



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

RECEIVED

2018 JUN 27 P 3: 53

CASE NUMBER 18-07

LOCATION of SUBJECT PROPERTY 43-45 Seaview Avenue, Malden, MA

NAME of PETITIONER Voultig Realty II, LLC

NAME of OWNER Tamara Mossey

DATE of PUBLIC HEARING June 13, 2018

DATE of DECISION June 13, 2018

DATE of FILING DECISION with CITY CLERK June 27, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR June 27, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT July 17, 2018

[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 #18-07):

1. Petitioner is Voultig Realty II, LLC, c/o Martin Murphy and Tamara Mossey, 159 Salem Street, Unit Office, Malden, MA 02148, and owner is Tamara Mossey, 68 Sheridan Lane, Tewksbury, MA 01876.
2. Petitioner and owner were represented by Attorney Thomas P. Callaghan, One Centre Street, Malden, MA; Roy Tiano, Engineering Alliance, Saugus, MA; and Martin Murphy, 68 Sheridan Lane, Tewksbury, MA.
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 four-family dwelling to a multifamily dwelling, up to three stories.
4. The following plans and information were submitted in support of the petition: set of plans, "Site Plan 43-45 Seaview Avenue (Tax Map 116 Block 715 Lot 514), Malden, Massachusetts," dated May 8, 2018, prepared/stamped by Richard A. Salvo, P.E., Engineering Alliance, Inc., Saugus, MA, that include Site Layout Plan; Grading, Drainage & Utility Plan; Erosion Control Plan; Vehicle Turning Figure; and Planting Plan; a set of plans, "Residential Conversion 43 Seaview Avenue Malden, Massachusetts," dated March 23, 2016 with revision dated February 6, 2018, prepared by Daniel F. DiLullo, Reg. Architect, DiLullo Associates, Inc., Melrose, MA, that include existing and proposed floor plans for first, second, third floors and basement, and proposed elevations for the rear, left and right; correspondence dated May 8, 2018 from Richard A. Salvo, P.E., Engineering Alliance, Saugus, MA, describing the project and drainage analyses, with the following attachments: Pre-Development Drainage Calculations (printed May 10, 2018) and Post-Development Drainage Calculations (Printed May 10, 2018).
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #18-07):

The City of Malden Planning Board finds the following facts:

1. The subject property is the site of a three story building that is currently used as a four-family dwelling comprised of four apartment units with a total 5,362 square feet and nine bedrooms and configured as follows: unit 1 on the first floor with 1,100 square feet and two bedrooms; unit 2 on the first floor with 1,062 square feet and one bedroom; unit 3 on the second floor with 2,103 square feet and four bedrooms; and unit 4 on the third floor with 1,097 square feet and two bedrooms.
2. The proposal is to renovate the interior of the dwelling to create six dwelling units, each with one bedroom, one full bathroom, a kitchen, a study/office and an entertainment area; and to use the property as a multifamily dwelling with a total 5,266 square feet and six bedrooms, configured as follows: unit 1 on the first floor with 863 square feet; unit 2 on the first floor with 927 square feet; unit 3 on the second floor with 863 square feet; unit 4 on the second floor with 927 square feet; unit 5 on the third floor with 842 square feet; and unit 6 on the third floor with 844 square feet.
3. The proposal includes construction of a three-story addition at the rear of the dwelling that will contain common staircases, approximately 9 by 16 feet and with a footprint of 144 square feet and two covered porches/decks, labeled "balconies" on the plans, on each level, each approximately 16.5 by 13.3 feet or 215 square feet in size; to remove the existing deck from the southwestern side of the building and two existing exterior stairs, one at the front, northeastern corner and one at the rear, southeastern corner; and to renovate the exterior of the building.
4. The proposal includes expansion of the existing driveway and parking area and installation of a retaining wall with guard rail and fencing, a stormwater management system and landscaping.
5. The existing basement has a low ceiling height and ledge outcroppings and under the proposal will only be used for utilities.

