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ROCKLAND ZONING BOARD OF APPEALS
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FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Variance and/or Special Permit

Applicant: Christopher O'Donnell d/b/a O'Donnell Construction

Property Address: 44 Clark Rd, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application of Christopher O'Donnell d/b/a O'Donnell Construction with regards to the property located at: 44 Clark Rd, Rockland MA 02370 for a variance and/or special permits pursuant to §§415-22, 415.89, and or 415-89.1 to allow a 6' x 14' one-story addition at the premises known as and numbered 44 Clark Rd, Rockland MA 02370. The Property is located in the R-2 Residence Zoning District, §§415-9 of the ByLaw and is further identified as lot 50-85-0 on the Rockland Assessors Maps. The owner of the property is Anthony Mari & Marie O'Donnell, 44 Clark Rd, Rockland MA 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: August 23rd, 2021 and August 30th, 2021 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.

A Public Hearing was held via remote at 7:45 P.M. on Sept 7th, 2021.

ATTENDANCE:

Board Members: Robert Rosa, Gregory Tansey, 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 Rosa, Gregory Tansey, Tim Haynes, Robert Baker, Sr., Robert Baker, Jr.

DISCUSSION ON SEPTEMBER 7, 2021

The Chairman of the Zoning Board read the advertised notice in the Patriot Ledger on the first Public Hearing Date of September 7, 2021. The Chairman of the Zoning Board introduced the members of the board to the public that were attending the hearing remotely and made the public as well as applicant aware on who would be voting members for this hearing.

The Applicant's presented a site plan to the members of the Board. The site plan is titled "Proposed Addition" 44 Clark, Rockland, Massachusetts" drawn by O'Donnell Construction. of 30 Jackson Rd, Situate MA 02370.

The Applicant testifies to the members of the board that they are looking for a 3.3ft variance as the owners of the property are in need of expanding laundry room.

The Applicant testifies he ran numerous variations of construction plans is the one they are presenting before the members of the board today are the only ones, they feel will be the best for the applicant and as well as town.

The Chairman states that he is trying to see why a variance is needed. It's a corner lot, not a typical lot and wasn't sure if there was any hardship presenting itself.

The Chairman opens the opportunity for questions from the board members to the Applicant.

Greg Tansey stated there may be structural issues if the Applicant put the addition coming out the back. Mr. Tansey stated the lot looks small under 10,000 square feet.

Timothy Haynes states that the house was centered on the lot when it was originally built.

Robert Baker, Jr. stated it is a corner lot and there is less than 4ft to be lost to the right side. He feels that to have them draft up an all-new reconstruction would be against the spirit of the ByLaw.

Robert Baker, Sr. asks the applicant if the back yard slopes up, as from what he can remember from that property he believes that the back yard slopes upward.

Applicant testified to Mr. Baker, Sr. that yes the backyard does slope up.

Robert Baker, Sr. states the fact that the backyard slopes upward creates the hardship.

Timothy Haynes states he is inclined to support the variance. He feels the Applicant approached with reasonable and sensible requests.

DECISION ON VARIANCE:

Upon a motion duly made Robert Baker, Sr. and seconded by Robert Baker, Jr, in a roll call vote the Board voted unanimously (5-0) to GRANT, via roll call vote, with members, Robert Rosa, Greg Tansey, Tim Haynes, Robert Baker, Sr., Robert Baker Jr., in favor, a dimensional variance to allow the Applicant to construct the addition as proposed and shown on the plans.

FINDINGS:

Upon a motion duly made by Robert Baker, Sr. and seconded by Robert Baker, Jr, in a roll call vote the Board further voted unanimously (5-0), by roll call vote, to find that:

- (1) there are conditions that are unique to the applicant's lot, and do not necessarily apply to the neighboring lands, in the same district.
- (2) that strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot since the proposed additions were supported by neighbors and did not detract from the neighborhood,
- (3) the unique conditions are not the result of actions of the applicant taken after the adoption of this bylaw.
- (4) the zoning relief will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw since the proposed use, as conditioned, represents a reasonable use of the site, and
- (5) the variance, 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 topographical conditions as well as soil conditions of this lot created a number of dimensional hardships that were not caused by the current owners. The proposed additions were modest in size and were not opposed by anyone and constituted a reasonable use of the land and made the home more livable and useful. There was only one variance required and it was minimal on the north side given the application of §415-34 which allowed a 3.3ft reduction of side yard setbacks due to the pre-existing lot's topography.

CONDITIONS:

- (1) All construction shall be completed in substantial compliance with the plans submitted and approved by the Zoning Board of Appeals;
- (2) Prior to the issuance of an occupancy permit for the addition, the applicant shall obtain and provide at his expense an As-Built Plan prepared by a professional land surveyor showing the actual location of the proposed addition and certifying that it is in compliance with the approved plan. Said as-built plan shall be provided to the Building Commissioner prior to the issuance of any occupancy permit.
- (3) This variance shall be exercised within one (1) year from the date of filing with the Town Clerk or the rights hereunder shall lapse.

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



Robert C. Rosa III

Chairman