

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: February 9, 2022
Subject: Zoning Amendment/CCP #452/2021, as amended
General Regulations, Obstructions (§12.28.060)
Title 12, Chapter 12, Code of City of Malden (MCC) (*all references herein*)

PETITION: This petition is made by the City Council (§12.32.050) and was filed by sponsor Councilor-at-Large Craig Spadafora. For full text of amendment see attached City Council Paper 452/2021, as amended by attached City Council Ordinance Committee report on December 21, 2021, and accompanying correspondence from Nelson Miller, Building Commissioner dated October 7, 2021).

PURPOSE and HISTORY of CURRENT ORDINANCE:

This safety provision regulates structures, landscaping and parked vehicles located on property at the intersection of two streets, which may obstruct the views of traveling vehicles, pedestrians and cyclists.

The original provision specified the distance as thirty (30) feet, as ordained in 1977 with the City's adoption of M.G.L. Chapter 40A; and was amended to ten (10) feet, when the current provision was ordained in 1978.

SUMMARY of PROPOSED AMENDMENT:

The current provision is ineffective to achieve its purpose because, if calculated as written, the area intended to be free of obstructions is typically not included, given measurements include sidewalks. (For illustrative reference, see PowerPoint presentation, "12.28.060 Obstructions rev." by Nelson Miller, Building Commissioner, attached).

As proposed, the amendment will update the existing provision as follows:

"At the intersection of two (2) or more streets **or bike path**, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line **ten (10) twenty-five (25)** feet distant from said intersection measured along said street line. On rounded corners, said **ten (10) twenty-five (25)** distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding."

APPLICATION and EXEMPTIONS: The amended ordinance will apply to new structures and existing structures on existing lots, unless exempt per M.G.L. c. 40A, §6: as a preexisting nonconforming use or structure (per §12.28.010); the subject of a building or special permit issued before the first publication of notice of the public hearing (January 21, 2022); or land part of an approved and endorsed Approval Not Required or Definitive subdivision plan.

Note 1: *The effective date is the date of City Council's vote to ordain the amendment (§12.32.050.F).*

STANDARD of REVIEW: The Planning Board's review and recommendation of the proposed zoning changes should be directed by *substantive planning objectives, community need and general welfare.*

PLANNING RECOMMENDATION: (*Made prior to the public hearing*) That the Planning Board recommends to the City Council:

- 1) Approval of the amendment as submitted.



CITY OF MALDEN
Inspectional Services Department

215 Pleasant Street
Malden, MA 02148
781.397.7000

Nelson L. Miller Jr. CBO, Building Commissioner

Malden City Council
Mr. Neal Anderson, President
215 Pleasant Street
Malden, MA 02148

October 7, 2021

Re: Proposed ordinance change

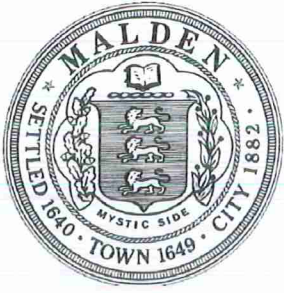
President Anderson,

On behalf of Mayor Gary Christenson, I respectfully propose an amendment to Section 12.28.060 of the City of Malden Ordinances. *Section 12.28.060 – Obstructions* is an ordinance which addresses the heights and locations of fences and other obstructions which are on property located at the intersection of two streets. The ordinance is ineffective as currently constructed, which Mayor Christenson has been made aware of by my department through our efforts to resolve numerous complaints from residents. These proposed revisions and additions to our current ordinance will provide safer traveling conditions for vehicular, pedestrian, and bike traffic at the intersection of streets, driveways, and sidewalks.

I am including a brief power point presentation with the proposal. I would be happy to present this before the City Council and answer any questions that may arise.

Please do not hesitate to contact me with any questions or concerns.

Nelson L Miller Jr., CBO
Building Commissioner / Zoning Officer
Director – Inspectional Services Department



CITY OF MALDEN
Inspectional Services Department

215 Pleasant Street
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Nelson L. Miller Jr. CBO, Building Commissioner

12.28.060 OBSTRUCTIONS

This is the ordinance as it currently reads, with proposed changes in red:

At the intersection of two (2) or more streets, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ **twenty five (25)** feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ **twenty five (25)** foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.

This is entirely new language to be added to the current ordinance:

At the intersection of a street and any driveway or access road, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the driveway or access road within six (6) feet distant from the lot line located at said intersection.

