

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: December 11, 2024
Subject: Zoning Amendments- Various Administrative & Miscellaneous Revisions (CCP 376/2024)
Various Sections, Title 12, Code of City of Malden (MCC- all § references herein)

PETITION: The petition is made under §12.32.050; the City Council is the petitioner; the petition was sponsored by Ward 3 Councilor Amanda Linehan, Chair of Ordinance Committee; and the amendments are recommended for consideration by the City Planner and Building Commissioner, to clarify existing provisions, codify current protocol and interpretation, streamline permitting and/or update City ordinances to be consistent with state law. For full text of amendments, see attached petition (CCP 376/2024).

SUMMARIES of PROPOSED AMENDMENTS:

1. Use Regulations (§§12.12.010A & 12.12.030).
 - a) The proposed amendments to the provision re: dwelling multifamily, more than 6 not to exceed 7 stories, are administrative, not substantive and serve to clarify the existing provision.
 - b) The proposed amendments re: daycare and nonprofit schools update the ordinance to be consistent with state law, which provides these protected uses may not be prohibited or regulated by special permit (M.G.L. c.40A, Section 3).
2. Nonconforming Uses, Lot, Buildings and Structures (§12.28.010).
 - a) Single and two-family dwellings (§12.28.010.B). The proposed amendment clarifies the existing provision and codifies the current and historical protocol and interpretation of this provision.
 - b) Three-family dwellings (§12.28.010.C). The proposed amendment would allow reconstruction of a three-family dwelling to include an extension or addition, provided it complies with current zoning. (for revised/additional language see **PLANNING RECOMMENDATION** below)
 - c) Residence A, B and C zoning districts (§12.28.010.D). As proposed, the amendment:
 - i. deletes the special permit re: daycares to be consistent with state law (see 1b. above).
 - ii. clarifies and updates the provision re: the relief required for noncompliance and violations of dimensional controls and parking requirements; codifies the current and historical protocol, interpretation and administration of these regulations; and renders the language of the ordinance consistent with the current and historical interpretation.
 - iii. eliminates the special permit requirement for dormer additions of a certain size (for revised/additional language see **PLANNING RECOMMENDATION** below); the amendment streamlines the permitting process for certain, limited types of extension of preexisting nonconforming residential property.

Note 1: This section (12.28.010.D) does not apply to single and two-family dwellings.

- d) Residential Office, business, industrial zoning districts (§12.28.010.E). The proposed amendment:
 - i. eliminates the special requirement for certain proposals (reconstruction without increasing dimensions, structural changes or alterations that do not increase the size of the building); and thus streamlines the permitting process for reuse/ redevelopment of preexisting nonconforming property in business and industrial zoning districts.
 - ii. clarifies the existing provision re: uses allowed by right.
 - iii. clarifies and updates the ordinance re: the relief required for noncompliance and violations of dimensional controls and parking requirements; codifies the current and historical protocol and administration of the use regulations; and renders the language of the ordinance consistent with the current and historical interpretation.

- e) Extension (§12.28.010.F). The proposed amendment clarifies the existing provision and codifies the current and historical administration of this provision.
- f) Abandonment/non-use, extinguishment (§12.28.010.H). The proposed amendment clarifies the existing provision and eliminates the provision which creates a duplicative process for administrative appeals.

3. General Offstreet Parking Requirements, Central Business District (§12.20.020.H).

The proposed amendments are administrative, not substantive, clarify the provisions re: reduction of parking requirements, and codify current and historical administration of these provisions.

4. Certificate and Permits, Special Permits (§12.32.030.B).

- a) Subsection 2. The proposed amendment is administrative and corrects a typographical discrepancy.
- b) The proposed amendment updates the ordinance to be consistent with state law (M.G.L.c.40A, §9) re: the voting threshold (simple majority) for certain types of special permits.

***Note 2:** For certain types of zoning amendments, state law now provides the voting threshold is a simple majority (M.G.L. c. 40A, §5); this state threshold is effective (as of January 14, 2021), regardless of whether the City amends its ordinances, however, amendment is recommended so that the language of the City ordinance is consistent with state law.*

- 5. Various Sections. The proposed amendments are administrative, update the ordinance to reflect current composition of City government, and change reference to the “Malden Redevelopment Authority” to “Office of Strategic Planning & Community Development” in the following provisions: Site Plan Review Committee (§12.12.140.F); Rowe’s Quarry Site Plan Review Committee (§12.28.140.E); and Definition of Working Artist (§12.32.060).

APPLICATION and EXEMPTIONS: The amendments will apply to new construction and new use/occupancy of existing buildings, unless exempt by City ordinance (§12.28.010); the express language of the amendment; state law (M.G.L. c. 40A, §6), which exempts the subject of a building permit or special permit issued before the first publication of notice of the public hearing (November 22, 2024); or the state Permit Extension Act (Section 280 of Chapter 238 of the Acts of 2024).

EFFECTIVE DATE: The effective date of the amendment is the date of the City Council’s vote to ordain (§12.32.050.F). The Council must act on the amendment within ninety (90) days after the public hearing closes, otherwise, a new duly advertised public hearing must be held (§12.32.050.D); accordingly, if the public hearing closes on December 11, 2024, **the final date for action is March 11, 2025.**

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: (*Prepared prior to the public hearing*) That the Planning Board recommends to the City Council approval of the amendments, as submitted, and with the following revisions:

- 1. Section 12.28.010.C. Revise the proposed amendment to read as follows:
“Provided that ~~Any~~ addition ~~or extension~~ shall comply with the current Ordinance, including but not limited to dimensional controls and parking requirements, or shall seek and obtain a variance to allow any nonconformities.
- 2. Section 12.28.010.D. Revise the following provision of the proposed amendment to read as follows:
“~~For a~~ ~~Dormer~~ addition(s) to a preexisting nonconforming residential dwelling regulated by this section, ~~dormer addition(s) that increase the gross floor area of the floor where the dormer(s) is located by 50% or less~~ shall not require a special permit, provided that any addition or extension shall comply with the current Ordinance, including but not limited to dimensional controls and parking requirements, or shall seek and obtain a variance to allow any nonconformities.”