

PAPER ____-22:

ORDER: That Title 12 of the Code of the City of Malden be amended for purposes of amending existing special permit use regulations to reflect current protocol and administration of zoning ordinances to render the language in the ordinances consistent with current interpretation and application.

To further amend the following sections of Title 12, Code of City of Malden as follows:

1. Use Regulations for Residential Uses (Except for All Structures More than Six Stories).

Section 12.12.010.A.1 amend to state the following:

“1. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.010.A.2 amend to state the following:

“For the addition of a residential use to a lawfully existing building, or for alteration, conversion or other change to a residential use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must make a finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

2. Use Regulations for Institutional, Business, Industrial and Other Uses.

Section 12.12.010.B.1 amend to state the following:

“1. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.010.B.2 amend to state the following:

“For addition of the use to a lawfully existing building, or for alteration, conversion or other change to a use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must make a finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

3. Use Regulations for Property w/Preferably Preserved Building per Demolition Delay Ordinance.

Section 12.12.010.C.1 amend to state the following: “1. For construction of a new building or structure, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.010.C.2 amend to state the following: “2. For any extension, addition, structural change and/or alteration to an existing building, structure or site, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the special permit granting authority must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the special permit granting authority makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

4. Use Regulations for Fast-food Service Restaurants.

Section 12.12.060.A amend to state the following:

“A. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.060.B amend to state the following:

“B. For the addition of a restaurant use to a building, or for alteration, conversion or other change to a restaurant use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

5. Use Regulations for Restaurants.

Section 12.12.070.A amend to state the following:

“A. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.070.B amend to state the following:

“B. For the addition of a restaurant use to a building, or for alteration, conversion or other change to a restaurant use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase

in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

6. Use Regulations for Drive-thrus.

Section 12.12.150.A amend to state the following:

“A. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance for the principal use to which the drive-thru is accessory and compliance with the parking requirements for drive-thrus. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.150.B amend to state the following:

“B. For the addition of a drive-thru to a building, or for alteration, conversion or other change to a drive-thru use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”

7. Use Regulations for Gasoline Filling & Service Stations.

Section 12.12.160.A amend to state the following:

“A. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance for the principal use to which the drive-thru is accessory and compliance with the parking requirements for drive-thrus. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.”

Section 12.12.160.B amend to state the following:

“B. For addition of a gasoline filling and service station to an existing building, or, for alteration, conversion or other change to a gasoline filling and service station lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.”