

**Rochester Zoning Board of Appeals  
Business Meeting Minutes  
Hybrid Meeting  
October 13, 2022**

**Board Members Present:**

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

**7:15 p.m. Called Meeting to Order**

**Minutes:**

- ***September 22, 2022***  
Board Administrator Patrice Braz informed the Board that the minutes of September 22, 2022 will be ready for review at the next meeting.

**New Business:**

- A Citation signed by the Select Board was presented to Kirby Gilmore for his many years of service to the Town of Rochester.
- **Vouchers:** A motion to approve a voucher for Plymouth County Registry of Deeds in the amount of \$107 to record Board signatures was made by Mr. Sullivan and seconded by Mr. Cutler. The motion passed unanimously (7-0).
- **Board Signature:** The Board members signed the Registry of Deeds document of Board Member's signatures.
- **Old Business-** Mr. Cutler suggested we increase the ZBA budget.

A motion to adjourn Business Meeting at 7:24 p.m. was made by Mr. Cutler and seconded by Mr. Flynn. The motion passed unanimously (7-0)

**Rochester Zoning Board of Appeals  
Public Hearing Minutes  
Hybrid Meeting  
October 13, 2022**

**Board Members Present:**

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

**7:26 p.m.**

**#1180**

**Patrick Flanagan for property located at 635 Mary's Pond Road, identified on Assessor's Map 16, Lot 18E, who is seeking two Variances for (1) the construction of a 24' x 40' addition to the existing dwelling, closer than 40' to the side lot setback, and (2) for the construction of an accessory structure of approximately 36' x 70', which is larger than the allowed 1,000 square feet, under Chapter 20.40, Section D.1. and Section E.2. of the Rochester Zoning By-Laws.**

Mr. Flanagan was present in person.

Mr. Costa abstained from ZBA filing #1180 as he is a listed abutter.

Mr. Arancio read the abutter's list and the following were present:

- Eben W. Bumpus Revocable Trust of 654 Mary's Pond Road
- Russell W. & Regina Holt of 640 Mary's Pond Road
- Robert St. Onge of 627 Mary's Pond Road
- Eric Bailey Trustee & Nancy Shooshan Irrevocable Inv. Trust of 68 Cross Road
- Jeffrey Costa of 47 Cross Road
- Melissa Dougall of 278 Snipatuit Road (not a direct abutter)

Mr. Flanagan present an undated letter from abutters Craig & Lindsay Berriault in support of his petition.

Mr. Arancio read the following correspondence:

- An email dated September 8, 2022 from Building Commissioner, Carl Bizarro stating that he has no comment or further information as it relates to this appeal.
- An email dated September 8, 2022 from Conservation Agent, Merilee Kelly stating that, as there are no wetlands on or around the property, the Conservation Commission has no comment on the public hearing for this property.
- An email dated September 20, 2022 from Board of Health Director, Karen Walega stating that it appears, by the proposed subsurface sewage disposal plan that was submitted with the application, that the applicant will be upgrading the septic system to meet the new requirement of a 4-bedroom home. At this time, she has no further comment.
- An undated letter from abutters Craig & Lindsay Berriault in support of the petition.

Mr. Flanagan explained to the Board that his lot is narrow on the west side of the house; he reviewed the potential of the addition on the south and north sides, however, there would still be an issue with property line encroachment. He stated that he is proposing this addition, which would consist of a first-floor bedroom and bathroom for his aging parents, so they can come live with him and he can take care of them. Mr. Flanagan stated that he ran figures for a smaller addition, and multiple smaller additions and over time, however, it would be more expensive than constructing a bigger addition now. It would also be less detrimental to the neighborhood to have construction one time rather than several.

Mr. Arancio asked Mr. Flanagan how would the aesthetics look from the front of the house and what he plans to do with the rear of the property. Mr. Flanagan replied that he would like to build a garage in the rear of his property to work on cars and to store his tools. The garage would be a Hanson barn style building. The house and addition would be T-shaped on a slab that is level with the existing house. Mr. Cutler asked what the siding would be. Mr. Flanagan replied that it would be a metal siding and metal roof.

Mr. Arancio asked if Mr. Flanagan had an elevation plan. Mr. Flanagan stated he hasn't had an architect draw up the elevations yet because it was contingent on the decisions of the Board for the issuance of the two Variances.

Mr. Flynn asked for clarification on the setback distance shown on the plan. Mr. Flanagan confirmed it is correct; he is proposing to construct the addition 29 feet from the side property line, including the roof overhang.

The Public Comment segment was opened.

