

BOARD OF APPEAL
DECISION

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MALDEN, MASS.

MEETING OF
15-17 BARRETT STREET
OCTOBER 18, 2017
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PETITION OF:

Theresa Dukeshire, for a variance of Section 400.1.2.2, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for two-family residential dwellings, namely, to legalize and existing deck, as per plans and, at the property known as and numbered **15-17 Barrett Street, Malden MA**, and also known by City Assessor's Parcel ID #077-373-307.

The property is described in the Assessor's records as a two-family residential building consisting of 2 Units, 16 rooms, 2.50 baths, 6 bedrooms on approximately 4,702 sq. feet of land.

All statutory notices have been met and this petition is properly before the Board.

FINDINGS OF FACT AND DECISION

The petitioner, Theresa Dukeshire, 15-17 Barrett St., Malden, MA appeared before the Board on October 18, 2017. Ms. Dukeshire explained that she hired a contractor back in 2004 to construct a deck which also serves as egress into one unit. It has come to her attention now in conjunction with selling her property that no permit had been pulled in the City's Building Department. Petitioner stated she has been informed that the existing deck violates the setback requirement.

No one spoke in favor

OPPOSED

Ms. Fernades of 21 Barrett Street spoke in opposition to the variance being approved. She indicated that the City knew the deck was illegal in 2007.

The existing deck has existed more than 10 years and based on M.G.L. ch.40a and caselaw the Board found no authority to have the existing deck removed.

After due hearing, the Board found and adopted the facts as alleged by the Petitioner and that a literal enforcement of the zoning ordinance would involve a substantial hardship, financial and otherwise, to the petitioner.

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In addition, the requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the purpose or intent of the applicable zoning ordinance.

Upon motion of Mike Steene which was seconded by Emery Haskell, the Board voted unanimously to grant this petition.

MEMBERS OF THE BOARD VOTING WERE:

James O'Brien
Claire Croken
Emery Haskell
John King
Deano Summers
Mike Steene
Shannon Brandano


Board of Appeal

Shannon Brandano
Clerk

October 30, 2017