

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: December 13, 2017
Subject: Amendments of §§400.1.2.1 and 400.1.2.2., Chapter 12, Rev. Ord. of 1991 (“MZO”) City Council Paper (“CCP”) #473/2017

PROCEDURAL: The petition is made by the City Council (§800.5, MZO) and was filed by sponsor, Ward 4 Councilor Ryan O’Malley.

AMENDMENTS:

1. Area (Lot Size). The proposal is to increase area (lot size) requirements by 100% for single and two-family dwellings:

| MZO Section # | Residential Dwelling Use | Existing Requirement Area (SF) | Proposed Requirement Area (SF) |
|----------------------|--|--------------------------------|--------------------------------|
| §400.1.2.1 | Single-family | 7,500 | 15,000 |
| §400.1.2.1 (fn+) | Single-family (subdivision of three or more lots) | 8,750 | 17,500 |
| §400.1.2.2.1 | Two-family, detached | 12,500 | 25,000 |
| §400.1.2.2.2 | Two-family, semi-detached, each half | 6,250 | 12,500 |
| §400.1.2.2.1 (fn++) | Two-family, detached (subdivision of 3 or more lots) | 15,000 | 30,000 |
| §400.1.2.2.2 (fn+++) | Two-family, semi-detached, each half (subdivision of three or more lots) | 7,500 | 15,000 |

Note 1: The proposal does not amend the minimum lot area for two-family dwellings in the Residence A zoning district, allowed by use variance (§300.19), namely, 13,000 SF (§300.19.1, MZO).

Note 2: The proposal does not amend the minimum lot area requirement for multifamily dwellings in the Central Business zoning district, namely, 5,000 SF (§400.3, MZO).

Historical Background: Since 1977, when the City’s zoning ordinance (MZO) was first adopted, the minimum area (lot size) requirements for single and two-family dwellings have increased several times (CCP #417/1999, CCP #291/2003, CCP #256/2005, CCP #269/2015 and CCP #270/2015) and separate requirements for two-family dwellings in Residence A were established (CCP #137/2008). Below is a representative history of area (lot size) requirements:

| Residential Use | 1977-1999 | 1999-2005 | 2005-2015 | 2015-present |
|---|-----------|-----------|-----------|--------------|
| Single-family | 5,000 SF | 5,000 SF | 6,000 SF | 7,500 SF |
| (subdivision of 3 or more lots) | | 6,000 SF | 7,000 SF | 8,750 SF |
| | 1977-1999 | 1999-2005 | 2005-2015 | 2015-present |
| Two-family, detached | 8,000 SF | 8,000 SF | 10,000 SF | 12,500 SF |
| (subdivision of 3 or more lots) | | 10,000 SF | 12,000 SF | 15,000 SF |
| Two-family, semidetached (each half) | 4,000 SF | 4,000 SF | 5,000 SF | 6,250 SF |
| (subdivision of 3 or more lots) each half | | 5,000 SF | 6,000 SF | 7,500 SF |

2. Frontage. The proposal is to increase the minimum frontage requirements by 50% for single and two-family dwellings:

| MZO Section # | Residential Dwelling Use | Existing Requirement Frontage (feet) | Proposed Requirement Frontage (feet) |
|---------------|--------------------------------------|--------------------------------------|--------------------------------------|
| §400.1.2.1 | Single-family | 50 | 75 |
| §400.1.2.2.1 | Two-family, detached | 50 | 75 |
| §400.1.2.2.2 | Two-family, semi-detached, each half | 35 | 53 |

By definition, frontage is “the continuous and contiguous length of a lot along the street line of a public way, a private way approved and endorsed by the Planning Board and constructed, or a private way certified by the City Clerk and Planning and Engineering Department as used and maintained as a public way,” (§800.6.2.34, MZO).

Historical Background. Frontage for single-family dwellings has increased only once since 1977 (CCP 420/1997) in 1998 and for two-family dwellings has remained the same since 1977. The definition of frontage was amended sometime between 1980 and 1983 and then in 2005 (CCP 31/2005) to reflect the definition of frontage provided by M.G.L., Chapter 41, §81L.

APPLICATION: The amended ordinances will apply to new lots and new buildings and construction and use and occupancy of existing buildings on existing lots.

For reference and illustration, according to the City Assessor’s records: there are less than a dozen parcels, or less than 1% (1/10 of 1%) of all parcels in the City (total parcels: 13,803) of undeveloped/vacant land with an existing lot area large enough to be subdivided to create one or more single-family dwelling lots under the proposed new requirement [See *Note 3*]; and there are less than 300 parcels, or approximately 2% of all parcels in the City, that are currently developed/improved with an occupied building or structure and which have an existing lot area large enough to be subdivided to create one or more single-family dwelling lots under the proposed requirement [See *Note 4*].

Note 3: It has not been determined whether these parcels have frontage and/or are located in zoning districts where residential development is allowed.

Note 4: It has not been determined whether residential development of these parcels is allowed under the current ordinance. Redevelopment of these parcels may require demolition of existing buildings/structures.

The effective date of the amendment is the date of the City Council’s vote to ordain the amendment (§800.5.7, MZO). The Council must act on the amendments within ninety (90) days after the hearing closes, otherwise, a new duly advertised public hearing must be held (§800.5.5, MZO); accordingly, if the public hearing closes December 13, 2017, the final date for action is March 13, 2018.

EXEMPTIONS: The amended ordinances will not apply to property that is exempt (“grandfathered in”) per M.G.L. c. 40A, §6; §700.1.1, MZO; the State Permit Extension Act (Section 240, Chapter 240, Acts of 2010, extended by Sections 74 & 75, Chapter 238, Acts of 2012; or the express language of the amendment.

There are several known parcels proposed for single-family dwelling use that will be exempt from the proposed amendments, given they are the subject of an endorsed Approval Not Required subdivision plan; a Preliminary subdivision plan (provided followed within seven months by an approved definitive plan, per M.G.L. c. 41A, §81) or a building permit issued before the first publication of notice of the public hearing (November 24, 2017), per state statute.

Note 5: Per state statute, applications for permits that are in the processing stage when publication occurs are not protected; historically, the City interprets, in consideration of any pending petitioner’s good faith reliance on current regulations, that proposed amendments do not apply to applications filed prior to the first publication of notice of public hearing (November 24, 2017). There is at least one known application for a building permit and corresponding petition for a variance filed prior to the date of first publication, for a single-family dwelling at 45 High Rock Road.

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.*

The Recommended Land Use Plan contained in the *Master Plan* (2010) provides that the minimum lot size for single-family dwellings in the Residence A zoning district be increased (to 7,500 square feet), to preserve neighborhood character (Section L1.4, Chapter 8, *Master Plan*).

PLANNING RECOMMENDATION: That the Planning Board recommends to the City Council approval of the amendments as submitted.