COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss. CITY OF WALTHAM

BOARD OF APPEALS

CASE NO.: 2020-35

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In The Matter Of Daniel Arone, )

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Petitioner. )

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PROPOSED DECISION

After hearing and due deliberation, the Board of Appeals of the City of Waltham voted:

To grant the variances requested in Case No. 2020-35, and incorporates by reference the Findings of Fact, and further cites as reasons the following:

VARIANCES

That there are circumstances especially affecting this locus and the structures thereon, which do not generally affect other lots and structures in the Residence A-2 Zoning District in which it is located, specifically:

1. First, there is the fact that the lot here is a corner-lot which results in two (2) front yard setbacks rather than two (2) side-yard setbacks which by their nature are less restrictive. Second, the single-family structure thereon was built circa 1969 pursuant to a zoning board of appeals decision, however the plans filed did not proposed a second floor above the garage even though it two and a half stories are permitted in the zoning board. Because the proposed dormer sits within the non-conforming setbacks, variances are required for the proposed addition.

2. A literal enforcement of the Zoning Ordinance would involve substantial hardship to the Petitioners, both practically and financially, specifically that:

To complete the project and comply with the zoning ordinance, Petitioner is required to obtain relief to bring the property closer to conformity. Petitioner would have to tear down and remove more certain portions of the garage in the rear and front yard setbacks in order to construct maintain and use the addition in the form of dormers. This will result in substantial cost and an impractical structure thereon, thus satisfying the second requirement of G.L. c. 40A, § 10.

3. This Petition may be granted without substantial detriment to the public good or without nullifying or substantially derogating from the intent or the purpose of the Ordinance, specifically that:

The desired relief does not nullify or substantially derogate from the intent or purpose of the by-law as Petitioner is seeking to raze portions of the structure that were not permitted and to replace the two-story covered front deck with a smaller single-story covered front deck. The project allows for the construction of a second-floor addition in the form of dormers where 2 and half stories are allowed in the district.

The removal will result in an increased rear-yard and front-yard setback and a substantially reduced maximum lot coverage. As a result, the project cannot be found to be a substantial detriment to the public good.

The granting of the Variances are subject to the following conditions:

1. All necessary permits shall be issued and work commenced within one (1) year of the date of the filing of this decision with the City Clerk’s office and work shall be completed within two (2) years of the filing of the decision with the City Clerk;
2. All construction and use of the Premises shall be in substantial accordance with the plan introduced as evidence during the hearing entitled: “Plan To Accompany Petition For a Variance at 45 Azalea Road, Waltham, MA” dated October 14, 2020.

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