



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

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Rockland, Massachusetts 02370
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FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Section 6 Finding and Grant of Variance

Date: December 22, 2022

Applicant: Karen and Gregory Plouffe

Property Address: 60 Green Street, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application of Karen and Gregory Plouffe with regard to the property located at: 60 Green Street, Rockland MA 02370 for a Chapter 40A, §6 Finding, and Variances, §415-89.1, pursuant to §415-22, Building and Lot Regulations and §415-24, Nonconforming Uses. The applicant proposed to construct a 26' x 28' two-story attached garage to an allegedly pre-existing non-conforming structure, to move the front entryway to face the street, and remove and repair the rear brick steps relating to the premises known as and numbered 60 Green St., Rockland, MA. The property is located in the R-2 Residence Zoning District, §415-9 of the Bylaw, and is further identified as Lot 167, Map 38, on the Rockland Assessor's Maps. The owners of the property are Karen and Gregory Plouffe, 60 Green St., Rockland, MA 02370.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and 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: November 25, 2022, and December 2, 2022, in the Patriot Ledger.

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The Board lastly has taken into consideration testimony of the applicant, the application materials, 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 8:01 P.M. on December 13, 2022.

ATTENDANCE:

Board Members: Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr., and Stephen Galley, alternate.

Ms. Nicole Clement-Gomez, alternate, was absent from the hearing.

Also present:

Land Use Counsel Attorney Anthony Riley
Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

(All Board members were participating remotely.)

Members Voting: Chairman Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, Robert Baker, Sr. and Robert Baker, Jr.

DISCUSSION

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

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

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

The Chairman read the advertised notices in the Patriot Ledger with a Public Hearing Date of December 13, 2022.

Karen Plouffe spoke on behalf of the Applicant and explained the proposed project.

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Mr. Rosa asked if the Board members had any questions.

Mr. Tansey had no questions.

Mr. Baker, Sr. had no questions.

Mr. Baker, Jr. had no questions.

Mr. Haynes wanted to know if the proposed front porch would have a roof and whether an open porch within the setback is a worse non-conformity. He had no further questions.

Mr. Galley asked how many bedrooms the house currently had and how many it would have after the project.

The Applicant stated that the house currently had 2 bedrooms and after the project was completed, would have 5 bedrooms.

Mr. Ruble stated that because of the increase in the number of bedrooms, he would need a sewer sign off when permits are pulled.

Mr. Rose asked if a parking count was needed?

The answer was no.

Mr. Rosa then asked the general public if anyone was in favor of the project.

David Waldrip of 80 Green Street, an abutter to the property, stated that he does not oppose the project.

Mr. Rosa asked if anyone was opposed to the project.

Mr. Baker, Sr. read a letter sent in by Frederick Slinger, Jr., 13-16 Berlin Street, stating that he was in favor of the project.

Mr. Rosa then stated that 2 were in favor, no one was opposed.

Mr. Rosa then asked Mr. Ruble if he had any comments.

Mr. Ruble stated that he had no issues.

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Mr. Rosa asked the board if they had enough information to make a decision and if so he would entertain a motion to close the public portion of the hearing.

Mr. Robert Baker, Sr. moves to close the public portion of the hearing.

Seconded by Mr. Robert Baker, Jr.

The Board takes a roll call vote: Mr. Rosa - Yes, Mr. Haynes - Yes, Mr. Baker, Jr. - Yes, Mr. Tansey - Yes, Mr. Baker, Sr. - Yes, Mr. Galley - Yes.

Mr. Rosa then told the applicant the Board would deliberate tonight and welcomed them to be present during deliberations and informed them they will receive a decision in the mail with a date stamp and informed them of their obligations to request a certificate of no appeal. If no one has appealed to the Town Clerk, the certification and an attested copy of the original decision will need to be recorded at the Registry of Deeds to be valid, and the applicants must provide proof of recording to the Building Department.

FINDINGS:

A motion was made by Mr. Robert Baker, Sr. to approve a dimensional variance.

- 1) Conditions and circumstances are unique to the applicant's lot configuration 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.
- 6) The rear of the structure is already in the zoning setback. The right side of the property is fine as is the proposed addition.

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- 7) The proposed front entryway could be a self-imposed hardship as the front of the house meets the setback. Attorney Riley, Assistant Land Use Counsel, was asked for guidance and opined that the Board could grant a Section 6 Special Permit finding as to this aspect as it is not substantially more detrimental to the neighborhood.

DECISION ON VARIANCE:

Upon a motion duly made by Timothy Haynes and seconded by Robert Baker, Sr. the Board voted unanimously (5-0) to GRANT, via roll call vote, with members, Robert C. Rosa, III, Timothy Haynes, Gregory Tansey, Robert Baker, Jr. and Robert Baker, Sr. in favor, a 2.3 foot dimensional variance to allow the Applicant to construct a front porch and a Section 6 finding as applied for.

REASON FOR DECISION:

The Board determined that the deficiency of the pre-existing lot depth and the position of the house on the lot created dimensional hardships that were not caused by the current owner and that the granting of relief as requested would not detract from the purpose and intent of the ByLaw.

The board found that the closest proposed setback to the rear of the property was further away from the rear property line than the closest rear setback to the rear lot line existing today with the existing dwelling, even though the closest existing and proposed rear setback are less than the required setback in the zone. The board found that the granting of a dimensional variance to the front setback requirement would not detract from the purpose and intent of the ByLaws.

THIS DECISION, ALONG WITH THE CERTIFICATION FROM THE TOWN CLERK THAT NO APPEAL HAS BEEN FILED, MUST BE RECORDED WITH THE PLYMOUTH COUNTY REGISTRY OF DEEDS PRIOR TO OBTAINING A BUILDING PERMIT AND PROOF OF RECORDING MUST BE FILED WITH THE BUILDING COMMISSIONER.

Signature page follows.

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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

By: 
Robert C. Rosa, III
Chairman