



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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2018 DEC 21 A 9:47

CASE NUMBER 18-13

LOCATIONS of SUBJECT PROPERTY 91-95 Main Street and 97-101 Main Street, Malden, MA

NAME of PETITIONER and OWNER 91-101 Main Street LLC

DATE of PUBLIC HEARING December 12, 2018 DATE of DECISION December 12, 2018

DATE of FILING DECISION with CITY CLERK December 21, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR December 21, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 10, 2019

[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 #18-13):

1. Petitioner is the property owner, 91-101 Main Street LLC, 148 Main Street, Malden, MA, c/o Andreas Tsitos, 12 McCall Road, Winchester, MA.
2. At the public hearing, petitioner was represented by its attorney, Patrick MacDonald, Law Office of Christopher Fallon, 477 Eastern Avenue, Malden, MA 02148.
3. The petition seeks a special permit under §§300.3.2.5 and 700.1.3.2, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to structurally change and extend preexisting nonconforming property in a Neighborhood Business zoning district and to allow multifamily dwelling use, up to 3 stories.
4. The following plans and information were submitted with the petition: "Certified Plot Plan 91-101 Main Street, Malden, MA. (Middlesex County)," dated August 4, 2018, prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA; set of plans, "Proposed Renovations to 91-101 Main Street Malden, MA," dated July 9, 2018, prepared by JMK Designs, Bedford, NH, that include proposed and existing floor plans and elevations; and "Transportation Impact Assessment," dated October 2018, prepared by Vanasse & Associates, Inc., Andover, MA.
5. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.
6. After the public hearing closed, petitioner requested that the petition be allowed to be withdrawn without prejudice.

FINDINGS of FACT (Case #18-13):

The City of Malden Planning Board finds the following facts:

1. The subject of the petition are two abutting parcels, both currently and historically owned by the same owner; each parcel is the site of one building; the buildings are separated on the first floor by a "fire wall," which is a shared wall or "party wall;" under the proposal, an addition will join the buildings into one building and the parcels must be merged, according to Nelson Miller, Building Commissioner, as described in his email correspondence dated December 6, 2018; and both properties and buildings thereon are collectively considered and referred to as "the subject property."
2. The first floor consists of six "storefront" units and currently, all but one are occupied for business uses; and the second floor consists of two commercial units, previously occupied for business uses and currently vacant.
3. The proposal is to construct an addition to the second floor to join the two existing second floors to create one second floor with 5,282 square feet, to be used for eight dwelling units: seven units with one bedroom, 477 to 680 square feet in size; and one unit with two bedrooms, 799 square feet in size.
4. Under the proposal, business use of the first floor will continue, and business use of the existing second floors will be discontinued.
5. The subject property is considered preexisting nonconforming, and the proposal exacerbates existing dimensional violations, namely, lot area from 31% to 63%, front side yard setback from 20-50% to

- 73-83%, and side yard setbacks from 94 to 97%; and creates new, gross violations of density, namely, 43%, and open space, namely, 100%, per §§400.1, 400.2 and 700.1.1 of the Ordinance.
6. The proposal requires a total of thirty parking spaces, namely, nine parking spaces for the residential use, or one space per bedroom, and 21 spaces for business use of the first floor, per §§500.1.2.3, 500.1.4 and 500.2.18 of the Ordinance.
 7. There is no parking on-site at the subject property.
 8. The Ward 1 City Councilor, one of the three City Councilors at Large, and the Mayor are in opposition to the proposal due to on-going, major issues of parking congestion in the neighborhood that will be exacerbated by the proposal and complete lack of parking for the proposal; the increased violations of dimensional controls and new significant violations of open space and density that will be created by the proposal; and because the proposal is an overuse of the subject property.
 9. Two residential abutters oppose the proposal due to lack of parking and parking issues in the neighborhood.
 10. There is no public support of the proposal.
 11. The proposal is not in the interest of the common good.
 12. The proposal would be more detrimental to the neighborhood.
 13. Petitioner states that it may be able to revise the current proposal to reduce the number of proposed residential units and may seek to file a new petition for a revised proposal in the future.

DECISION (Case #18-13):

On December 12, 2018, pursuant to the foregoing Findings of Fact, the Planning Board allowed the petition to be withdrawn without prejudice.

RECORD of VOTES (Case #18-13):

On December 12, 2018, the vote on the motion to allow the petition to be withdrawn without prejudice was six in favor, three opposed, and the motion passed:

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

Motion by Antonucci, seconded by Fitzgerald. [Present but not voting: Chiavelli, Ferguson.]

I hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By: 
Michelle A. Romero, City Planner