



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

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TOWN CLERK, ROCKLAND
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FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

Case No.: 2024-12

Date: November 26, 2024

Decision: Denial of Dimensional Variance Without Prejudice

Applicant: Maureen Mahon, Trustee of King Phillip Realty Trust

Owner: Maureen Mahon, Trustee of King Phillip Realty Trust

Property Address: 568 Hingham Street, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application submitted by Maureen Mahon, Trustee of King Phillip Realty Trust, 201 Linden Ponds Way, Unit 113, Hingham, Massachusetts, c/o Attorney Robert Looney, 500 Washington Street, Abington, Massachusetts, for a dimensional variance pursuant to Zoning Bylaws §415-22, Building and lot regulations, and §415-89.1, Zoning Variances, to allow applicant to raze the existing single family dwelling and replace it with a duplex/two family dwelling. The premises is known as 568 Hingham Street, Rockland, MA, and is in the R-2 Residence Zoning District, §415-9 of the Zoning Bylaw, Assessor's Ref: Lot 20, Map 20 on the Rockland Assessor's Maps. The owner is Angela J. and Charles S. Smith c/o Maureen Mahon, Trustee, King Phillip Realty Trust, 201 Linden Ponds Way, Unit 113, Hingham, 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.

ROCKLAND ZONING BOARD OF APPEALS
DECISION – DENIAL OF DIMENSIONAL VARIANCE WITHOUT PREJUDICE
APPLICANT/OWNER: MAUREEN MAHON, TRUSTEE OF KING PHILIP REALTY TRUST
ADDRESS: 568 HINGHAM STREET

Advertised: October 24, 2024, and October 31, 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 communications from various Town boards, abutters, and with interested parties.

A virtual remote Public Hearing was held via Zoom at 8:16 P.M. on November 12, 2024.

ATTENDANCE:

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

Also present: Town Planner Allyson Quinn.

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

DISCUSSION:

The Chairman 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 roll call vote to open the public hearing. 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 November 12, 2024.

The applicant's attorney, Robert Looney, explained that the property had been purchased by his client in January, 2024, is a non-confirming lot with 16,022 square feet, and explained what his client was proposing for the property.

There was a brief discussion about the MBTA zoning district.

Mr. Rosa asked Attorney Looney to clarify the dimensional variance being sought. Attorney Looney stated approximately 49,000 square feet.

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

Gregory Tansey had no questions.

Robert Baker, Sr. had no questions.

Stephen Galley asked Mr. Rosa for clarification regarding lot square footage and setbacks for 2 dwelling units.

ADUs were briefly discussed and Allyson Quinn clarified the current status of the law. She also stated that information was received that this lot may have been Form A'd in the past, however, research indicated that this lot, along with several others, had been subdivided back in the early 1960s.

Robert Baker, Jr. asked Ms. Quinn about the status of any restrictions of buildings on the lots.

The Chair then opened the meeting up to members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

John Kellstrand, 586 Hingham Street, asked about where unit parking would be and Attorney Looney answered his questions. He then stated that he had no problem with the proposal and that he felt it would be an improvement to the property.

Don Sopher, 591 Hingham Street, had no issue and felt it would be an improvement to the area and that there were a lot of structural issues with the existing dwelling.

The Chair then opened the hearing back up to the members of the Board.

Mr. Rosa entertained a motion to close the public portion of the hearing.
So moved by Robert Baker, Jr.
Sr. Seconded by Robert Baker, Sr.

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

The roll call vote is unanimous, and the public portion of the hearing has been closed.

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The Chair read to the applicants the appeal process and stated a decision would 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 always show the Building Commissioner proof of recording of the decision.

DELIBERATION:

Stephen Galley asked about lot size area and discussion ensued. There was discussion about seeking relief as an ADU. Financial hardships could not be determined by the Board as it appeared that this was an investment property purchased in January, 2024, and was not a primary residence. The applicant is requesting approximately 75% relief from the square footage requirement for the lot size.

DECISION ON VARIANCE:

Gregory Tansey made a motion to deny the dimensional variance.
Seconded by Stephen Galley

The ZBA members take a roll call vote: Robert Rosa – Yes (to grant the variance), Robert Baker, Sr. – No (to deny the variance), Gregory Tansey – Yes (to grant the variance), Robert Baker, Jr – No (do deny the variance), Stephen Galley – No (to deny the variance).

The roll call vote is 3 in favor of denying the dimensional variance and 2 in favor of not denying the dimensional variance.

The request for a variance was denied.

Robert Baker, Jr. then offered that the motion to deny be without prejudice.
Seconded by Robert Rosa.

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

The roll call vote was unanimous and the dimensional variance is denied without prejudice.

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REASON FOR DECISION:

The Board found that applicant did not meet the criteria of the bylaw for a variance. There was no financial hardship. Applicant did not present any precedent of dimensional variances granted in the area on the basis of square footage. However, if applicant could in the future provide concrete proof to the Board that there were other 2 families that got their status through similar zoning board relief within a 1,000 foot radius of the premises, the Board may reconsider as the applicant did not prove the non-conformity.

THIS DECISION, ALONG WITH THE CERTIFICATION FROM THE TOWN CLERK THAT NO APPEAL HAS BEN FILED, MUST BE RECORDED WITH THE PLYMOUTH COUNTY REGISTRY OF DEEDS AND PROOF OF RECORDING MUST BE FILED WITH THE BUILDING COMMISSIONER PRIOR TO THE COMMENCEMENT OF ANY USE.

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
Chair