



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

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

ZBA Case No.: 2024-04

Date: April 8, 2024

Decision: Section 6 Finding

Applicant: Christopher and Rachel Mirski

Property Address: 146 French Road, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application submitted by Christopher and Rachel Mirski for a Section 6 Finding pursuant to Zoning Bylaws Article V, Building, Lot and District Regulation, to allow applicant to build a 19.2' x 32.4' addition to the current structure, an alleged pre-existing, nonconforming single family dwelling.

The existing residence is situated 42.4 feet off the rear property line and is considered a pre-existing, nonconforming structure.

The property is located in the R-2 Residence Zoning District, Section 415-9 of the Bylaw, and is further identified as Lot 39, Map 16, on the Rockland Assessor's Maps. The owners of the property are Christopher and Rachel Mirski, 146 French Road, Rockland, Massachusetts.

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: March 5, 2024, and March 12, 2024, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the public, the application materials, plans and revised plans, and

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communications from various Town boards, abutters, and with interested parties.

A virtual remote Public Hearing was held via Zoom at 7:30 P.M. on March 19, 2024.

ATTENDANCE:

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

Also present: Building Commissioner Thomas Ruble and Town Planner Allyson Quinn.

MEMBERS VOTING: Chair Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr., and Stephen Galley.

DISCUSSION:

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

The Chair asked the members of the ZBA for a motion to open the public hearing. Robert Baker, Jr. makes a motion to open the public hearing. Gregory Tansey seconds the motion. The ZBA members then took a roll call vote:

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

The Chair read the advertised notice in the Patriot Ledger with a Public Hearing Date of March 19, 2024.

The Board reviewed the application and the applicant, Christopher Mirski, stated that the plan has been revised and they are no longer seeking a variance, which application was withdrawn.

Mr. Rosa asks Mr. Ruble if he has seen the plan and he states that he is satisfied with the plan. Mr. Rosa then asks him if the proposed right side offset adheres to the Zoning By-Law and Mr. Ruble answers yes. Mr. Rosa

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then asks if the rear offset is being looked at as a Section 6 Finding and the Board agrees as does Mr. Ruble.

The Chair then opened the meeting to the Board for questions.

The Board has no questions.

Mr. Ruble clarifies that this is for a Special Permit/General Laws Chapter 40A Section 6 finding.

The Chair asked the members of the board for a motion to close the public portion of the hearing. So moved by Robert Baker, Sr. Seconded by Stephen Galley.

The ZBA members then took vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous, and the public portion of the hearing has been closed.

The Chair read to the applicant the appeal process and stated a decision will be made later the same night after the public portion of the hearing, and that they were welcome to stay and await the result. The Chair also stated that if the relief was granted, one of the conditions would be to show the Building Commissioner proof of recording of the decision.

DELIBERATION:

The Board could approve this via a Special Permit or a Section 6 finding if it finds that the proposed extension of the structure will not be substantially more detrimental to the neighborhood.

DECISION ON SPECIAL PERMIT/SECTION 6 FINDING:

Robert Baker, Sr. makes a motion to approve a Section 6 finding under General Laws Chapter 40A as the proposed extension of the structure will not increase the nonconforming nature of the structure or be substantially more detrimental to the neighborhood than the pre-existing nonconforming use.

Seconded by Robert Baker, Jr.

The ZBA members take a vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous.

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FINDINGS:

The Board found that that the addition to the existing structure will create a greater nonconformity than there already is, but that the result will be consistent with case law (Bellalta v. Zoning Board of Appeals of Brookline 481 Mass. 372 (2019)) and that the proposed extension will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. As proposed, the addition will be conforming on the right side per Section 415-34 of the by-law and on the front per Section 415-22 of the by-law.

REASON FOR DECISION:

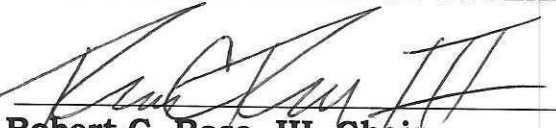
The Board found that the proposed garage and bedroom addition to the structure is not substantially more detrimental to the neighborhood than the pre-existing nonconforming structure and is approved per the plan submitted to the Board.

CONDITIONS: NONE

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, no appeal has been filed, and the decision has been recorded at the Registry of Deeds.
- ❖ 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, Chair