

City of Malden

Massachusetts

Board of Appeal
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Malden, Massachusetts 02148

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BOARD OF APPEAL DECISION

June 20, 2018 Hearing

Petition of:

Joseph Mazzochia (c/o Attorney Tom Callaghan, Nancy Delaney) requests a variance of Section 400.1.2.1, Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, dimensional controls for single-family dwelling namely, non-conformance with frontage requirements as per plans, at the property known as and numbered 57 Olive Avenue (along Monmouth Street), and also known by City Assessor's Parcel ID# 148-627-711.

Findings of Fact

Petitioner wishes to subdivide the property at 57 Olive Avenue and build a single-family dwelling on this secondary lot, which will be adjacent to Monmouth Street. This lot would violate Section 400.1.2.1, which requires a single-family dwelling to have a frontage requirement on a public road. There is no dispute that the proposed lot would have the required fifty feet of frontage, but this frontage would be on Monmouth Street, which is a private, and not public, road.

Attorney Callaghan appeared for Petitioner and represented that Monmouth Street was the only option for compliance with the frontage requirement. Petitioner stated that there would be ample parking on this lot.

The Board heard from abutters to this proposed lot who expressed concerns over increased parking on Monmouth Street, and well as possible problems with snow removal and access for emergency and utility vehicles.

Deputy Fire Chief William Smith stated that, after an earlier site visit, he did not believe this proposal would pose a problem for the placement of fire equipment on Monmouth Street.

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 Monmouth 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. While the Board is mindful of the existing parking, snow removal, and other concerns on Monmouth Street, the Board is not convinced that these problems will increase from Petitioner's proposed lot, especially considering that Petitioner has agreed to include parking with his property.

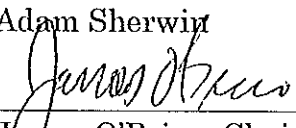
Conclusion

Upon motion by John King, which was seconded by Chairman O'Brien, James O'Brien, John King, Adam Sherwin, and Deanno Summers voted in favor of granting the variance, with the conditions that the lot include two parking spaces and an area for a turnaround. William Sullivan voted against this motion.

Joseph Mazzochia's (c/o Attorney Tom Callaghan, Nancy Delaney) variance request for 57 Olive Avenue is GRANTED, on the conditions that the lot include two parking spaces and an area for a turnaround.

Members of the Board Voting:

James O'Brien
John King
Deanno Summers
William Sullivan
Adam Sherwin


James O'Brien, Chairman