

**Rochester Zoning Board of Appeals
Business Meeting Minutes
Hybrid Meeting
December 8, 2022**

Board Members Present:

Thomas Flynn, Davis Sullivan, Richard Cutler, Donald Spirlet, Jeffrey Costa

7:15 p.m. Called Meeting to Order

Minutes:

- Business Meeting Minutes of November 10, 2022 was tabled until next meeting.
- Public Hearing #1184 Minutes of November 10, 2022 was tabled until next meeting.

New Business:

- The Zoning Board of Appeals Proposed FY2024 Budget was tabled until next meeting.

A motion to adjourn Business Meeting at 7:18 p.m. was made by Mr. Cutler and seconded by Mr. Costa. The motion passed unanimously (5-0).

**Rochester Zoning Board of Appeals
Public Hearing Minutes
Hybrid Meeting
December 8, 2022**

Board Members Present:

Thomas Flynn, Davis Sullivan, Richard Cutler, Donald Spirlet, Jeffrey Costa

7:20 PM Meeting Called to Order

#1181 *(Continued)*

Eric Zak for property located at 0 Quaker Lane, identified on Assessor's Map 38, Lot 16, who is seeking a Variance for the creation of a single house lot which does not meet the minimum frontage requirement per Chapter 20.40, Section D.1. of Rochester Zoning By-Laws.

A request to continue the public hearing until January 12, 2023 was received via email from the applicant's attorney John Markey on December 7, 2022.

A motion to approve the request was made by Mr. Cutler and seconded by Mr. Sullivan. The motion passed unanimously (5-0).

**Rochester Zoning Board of Appeals
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Board Members Present:

Thomas Flynn, Davis Sullivan, Richard Cutler, Donald Spirlet, Jeffrey Costa

7:22 Meeting Called to Order

#1186

Nelson Robles on behalf of Peter Mott for property located at 3 County Road, identified on Assessor's Map 10, Lot 3E, whom is seeking a Variance for the construction of a 20' x 16' deck, closer than the required 40 feet to the side lot setback, under Chapter 20.40, Section D.1. of the Rochester Zoning By-Laws.

Nelson Robles was present in person and Peter Mott was present via Zoom.

Mr. Flynn read the application aloud as well as the abutter's list. The following abutters were present:

- Robert & Christine Murphy, 19 County Road
- Kevin & Amy Bennett, 9 County Road
- Jeannette Barboza Life Estate, 15 County Road

Mr. Robles told the Board that he is proposing a deck, less than 30" in height with no railings, and two staircases.

Abutter Amy Bennett spoke in favor of the petition.

A motion to close the public comment was made by Mr. Cutler and seconded by Mr. Sullivan. The motion passed unanimously (5-0).

Vote

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

MOTION: Grant a Variance to Nelson Robles on behalf of Peter Mott for property located at 3 County Road, identified on Assessor's Map 10, Lot 3E, whom is seeking a Variance for the construction of a 20' x 16' deck, closer than the required 40 feet to the side lot setback, under Chapter 20.40, Section D.1. of the Rochester Zoning By-Laws as,

- a) There are unique circumstances relating to the shape, topography, or soil conditions of the land (or the character of the existing building) such as small lot, configuration of the house, and the septic system, and
- b) Literal enforcement of the by-law would involve a substantial financial hardship to the petitioner, and
- c) The desired relief may be granted without substantial detriment to the public good.

This Variance is to be in accordance with a site plan entitled, "Plot Plan in Rochester, Massachusetts" drawn by Russel A. Firth, dated November 29, 2022 as filed with the Zoning Board of Appeals.

The conditions of the Variance are as follows:

1. The proposed deck is not to be closer than 10.3' to the side property line, and 28.6' to the rear property line as shown on the site plan.

VOTING MEMBERS:

Thomas Flynn, Davis Sullivan, Richard Cutler, Donald Spirlet, Jeffrey Costa

VOTE: 5 In Favor 0 Opposed

Motion passed 5-0; the Variance is thereby deemed granted.

**Rochester Zoning Board of Appeals
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Board Members Present:

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

7:40 Meeting Called to Order

#1182

Matt Dessert on behalf of Robert Murphy for property located at 19 County Road, identified on Assessor's Map 10, Lot 3A, whom is seeking a Variance to construct an 80- foot by 204-foot steel building with 10 separate bays for personal use, which is over the 1,000 square feet that is allowed per Chapter 20.40, Section E.2. of the Rochester Zoning By-Laws.

Mr. Flynn read the abutters list and the following were present:

- Robert M. & Christine R. Murphy of 0 Mary's Pond Road & 35 County Road
- Kevin R. & Amy B. Bennett of 9 County Road
- Life Estate of Jeannette Barboza of 15 County Road
- Amy, Paul & Peter Mott of 3 County Road
- Todd & Erin Zell of 4 Edwards Bridge Road in Marion
- Vinnie Barboza and Scot Machos of 15 County Road
- Sirjana and Suren Perajuli of 4 Teal Street in Marion
- Brian Anderson of 2 Teal Street in Marion

While it was understood that the appeals #1182 relating to the building size and #1185 relating to the trucking company require separate decisions, the information required pertains to both and can be discussed as one.

Robert Murphy presented his case stating that he has been cleaning up the property since purchased. The plan is to construct a 16,000 square foot building to house personal race cars and trucks associated with his trucking company. Further inquiry revealed that in addition to five race cars and two trucks associated with Murphy's operation, there are plans to rent out three of the bays to help cover costs. The goal is to have all the equipment that is currently outdoors, under cover. Eventually, Murphy hopes to have three employees.

Michael Kennefic, an attorney representing abutters, spoke against both petitions. He stated that the present trucking company is operating illegally. The business permit held by Murphy does not address running a trucking company from the property. There are stock piles of construction debris. The proposed building is larger than any other metal building in town; 16 times larger than by-laws allow. More business would be introduced with rental of building bays. There will be more traffic than would be harmonious with the area. The property would be more like a trucking terminal than a home business.

Ms. Bennett speaking in opposition added to a letter, which was read by Mr. Flynn, indicating that the activity at the Murphy property exceeds anything anticipated, otherwise they wouldn't have bought their house.

Scott Machos of 15 County Road, expressed concern over the noise from five cars when being tuned for races. He doesn't want to limit what Murphy does on his property, but also wants to enjoy his own property.

Mr. Flynn read a letter from Todd Zell against the proposed project.

In rebuttal, both Murphy's expressed surprise with the negative reaction from the abutters as they had discussed plans with the abutters and they had seemed supportive. Being "blindsided," Mr. Murphy asked for a continuation in order to better prepare a rebuttal. Murphy thought January 26th would give them enough time.

A motion to continue the public hearing until January 26, 2023 was made by Mr. Cutler and seconded by Mr. Sullivan. The motion passed unanimously (5-0). Mr. Murphy will email an official request for continuation to Patrice Braz to be stamped with the Town Clerk and filed. Public comment will remain opened.

A motion to adjourn at 8:27 p.m. was made by Mr. Sullivan and seconded by Mr. Spirlet. The motion passed unanimously (6-0).