Paper 452-21 Information from Rules & Ordinance Committee Mtg. on 12/21/21

Amendments to Paper 452-21 that were passed.

1. Add bike path after (2) or more streets
2. Change 10 feet to 25 feet distance.
3. Strike the proposed new language in its entirety.

12.28.060 OBSTRUCTIONS

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City of Malden
Ordinance Section
12.28.060
OBSTRUCTIONS

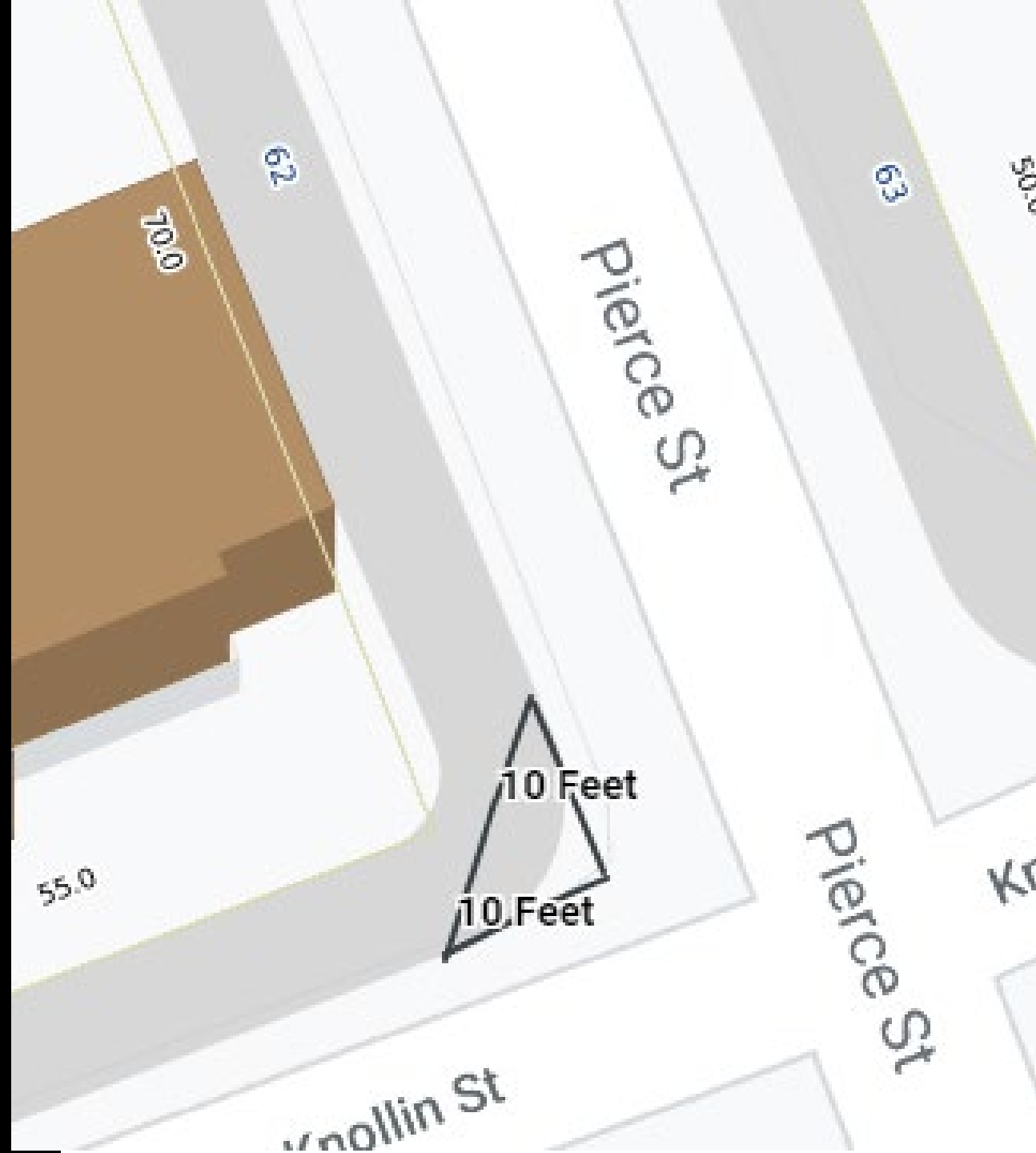
Nelson Miller
Building Commissioner
Inspectional Services Department

The current text of the ordinance:

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What does this mean?



Proposed change:

At the intersection of two (2) or more streets, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ **twenty five (25)** feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ **twenty five (25)** foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.

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