



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
MAR 21 '23 PM 6:50

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Grant of Variance

Applicant: Patrick Gannon, Trustee, Webster Common Condominium

Property Address: 15 Webster Street, Rockland, Massachusetts 02370

Case No. 2023-05

Date: March 21, 2023

The Rockland Zoning Board of Appeals has considered the application submitted by Patrick Gannon, Trustee, Webster Common Condominium, c/o Attorney Gene J. Guimond, Baker, Braverman & Barbadoro, P.C., 300 Crown Colony Drive, Suite 500, Quincy, MA 02169, with regard to the property located at 15 Webster Street, Rockland, MA, for an Application for Dimensional Variance and Special Permit for Use permissible by Special Permit pursuant to Zoning Bylaws §415-26, Lot Size Reduction; §415-30, Minimum required upland; §415-79, Environmental Performance Standards; §415-89, Special permits; §415-89.1, Zoning variances; and §415-92, Procedure for appeals, to allow applicant to Transfer +/- 479 square feet of land from 15 Webster Street to 19 Webster Street to allow the owner of 19 Webster Street to own the land area that serves as off-street parking for 19 Webster Street. The property is located in the B-1 Business I Zoning District, §415-13 of the Bylaw, and is further identified as Lot 243, Map 39, on the Rockland Assessor's Maps. The owners of the property are: Patrick Gannon, Units 1C and 2C, 15 Webster Street, Rockland, MA; Laura Manning, Unit 1R, 15 Webster Street, Rockland, MA; and Katherina Mary Ritz and Martina Marion Ritz, Unit 2R, 15 Webster Street, Rockland, MA.

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: February 15, 2023, and February 22, 2023, 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

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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 7:00 P.M. on March 7, 2023.

ATTENDANCE:

Board Members: Robert C. Rosa, III, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr. and Stephen Galley, (alt). Mr. Tansey arrived at 7:05 p.m.

(All Board members were participating remotely)

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

DISCUSSION

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

The Chairman entertained a motion to open the public hearing.
Robert Baker, Jr. makes a motion to open the public hearing.
Seconded by Timothy Haynes.

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 opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of March 7, 2023.

Attorney Gene Guimond spoke on behalf of the Applicant. Patrick Gannon and Laura Manning, unit owners, and Robert and Renee Bergeron of 19 Webster Street, were also present. Attorney Guimond stated that the transfer of the +/- 479 SF of land from 15 Webster Street to 19 Webster Street decreases the size of the lot from 10,131 SF to 9,652 SF and will provide for 19 Webster Street to own the property that provides for their off-street

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parking. He advised that he had previously spoken with town land use counsel and relief could be provided by a Section 6 finding, alternation of a non-conforming use, or by a variance and/or a combination of both, or whatever relief the Board may deem appropriate.

Mr. Rosa asked for clarification of the lots on the plan. He further stated that that area has been used as a parking area for a substantial amount of time.

Attorney Guimond stated that that was done as part of the redevelopment of the two structures.

The Chairman opens discussion to the members of the board:

Mr. Tansey had no questions.

Mr. Galley had no questions.

Mr. Baker, Jr. had no questions.

Mr. Timothy Haynes had no questions.

Mr. Baker, Sr. asked if that area would be paved and was advised it already is.

Chairman Rosa asked if any one in the public wanted to speak. No one spoke in favor and no one was opposed on behalf of the Applicant.

He then asked if any of the members of the Board had any further questions. None did.

Mr. Rosa then entertained a Motion to close the public portion of the hearing.

Robert Baker Jr. makes a Motion to close the public hearing.

Timothy Haynes seconded the motion.

A roll call vote was taken:

Mr. Rosa – yes

Mr. Haynes – yes

Mr. Robert Baker, Sr. – yes

Mr. Robert Baker, Jr. - yes

Mr. Stephen 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.

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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.

DELIBERATION:

The dimensions of the lot and relief requested were discussed.

POINT OF ORDER: Attorney Guimond stated he did not see a reference to dimensions in the B-1 zone.

DECISION:

The Chairman entertains a Motion to grant a variance for the further lot reduction with conditions.

So moved by Robert Baker, Jr.

In a roll call vote the Board voted unanimously (5-0) to GRANT, with members, Robert C. Rosa, III, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr. and Stephen Galley in favor:

DIMENSIONAL VARIANCE ON THE FURTHER REDUCTION OF A NON-CONFORMING LOT BY +/- 479 SF.

CONDITIONS:

- 1) Lot shall not be subdivided any further.

FINDINGS:

- 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.

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- 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:

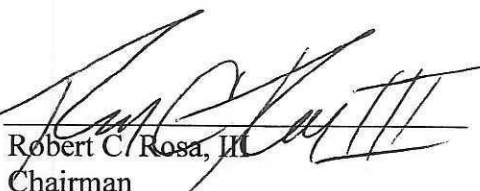
The Board found that conditions as well the shape of this lot created dimensional hardships to the abutting lot and that the granting of relief would not detract from the purpose and intent of the Bylaws.

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

By:


Robert C. Rosa, III
Chairman