Robert St. Onge of 627 Mary's Pond Road stated that he has no issues with Mr. Flanagan wanting to put an addition to help take care of his aging parents.

Jefferey Costa of 47 Cross Road asked Mr. Flanagan if it was staying a single-family dwelling. Mr. Flanagan replied that it would be.

Melissa Dougall of 278 Snipatuit Road stated she works at a nursing home and thinks it is a great idea that Mr. Flanagan wants to add an addition to his home to care for his aging parents.

Mr. Arancio read the undated letter from Craig & Lindsay Berriault of 641 Mary's Pond Road stating that they are in support of the petition for two Variances.

Mr. Sullivan asked if there is a driveway proposed. Mr. Flanagan replied that there is not, however, he plans to add a gravel driveway to west side of property.

Mr. Costa asked that the accessory building not be used for commercial use.

A motion to close the public comment segment was made by Mr. Cutler and seconded by Mr. Spirlet at 7:50 p.m. The motion passed unanimously (6-0).

Mr. Cutler commented that he thinks it is a great use for an addition and feels that the house should stay a single-family dwelling. Mr. Spirlet stated that he has no issues and thinks it is great idea to take care of his parents. Mr. Sullivan stated that he has no issues as well and the appeal was presented well by applicant. Mr. Flynn stated that he is in support of the applicant and that all the criteria has been met; the applicant has a hardship, as the lot is narrow. Mrs. Upton stated that she thinks it is a great idea and will raise his property value in return which will help the Town. Mr. Arancio stated the applicant meets the requirements of the By-Law.

## **Vote**

After giving all parties an opportunity to present evidence and discuss the case, the Zoning Board of Appeals made the following determination:

**MOTION #1:** Grant the request for a Variance from the requirements of Chapter 20.40, Section D.1. to allow the construction of a 24' x 40' addition to the existing dwelling closer than 40' to the side lot setback, specifically no closer than 29 feet from the side lot setback for property located at 635 Mary's Pond Road, identified on Assessor's Map 16, Lot 18E, as,

- a) There are unique circumstances relating to the shape, topography, and soil conditions of the land such as the location of the existing structure in relationship to the narrow shape of the lot.
- b) Literal enforcement of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner.
- c) The desired relief may be granted without substantial detriment to the public good.

The Variance is to be in accordance with a site plan entitled "Plan of Site, Proposed Additions Accessory" drawn by Charon Associates, Inc. and dated April 20, 2022, as filed with the Zoning Board of Appeals.

The conditions of the variance are as follows:

- Existing residence along with the proposed addition is not to be converted to a multifamily dwelling.
- All parking is to be off street.
- Not to be used for commercial purposes other than those allowable by right under the Rochester Zoning By-Laws.

## ***VOTING MEMBERS:***

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

**VOTE:**                      5 In Favor                      0 Opposed

***Motion passed 5-0; the Variances are thereby deemed granted.***

**MOTION #2:** Grant the request for a Variance from the requirements of Chapter 20.40, Section E.2 for the construction of an accessory structure of approximately 36' x 70' which is 2,520 square feet and therefore larger than the 1,000 square feet size allowed under the bylaws for property located at 635 Mary's Pond Road, identified on Assessor's Map 16, Lot 18E, as,

- a) There are unique circumstances relating to the shape, topography, and soil conditions of the land such as the location of the existing structure in relationship to the narrow shape of the lot.
- b) Literal enforcement of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner.
- c) The desired relief may be granted without substantial detriment to the public good.

The Variance is to be in accordance with a site plan entitled "Plan of Site, Proposed Additions Accessory" drawn by Charon Associates, Inc. and dated April 20, 2022, as filed with the Zoning Board of Appeals.

The conditions of the variances are as follows:

- Accessory structure, Hanson Building, not to be used as a residential space.
- Accessory structure, Hanson Building, not to be used for commercial purposes other than those allowable by right under the Rochester zoning bylaws.
- Accessory structure, Hanson Building, not to be used for housing of animals.

***VOTING MEMBERS:***

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

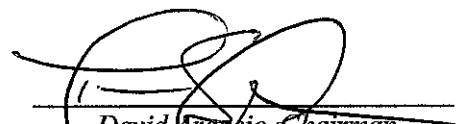
***VOTE:***                      5 In Favor                      0 Opposed

***Motion passed 5-0; the Variances are thereby deemed granted.***

A motion to adjourn at 8:00 p.m. was made by Mr. Sullivan and seconded by Mr. Flynn. The motion passed unanimously (6-0).

Respectively submitted,

  
Mandie Cummings, Clerical Assistant

  
David Arancio, Chairman