

Rochester Zoning Board of Appeals  
Business Meeting Minutes  
September 28, 2023

Board Members Present:

David Arancio, Thomas Flynn, Richard Cutler, Davis Sullivan, Donald Spirlet, Michelle Upton

7:16 PM Chairman Arancio called meeting to order

Minutes:

- Motion to approve Business Meeting Minutes of August 24, 2023, made by Richard Cutler and seconded by Donald Spirlet. Motion passes 5-0 with one abstention.
- Motion to approve Public Hearing Minutes for #1197 of August 24, 2023, made by Richard Cutler and seconded by Donald Spirlet. Motion passes 5-0 with one abstention.

New Business:

- Discussion on proposed by-law changes drafted by Building Commissioner/Zoning Enforcement Officer.

The proposed by-law change is titled, "Accessory Apartment." Chairman Arancio began by reading the draft aloud and focusing on several key points; one being that that draft takes the special granting authority away from the Zoning Board of Appeals and places it with the Planning Board. The subject of enforcement of these by-laws arose when the Chair of the Planning Board had stated in a previous ZBA meeting that these were not really enforceable. Number five (5) on the draft copy was also questioned as it pertains to one of the "units", whether the main dwelling or the accessory apartment, be occupied by the owner of the property. Richard Cutler reiterated that this is already in the by-law and that it's all essentially what the ZBA does. The draft merely formalizes it and hands the authority over to the Planning Board. Mr. Cutler goes further by stating that he thought the Planning Board already had plenty to do, as was stated by the Town Planner in a previous ZBA meeting. Davis Sullivan agreed with Mr. Cutler in that it was basically the same as the current zoning by-laws.

Old Business:

- Discussion on the Pledge of Allegiance at the start of each meeting.

Chairman Arancio briefly touched upon the subject in that Associate Member Jeffrey Costa had requested this be put onto the agenda, but the ZBA was waiting for all Board members to be present at a meeting to decide. Mr. Costa was unable to be present for tonight's meeting and so

the topic will remain on the agenda until the next full-board meeting where they will vote on this matter.

➤ By-Law Review Committee

Chairman Arancio began by recapping the previous discussion on this subject. At a prior meeting the Town Planner had stated she wanted to form a very small working group with only one member of the ZBA. The ZBA, however, wanting more representation, wanted to form one as well. The Chairman of the Planning Board had advised that such a group should be inclusive, incorporating a few members of both Boards in order to facilitate harmony. Chairman Arancio stated that he had asked for advice from Town Counsel as well as the Town Administrator regarding the specifics of such a committee; any specific requirements needed to ensure that the committee was legally sound. Chairman Arancio, after speaking with those entities created a Standard Operating Procedure (SOP) which outlines the committee's initiative as well as its membership and procedure. He read this aloud to the Board, the press, and the public.

While reading the SOP, Chairman Arancio stated that he looked into several other communities who already have these committees and found that the most common number of members is seven (7). He therefore purposed to assign three (3) members of the ZBA, two (2) members of the Planning Board and two (2) members "at large", who would be town residents. He also included as staff consultants to this committee (but not voting members), the Town Planner, Zoning Enforcement Officer, and Town Counsel. The SOP outlined the procedure in that the committee would hold meetings that were open to the public and subject to Open Meeting Law. The committee would also appoint a Chairperson, Vice Chairperson, and a Clerk, annually.

After reading the SOP, the floor was opened for a discussion. Associate Member Michelle Upton first thanked Chairman Arancio for putting it all together. She then stated that this was very formal, which she agreed with, but that it was very contrary to what the Town Planner had proposed several meetings back. Mrs. Upton reiterated that the Town Planner had stated that there wasn't a need to make it public or take minutes and seemed generally informal about it. She was unsure how the two groups would work together with two different methods. Chairman Arancio stated that since that meeting, the Town Planner had stepped down from creating that working group, which only leaves the committee that the ZBA is attempting to create. Mrs. Upton stated that she liked having so many different perspectives included. Chairman Arancio said that in checking with Town Counsel, it was suggested that since there would be town residents as committee members and that there were positions (chair, vice chair, etc.) that would be voted on annually, the creation of the committee would have to be voted on first by the Select Board. He stated that there was a meeting on Monday with the Select Board, and he had already placed himself on the agenda for this purpose.

Richard Cutler made a motion to approve the SOP, present it to the Select Board and have them vote on establishing the By-Law Review Committee. This motion was seconded by Donald Spirlet. The motion passed unanimously, 6-0.

Vouchers:

- Motion to approve voucher Order #S137076756 for the amount of \$14.15, Order #S137551612 for the amount of \$23.10 and Order #S137554252 for the amount of \$39.49 made by Richard Cutler and seconded by Davis Sullivan. The motion passed unanimously 6-0.

Motion to adjourn the business meeting made by Davis Sullivan and seconded by Michelle Upton. The business meeting adjourned at 7:38 PM.

Rochester Zoning Board of Appeals  
Public Hearing Minutes  
September 28, 2023

Board Members Present:

David Arancio, Thomas Flynn, Richard Cutler, Davis Sullivan, Donald Spirlet, Michelle Upton

7:40 Chairman Arancio called meeting to order

#1197 Logan Smith, for property located at 2 Bishop Rd, identified on Assessor's Map 43A, Lot 34, who is seeking a Variance for the 40 ft. minimum side setback of an existing pool shed, under chapter 20.40, Section E.2., of the Rochester Zoning By-Laws.

