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ROCKLAND ZONING BOARD OF APPEALS

TOWN HALL

242 UNION STREET, ROCKLAND, MASSACHUSETTS 02370

EMAIL: zoning@rockland-ma.gov - Phone: 781-871-0154, ext. 1195

Town Clerk's Date Stamp:

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Grant of Variance

Applicant: Robert Norris, 88 Lakeshore Drive, Duxbury, Massachusetts

Property Address: 295 Centre Avenue, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application of Robert Norris with regards to the property located at: 295 Centre Avenue, Rockland MA 02370 for a variance pursuant to Section 415-22, Building and Lot Regulations, to allow applicant to construct a 38' x 40' addition on the rear of the existing building being a portion of the real property at the premises known as and numbered 295 Centre Avenue, Rockland, Massachusetts. The property is located in the Business II Zoning District, Section 415-14 of the ByLaw, and is further identified as Lot 92, Map 55, on the Rockland Assessor's Maps. The owner of the property is Piano Mill 295, LLC, 295 Centre Avenue, Rockland, Massachusetts 02370.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

Advertised: April 19, 2022, and April 25, 2022, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties, all of which are incorporated herein by reference.

A Public Hearing was conducted remotely in accordance with the law at 8:25 P.M. on May 3, 2022, and 7:30 P.M. on June 7, 2022.

ATTENDANCE:

Board Members: Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr., Stephen Galley, (alt)

Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

(All Board members were participating remotely)

MEMBERS VOTING: Chairman Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, and Robert Baker, Sr.

DISCUSSION ON MAY 3rd, 2022

The Chairman of the Zoning Board introduced the members of the board advising to the public that all are participating remotely.

The Chairman asked the members of the ZBA for roll call vote to open the public meeting. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Sr., Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote was unanimous, and the public meeting was opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of May 3, 2022.

The Applicant testified what he is trying to do is expand the rear of the building by adding a 38' x 40' addition for warehouse storage purposes only and because of this the building setbacks would change. He is requesting a 20' front setback, 30' rear setback and 30' side setback.

The Chairman opens discussion to the members of the board:

Robert Baker, Sr. asks where the dumpster will be relocated and that it has to be fenced in. Gregory Tansey asked if it could be stored out back inside the building by the garage door. Applicant stated no.

Chairman Rosa asked why not keep the addition in line with the existing building then only a Section 6 finding would be required as the building is not square.

Chairman Rosa asked about the balcony and Applicant replied it stays the same, storage only.

Chairman Rose asked about parking as applicant needed 12 spaces, and there are 12 spaces.

Stephen Galley had no questions.

Building Inspector Tom Ruble agreed with the parking.

Timothy Haynes inquired about the setback rule for a condominium with a business use and whether the entire site should be looked at or only this portion.

Attorney Galvin stated a pre-existing non-conforming use would be a Special Permit, not a variance if it was no more detrimental than what is existing.

Mr. Haynes stated the Applicant would need proof from the Condo Association in writing that they agreed that he has the right to build the addition.

Chairman Rosa stated that the Fire Department has to look at the site regarding emergency vehicles as the addition limits access and that the site plan is not recordable.

Timothy Haynes discussed a continuance of the hearing in order for the Applicant to get a letter from the Condominium Association allowing the addition and to obtain signoffs from both the Rockland Police Department and the Rockland Fire Department and a revised site plan showing parking, the dumpster and the footprint of the addition and then apply for a Special Permit / Section 6 finding.

A motion was made by Robert Baker, Sr. to continue the hearing to June 7 at 7:30 p.m.

Stephen Galley seconded the motion.

A roll call vote was taken:

Mr. Rosa – yes
Mr. Haynes – yes
Mr. Tansey - yes
Mr. Robert Baker, Sr. – yes

DISCUSSION ON JUNE 7th, 2022

ATTENDANCE:

Board Members: Robert C. Rosa, III, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr., Stephen Galley, (alt)

Also present: Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

(All Board members were participating remotely)

MEMBERS VOTING: Chairman Robert C. Rosa, III, Timothy Haynes, Robert Baker, Sr., and Stephen Galley.

The Chairman of the Zoning Board introduced the members of the board advising to the public that all are participating remotely.

The Chairman asked the members of the ZBA for roll call vote to open the public meeting. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Timothy Haynes – Yes, Robert Baker, Sr., Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote was unanimous, and the public hearing was reopened.

