

City of Malden

Massachusetts

Board of Appeal

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Malden, Massachusetts 02148

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BOARD OF APPEAL DECISION

December 18, 2019; December 31, 2019 Hearings

Petition of:

Petition 19-015 by Jordan Shapiro on behalf of Carine Cetoute, formerly Carine Vendryef for a variance of Section 800.4.1.3 Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden, Administration- to hear and decide appeals of decisions or orders made by the Inspector of Buildings or other administrative official, Namely, the use or occupancy, at the property known as and numbered 65 Lowell St., Malden, MA and also known by City Assessor's Parcel ID # 080-363-323.

Findings of Fact

Petitioner seeks an administrative appeal of a Building Commission decision. Petitioner is the owner of a two-family home, and the Building Department issued an order that Petitioner (1) stop using the basement as a dwelling unit and the garage as a beauty parlor and (2) obtain permits for the work done in the basement and garage. The Building Commissioner represented that he observed a kitchen and bathroom in the home's basement, which is not permitted in a residential home. The Building Commissioner also noted that it observed commercial salon equipment in the home's garage, which is also not a permissible use in a residential home. The Building Commissioner represented that, even if Petitioner is not using these portions of the home, they are still a violation of the respective zoning ordinances.

Petitioner represented that the prior owner constructed the bathroom and kitchen in the basement and she no longer uses it for dwelling purposes. Petitioner also represents that she previously owned a beauty parlor, and moved the equipment from this business into her home, and only uses it for her family members. Petitioner also stated that she obtained the required permits for the work in the basement and garage years ago.

Several members of the City Council spoke in favor and in opposition of this petition, and the Board read into the record several letters in support and in opposition.

Following the December 18th meeting, the Board held another meeting on December 31, 2019 due to concerns that the Board did not make a proper vote at the first meeting.

Findings of Law

Section 800.4.1.3 permits the Board to hear appeals of decisions and orders from the Inspector of Buildings.

The Board finds that the presented evidence and testimony supports the Building Commissioner's order. It is largely undisputed that the basement contains facilities making it a dwelling unit and equipment in the garage that resembles a beauty parlor. It is also undisputed that Petitioner has no written proof of obtaining any of the required permits. For these reasons, the Board finds no basis for overturning the Building Commissioner's order.

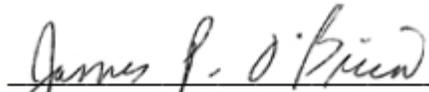
Conclusion

Upon motion by Sherwin, which was seconded by Sullivan, the Board voted 4-1 to DENY Petitioner's request, with Kibbler voting in opposition.

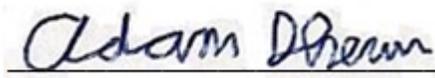
Petitioner's appeal is DENIED.

Members of the Board Voting:

James O'Brien
William Sullivan
Emily Kibbler
Kathryn Bilgen
Adam Sherwin



James O'Brien, Chairman



Adam T. Sherwin, Esq.
Legal Member