



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

CASE NUMBER 20-02

LOCATION of SUBJECT PROPERTY 45 Holyoke Street, Malden, MA

NAME of PETITIONER David M. Chuha

NAME of PROPERTY OWNER Congregation Beth Israel Ansei Litte of Malden

DATES of PUBLIC HEARING May 9, 2018, August 8, 2018 and 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 #20-02):**

1. The subject property is known by City of Malden Assessor's parcel identification number 085408828.
2. Property owner is Congregation Beth Israel Ansei Litte of Malden, 10 Dexter Street, Malden, MA.
3. Petitioner is proposed new owner and developer, David M. Chuha, Chuha Construction Company, Inc., 38 Hopkins Street, Reading, MA 01867
4. On May 9, 2018, owner was represented by its attorney, Jordan Shapiro, 105 Salem Street, Malden, MA; and on August 8, 2018 and January 8, 2020, owner was represented by its attorney Thomas P. Callaghan, Jr., One Centre Street, Malden, MA 02148.
5. The petition seeks consent to file a repetitive petition under §800.4.10, Chapter 12, Revised Ordinances of 1991, as Amended, City of Malden (the "Ordinance") and Massachusetts General Laws, Chapter 40A, §16 (the "state law"), namely, to file a petition for a special permit under §700.1.3.1 of the Ordinance, to allow conversion of a preexisting nonconforming property in the Residence A zoning district from religious facility to a town/row dwelling with three units, within two years of the Board's final unfavorable action, namely, the denial of a petition for a special permit in Case #17-10 on October 11, 2017.
6. The following information was submitted with the petition: correspondence dated April 16, 2018 from Thomas P. Callaghan, Jr. Esq., site plan, "Plot of Land in Malden, MA," dated February 3, 2018, prepared by Paul J. Finocchio, P.L.S.; floor plans and elevations, "45 Holyoke St. Townhouses, Malden, Massachusetts," dated February 12, 2018, unsigned; correspondence dated July 26, 2018 from Thomas P. Callaghan, Jr. Esq.; and floor plans and elevations, "45 Holyoke St. Townhouses, Malden, Massachusetts," dated July 24, 2018, unsigned.
7. On May 9, 2018, immediately upon opening the public hearing and prior to any public testimony, owner requested to table the public hearing because its other attorney was not available.
8. On August 8, 2018, immediately upon opening the public hearing and prior to any public testimony, owner requested to table the public hearing because only seven Planning Board members present were able to vote, and, per the Ordinance and state law, to grant the petition, eight of the nine members of the Board must vote affirmatively.
9. On July 2, 2019, owner submitted a revised proposal for consideration with its pending request for consent to file a repetitive petition; whereas the revised proposal is for a two-family dwelling, the petition is different on its face and for a different use under the Ordinance, the City notified owner that the petition for consent to file a repetitive petition is not required and the new petition for a special permit may be filed within two years of Case #17-10.
10. On December 4, 2019, owner filed the new petition for a special permit under §700.1.3.1 of the Ordinance to allow conversion of the property from religious facility to a two-family dwelling; and the public hearing by the Planning Board is scheduled for January 8, 2020.
11. On January 8, 2020, before the Board held the public hearing on the new petition for a special permit and rendered a decision in Case #20-03, and immediately upon opening the public hearing on the consent petition and prior to any public testimony, owner requested to withdraw the consent petition via correspondence dated January 3, 2020 from Thomas P. Callaghan, Jr.
12. The public hearings complied with statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

**DECISION (Case #20-02)**

On May 9, 2018, the Planning Board granted owner's request to table the public hearing.

On August 8, 2018, the Planning Board granted owner's request to table the public hearing.

On January 8, 2020, the Planning Board allowed the withdrawal of the petition for consent to file a repetitive petition.

RECORD of VOTES (Case #20-02):

On May 9, 2018, the vote on the motion to table the public hearing was eight in favor, none opposed, and the motion passed (8-0):

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

*Motion by Antonucci, seconded by MacCuish. Absent: Chuha, Wolff.*

On August 8, 2018, the vote on the motion to table the public hearing was seven in favor, none opposed, and the motion passed (7-0):

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

*Motion by Fitzgerald, seconded by Antonucci. Absent: Henry, MacCuish. Present but not voting: Chiavelli, Chuha.*

The vote on the motion to allow the withdrawal of the petition seeking consent to file a repetitive petition 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 Antonucci, seconded by Henry. 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