The Commonwealth of Massachusetts
Department of Public Safety
Board of Building Regulations and Standards
One Ashburton Place, Room 1301
Boston, Massachusetts 02108-1618
Phone (617) 727-7532 Fax (617) 227-1754
TTY (617) 727-0019
www.mass.gov/dps

Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

Thomas G. Gatzunis, P.E.
Commissioner

Alexander MacLeod, R.A.
Chairman

Gary Moccia, P.E.
Vice Chairman

Robert Anderson
Administrator

Date: December 29, 2009

Name of Appellant: George Menjivar

Service Address: 45 R Rockwell Street
Malden, MA. 02148

In reference to: 45 R Rockwell Street
Malden, MA. 02148

Docket Number: 09-825

Property Address: 45 R Rockwell Street
Malden, MA. 02148

Date of Hearing: 12-03-09

Enclosed please find a copy of the decision on the matter aforementioned.

Sincerely:

BUILDING CODE APPEALS BOARD

Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal[1]

Docket No. 09-825
Appellant(s): Jorge Menjivar vs. Appellee(s): City/Town of Malden
Building Official Scott Fitzpatrick

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant a variance from the 7th Edition 780 CMR 5118 for the property located at 45 R Rockwell Street, Malden, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.;* and 780 CMR 122.3.4, the Board convened a public hearing on December 3, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Jorge Menjivar, Scott Fitzpatrick, and Jessica Orellana appeared for the hearing as noted on the sign in sheet which is on file at the Department of Public Safety.

Discussion

A motion was made to grant the Appellant's request for a variance from the 7th Edition 780 CMR 5118 and allow the existing basement space to be retained except for that which does not comply with 780 CMR. This motion requires that the letter from the building official is upheld and the proper permits are applied for before any work is started. It was noted as part of the motion that some demolition work may need to be done to inspect and/or correct any existing work that does not comply with 780 CMR. All work must be completed by a properly licensed person and the building inspector needs to issue all necessary permits and conduct the necessary inspections. There was a second on the motion and board vote was taken, which was unanimous.

Conclusion

The Appellant's request for a variance from the 7th Edition 780 CMR 5118 is hereby granted as described in the discussion above and so ordered[2] on this date: December 3, 2009.

Douglas Semple	Brian Gale	William Middlemiss

[1] This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108
[2] In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.