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ROCKLAND ZONING BOARD OF APPEALS
242 UNION STREET
ROCKLAND, MASSACHUSETTS 02370
E-mail: zoning@rockland-ma.gov

Phone: (781) 871-1874 extension 1195

Town Clerk's Date Stamp:

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Decision: Variance/Special Permit

Applicant: Sharon M. Kellaway and Frederick W. Slinger, Jr.

Property Address: 8-16 Berlin St, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the review of the application submitted by Sharon M. Kellaway and Frederick W. Slinger, Jr. of 8 Berlin St, Rockland MA for a variance and/or special permits pursuant to Sections 415-9, 415-22, and 415-89 and or 415-89.1 to allow the Applicant to subdivide the property which contains two separate single family dwelling units built in 1946 which predates the adoption of the subdivision control Law, MGL Chapter 41, Section 81-L at the premises known as and numbered 8-16 Berlin Street, Rockland MA. The property is located in the R-2 Residence Zoning District and is further identified as Lot 38-14-0 on the Rockland Assessor's Maps. The owners of the property are Sharon M. Kellaway and Frederick W Slinger, Jr.

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: November 19th, 2021, and November 26th, 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 7:30 P.M. on December 7th, 2021.

ATTENDANCE:

Board Members: Robert Rosa, Gregory Tansey, Timothy Haynes, Robert Baker, Jr., Robert Baker, Sr., Stephen Galley, (alt)

Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

(All Board members were participating remotely)

MEMBERS VOTING: Chairman Robert Rosa, Gregory Tansey, Tim Haynes, Robert Baker, Jr., Robert Baker, Sr.

DISCUSSION ON December 7th, 2021

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

The Chairman asks the members of the ZBA for roll call vote to open the public meeting. The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of December 7th, 2021.

The Applicant is present at the hearing.

Fred Slinger presented to the ZBA that he has lived there his whole life, property has been in the family for 75 years. There are 2 homes on the lot, they look as if they are 2 separate homes, and they would like to downsize- get out of the big house, move into the small house for a while.

The Chairman opens it up to the members of the board for any questions they may have for the applicant.

Greg Tansey – the structures are older than 75 years? Is the small house currently occupied?

The Applicant testified that the small house is empty.

Greg Tansey asked the applicant how long has it been vacant?

The Applicant testified it has been vacant roughly since June of 2021.

Greg Tansey asked the client if it was previously rented out

The Applicant Testified that in the past it was rented.

Greg Tansey asked how many bedrooms, if there is heat, does it have its own sewer connection.

The Applicant Testified that it has one bedroom, there is heat and it does have its own sewer connection. It also has its own driveway.

Robert Baker, Sr. asked on the smaller house, down the road will that be torn down with something else built there?

The Applicant testified that no the small house will remain the same. The plan is to move into the smaller house, sell the bigger house, and eventually gift their son the smaller house.

Robert Baker, Sr. stated that the driveway would need to be trimmed back so that it is not on the other lot.

The Applicant testified he is aware of the portion of the driveway that will need to be trimmed back.

Timothy Haynes – Has no questions currently

Robert Baker, Jr. stated that he feels the application is incomplete. He feels it needs a bit more description and explanation.

The Chairman asked Robert Baker, Jr. what he feels is incomplete. He stated that it is lacking detail.

The Chairman stated he read the application and he is very clear on what he is asking, and based on the subdivision control law he can do this and doesn't need to explain further.

The Chairman has no issues with anything. Since they have the subdivision control law on their side they can site that as the reason for granting a variance. The only issue is the driveway for the second house is over the line and he would like to see at a minimum a 5ft buffer maintained along that line. The shed is technically over the new line but it is being shown as moved 10ft off.

The Chairman opens it back up to the members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

Timothy Haynes read letters into the record that were received to speak in favor of the Applicant

- David Waldrip – submitted a letter to the ZBA in favor
- Andy Campbell – submitted a letter to the ZBA in favor

No one else spoke in favor or opposed on behalf of the applicant.

The Chairman asked the members of the board for a motion to close the public portion of the meeting.

Robert Baker, Sr. made a motion to close the public portion of the meeting.
Greg Tansey seconded the motion.

The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been closed.

The Chairman reads to the applicant the appeal process and states a decision will be made at tonight's hearing, and that they are welcome to stay and await the result.

DELIBERATION:

Upon a motion duly made and seconded by Board 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 Jr., Robert Baker, Sr. in favor, per the subdivision control law , with the conditions to reflect as shown below in the finding.

REASON FOR DECISION/FINDING:

Upon motion duly made and seconded, the Board found that the Applicant is seeking a variance for permission to subdivide the lot and this is permissible as designed. The Board found that granting the variance is moot on the condition that they relocate the driveway shown as Parcel B to at least 5ft off the property line for the abutting parcel, additionally both structures are required to maintain separate public utilities. The Board found it would not be a derogation from the intent of the Zoning By-law.

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

A handwritten signature in black ink, appearing to read "Robert C. Rosa III". The signature is written in a cursive style with a horizontal line at the end.

Robert C. Rosa III
Chairman