



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

Town Hall - 242 Union Street
Rockland, Massachusetts 02370
Phone: 781-871-0154, ext. 1195
E-MAIL: zoning@rockland-ma.gov

TOWN CLERK, ROCKLAND
MAY 10 '23 AM 10:15

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Section 6 Finding and Grant of Variance

Date: May 10, 2023

Property Owner: Laura L. Koch

Applicant: Rockwood Design, Inc.

Property Address: 91 Josh Gray Road, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application submitted by Phillip Baker, Rockwood Design, Inc., 1020 Plain Street, Marshfield, MA, 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 is proposing, if approved, to add a 1,200 SF second story over the existing first floor and a new rear and right side 2 story L shaped extension and is seeking a 32.5' rear setback from the rear landing/egress and 36' to the rear addition to an allegedly pre-existing non-conforming structure, relating to the premises known as and numbered 91 Josh Gray Road, Rockland, MA. The property is located in the R-2 Residence Zoning District, §415-9 of the Bylaw, and is further identified as Lot 33, Map 58, on the Rockland Assessor's Maps. The owner of the property is Laura L. Koch, 91 Josh Gray Road, 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: March 31, 2023, and April 7, 2023, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the application materials, plans, and communications from various Town boards,

Property Owner: Laura L. Koch
Applicant: Rockwood Design, Inc.
Property Address: 91 Josh Gray Road, Rockland, MA 02370
Hearing Date: April 18, 2023
Decision: Grant of Variance and Section 6 Special Permit

abutters, and with interested parties, all of which are incorporated herein by reference.

A Public Hearing was held at 52 MacKinlay Way, Rockland, MA 02370, in accordance with the law at 6:30 P.M. on April 18, 2023.

ATTENDANCE:

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

Also present:

Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

Members Voting: Chairman Robert C. Rosa, III, Gregory Tansey, Robert Baker, Sr. and Stephen Galley.

DISCUSSION

The Chairman of the Zoning Board introduced the members of the Board advising the public that the hearing is being recorded.

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, 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 April 18, 2023.

Phillip Baker of Rockwood Design, Inc., the applicant, was representing the property owner, Laura L. Koch, at the hearing.

The Chairman advised the applicant that there were only 4 Board members present and the applicant stated that was fine.

Mr. Stephen Galley read a letter from Laura L. Koch, and it was entered into the record.

Property Owner: Laura L. Koch
Applicant: Rockwood Design, Inc.
Property Address: 91 Josh Gray Road, Rockland, MA 02370
Hearing Date: April 18, 2023
Decision: Grant of Variance and Section 6 Special Permit

Mr. Baker of Rockwood Design then explained the proposed project.

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

Mr. Baker, Sr. had no questions.

Mr. Tansey had no questions.

Mr. Galley wanted confirmation that there would be no extension to the foundation.

Mr. Ruble asked about overhangs and the existing soffit and asked if the project would be cantilevered. He stated that he was fine with a free standing deck. He stated that he would need better plans and both water and sewer sign offs.

Mr. Galley read into the record letters from the both water and sewer and also an email from an abutter, Diana Perry.

There was then a discussion of drainage and low lands and that the applicant would have to add some type of discharge/recharge area to alleviate neighborhood concerns but drainage calculations were not necessary. Mr. Ruble was fine with that. Mr. Baker, Sr. stated that a manhole had been removed and there was no longer standing water on the road. Mr. Galley asked about the mechanics of drainage such that more impervious area tends to create more water and if dry wells would make it better.

Mr. Tansey confirmed that the bedroom count was going from 3 bedrooms to 6 bedrooms.

Mr. Rosa stated that the applicant was keeping the driveway as is and was not widening it.

Mr. Ruble discussed Plan A-4 and wanted clarification on the 36 inch refrigerator, and wanted to know what was to the right of that. The applicant explained that it would be a desk space nook and confirmed that there would be no stove, sink or dishwasher. That the applicant was seeking additional bedrooms and not putting in an accessory apartment.

Property Owner: Laura L. Koch
Applicant: Rockwood Design, Inc.
Property Address: 91 Josh Gray Road, Rockland, MA 02370
Hearing Date: April 18, 2023
Decision: Grant of Variance and Section 6 Special Permit

Mr. Baker, Sr. stated that they could change the number of bedrooms by taking out closets. Mr. Rosa stated that the number of bedrooms was not subject to zoning purview.

Mr. Rosa then opened the meeting to the public. No one spoke in favor or against.

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. Stephen Galley.

The Board takes a roll call vote: Mr. Rosa - 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 Section 6 finding.

Seconded by Mr. Tansey.

The Board takes a roll call vote: Mr. Rosa - Yes, Mr. Tansey – Yes, Mr. Baker, Sr. – Yes, Mr. Galley - Yes. The Vote is unanimous.

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.

Property Owner: Laura L. Koch
Applicant: Rockwood Design, Inc.
Property Address: 91 Josh Gray Road, Rockland, MA 02370
Hearing Date: April 18, 2023
Decision: Grant of Variance and Section 6 Special Permit

- 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 and left sides of the property are fine.

DECISION ON VARIANCE:

Upon a motion duly made by Robert Baker, Sr. and seconded by Gregory Tansey, the Board voted unanimously (4-0) to GRANT, via roll call vote, with members, Robert C. Rosa, III, Gregory Tansey, Robert Baker, Sr. and Stephen Galley in favor, a 14 foot rear setback dimensional variance with Conditions to allow the Applicant to construct the proposed addition.

CONDITIONS:

1. If the deck, as proposed, is built it shall not be attached to the main structure.
2. A pair of drywells shall be installed at the rear of the proposed addition, the details of which shall be reviewed and approved by the Building Inspector prior to the filing of an AsBuilt Plan.
3. Meet all other requirements and conditions of all other town boards and commissions.

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.

Property Owner: Laura L. Koch
Applicant: Rockwood Design, Inc.
Property Address: 91 Josh Gray Road, Rockland, MA 02370
Hearing Date: April 18, 2023
Decision: Grant of Variance and Section 6 Special Permit

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.

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