



**CITY of MALDEN PLANNING BOARD
NOTICE of DECISION**

CASE NUMBER 21-08

LOCATION of SUBJECT PROPERTY 219 Centre Street at 225 Centre Street, Malden, MA

NAME of PETITIONER AFC New England, LLC

NAME of PROPERTY OWNER Irving Court Associates Limited Partnership

DATE of PUBLIC HEARING July 14, 2021

DATE of DECISION July 14, 2021

DATE of FILING DECISION with CITY CLERK July 26, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR July 26, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT August 16, 2021

[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 #21-08):

1. The subject property is known as and numbered 225 Centre Street and by City Assessor's Parcel Identification #075 271 106.
2. The subject of the petition is a portion of the property, known as and numbered, 219 Centre Street.
3. The property owner is Irving Court Associates Limited Partnership, c/o its agent, Combined Properties, Inc., 295 Canal Street, Suite 500, Malden, MA 02148; owner consents to the filing of this petition; and its representative, Attorney Brian G. Cafferty, attended the public hearing.
4. Petitioner is AFC New England LLC, the corporate franchise owner and the potential buyer, proposed tenant and operator; and was represented at the public hearing by Attorney Thomas Callaghan, Jr., One Centre Street, Malden, MA, and Jim Brennan, AFC New England, 136 Dwight Road, Longmeadow, MA 01106.
5. The current tenant, operator and franchisee, AFC Urgent Care Malden, was represented at the public hearing by Bill Poulakis, representative of North Shore Medical Ventures LLC, 119 Boardman Avenue, Melrose, MA 02176, the potential seller.
6. The petition in Permit # COO-037978-2021, filed under Section 12.12.030 of Chapter 12, Revised Ordinances of 2020, as Amended, of the City of Malden ("Ordinance"), formerly known as, Section 300.3.4.8 of Chapter 12, Revised Ordinances of 1991, as Amended, seeks to amend the special permit granted on June 19, 2013 in Case #13-18, which allows medical center use of property in the Central Business zoning district, namely, to amend the condition regarding transfer of the special permit.
7. No new plans were submitted with the current petition, and the following information was submitted: correspondence dated June 15, 2021 from Thomas P. Callaghan, Jr. to Nelson Miller, Building Commissioner, which describes the proposal; and an undated agreement, "Approval of Assignment & Amendment of Lease," signed by Landlord (Irving Court Associates Limited Partnership), Tenant/Assignor (North Shore Medical Ventures, LLC) and Buyer/Assignee (AFC New England LLC).
8. In January 2021 in Case #21-01, the Planning Board allowed the withdrawal without prejudice of a similar petition, with which were filed the following plans: site plan, "219-229 Centre Street ALTA/ACSM Land Title Survey in Malden, Massachusetts Middlesex County Prepared for: Combined Properties," dated May 2, 2013, prepared by Edward Dixon, P.L.S., DGT Survey Group-North Shore, Newburyport, MA; and a set of drawings, "AFC Doctors Express Urgent Care, DRX Malden Professionals; DBA Doctors Express 219 Centre Street, Malden, MA 02148," dated October 31, 2013, prepared by Eric Engell, P.E., EMR, Annville, KY, that include egress plan, floor plans, furniture plan, interior elevations, and mechanical/utility plans.
9. The proposal does not require a traffic impact study, per the Planning Board's current Rules and Procedures.
10. The public hearing complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #21-08):

The City of Malden Planning Board finds the following facts:

1. The subject property is located at a retail plaza near the intersection of Ferry Street and Route 60/Centre Street, and the site of a single-story building with six storefronts, known as and numbered, 219, 221, 223, 223A, 225 and 229 Centre Street.
2. The subject premises, known as and numbered, 219 Centre Street, contains 3,532 square feet.
3. Under the proposal, the subject premises will continue to be used as an urgent care center, with the same floor plan, same staff, and same business operation.
4. The remainder of the property will remain as currently occupied and as occupied when the special permit was granted in Case#13-18, namely, for a restaurant, retail services, general offices and dental office/medical center.
5. The subject property is located in the Central Business zoning district.
6. The urgent care center is classified as a medical center use, which is allowed by special permit in this district and was allowed by the special permit granted in Case #13-18, per §12.12.030 of the Ordinance.
7. The proposal seeks an amendment of the special permit granted in Case #13-18, which provides: "This special permit may be exercised only by Doctors Express Urgent Care." (Condition 1, Case #13-18).
8. As defined in §12.32.060 of the Ordinance, a special permit issued to a medical center is non-transferable and non-assignable.
9. The proposal is to transfer ownership of the business, namely, for petitioner, corporate franchisor, to purchase the franchise from the franchisee, the current operator; and the assignment agreement would be dated upon approval of the special permit.
10. Since the special permit was granted in 2013 in Case #13-18, North Shore Medical Ventures, LLC has been the franchisee and operator of the urgent care center, originally operating under the national franchise, "Doctors Express;" and according to petitioner, in 2015, the business changed its trade name to AFC Urgent Care when the franchise company was purchased.

