



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

CASE NUMBER 20-03

LOCATION of SUBJECT PROPERTY 45 Holyoke Street, Malden, MA

NAME of PETITIONER and OWNER Congregation Beth Israel Ansei Litte of Malden

DATE of PUBLIC HEARING January 8, 2020

DATE of DECISION January 8, 2020

DATE of FILING DECISION with CITY CLERK January 16, 2020

DATE of NOTIFICATION to BUILDING INSPECTOR January 16, 2020

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT February 5, 2020

[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 #20-03):

1. The subject property is known by City of Malden Assessor's parcel identification number 085408828.
2. Petitioner is the property owner, Congregation Beth Israel Ansei Litte of Malden, 10 Dexter Street, Malden, MA.
3. Petitioner was represented at the public hearing by its attorney, Thomas P. Callaghan, Jr., One Centre Street, Malden, MA 02148, and the proposed new owner and developer, Wellington Baker Associates, represented by Steve Skiffington, 11 Spruce Road, North Reading, MA 01864.
4. 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 religious facility to two-family residential dwelling.
5. The following plans were submitted in support of the petition: Site Plan, "Plot Plan of Land in Malden, MA," dated June 14, 2019 and revised November 29, 2019, prepared by Paul J. Finocchio, P.L.S., PJF & Associates, Wakefield, MA; and set of plans, "45 Holyoke St, Malden, MA, Prepared for: Mr. Steve Skiffington," dated March 26, 2019, prepared by MJ Tavares Architects, Lynnfield, MA, that includes First Floor Plan (A-1), Second & Attic Floor Plans (A-1.1), Exterior Elevations (A-2 and A-2.1).
6. In accordance with the City Demolition and Alteration Delay Ordinance, the Malden Historical Commission made the determination dated October 18, 2019, that the existing building is not Preferably Preserved and the demolition permit will not be delayed.
7. On January 8, 2020, before the Planning Board held the public hearing on this petition and rendered its decision in Case #20-03, the Board rendered a decision in Case #20-02, whereby the Board allowed the withdrawal of petitioner's request for consent to file a repetitive petition within two years of the Board's denial of the petition for a special permit in Case #17-10 on October 11, 2017; the request for consent was made under §800.4.10 of the Ordinance and Massachusetts General Laws, Chapter 40A, §16; and the repetitive petition sought to be filed was for a special permit under §700.1.3.1 of the Ordinance to allow conversion of the property to a town/row dwelling with three units.
8. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #20-03):

The City of Malden Planning Board finds the following facts:

1. The existing building on the subject property is a 2 ½ -story building, currently vacant and most recently occupied for religious facility use by petitioner.
2. The building appears to be in a state of disrepair and owner recently cleaned various trash, debris and litter, and overgrown vegetation from the site.
3. The proposal is to demolish the existing building and construct a new building to be used as a two-family dwelling, semi-detached, or duplex/side-by-side style, with an approximate footprint of 1,584 square feet (22 x 72 feet) and height of 2 ½ stories.
4. Under the proposal, the front dwelling unit has two bedrooms and the rear dwelling unit has three bedrooms; and both dwelling units have unfinished attic spaces, which are proposed for storage.
5. According to petitioner, each unit is proposed to have a full basement, to be used for utilities and storage, however, no plan for the basement was submitted.
6. The property is located in the Residence A zoning district.
7. The current religious facility use is allowed in this district.
8. The proposed two-family dwelling use is prohibited in this district, however, may be allowed by special permit as a conversion of a preexisting nonconforming property, per §§300.3.2.2 and 700.1.3.1 of the Ordinance.

9. The direct abutters to the west are three-family dwellings; to the south, a three-family dwelling and a single-family dwelling; to the east, a two-family dwelling and a three-family dwelling; and to the north, on the other side of Holyoke Street, a six-unit multifamily dwelling and a four-family dwelling.
10. Surrounding land uses are residential and mostly two and three-family dwellings.
11. Used for a religious facility, the existing building on the property violates current dimensional controls for lot area, with a 33% deficiency, and front yard setback; predates the current Ordinance and is considered preexisting nonconforming, per §§400.1.3.5 and 700.1 of the Ordinance.
12. The proposal increases the lot area nonconformity to 46%, maintains a front yard setback violation and creates new violations of frontage, 33%; side yard setbacks; and density, 16%, per §400.1.2.2.2 of the Ordinance.
13. The religious facility use of the property requires 95 offstreet parking spaces, per §500.1.3.5 of the Ordinance; there is currently no parking onsite, and whereas the religious facility use predates the current requirements, the existing 100% parking violation is considered preexisting nonconforming, per §700.1 of the Ordinance.
14. The proposed two-family dwelling requires five parking spaces, namely, one space per bedroom, per §500.1.2.2 of the Ordinance.
15. Under the proposal, five parking spaces are provided onsite: the spaces exceed the required dimensions; are configured as head-on along the southern property line; and have access and egress via a proposed driveway of varying width, 10 to 14 feet, along the western side of the proposed dwelling.
16. The proposal eliminates the parking deficiency, regarding number of spaces, in its entirety.
17. Under the proposal, the western side yard and rear yard do not comply with requirements to devote a minimum of 50% of yards to lawn/landscaping and not paving, per §500.2.20 of the Ordinance.
18. The proposal requires installation of a curb-cut on Holyoke Street, which will require DPW approval.
19. The proposal includes a drainage system in the proposed parking area, as indicated on the site plan.
20. The Ward 7 City Councilor, the Mayor and one residential abutter are in favor of the proposal.
21. One residential abutter is in opposition to the proposal.
22. The creation of additional bedrooms or expansion of proposed bedrooms will require a building permit and an amendment of this special permit and the plans approved with this special permit.
23. As modified by proposed conditions of the special permit, the proposal will not be more detrimental to the neighborhood.
24. The plans submitted with the petition are incorporated herein by reference and approved by the special permit, except as modified by conditions of the special permit.

DECISION (Case #20-03):

On January 8, 2020, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following eight (8) conditions: 1) All development shall be as per plans, except as modified by these conditions; 2) The maximum number of bedrooms in the front unit is two and in the rear unit is three, as per plan; 3) Paved areas are limited to the driveway and parking area depicted on the plan; all paved areas must be permeable; 4) The front yard and eastern side yard shall be landscaped and may not be paved; 5) Install drainage system on-site, subject to review and approval of City Engineer; 6) Obtain DPW approval of proposed curb-cut; 7) Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director; and 8) A basement may be allowed and shall be for utilities and storage only.

RECORD of VOTES (Case #20-03):

The vote on the motion to grant the special permit with eight (8) conditions was nine in favor, none opposed, and the motion passed (9-0):

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

Motion by Fitzgerald, seconded by Antonucci.

Present but not voting: Chuha.

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