

**4COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal¹**

Docket No. 09-707

Appellant(s): Bruce T. Macdonald, Esq.
representing William Maragioglio

vz. Appellee(s): City of Malden
Scott M. Fitzpatrick

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant him a variance from 6th Edition 780 CMR 118 for 800 Main Street, Malden, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on February 24, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

The Appellant appeared and testified for the hearing. Scott M. Fitzpatrick and others appeared for the hearing as noted on the sign in sheet which is on file at the Department of Public Safety.

Discussion

A motion was made to deny the Appellant's request for a variance from 6th Edition 780 CMR 118, and to uphold the City of Malden's order per 780 CMR 118 because the building official testified that the use group changed from M to B use. The Board expressed their desire that the City of Malden and the tenant work together to come to a mutually agreed upon solution. There was a second on the motion and a board vote was taken, which was unanimous.

Conclusion

The Appellant's request for a variance from 6th Edition 780 CMR 118 hereby denied and so ordered² on this date: February 24, 2009.



Brian Gale



William Middlemiss



Alexander MacLeod

¹ This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108

² In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.