

City of Malden

Massachusetts
Board of Appeal
110 Pleasant St.
Malden, Massachusetts 02148

RECEIVED

2019 JAN 29 A 8:32

CITY CLERK'S OFFICE
MALDEN, MASS.

Telephone 781-397-7100
Fax 781-397-7099

BOARD OF APPEAL DECISION

January 16, 2019 Hearing

Petition of:

30 Marvin, LLC for a variance of Section 400.1.2.3, Chapter 12 of the Revised Ordinances of 1991 as Amended of the City of Malden, Namely, Frontage Requirements, (Specifically: Marvin Street is not an accepted street), as per plans, at the property known as 27-29 Marvin Street, Malden, MA and also known by the City Assessor's Parcel ID #168-542-244 and 168-542-245.

Findings of Fact

Petitioner seeks a variance of Section 400.1.2.3, requiring a single-family dwelling to have a frontage requirement on a public road. 27-29 Marvin Street presently abuts a private road. No one spoke in favor or in opposition of this request.

Findings of Law

To grant a variance, the Board must find that (1) owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, (2) a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that (3) desirable relief may be granted without substantial detriment to the public good and (4) without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. G.L. c. 40A, § 10A. "[A] decision of the board of appeals granting a variance cannot stand unless the board specifically finds that each statutory requirement has been met." *Planning Bd. of Springfield v. Bd. of Appeals of Springfield*, 355 Mass. 460, 462 (1969).

Petitioner's proposed lot is in a location where the only means of ingress and egress to the property is through Marvin Street. A literal enforcement of Section 400.1.2.1 would impose hardship on Petitioner, as it would completely prevent the construction of its proposed single-family dwelling. No substantial detriment will occur to the public good, as there are several other homes in this neighborhood that are similarly on this private road. The Board finds that this request will not denigrate the intent of the ordinance; although the required road is not public, it serves a similar purpose as a public road.

For this reason, the Board finds that this request will not denigrate the purpose of the zoning ordinance.

Conclusion

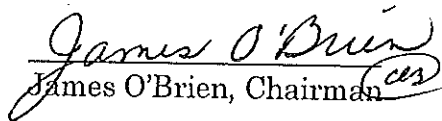
Upon motion by Adam Sherwin, which was seconded by John King, the Board voted unanimously in favor of Petitioner's request.

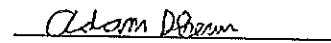
30 Marvin, LLC's variance is GRANTED.

PURSUANT TO G.L. C. 40A, § 11, A COPY OF THIS DECISION SHALL BE RECORDED IN THE MIDDLESEX SOUTH REGISTRY OF DEEDS

Members of the Board Voting:

James O'Brien
William Sullivan
John King
Kathryn Bilgen
Adam Sherwin


James O'Brien, Chairman


Adam T. Sherwin, Esq.
Legal Member