



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CASE NUMBER 18-14

LOCATION of SUBJECT PROPERTY 215 at 209-215 Salem Street, Malden, MA

NAME of PETITIONER Ramsey Gilbert

NAME of OWNER Done Deal LLC

DATE of PUBLIC HEARING December 12, 2018

DATE of DECISION December 12, 2018

DATE of FILING DECISION with CITY CLERK December 18, 2018

DATE of NOTIFICATION to BUILDING INSPECTOR December 18, 2018

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 7, 2019

[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.]

PROCEDURAL HISTORY (Case #18-14):

1. Petitioner is the proposed occupant, Dr. Ramsey Gilbert, 127 Smith Place, Cambridge, MA 02138.
2. Property owner is Done Deal LLC, c/o Scott Hefter, Manager, 375 Harvard Street, Brookline, MA 02446.
3. At the public hearing, petitioner represented himself and property owner was represented by its property manager, Kyle Cabral, 14 Bancroft Street, Lynnfield, MA 01940.
4. The petition seeks a special permit under §300.3.4.8, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden (the "Ordinance") to allow a medical center use of property in the Neighborhood Business zoning district, namely, a chiropractor's office.
5. The following plans were submitted in support of the petition: site plan, "Mortgage Inspection Plan 209-215 Salem Street, Malden, MA," dated November 28, 2018, prepared by George C. Collins, P.L.S., Boston Survey, Inc., Charlestown, MA; and "Floor Plan Chiropractor Office Done Deal LLC 215 Salem Street Malden, MA 02148," dated December 6, 2018, prepared by Maxwell Architects, LLC, Somerville, MA.
6. Petitioner requested a waiver of the filing requirements for floor plans for other floors and building elevations because no changes are proposed to these areas.
7. The public hearing complied with the notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #18-14):

The City of Malden Planning Board finds the following facts:

1. The property is located on the southern side of Salem Street at the corner of Salem Place.
2. The property is the site of a 2 ½ story, three-family dwelling with eight bedrooms, and an attached single-story storefront on the first floor, approximately 394 to 425 square feet in size, which is the subject of the petition.
3. The proposal is to use the storefront for a chiropractor's office.
4. Under the proposal, the whole space will be used as one large room, and except for the existing handicapped accessible bathroom, no partitions or separate rooms currently exist and none are proposed.
5. Petitioner proposes to create three separate treatment areas, each approximately eight feet by eight feet in size, by hanging fire-retardant curtains on tracks installed on the ceiling, similar to those used in a hospital; each area will have a table and may be used for consultation, intake and treatment.
6. The subject property is located in the Neighborhood Business zoning district.
7. The subject space is currently vacant and was most recently used for general offices.
8. The proposed chiropractor's office is considered a medical center use, which is allowed by special permit in the Neighborhood Business zoning district, per §300.3.4.8 of the Ordinance.
9. Under the proposal, there are no changes to the three-family residential dwelling use of the property.
10. The direct abutter to the west is a three-family dwelling; to the south, a single-family dwelling; and to the east, on the other side of Salem Place, a two-family dwelling; and to the north, on the other side of Salem Street, a gasoline filling & service station and a two-family dwelling.
11. Surrounding land uses are residential and business.
12. The Residence A zoning district abuts the property directly to the south.
13. The proposed chiropractor's offices are not in conflict with surrounding land uses.
14. The building on the subject property predates the current Ordinance, violates all dimensional controls for the current three-family dwelling use and most recent general offices use, except frontage and height, per §§400.1.2.3, 400.1.4.9, 400.2 and 700.1.1 of the Ordinance.
15. The proposed medical center use creates no new violations or nonconformities, per §400.1.4.8 of the Ordinance.

16. The current and most recent use of the property requires a total of eight parking spaces, namely, two spaces for the general office use of 394 square feet, and six spaces for the three-family dwelling, which is exempt from current parking requirements, per §§500.1.2.3, 500.1.4.12, 500.2.18 and 700.1.1 of the Ordinance.
17. The site plan depicts no parking; according to property owner, there is one parking space on-site; however, the driveway on-site in the rear yard may provide several nonconforming spaces.
18. The property does not comply with parking requirements and is considered preexisting nonconforming, per §§500 and 700.1.1 of the Ordinance.
19. The proposed medical center use of the subject space requires two spaces, per §500.1.4.13 of the Ordinance.
20. No on-site parking is proposed for the medical center use.
21. The proposal maintains the existing parking deficiency and creates no new violation of parking requirements.
22. On-street parking is allowed adjacent to the property, however, restricted by posted signage and limited due to existing locations of driveways, fire hydrants, crosswalks and bus stops.
23. Petitioner intends to rent a parking space in the Eastern Avenue area for his own use and then walk to the office.
24. Petitioner expects his patients to use public transportation or a car service, such as Uber.
25. As modified by the proposed conditions of the special permit, the traffic and traffic patterns generated by the proposal will not adversely impact the surrounding streets or create a traffic or safety hazard.
26. Petitioner has been practicing for twenty years in Massachusetts.
27. Petitioner currently operates his business from his residence in Cambridge.
28. Petitioner is the sole employee.
29. Petitioner sees clients by appointment only and does not offer "walk-in" service; typical office visits last 15 minutes to 30 minutes however, some appointments may last 45 minutes to two hours.
30. Petitioner typically sees three to five clients per day and works four to five days per week.
31. Petitioner may see more than one client during the same time-frame.
32. Petitioner's business does not generate biomedical waste; its waste is face/table paper and cleaning products.
33. Property owner has completely renovated the interior of the subject storefront with new walls, ceilings, insulation, flooring, plumbing and electrical; replaced doors and windows; and will renovate the exterior by repairing damaged siding and flashing, and painting and/or cleaning the exterior wall of graffiti.
34. There are various business uses allowed by right in this zoning district, including general offices, retail sales, retail services and recreation for gainful business, and all would require the same parking as the proposal, per §§300 and 500 of the Ordinance.
35. The Ward 5 City Councilor is in favor of the proposal.
36. One residential abutter opposes the proposal due to concerns with lack of parking in the neighborhood.
37. As modified by the proposed conditions of the special permit, the proposal is in the interest of the common good and will not be more detrimental to the neighborhood.

DECISION (Case #18-14):

On December 12, 2018, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit, subject to the following four conditions: 1) All development shall be as per plans unless modified by these conditions; 2) The special permit authorizes use of 394 SF for a chiropractor's office only, and occupancy is limited to one single business/practice; any expansion or other medical center use of the property shall require a special permit/amendment of this special permit; 3) No dumpster is allowed on-site; and 4) Repair/replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director.

RECORD of VOTES (Case #18-14):

On December 12, 2018, the vote on the motion to grant the special permit with conditions was nine in favor, none opposed, and the motion passed:

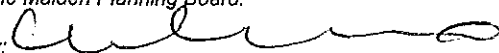
Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

Motion by MacCuish, seconded by Antonucci.

[Present but not voting: Chiavelli, Ferguson.]

I hereby certify that the above is a true copy of the decision of the Malden Planning Board.

By:


Michelle A. Romero, City Planner