as the conditions of the special permit granted in Case #202-22, except Conditions 9 and 16, which reflect recently amended requirements of the current ordinance.*