

City of Malden

Massachusetts

Board of Appeal
215 Pleasant St.
Malden, Massachusetts 02148

Telephone 781-397-7000x2151

BOARD OF APPEAL DECISION

June 16, 2021 Hearing

Petition of:

Petition 21-007 by Wenling Huang for a variance of MCC 12.16.010 Chapter 12 of the revised Ordinances of 2020 as amended of the City of Malden – Namely – Dwelling – Single Family Dimensional Controls (rear setback for deck) as per Plans RES-037365-2021 at the property known as and numbered 34 Tremont St, Malden, MA and also known by City Assessor’s Parcel ID #074-242-214.

Findings of Fact

Petitioner seeks a variance to construct a deck in the rear of his property, behind his existing home, which is a single-family residence. This proposed deck would violate the twenty-foot rear setback requirement. The home presently has a twelve to thirteen foot side setback and is a nonconforming use. Petitioner’s proposed deck would extend no further than the existing home and not increase the existing nonconformity.

The Board read into the record a letter of support from Councilor O’Malley. No one spoke in opposition to their request.

Finding of Law

For a nonconforming use, G.L. c. 40A, § 6 permits “alteration, reconstruction, extension or structural change to a single or two-family residential structure [that] does not increase the nonconforming nature of said structure.” “Concerns over the making of small-scale alterations, extensions, or structural changes to a preexisting house are illusory. Examples of such improvements could include the addition of a dormer; the addition, or enclosure, of a porch or sunroom . . . Because of their small-scale nature, the improvements mentioned could not reasonably be found to increase the nonconforming nature of a structure, and we conclude, as matter of law, that they would not constitute intensifications.” *Bjorklund v. Zoning Bd. of Appeals*, 450 Mass. 357, 362–63 (2008).

The Board finds that Petitioner’s proposed deck will not increase the existing nonconformity of his home, as it will extend no further into the rear of the property than the existing structure.

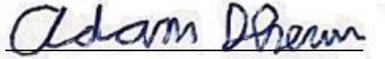
By motion of Sherwin, which Bilgen seconded, the Board voted 5-0 to ALLOW Petitioner to construct the proposed deck, as depicted on the enclosed plans.

Members of the Board Voting:

Nathaniel Cramer
William Sullivan
John King
Kathryn Bilgen
Adam Sherwin



Nathaniel Cramer, Chairman



Adam T. Sherwin, Esq.

PURSUANT TO G.L. C. 40A, § 11, A COPY OF THIS DECISION SHALL BE RECORDED
IN THE MIDDLESEX SOUTH REGISTRY OF DEEDS

