

# City of Malden

Massachusetts

Board of Appeal  
110 Pleasant St.  
Malden, Massachusetts 02148

CITY OF MALDEN  
Malden, Mass.

2018 OCT - 1 P 12:45

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## BOARD OF APPEAL DECISION

September 19, 2018 Hearing

### Petition of:

Sonny Moy 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, to construct an addition (continuation of existing house) violating side setback requirements of single family dwellings as per plans, at the property known as 755 Main Street, Malden, Massachusetts, and also known by City Assessor's Parcel ID# 071-824-443.

### Findings of Fact

Petitioner is the owner of a single-family residence at 755 Main Street and wishes to build a rear addition to his home. This proposed addition would be a continuation of the existing side setback requirement of Section 400.1.2.1, which requires a minimum setback of ten feet. This addition will not increase this side setback violation.

No one spoke in favor or opposition to this request. The Board introduced a letter from Petitioner's neighbor, who is in support of this request.

### Findings of Law

"Except as hereinafter provided, a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such ordinance or by-law required by section five, but shall apply to any change or substantial extension of such use . . . **except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.**" G.L. 40A, § 6 (emphasis added).

The Board finds that Petitioner is not increasing the present side setback violation, but is merely extending it through the proposed addition to his home. Accordingly, Petitioner is entitled to do so as a right.

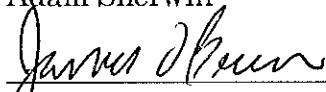
Conclusion

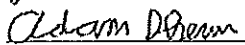
Upon motion by Adam Sherwin, which was seconded by Deano Summers, the Board voted unanimously to grant Sonny Moy's petition.

Sonny Moy's variance request for 755 Main Street is GRANTED.

Members of the Board Voting:

James O'Brien  
John King  
Deano Summers  
Adam Sherwin

  
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James O'Brien, Chairman

  
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Adam T. Sherwin, Esq., Legal Member

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Adam T. Sherwin, Esq., Legal Member