Chairman Arancio began to reading correspondence received from the petitioner's wife, Rebecca Smith and their representative, John Romanelli, surveyor. The first was a letter from Mr. Romanelli requesting that the petition be withdrawn without prejudice. The second was an email from the petitioner's wife where Mrs. Smith endorsed the request for withdrawal without prejudice.

Richard Cutler made a motion to accept the withdrawal without prejudice. This motion was seconded by Davis Sullivan. Motion passed 5-0.

Rochester Zoning Board of Appeals  
Public Hearing Minutes  
September 28, 2023

Board Members Present:

David Arancio, Thomas Flynn, Richard Cutler, Davis Sullivan, Donald Spirlet, Michelle Upton

7:42 Chairman Arancio called meeting to order

#1198 William and Lori Souza, for property located at 85 High St, identified on Assessor's Map 21, Lot 17B, who is seeking a Special Permit for the purpose of renting of rooms or furnishing of board for not more than four persons in a single-family dwelling unit, under Chapter 20.40, Section F.2., of the Rochester Zoning By-Laws.

Chairman Arancio began by reviewing the application and reading the list of abutters. Abutters present were:

- ◆ Ron Belrose, representing Claire F. Belrose of 66 High St.
- ◆ Carolyn E. Sweet of 14 Old Schoolhouse Rd

Petitioner, Lori Souza, explained that she and her husband would like to rent their home through Airbnb during the winter months while they are away. She elaborated that her husband is now disabled, and it has become increasingly difficult to use the stairs for him and as he can no longer work as before, this will help pay for their mortgage. Richard Cutler asked Mrs. Souza how many people would be renting to as the by-law states "no more than four persons" while the petitioner's home can sleep up to eight (8) people. Mr. Cutler commented on how the ZBA had not yet had any petitioner come before them for this reason. Mrs. Souza stated that she asked several people, including select board members and members of other local boards. Most had advised her to go to the ZBA. She continued by discussing what some neighboring communities do in cases like this and that many people rent without ever coming before the ZBA.

There was some discussion on the process of renting by Airbnb as some board members had not heard of it or knew anything about its inner workings. Mrs. Souza explained the process very briefly. There was some confusion as to why the petitioner had to go before the board for this particular intention. Several board members stated that according to the by-laws, you need a special permit so there isn't a need for confusion. They reiterated their gratitude that the petitioner did come before the board in an attempt to do the right thing. Mr. Cutler asked Mrs. Souza how long she intended to rent out her home and if it would be for more than 6 months at a time. Mrs. Souza stated that they would be away from just after Thanksgiving until April but that their adult son would continue to live in the basement. She also stated she would not rent to one single group for more than 21 days as after that time period, they would have tenant rights.

ZBA Member Davis Sullivan made the point that the by-law does not allow for more than four (4) people to rent a home. If the petitioner wants to rent more, she will have to apply for a Variance.

Chairman Arancio then gave the floor over to abutters for questions. Carolyn Sweet of 14 Old Schoolhouse Rd was not opposed and wished the petitioner luck on the venture. Abutter Ron Belrose of 66 High St asked how renters would be screened as his concern would be having unsavory people staying within the neighborhood. Mrs. Souza explained that Airbnb screens people before they can rent. Renters have to give Airbnb personal information for verification purposes. Also, as someone who uses the site to rent, there are requirements she can also place in order to ensure that people are who they say they are, such as having a photo I.D. and contact information. Mrs. Souza stated she also has her son living on the premises so she wouldn't put her son at risk. Mr. Belrose also asked how they could ensure that no more than four people were renting the property. It was explained that only one group can rent a unit at a time, and they are required to advise how many people would be in their group. Chairman Arancio validated Mr. Belrose in that his concerns were valid, but the reality is also that no one can predict who would buy a property next door either. Ms. Upton spoke about the four-person limit, because the petitioner's son will be there as well. Mr. Cutler clarified that the petitioner's son does not count as he lives there and does not rent it.

Richard Cutler made a motion to close public comment, seconded by Donald Spirlet. Motion carried 6-0.

After a brief discussion which included some surprise by some members that there is a market in Rochester for rentals and that being the first before them, this may be a by-law that can be reviewed and revamped as it was created long before the existence of Airbnb. Mrs. Souza stated that she knows some people who will rent their unit and then in turn, those renters sub-rent the unit as well. This was considered by the Board as sub-renting would be undesirable. Vice Chair Flynn briefly spoke on the conditions that be set with the Special Permit, specifically the number of renters and the duration of time that can be rented by each group. Chairman Arancio reiterated that this is a great example of a Special Permit that should be non-transferrable, and this allows for some checks and balances. There was further discussion on stipulations that should be placed onto the Special Permit such as parking. It was concurred that parking should be off-street and only allow up to four (4) vehicles to be on the property (not including any family members).

A motion was made by Mr. Flynn to approve the Special Permit for the rental of rooms or furnishing of board for not more than four persons in a single-family dwelling unit to William and Lori Souza with the following conditions:

1. Dwelling may not be rented more than six (6) months in any given year.
2. Dwelling may not be rented to an individual or family for not more than 21 consecutive days.
3. Dwelling may not be sublet.

4. No more than four (4) renters at any given time consistent with Town of Rochester By-Laws of Chapter 20/40, Section F.2.
5. The Special Permit is not transferable to a subsequent owner.
6. No more than four (4) guest/boarder vehicles and parking is to be on-site.

The motion was seconded by Davis Sullivan. The motion passed 5-0.

A motion to adjourn the meeting was made by Mr. Cutler and seconded by Mrs. Upton.  
Meeting adjourned at 8:22 PM.

Approved by:



David Arancio, Chairman