

# 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

Decision: Grant of Variance

Date: November 1, 2022

Applicant: Forest Delahunt Development LLC

276 Weymouth Street, Rockland, Massachusetts

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

See also: Special Permit filed February 6, 2018, recorded with Plymouth

County Registry of Deeds, Book 57182, Page 90.

The Rockland Zoning Board of Appeals has considered the application of Forest Delahunt Development LLC with regard to the property located at 120 Bill Delahunt Parkway, Rockland, Massachusetts, for an Appeal from a Decision of the Zoning Enforcement Officer dated August 18, 2022, and a Dimensional Variance pursuant to Zoning Bylaws Sections 415-41, Appeals, and Section 415-45, Regulations and signs allowed in each district, and Section 415-89.1, Zoning Variances, to allow applicant to construct an 85 SF aluminum and acrylic wall sign on the façade of the Lovell Arena that is currently under construction at the premises known as and numbered 120 Bill Delahunt Parkway, Rockland, Massachusetts. The property is located in both the R-2 Residence Zoning District, Section 415-9 of the Bylaw, and the I-2 Industrial Park Zoning District, Section 415-16 of the Bylaw, and is further identified as

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

Lots 3 and 6, Map 13, Lots 2 and 92, Map 14, and Lots 47 and 108, Map 19, on the Rockland Assessor's Maps. The owner of the property is Forest Hunt Development LLC, 276 Weymouth Street, Rockland, Massachusetts. 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: September 27, 2022, and October 4, 2022, 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, all of which are incorporated herein by reference.

A Public Hearing was conducted remotely in accordance with the law at 7:48 P.M. on October 18, 2022.

#### ATTENDANCE:

Board Members: Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, Robert Baker, Sr., Robert Baker, Jr., Stephen Galley, (alt), and Nicole Clement-Gomez (alt).

Also present:

Land Use Counsel Attorney Anthony Riley Building Commissioner/Zoning Enforcement Officer Thomas Ruble.

(All Board members were participating remotely.)

Members Voting: Chairman Robert C. Rosa, III, Gregory Tansey, Timothy Haynes, Robert Baker, Jr. and Nicole Clement-Gomez.

#### DISCUSSION

The Chairman asked the Board if they had a problem with running both hearings (80 and 120 Bill Delahunt Drive) concurrently. Gregory Tansey asked if there would be a problem with advertising and the Chairman answered that both hearings were advertised to run at the same time. Attorney Riley opined that separate votes and separate decisions were required at the end of the hearings. The Board agreed to hear both hearings at the same time.

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

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

The Chairman asked the members of the ZBA for a roll call vote to open the public meeting. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Nicole Clement-Gomez – 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 October 18, 2022.

Kevin Grady, Grady Consulting, L.L.C., spoke on behalf of the Applicant and stated that both buildings were under construction and that the Arena had a temporary occupancy permit. He then gave a presentation showing the signs.

Mr. Grady explained that the current ByLaws allow for a sign of 24 square feet (hereafter "SF"). The front façade on the arena is approximately 11,680 SF and a 24 square foot sign would only cover 0.2% of the front of the building and would be illegible from much of the parking lot. They are requesting an 85 square foot sign which would provide better symmetry, clarify and still only cover 0.7% of the front façade of the building. The sign will not be visible from the roadway, is not an advertising sign, will fit the architectural design style of the building and the massing of the building. These signs let you know you've arrived at the property and make the buildings look good. The sign does have a frame that it is posted on, but in general it is a blue and white sign. The sign is designed to fit the size of the building.

Mr. Rosa asked if only the lettering would be lit. Mr. Grady answered only the lettering would be lit and that it would comply with the ByLaw and be lit from 6:00 A.M. to 11:00 P.M.

He further explained that as you drive down to the end of the driveway you would be able to see the sign, which does not face any residential abutters. It is faced toward the entrance. The sign is 750 feet from Forest Street and 550 feet to the nearest residential dwelling with approximately 200 feet of mature woods between the sign and the closest dwelling and set back 1,100 feet from Bill Delahunt Parkway.

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

Mr. Rosa then asked the Board if they had any questions. The Board did not.

Mr. Grady further explained that the only sign that will be seen from Bill Delahunt Parkway is a monument sign that is not before the Board tonight as it does conform with the ByLaw requirements.

The purposes of these signs are because of the large size of the buildings and that the signage needs to be seen from the entrances.

Mr. Grady then explained the position of the signs on the buildings and the setbacks.

