

# City of Malden

Massachusetts

Board of Appeal  
110 Pleasant St.  
Malden, Massachusetts 02148

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## **BOARD OF APPEAL DECISION**

December 18, 2019 Hearing

### **Petition of:**

Petition 19-018 by Timothy Brash for a variance of Section 500.1.2.3 Chapter 12, of the Revised Ordinances of 1991 as Amended of the City of Malden. Namely, the Offstreet parking regulations for dwelling three and four family - minimum number of parking spaces (1) one per bedroom, as per plans CMID-031529-2019 at the property known as and numbered 11-15 Acorn Ct, Malden, MA and also known by City Assessor's Parcel ID # 078-354-430.

### **Findings of Fact**

Petitioner is the owner of a multi-unit residential rental home and wishes to convert an office in one of the apartments into a bedroom. Petitioner is seeking a variance of the minimum number of parking spaces that Section 500.1.2.3 requires. Petitioner's property has only three parking spots and is a non-conforming use. Petitioner represents that the variance is necessary to increase the viability of his apartments by making it more desirable for renters. Petitioner represents that, due to the size of his property, he cannot add additional parking.

No one spoke in favor or in opposition of this request. The Board read into the record several letters of opposition, raising concerns over limited parking in the neighborhood.

### **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, as the applicable zoning ordinance does not prevent Petitioner from making use of his property. Petitioner's desire to increase the viability of his rental apartments is not grounds for hardship. The Board is also mindful of the concerns raised about limited parking in this neighborhood.

### **Conclusion**

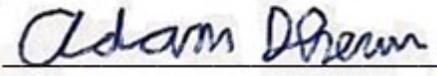
Upon motion by Sullivan, which was seconded by Sherwin, the Board voted unanimously to DENY Petitioner's request.

Petitioner's variance is DENIED.

Members of the Board Voting:

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

  
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 James O'Brien, Chairman

  
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 Adam T. Sherwin, Esq.  
 Legal Member