



CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION

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CASE NUMBER 16-16

LOCATION of SUBJECT PROPERTIES 429-447 Charles Street, Malden, MA

NAME of PETITIONER and OWNER Charles Nguyen Realty Trust

DATE of PUBLIC HEARING July 13, 2016 DATE of DECISION July 13, 2016

DATE of FILING DECISION with CITY CLERK July 18, 2016

DATE of NOTIFICATION to BUILDING INSPECTOR July 18, 2016

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT August 8, 2016

*[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.]*

CITY CLERK'S OFFICE  
MALDEN, MASS.

PROCEDURAL HISTORY (Case #16-16):

1. Petitioner is the owner, Charles Nguyen Realty Trust, 435 Charles Street, Malden, MA 02148.
2. The petition seeks a special permit under §700.1.3.1 of Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to reinstate certain rights authorized by the special permit granted in Case #90-28, to occupy a preexisting nonconforming property in the Residence A zoning district for general offices and/or retail services uses and to legalize a preexisting nonconforming convenience store use.
3. The following plans and information were submitted in support of the petition: "FLOOR PLAN, #429-447 CHARLES STREET MALDEN, MA," dated March 4, 2016, prepared by George C. Collins, P.L.S., Charlestown, MA; "CERTIFIES [sic] PLOT PLAN 437 CHARLES STREET MALDEN, MA. (MIDDLESEX COUNTY)," dated April 1, 2015 (stamped/signed May 1, 2015), prepared by Richard J. Mede, Jr., P.L.S., Medford Engineering & Survey, Medford, MA; and correspondence dated May 10, 2016 from petitioner's attorney, Thomas P. Callaghan, Jr., that describes the proposal.
4. Petitioner requested a waiver of filing requirements regarding building exterior elevations because there are no proposed changes.
5. The public hearing complied with the statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #16-16):

The City of Malden Planning Board finds the following facts:

1. The property is the site of a single-story building containing six commercial units, with a total 6,395 square feet, configured and occupied as follows: 447 Charles Street, 920 square feet, currently used for general offices by an appraiser; 443 Charles Street, 1,770 square feet, currently vacant, most recently used for general offices by a bank; 437 Charles Street, 540 square feet, current vacant, most recently used for retail services by a hair salon; 435 Charles Street, 1,990 square feet, currently used for retail services by a dry cleaners; 431 Charles Street, 495 square feet, current vacant, most recently used for retail services by a hair salon; and 429 Charles Street, 680 square feet, currently used for a convenience store.
2. The proposal is to reinstate certain rights authorized by the special permit granted in Case #90-28, namely, to allow retail services and/or general offices use of all units the building; and to legalize the existing convenience store use; the proposal also identifies the specific kinds of retail services and professional offices to be allowed.
3. No interior or exterior alterations or structural changes are proposed.
4. The property is located in the Residence A zoning district.
5. The property is the subject of a special permit granted in 1990 in Case #90-28, that allowed occupancy for retail sales and services and general offices; some rights authorized by this special permit have lapsed for non-use.
6. The direct abutters to the north are two-family dwellings; to the west, on the other side of Gale Street, single-family and two-family dwellings; to the east, on the other side of Presley Street, a two-family dwelling; and to the south, on the other side of Charles Street, single-family and two-family dwellings.
7. Surrounding land uses are residential and mostly two-family dwellings.
8. The building was constructed before 1937, grossly violates dimensional controls for all yard setbacks and building coverage and is considered preexisting nonconforming, per §§400 and 700 of the Ordinance.
9. The proposal maintains all existing violations and creates no new nonconformities.
10. Based on the total gross floor area of the building, a total of twenty-six parking spaces are required for the existing and proposed business uses, per §§500.1.4.12, 500.1.4.13 and 500.2.18 of the Ordinance.
11. By eliminating the bank office use, the proposal reduces the amount of parking required.

12. Onsite parking for approximately eight vehicles is available in a paved lot at the rear of the building, accessed via Gale Street; the parking layout is nonconforming and differs from the plan submitted.
13. The parking violations are considered preexisting nonconforming, per §700.1 of the Ordinance.
14. On-site parking is subject to compliance with conditions of the special permit granted in Case #90-28 regarding number of spaces, layout, lining, cleaning, paving, grading, drainage, fencing for screening from abutting residential properties and notice to tenant's employees; to date, some conditions have not been met.
15. The parking lot is not screened from residential properties; the chain-link fencing is in need of repair; the pavement and pavement markings are in need of maintenance; and there are debris and overgrown vegetation in the rear yard.
16. Near the convenience store, sidewalks and street gutters are littered with lottery tickets and cigarette debris.
17. As specified by the conditions of this special permit, all units in the building may be occupied for business use by certain specific types of retail services and/or general offices.
18. The Ward 2 City Councilor is in favor of the petition.
19. There is no public opposition to the petition.
20. As modified by conditions of this special permit, the proposal will not be more detrimental to the neighborhood.
21. Petitioner consents to the proposed conditions of this special permit.

DECISION (Case #16-16):

Pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following fourteen conditions: 1) Each unit in the building may be occupied only by a single business tenant; 2) Occupancy of any unit may be for general offices by only the following kinds of business: appraiser, mortgage finance, real estate, insurance, accountant, attorney; occupancy by any building, construction or contractor is prohibited; 3) Occupancy of any unit may be by a retail services provider and shall be restricted to only the following kinds of services: hairstylist, barber, beautician/cosmetologist, electrolysis, pet groomer, nail salonist, psychic, or tailor/seamstress; occupancy by any adult entertainment, body art, piercing or tattoo business is prohibited; 4) Occupancy by a furniture upholsterer is allowed, however, any manufacturing is prohibited; 5) Occupancy by a convenience store is limited to the existing space (680 SF); 6) No business shall have a liquor license; 7) No business shall have a common victualer's license; 8) No more than one business may have a retail food establishment license; no business may sell fresh fish or meat; 9) No dumpsters shall be permitted; 10) Maintain pavement and lining of parking lot for minimum of eight (8) spaces in accordance with plot plan submitted; maintain grading to prevent water from shedding onto adjacent properties and with drainage subject to the satisfaction to the City Engineer; 11) Notify each tenant of the building of onsite parking; request each tenant to encourage use by employees; 12) Install stockade or similar privacy fence between the parking and abutting residential properties; 13) Clear all debris and overgrown vegetation from rear yard; and 14) Perform litter control on sidewalks and street gutters adjacent to the property, a minimum of three times daily.

RECORD of VOTES (Case #16-16):

The vote on the motion to grant the special permit with fourteen conditions was eight in favor, none opposed: Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; Lawhorne, yes; MacCuish, yes; Ioven, yes.

*Motion by Antonucci, seconded by Chuha.*

*[Absent: Henry, Mzaouakk, Wolff.]*

*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*