6. The property is located in the Residence A zoning district.
7. The existing four-family dwelling use predates the Ordinance, was allowed by variance in 1985, is prohibited in this district and is a preexisting nonconforming use, per §§300.3.2.3 and 700.1.1 of the Ordinance.
8. The proposed residential use, multifamily dwelling up to three stories, is also prohibited in this district, however, may be allowed by special permit as a residential conversion of a preexisting nonconforming property, per §§300.3.2.5 and 700.1.3.1 of the Ordinance.
9. The direct abutters to the west are a two-family dwelling and a single-family dwelling; to the east, two-family dwellings; and to the south, a four-family dwelling on Salem Street; and to the north, on the other side of Seaview Avenue, a three-family dwelling.
10. Surrounding land uses are residential, mostly single-family dwelling and some two and three-family dwellings; a public park, Roosevelt Park; and a public K-8 school, the Salemwood School.
11. The building predates the Ordinance, violates dimensional controls for lot area, front yard setback and height, and the property is considered preexisting nonconforming, per §§400.1.2.3 and 700.1.1 of the Ordinance.
12. The proposal maintains the existing 26% violation of lot area requirement and 10% violation of height requirement; increases the front yard setback violation from 30% to 53%; and creates no new nonconformities.
13. The proposal complies with the requirements for density and provides more than the required open space, per §400.1.2.5 of the Ordinance.
14. The four-family dwelling requires a total of eight parking spaces, or two per dwelling unit, under applicable zoning, and is exempt from the current requirements, one space per bedroom, per §500.1.2.3 of the Ordinance.
15. There are currently four angled spaces and an existing paved driveway, located along the eastern side of the dwelling/lot; and there is a current deficiency of 50% of parking requirements regarding number of spaces.
16. The existing parking layout is nonconforming and the driveway and parking aisle are deficient of the requirements for width, per §§500.2.2 and 500.2.3 of the Ordinance.
17. The proposal requires a total of six parking spaces, or one space per bedroom, per §500.1.2.5 of the Ordinance.
18. The proposal is to expand the existing curb-cut off Seaview Avenue, enlarge the existing driveway located along the eastern side of the dwelling and to provide seven angled parking spaces along the eastern property line.
19. The proposal eliminates the nonconformity regarding number of parking spaces.
20. The proposed parking layout maintains the nonconformities and deficiencies regarding the width of the driveway and parking aisle, per §§500.2.2 and 500.2.3 of the Ordinance.
21. The parking layout will require maneuvering, including angled, backing out of the spaces and driveway, and turning movements are depicted in the plan, "Vehicle Turning Figure."
22. The proposed modification of the curb-cut must be approved by the DPW Commission.
23. The proposal provides the required snow storage on-site, per §500.2.14 of the Ordinance.
24. The proposal complies with the requirement that a minimum of 50% of the front yard, side yards and rear yard be devoted to a lawn and/or landscaping area, not paving, per §500.2.20 of the Ordinance.
25. Currently there are approximately 2,200 square feet of pavement on site, consisting of the existing driveway and parking area located on the eastern side of the dwelling/lot; under the proposal there will be approximately 2,900 square feet of pavement, also located in the same area.
26. The proposal includes installation of a stormwater management system onsite to address potential drainage issues.
27. The proposal includes construction of a retaining wall around the eastern side and southern end of the proposed new parking area and extended driveway, and a black chain-link fence and wood beam attached to a steel guard rail will be installed on the top of the wall.
28. The height of the proposed retaining wall exceeds the 6-foot maximum allowed per §400.7.8 of the Ordinance.
29. The plans depict the height of the retaining wall ranges from one-half foot to ten-and-one-half feet in height.
30. The City Engineer reviewed the proposal and, in a memorandum dated June 12, 2018, provides recommended requirements regarding the retaining wall, stormwater management to be installed onsite, grading and drainage, a pre-construction meeting, which are incorporated as conditions of the special permit.
31. Under the proposal, no ledge removal is required.
32. Petitioner had a neighborhood meeting in June 2018.
33. Three residential abutters, two of whom are direct abutters, are in support of the proposal.
34. The Ward 5 City Councilor and two residential abutters are in opposition to the proposal due to density, congestion and neighborhood parking issues.
35. Petitioner has a good reputation and long history of renovating multifamily dwellings in the City and manages a portfolio of well-maintained properties in Malden that include mostly one-bedroom rental apartments.

36. Petitioner purchased the property in 2014, however, could not proceed with its plans to renovate the property while a moratorium on permits for multifamily dwellings was in effect from December 2015 to December 2017.
37. The proposal reduces the total residential living space on-site by 2% and the total number of bedrooms by 33%.
38. As modified by conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
39. Petitioner consents to the proposed conditions of the special permit.

DECISION (Case #18-07):

On June 13, 2018, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following twelve (12) conditions:

1. All development shall be as per plans, except as modified by these conditions.
2. Excluding routine utility work, all ledge removal by any means shall require a special permit in accordance with Section 700.13 of the Ordinance.
3. Each unit shall have a maximum of one bedroom.
4. The porches/decks/balconies at the rear of each dwelling may not be enclosed.
5. Install and maintain stormwater management system onsite, as per plans, and subject to requirement that subsurface infiltration systems drain within 72 hour period.
6. Parking lot grade along retaining wall, running east-west orientation, shall be level; final grades of parking lot and retaining wall shall not result in single point of discharge of drainage runoff.
7. The maximum height of the retaining wall shall be 8 ½ feet (exposed/above-grade); retaining wall base blocks shall be minimum of 2 feet below grade along retaining wall toe; the wall construction shall include a detail for geo-fabric soil reinforcement, for any gravity wall sections over 5 feet in height; provide City Engineer with geotechnical data, soil friction angle, retaining wall overturning and sliding failure analysis.
8. Obtain construction/Temporary Easement in order to construct retaining wall (north-south orientation) abutting #484 Salem Street property; if no easement is provided, then the proposed wall shall be constructed 2 feet within property line.
9. Obtain approval from DPW Commission for proposed curb-cut.
10. Repair/replace sidewalks and curbing adjacent to property, to satisfaction of DPW Director, including any damage during construction.
11. Prior to issuance of a building permit, contractor shall provide City Engineer with construction schedule and set up site meeting with Engineering Department.
12. A temporary construction dumpster may be allowed; no permanent dumpster is allowed at the property.

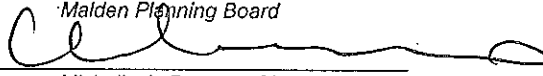
RECORD of VOTES (Case #18-07):

The vote on the motion to grant the special permit with conditions was eight in favor, one opposed, and the motion passed:

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, no.

Motion by Chuha, seconded by Antonucci.

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