

# The Commonwealth of Massachusetts

## Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

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Vice Chairman

Robert Anderson  
Administrator

Date: September 9, 2009

Name of Appellant: John McDonough

Service Address: David W. Merritt, Esq.  
50 Redfield Street, Ste. 202  
Boston, MA. 02122

In reference to: 43 Fairway View Lane  
Norton, MA. 02766

Docket Number: 09-751

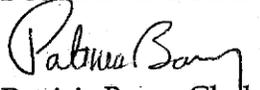
Property Address: 43 Fairway View Lane  
Norton, MA. 02766

Date of Hearing: 06-23-09

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<sup>1</sup>**

**Docket No. 09-751**

Appellant(s): David Merritt vs.  
representing John McDonough

Appellee(s): City/Town of Norton  
Bryan W. Butler

**Procedural History**

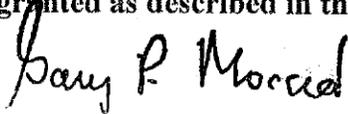
This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant a variance 7<sup>th</sup> edition 780 CMR 5310.1, for the property at 43 Fairway View Lane, Norton, 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 June 23, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board. Attendees are noted on the sign in sheet on file at the Department of Public Safety.

**Discussion**

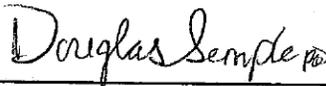
Based on the testimony, and submittals at the hearing, a motion was made to grant the Appellant's request for a variance to the 7<sup>th</sup> Edition 780 CMR 5310.1. This motion was made on the basis that the construction of the small habitable basement space (288 sq. ft.) is complete and signed off, the owner demonstrated hardship, and the project meets the intent of the code. There was a second on the motion and a board vote was taken, which was unanimous.

**Conclusion**

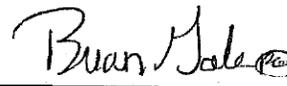
**The Appellant's request for a variance to the 7<sup>th</sup> Edition 780 CMR 5310.1, is hereby granted as described in the discussion above and so ordered<sup>2</sup> on this date: June 23, 2009.**



Gary Moccia



Douglas Semple



Brian Gale

<sup>1</sup> 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

<sup>2</sup> 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.