



# City of Malden

Massachusetts

Board of Appeal  
200 Pleasant Street, Room 419  
Malden, Massachusetts 02148

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BOARD OF APPEAL  
DECISION

Meeting of June 16, 2016

38 Newton St.  
PAGE 1 of 2

PETITION OF:

Phung/Porzio Studio of Architecture on behalf of Tam Thanh Tran for a variance of Section 400.1.2.2.1& 500.1.2.2, of Chapter 12 of the Revised Ordinances of 1991, as amended, of the City of Malden, dimensional controls and parking requirements for two-family residential dwellings, namely, to construct a single-story addition with full basement to the rear of the existing dwelling, as per plans, at the property known as and numbered 38 Newton Street, Malden, MA (also known by City Assessor's Parcel ID #097-423-319).

- This petition violates side & rear setbacks and parking requirements for two-family residential dwellings.
- The property is listed in the assessor's records as a two-family dwelling consisting of approximately 3,750 sq. ft. of land in a Residential A zoning district.

FINDINGS OF FACT AND DECISION

The Petitioner Mai Phung on behalf of Tam Thanh Tran appeared represented by Attorney Patrick MacDonald seeking a Variance to the dimensional controls and parking requirements for two-family residential dwellings. All statutory notice requirements have been met and this petition is properly before the Board for hearing.

Chairman O'Brien informed the petitioner that there are only 4 Board members in attendance. All 4 voting members have to vote in the affirmative for a petition to be granted. Therefore, the petitioner has the option to request that a petition be tabled.

The subject parcel, which contains approximately 3,750 square feet, is shown on a plan entitled Site Plan 38 Newton St., Malden MA.

The subject parcel is in a Residence A zoning district.

Attorney MacDonald stated the current owner purchased the property in September of 2015. The petitioner proposes to construct a single story addition including a basement. The proposed addition would only expand the 1<sup>st</sup> fl. kitchen area of Unit 1 which is occupied by the owner. It would not change the use of the property. The petitioner also plans to create a new driveway with 4 off-street parking spaces as shown on the plan entitled Newton Street Site Plan, 38 Newton Street, Malden, MA dated January 12, 2015. The hardship is related to the uniqueness of the undersized lot.

Chairman O'Brien visited the property and stated that Unit #1 occupies the 1<sup>st</sup> fl. of the dwelling and contains 2 bedrooms. Unit #2 occupies the 2<sup>nd</sup> & 3<sup>rd</sup> floors and consists of 1 bedroom on the 2<sup>nd</sup> fl. and open space on the 3<sup>rd</sup> fl. The proposed exterior spiral staircase and 2<sup>nd</sup> fl. landing are necessary as a second means of egress.

Virginie Nogara asked the petitioner the size of the new footprint.

Mr. Phung stated that currently the foot print is 775 sq. ft. and the new footprint, including the proposed addition, would be 978 sq. ft.

O'Brien asked if there was anyone who would like to speak in favor of this petition.

Ward 7 City Councillor, Neal Anderson spoke in favor of this petition stating that he organized a neighborhood meeting attended by 15 neighbors all in favor of this petition. Councillor Anderson also stated that the small 2 family property has been neglected by previous owners. He also believes the proposed addition would improve the property and would not unnaturally alter the neighborhood.

No one spoke in opposition.

Claire Croken made motion to grant this petition with the following conditions, seconded by James O'Brien.

1. The petitioner will create 4 established off-street parking spaces
2. The basement will not be used as bedrooms
3. The exterior fire escape be removed

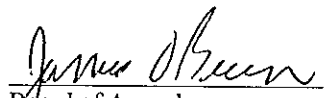
Virginie Nogara voted to deny this petition.

All 4 of the voting Board members in attendance have to vote in the affirmative for any petition to be granted.

This petition is Denied.

**MEMBERS OF THE BOARD VOTING WERE**

James O'Brien, Chair  
Virginie Nogara  
Claire Croken  
John King

  
Board of Appeal  
Chairman, James O'Brien  
6. 30, 2016