11. The direct abutters to the west are restaurants, dental office/medical center, retail services and general offices; to the south and east, the abandoned railroad right-of-way, of which a portion is the public multimodal recreational trail, Bike to the Sea Path/Northern Strand Community Trail, and the other portion, a public parking lot managed by the Malden Redevelopment Authority; and to the north, on the other side of Route 60/Centre Street, retail sales, retail services and a K-8 school; to the east, on the other side of Ferry Street, a restaurant, residential units and the abandoned railroad right-of-way and multimodal recreational trail continues; and to the northeast, across the intersection, retail sales with drive-thru.
12. Surrounding land uses are residential, institutional, business and industrial.
13. Direct abutters and most surrounding land uses are the same as when the special permit was granted in Case #13-18.
14. The proposed continued medical center use is not in conflict with surrounding land uses.
15. The medical center use, an allowed use of property in the Central Business zoning district, does not have to conform to most dimensional controls; and the property complies with applicable dimensional controls, per §12.16.030 of the Ordinance.
16. The proposal does not create violations of dimensional controls.
17. The medical center use and existing business uses require no parking, given that all allowed non-residential uses in the Central Business zoning district do not have to conform with parking requirements, per §12.20.020.H of the Ordinance.
18. The proposal does not create violations of parking requirements.
19. As depicted on the site plan, there are 24 parking spaces on site at the front of the building; the abutting contiguous parking lot to the west is located on property, 321-331 Main Street/209 Centre Street, is owned by the same property owner; and parking spaces at the rear of the building are located on the abandoned railroad right-of-way.
20. Condition 7 of the special permit granted in Case #13-18 required that the property owner meet with Mayor, Ward City Councilor and Chairman of Planning Board to discuss: a) Installation of safety protection between building and head-on parking spaces located along northern (front) side of building; b) Installation of “blinking blue” emergency light and signage at intersection of Route 60 and Ferry Street; and c) Installation of cameras and lighting in locations adjacent to site along Northern Strand Community Trail/Bike to the Sea Path; this meeting did occur, and Condition 7 of Case #13-18 was met.
21. Currently, there are concrete parking wheel-stops and curbing in front of the parking spaces at the front of the building.
22. Currently, there is lighting but no cameras adjacent to the site along the Northern Strand Community Trail/Bike to Sea Path.
23. When the special permit was granted in Case #13-18, the Malden Emergency Management Office recommended installation of a “blinking blue” emergency light and signage at the intersection of Route 60 and Ferry Street; to date, it is not installed.
24. The traffic and traffic patterns generated by the proposal will not adversely impact surrounding streets or create a traffic or safety hazard.
25. The Ward 1 City Councilor and one of three City Councilors-at-Large are in favor of the proposal.
26. There is no public opposition to the proposal.
27. The proposed continued medical center use will not be more detrimental to the neighborhood.
28. As modified by proposed conditions of the special permit, the proposal is in the interest of the common good.

DECISION (Case #21-08):

On July 14, 2021, pursuant to the foregoing Findings of Fact, the Planning Board modified the special permit granted in Case #13-18 and granted a new special permit subject to the following eight (8) conditions:

- 1) This special permit is nontransferable and non-assignable and may be exercised only by AFC New England LLC. This special permit only allows occupancy of approximately 3,532 SF, at the space known and numbered 219 Centre Street, and only for an urgent care center type of medical center use; no pharmacy is allowed; and no medical marijuana or narcotic drugs may be administered or stored on-site.
- 2) Four (4) spaces in front of #219 shall be dedicated to and marked with signage for patient parking.
- 3) Only minor modifications to floor plan layout are allowed, excluding changes to size of premises and number and kind of rooms.
- 4) All signs are subject to Sign Design Review.
- 5) Maintain cleanliness of that portion of the Northern Strand Community Trail/Bike to the Sea Path adjacent to the site including, but not limited to, litter control and removal of overgrown vegetation.
- 6) Repair or replace sidewalks, including related incidental work, around the perimeter of the site, to the reasonable satisfaction of the DPW Director.
- 7) Installation of “blinking blue” emergency light and signage at intersection of Route 60 and Ferry Street.
- 8) Installation of cameras along bike path adjacent to the site, at locations determined by Ward City Councilor and Police Chief.

RECORD of VOTES (Case #21-08): The vote on the motion to modify the special permit granted in Case #13-18 and grant a new special permit subject to eight (8) conditions was nine in favor, none opposed, and the motion passed (9-0):

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

Motion by Antonucci, seconded by MacCuish.

Absent: Ferguson, Gray.

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

By 
Michelle A. Romero, City Planner