

City of Malden

Massachusetts

Board of Appeal
110 Pleasant St.
Malden, Massachusetts 02148

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

BOARD OF APPEAL DECISION

November 20, 2019 Hearing

Petition of:

Petition 19-011 by Renata Lima, for a variance of Section 400.7.7 Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, Namely Dimensional Controls - Accessory Building Rear Setback Requirements, As per plans #RES-028887-2019 at the property known as and numbered 15 Jonathan Lane, Malden, MA and also known by City Assessor's Parcel ID #157-633-313.

Findings of Fact

Petitioner is the owner of a single-family residential home who constructed a stone patio in her backyard, which includes a permanent, metal awning. After receiving notice from the City that this structure violated the zoning ordinance, Petitioner made this request for a variance. Petitioner represents that she built this structure with the help of friends, who were not contractors, and was not aware of the applicable zoning regulations. Building Inspector Miller spoke at the hearing and represented that the structure was an accessory use violated the rear setback requirement. No one spoke in favor or 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).

The Board finds no hardship for Petitioner. Petitioner chose to build this structure without consulting the Building Department or seeking a variance of the zoning ordinances. The Board will not allow such relief after the fact.

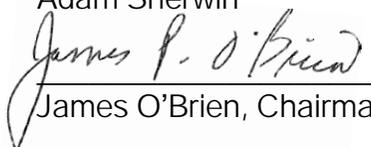
Conclusion

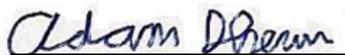
Upon motion by John King, which was seconded by Adam Sherwin, the Board voted unanimously to DENY Petitioner's request.

Petitioner's variance is DENIED.

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