

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

CITY OF WALTHAM  
BOARD OF APPEALS  
CASE NO.: 2020-22

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In The Matter Of Matthew Lyons,  
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. 2020-22, and incorporates by reference  
the Findings of Fact, and further cites as reasons the following:

VARIANCE

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-3 Zoning District  
in which it is located, specifically:

1. It is both the location of a swamp in the rear-yard of the Locus as well as the  
declining topography as you move towards the rear of the lot that present circumstances  
affecting the structure upon the Locus. In addition to the foregoing, the entire Locus in  
situated within a flood zone. As a result of the swamp and the natural declining topography,  
the single-family home was constructed towards the front of lot to keep it on the highest  
ground possible, however 4' into the front-yard setback.

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

without the variance, Petitioner would be forced to either remove approximately 3.8' from the front of the structure and garage in order to construct a second floor where 2.5 floors are otherwise allowed by-right.

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 Petitioner is seeking to add a second floor to a pre-existing legally non-conforming single-family home where two and half stories are allowed by right and without going outside the existing footprint of the structure. The addition within the existing footprint not substantially increase the nonconformity of the structure and therefore cannot be a substantial detriment to the public good.

The granting of the Variance is subject to the following conditions:

- i. 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;
- ii. 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 #74 Oakley Lane, Waltham, MA" dated July 16, 2020.