**COMMONWEALTH OF MASSACHUSETTS**

**State Building Code (780 CMR) Appeals Board**

**Docket No. 10-855**

**­­­­­­­­­­­­­­­­­­­­­­­­­­­­**Appellant(s): Victor Maldonado vs. Appellee(s):City/Town of Waltham

 represented by Douglas Anderson Building Official Brian Bower

**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 780 CMR Section 1208.2 & Section 1009.2 for the property at 40 Crescent Street, Waltham, 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 23, 2010 where all interested parties were provided with an opportunity to testify and present evidence to the Board. Douglas Anderson appeared for the hearing as noted on the sign in sheet which is on file at the Department of Public Safety.

**Discussion**

The appellant testified that the house is over one hundred years old and therefore there are limitations to meeting current code requirements when the building is changing use. The appellant also testified that back in 2007 a new exit stairway was constructed to serve the three (3) floors and the basement and access to both means of egress. It was also stated that the office will not be locked, that there is a full fire alarm system, smoke detectors & pull stations of all appropriate locations with panel.

The board in their discussions voices their concerns that the 5 ft. 9 inch ceiling height as well as headroom was a hazard. The board also noted that these renovations were done prior to getting a building permit and allowing the building official to review the plans prior to the renovations. Had that been done the appellant would have known about these problems with the stairway and ceiling heights from the beginning.

**Conclusion**

A motion was made to **Grant** the Appellant’s request for a variance from 780 CMR Section 1208.2 to allow the ceiling height to be 6ft 10 inches & to **Deny** the variance of 1009.2 as the stair of 5ft 9 inches.

There was a second on the motion and board vote was taken, which was Unanimous.

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  **Alexander MacLeod Douglas Semple (Chairman) William Middlemiss**

**DATED: June 11, 2010**

*Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.*

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June11, 2010\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 Patricia Barry, Clerk