Mr. Rosa asked about wetlands and Mr. Grady confirmed the wetland areas and woodlands, which are in perpetuity, and wetland resource areas, and conservation restrictions in perpetuity.

Mr. Grady asked if there were any questions. Mr. Rosa asked if the Board members had any questions.

Mr. Tansey had no questions.

Mr. Haynes had no questions.

Mr. Baker, Jr. had no questions.

Ms. Clement-Gomez had no questions.

Mr. Galley asked Mr. Rosa what the general spirit of the rule that the sign could not be bigger and a variance was required. The Chairman explained that there were specific square footage requirements for signs and that because of the size of the buildings and the size of the signs per the ByLaw would not work.

Mr. Baker, Sr. stated that because the signs were larger than 24 square feet the Building Inspector had to deny the building permit and Mr. Rosa stated that both applications stated an appeal from the building inspector because of that reason.

Mr. Grady stated that the process was submit and get denied and he wanted to make sure that they were covered and that he believes that they meet the merits of the variance request. It is not a distraction from the roadway, it is an arrival sign.

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

The unique circumstances of the signs are due to the size of the buildings. The other unique circumstances are that they cannot be seen from any of the travelled roadways and that they are set back significantly. The 4 variance requirements are met due to the circumstances of the lot conditions, enforcement of the ByLaw would cause a hardship and could be dangerous, there is no detriment to the public good, and it does not derogate from the intent or purpose of the ByLaw. The lit part of the Arena sign does fit the ByLaw requirements.

The Chairman then asked the Board if they had any further questions.

Mr. Tansey had no questions.

Mr. Baker, Jr. asked for clarification of the unique circumstances of the lot which Mr. Grady explained the soil conditions, shape and topography and the zoning of the property being in both residential and industrial zones.

Mr. Galley had no questions.

Mr. Haynes had no questions.

Ms. Clement-Gomez has no questions.

Mr. Baker, Sr. had no questions

Mr. Rosa asked the public if anyone wanted to speak in favor of the project. No one spoke.

Mr. Rosa then asked if anyone wanted to speak in opposition of the project. Mr. Russ Corner of 380 Forest Street spoke in opposition.

The Chairman asked if anyone else wanted to speak in opposition and hearing none, he then asked Mr. Ruble if he had any comments.

Mr. Ruble stated he had no questions but wanted to refresh the Board that about 10 years ago they had the same issue on Longwater Drive and they did grant permission.

Mr. Ruble also gave the board an update on the fence.

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

Mr. Haynes wanted to know if there were time constraints on the sign lighting and Mr. Grady stated only the lettering would be lit, had lower foot candles than the parking lot lighting, and would not shine over and above the parking lot lighting and would be turned on and off with the parking lot lights and meet the requirements of the ByLaw for illumination and that the letters would be lit from behind.

The Chairman then entertains a motion to close the public portion of the hearings.

Robert Baker, Jr. moves to close the public portion of the hearing. Seconded by Gregory Tansey.

The Board takes a roll call vote: Mr. Rosa - Yes, Ms. Clement-Gomez - Yes, Mr. Haynes - Yes, Mr. Baker. Jr. - Yes, Mr. Tansey - Yes.

Mr. Rosa then told the applicant the Board would deliberate tonight and welcomed them to be present 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, Certification and a copy of the original decision, record the decision at the Registry of Deeds, and provide proof of recording.

## **FINDINGS**:

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

- 1) Conditions and circumstances are unique to the applicant's lot line configuration, topographical conditions that exist on the lot and the soil conditions and Conservation Commission restriction easement, 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.

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

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.

#### **DECISION ON VARIANCE:**

Upon a motion duly made by Timothy Haynes and seconded by Robert Baker, Jr. the Board voted unanimously (5-0) to GRANT, via roll call vote, with members, Robert C. Rosa, III, Timothy Haynes, Gregory Tansey, Robert Baker, Jr. and Nicole Clement-Gomez in favor, a 61 square foot dimensional variance to allow the Applicant to construct an 85 square foot aluminum and acrylic wall sign on the façade of the Lovell Arena that is currently under construction at the premises known as and numbered 120 Bill Delahunt Parkway, Rockland, Massachusetts.

#### **CONDITIONS:**

1. The sign must meet all other conditions of the Sign ByLaw.

#### **REASON FOR DECISION:**

The Board determined that conditions as well the shape of this lot created dimensional hardships that were not caused by the current owner and would not detract from the purpose and intent of the ByLaws.

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

Property Address: 120 Bill Delahunt Parkway, Rockland, MA 02370

Hearing Date: October 18, 2022 Decision: Grant of Variance

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