



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

2017 SEP 22 A 11:58

CITY OF MALDEN  
MALDEN, MASS.

CASE NUMBER 17-08

LOCATION of SUBJECT PROPERTY 852-854 Salem Street, Malden, MA

NAMES of PETITIONERS Richard and Sandra Bransfield

NAME of OWNER S & R Realty Trust

DATE of PUBLIC HEARING September 13, 2017

DATE of DECISION September 13, 2017

DATE of FILING DECISION with CITY CLERK September 22, 2017

DATE of NOTIFICATION to BUILDING INSPECTOR September 22, 2017

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT October 12, 2017

*[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 #17-08):

1. Petitioners are Richard and Sandra Bransfield, 14 Barbara Road, Stoneham, MA, trustees for current owner, S & R Realty Trust, 854 Salem Street, Malden, MA 02148.
2. Petitioner and the pending new owner of the property were represented by Attorney Brian David Tamborelli, 50 Boatswain's Way #101, Chelsea, MA 02150.
3. 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 allow the change of use of a preexisting nonconforming property in the Residence A zoning district from a daycare center to a two-family dwelling.
4. When the petition was filed, the following plans were submitted in support of the petition: plans entitled, "Edilson A. Pereira 852-854 Salem St Malden, MA," with Rendering, Basement floor plan, existing and proposed floor plans for First Floor, Second Floor and Floor Above Second Floor, elevation views and cross-section views; dated July 9, 2017, prepared by Gilmar Costa, G.C. Construction & Energy Efficiency, Inc.; three site plans entitled, "852-854 Salem Street, Malden, MA. (Middlesex County)," and individually entitled, "Site Plan Prop Parking Layout-1," "Site Plan Prop Parking Layout-2," and "Site Plan Prop Parking Layout-3," dated (signed) July 6, 2017, prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA.
5. At the public hearing, petitioner submitted a different, revised floor plan for the "Floor Above the Second Floor," (Sheet A5), dated July 9, 2017, prepared by Gilmar, G.C. Construction & Energy Efficiency, Inc., that depicts four additional bedrooms on the third floor, namely, two bedrooms per unit on this floor; and stated the proposal is to provide a total of eight bedrooms at the property, namely, four bedrooms in each proposed dwelling unit.
6. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #17-08):

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a 2 ½ story building that is currently vacant.
2. The proposal is to convert the property from a daycare center to a two-family residential dwelling.
3. The proposal includes interior alterations to create the two dwelling units, and each dwelling unit will have one kitchen, one living room, one family room and four bedrooms.
4. The proposal does not expand the building's footprint or height.
5. The proposal also includes extending the existing driveway around the northern side of the building to create additional parking onsite in the side and rear yards, portions of which are currently landscaped, paved, fenced and/or identified on the plans as "sand play areas."
6. The subject property is located in the Residence A zoning district.
7. The property historically has been used a single-family residential dwelling and a daycare; conversion of the entire property for daycare use was allowed by special permit granted in Case #98-20; however, some residential use continued until 2013; and the property was most recently occupied in its entirety as a daycare center.
8. The daycare center use is allowed by right in this zoning district, per §300.3.3.2 of the Ordinance.
9. The proposed two-family dwelling use is prohibited in this district, but may be allowed by special permit as a residential conversion of a preexisting nonconforming property, per §§300.3.2.2 and 700.1.3.1 of the Ordinance.
10. The direct abutters to the north and east are two-family dwellings; to the west, on the other side of North Milton Street, and to the south, on the other side of Salem Street, two-family dwellings.
11. Surrounding land uses are single and two-family residential dwellings.
12. The proposal eliminates the institutional use of the property, the daycare center use.
13. The property predates the Ordinance and is considered preexisting nonconforming, per §700.1 of the Ordinance.

14. As a daycare, the building on the property violates current dimensional controls for lot area and height; the proposal to occupy the building for a two-family dwelling increases the violation of lot area, creates new deficiencies of side yard setback and density and eliminates the violation of height, per §§400.1.3.2 and 400.1.2.2.2 of the Ordinance.
15. The proposal provides a minimum of 1,850 square feet of open space as grass areas, located in the side and front yards, which exceeds the requirement, 500 square feet per dwelling unit, per §400.1.2.2.2 of the Ordinance.
16. The daycare use of the property required seven parking spaces, per §500.1.3.2 of the Ordinance.
17. Currently, there is some parking in the existing driveway off Salem Street, and the parking deficiencies may be considered preexisting nonconforming, per §§500.2. 2 and 700.1 of the Ordinance.
18. The proposed residential use requires one parking space per bedroom, per §500.1.2.2 of the Ordinance.
19. The proposal increases the on-site parking, and the proposed parking layouts depict six to eight spaces.
20. The "Site Plan Proposed Parking Layout- 2" provides six parking spaces at the rear of the building.
21. All proposed parking layouts are nonconforming and require maneuvering and use of the existing driveway and curb-cut on Salem Street and the proposed new curb-cut on North Milton Street for access and egress.
22. The proposed new curb-cut on North Milton Street must be approved by the DPW Commission.
23. The proposal does not comply with the requirement that a minimum of 50% of the front yard, side yards and rear yard must be devoted to a lawn and/or landscaping area, not paving, per §500.2.20 of the Ordinance.
24. The site plan does not depict the amount and extent of proposed pavement, snow storage or landscaping details.
25. According to petitioner, stamped concrete or crushed stone or shell may be materials used for new parking areas.
26. The pending sale of the subject property to the new owner is contingent on the property being a two-family dwelling; the new owner intends to occupy one dwelling unit as a husband, wife and child; and intends to rent the second dwelling unit to a single individual who is a businessman and may use one bedroom as a home office.
27. Petitioner proposes four bedrooms to allow for future growth and additional rental income.
28. All three City Councilors-at- Large are in favor of the proposal, provided that the maximum number of bedrooms is three per dwelling unit and the required parking is provided onsite.
29. The Ward City Councilor from an abutting ward, Ward 8, and one abutter who lives at an abutting residential property and who owns another abutting residential property, are in favor of the proposal.
30. There is no public opposition to the proposal.
31. Petitioner consents to the proposed conditions of the special permit.
32. As modified by conditions of the special permit, the proposal will not be more detrimental to the neighborhood.

DECISION (Case #17-08):

On September 13, 2017, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following nine (9) conditions: 1) Parking layout shall be as per Proposed Layout-2; submit revised site plan that indicates parking layout, snow storage, type of paving materials, limits of paving and trash storage; 2) Maximum number of bedrooms allowed in each unit is three; all bedrooms must have a closet; 3) The basement may be used only for laundry, storage and utilities, no living space; 4) Submit revised floor plans with accurate labels; 5) Submit detailed landscaping plan showing location and species of plantings; 6) All development shall be as per plans, except as modified by these conditions; 7) All new paved areas shall be permeable; 8) Obtain DPW approval for curb-cut on North Milton Street; and 9) Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, subject to the satisfaction of the DPW Director.


RECORD of VOTES (Case #17-08):

The vote on the motion to grant the special permit with conditions was nine in favor, none opposed:

Antonucci, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Wolff, yes; Ioven, yes.

*Motion by Antonucci, seconded by Fitzgerald. [Absent: Chiu. Recused: Chiuha.]*

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.

Malden Planning Board  
By:   
Michelle A. Romero, City Planner