Applicant has complied with and provided the items requested at the May 3, 2022, hearing and provided a plan with the Swept Path Analysis specs which were approved by Deputy Fire Chief Thomas Heaney.

The Chairman opens discussion to the members of the board:

Robert Baker, Sr. had no questions.

Timothy Haynes stated that there were not enough details on the plan regarding the parking calculations.

The Applicant stated that there were 2 separate plans but that he inadvertently only provided the plan with the Swept Path Analysis but that he did not know why there were separate plans drawn up.

Chairman Rosa stated they the Board could not determine which spaces were exclusive to the Applicant but that the Planning Board could make a final determination regarding the parking.

After discussion whether this degraded from the spirit of the ByLaw, a Motion was made by Robert Baker, Sr. to close the public portion of the hearing and to grant a variance.

Timothy Haynes seconded the Motion.

A roll call vote was taken:

Mr. Rosa – yes
Mr. Haynes – yes
Mr. Robert Baker, Sr. – yes
Mr. Stephen Galley – yes

A point of order was made by Chairman Rosa asking if any one in the public wanted to speak. No one spoke in favor or opposed on behalf of the Applicant.

Mr. Ruble said the legal ad was for a 38' by 40' addition.

A Motion to close the public portion of the hearing was then made by Robert Baker, Sr.

Stephen Galley seconded the motion.

A roll call vote was taken:

Mr. Rosa – yes
Mr. Haynes – yes
Mr. Robert Baker, Sr. – yes
Mr. Stephen Galley – yes

Mr. Robert Baker, Sr. withdrew his original Motion.

Robert Baker, Sr. made a motion to close the public portion of the hearing.

Stephen Galley seconded the motion.

A roll call vote was taken:

Mr. Rosa – yes
Mr. Haynes – yes
Mr. Robert Baker, Sr. – yes
Mr. Stephen Galley – yes

The Chairman reads to the application the appeal process and states a decision will be made at tonight's hearing, and that they are welcome to stay and await the result.

DECISION ON VARIANCE:

Upon a motion duly made by Stephen Galley and seconded by Robert Baker, Sr. in a roll call vote the Board voted unanimously (4-0) to GRANT, via roll call vote, with members, Robert C. Rosa, III, Timothy Haynes, Robert Baker, Sr. and Stephen Galley in favor, a dimensional variance to allow the Applicant to construct the addition, as follows: a 12.76 foot variance on the connection side of the addition and a 12.24 foot variance on the rear addition so that the dimensions of the building would be 40.7 feet on the existing side, 36 feet on the front side and 38 feet on the side and rear of the addition.

CONDITIONS:

- 1) Applicant to provide final architectural plans and floor plan to Building Department prior to the issuance of any building permits or commencement of any site work.
- 2) Applicant shall obtain Site Plan review from the Planning Board.
- 3) The Applicant shall provide prior to the issuance of a Building Permit an updated Site Plan including the zoning table and an existing and proposed parking table.
- 4) This decision shall not take effect until recorded at the Plymouth County Registry of Deeds in accordance with applicable law and shall lapse unless exercised within one year.

FINDINGS:

Upon a motion duly made by Stephen Galley and seconded by Robert Baker, Sr. the Board further voted unanimously (4-0), by roll call vote, to find that:

- 1) Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.
- 2) Strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner

equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.

- 3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this bylaw.
- 4) Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this ByLaw.
- 5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

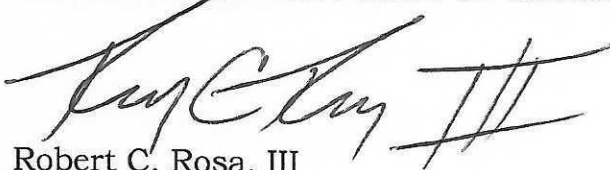
REASON FOR DECISION:

The Board found that conditions as well the shape of this lot created dimensional hardships that were not caused by the current owner. The proposed addition is not opposed by anyone and constituted a reasonable use of the land and the business and would not detract from the purpose and intent of the ByLaws.

NOTE:

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

FOR THE ZONING BOARD OF APPEALS

A handwritten signature in black ink, appearing to read 'Robert C. Rosa, III', with a stylized flourish at the end.

Robert C. Rosa, III
Chairman