

*The Commonwealth of Massachusetts  
Department of Public Safety*

*Board of Building Regulations and Standards*

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Secretary

Date: May 3, 2010

Name of Appellant: Lisa & David Violette

Service Address: Anthony Metrano  
Owens Corning Basements  
60 Shawmut Avenue  
Canton, MA. 02021

In reference to: 350 Sadies Path  
Middleboro, MA. 02346

Docket Number: 10-841

Property Address: 350 Sadies Path  
Middleboro, MA. 02346

Date of Hearing: 03-04-10

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

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD  
DOCKET NO.: 10-841

Anthony Metrano, )  
Appellant, )  
v. )  
Town of Middleborough, )  
Appellees )

**MEMORANDUM OF DECISION AND ORDER ON APPELLANT'S  
REQUEST FOR FURTHER REVIEW**

**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 7<sup>th</sup> edition 780 CMR 5310.1, for the property at 50 Sadies Path, Middleborough, 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 March 4, 2010 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Appearing on behalf of the Appellant were Anthony Metrano and Dan Walsh. Robert Whalen, Middleborough building inspector, appeared for the Appellee.

**DISCUSSION**

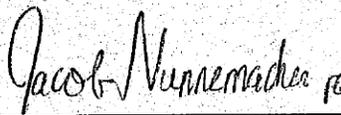
The issue before the Board is whether a variance should be granted from 780 CMR 5310.1, to permit as the secondary egress of a finished basement, the use of an exit leading through a garage with rollup doors. 780 CMR 5310.1 states that "Basements with habitable space and every sleeping room shall have at least one openable emergency escape and rescue opening..."

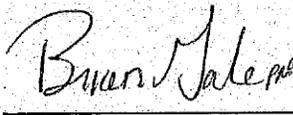
The Board found that the proposed secondary emergency egress through the garage presented a life safety issue if the automatic rollup garage doors were not to function properly during an occasion when the primary egress was inaccessible. It reasoned that if the situation so required, a young child would not likely be able to manual open the doors, thus trapping the child inside. The appellant claimed there are physical and aesthetic hardships due to the below grade basement and a pre-existing deck, however the Board further reasoned that the mere inconveniences are far outweighed by the safety concerns. The Board stated that the appellant and the building inspector would need to either create an egress compliant with the building code or find a solution that the Board could grant a variance from. In order to develop a proper solution, the Board suggested the appellant withdraw, without prejudice, his request for a variance, which the appellant did. At hearing, a motion was made to grant the appellant's request to withdraw without prejudice. There was a second on the motion and the Board vote was taken, which was unanimous.

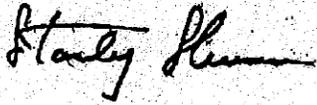
**ORDER**

For the forgoing reasons, the Appellant's request to withdraw the request for a variance from 780 CMR 5310.1, without prejudice, is hereby **GRANTED**, by a vote of 3-0.

**SO ORDERED.**

  
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JACOB NUNNEMACHER

  
\_\_\_\_\_  
BRIAN GALE

  
\_\_\_\_\_  
STANLEY SHUMAN

DATED: April 22, 2010

*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 receipt of this decision.*