

**Rochester Zoning Board of Appeals
Business Meeting Minutes
Hybrid Meeting
January 12, 2023**

Board Members Present:

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

7:28 p.m. Call Meeting to Order

Minutes:

- Business Meeting Minutes of November 10, 2022 postponed until next meeting.
- Business Meeting Minutes of December 8, 2022 postponed until next meeting.
- Motion to approve the Business Meeting Minutes of December 22, 2022; striking the word “Capital” from the title was made by Mr. Cutler and seconded by Mr. Spirlet. Mr. Sullivan abstained. Motion passed as amended (4-0).
- Motion to approve Public Hearing #1181 Minutes of December 22, 2022; striking the word “Capital” from the title was made by Mr. cutler and seconded by Mr. Spirlet. Mr. Sullivan abstained. Motion passed as amended (4-0).

New Business:

- Chairman Arancio spoke with Town Administrator regarding ZBA budget. Budget has been postponed until more board members present. Motion to increase ZBA budget from \$300 to \$1000 and seconded by Mr. Sullivan. Motion passes unanimously (5-0).
- Status on new ZBA Administrator. Chairman Arancio advised he spoke with Town Administrator and they are currently interviewing for this position.

Motion to adjourn Business Meeting at 7: 20 made by Mr. Cutler and seconded by Mr. Sullivan. Motion pass unanimously (5-0).

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Board Members Present:

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

7:36 Call Meeting 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.

Neither the applicant, Mr. Zak nor his attorney are present at the meeting.

Motion to continue hearing at the next meeting on January 26, 2023 made by Mr. Sullivan and seconded by Mr. Spirlet. Mr. Cutler requested an amendment to the motion that the applicant and his attorney be advised of the continuance. Motion passed unanimously (5-0).

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Board Members Present:

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

7:41 p.m. Called Meeting to Order

#1187

Chris Barton for property located at 3 Bennet Road, identified on Assessor's Map 44A, Lot 18, whom is seeking a Variance for the construction of an addition to an existing garage to be located closer than the 40-foot setback requirement to the side property line under Chapter 20.40, Section D.1. of the Rochester Zoning By-Laws.

Applicant is present.

No abutters present in person or on Zoom. Mr. Cutler made a motion to waive the reading of the abutters seconded by Mr. Sullivan. Motion passed unanimously (5-0).

Mr. Barton began by describing the existing garage door as a standard 19' wide door. He stated that the house was built in such a way that when the garage door is opened, one cannot open the car door due to the wall of the house that connects to the corner of the garage. He continued explaining that on the other side there is only 14" to the corner of the garage and this is the entire width of the garage itself. The driveway narrows as it comes closer to the road and at that point is only about 8' wide. He stated that for two cars, lawnmower and generator; there is no room. He specified that he would like to widen the garage so that it is a standard two car garage with two doors.

Mr. Arancio asked if the addition is twice the size of the garage and if it will be going from a one car to a three-car garage. Mr. Barton elaborated and stated that there will be two doors; the existing door and an additional door.

Mr. Arancio stated that a typical two car garage is 22' x 24' but the proposed garage is 26' x 22'.

Mr. Barton specified that it would be 26' in depth. He is looking to extend the garage in the back by 3' so that he can make room for a work bench and for some of his equipment. Mr. Arancio then asked if the existing garage would remain to which Mr. Barton confirmed that it would.

Mr. Cutler then asked Mr. Barton if the wall between the existing garage and the extension would be taken out. Mr. Barton stated this was the case. He said that they would take down the wall and then finger cut the A-frame to blend it so that when it is finished, it will look like it was always this way. The peak of the garage does not face the front of the house but actually faces the neighbor. Mr. Cutler asked Mr. Barton to confirm that there would not be a wall where the existing garage would remain and then a larger extension built on the other side. Mr. Barton confirmed this was not that case. The wall would be taken down, the garage extended and then both garage doors centered properly so they are proportionate.

Mr. Arancio asked if there would be usable space above the garage and Mr. Barton replied that it would not. Ms. Upton asked Mr. Barton if he was going to widen the existing driveway. Mr. Barton replied in the affirmative and stated that it currently has an awful cut. He wants to have it all proportionate to the house and it all looks uniform.

Mr. Arancio then opened the hearing to the general public. There was no one present or on Zoom who had anything to add to the hearing.

Mr. Arancio asked Mr. Barton to explain what the retaining wall on the proposal was needed for. Mr. Barton explained that he had been told that due to the natural slope that in order to build the foundation properly there would need to have a wall. As the driveway approaches the house, the grade increases from nothing up to the corner of the garage. The retaining wall or “ready rock” would make it look as natural as possible. Mr. Cutler elaborated on this and explained this would be used to prevent the applicant from having a really high foundation wall, which he stated made sense to him.

Mr. Arancio explained to Mr. Barton that in order to be granted a variance he would have to meet certain criteria and proceeded to read these out loud. They are as follows:

1. There are unique circumstances relating to the shape, topography, or soil conditions of the land (or the character of the existing building).
2. Literal Enforcement of the By-Law would involve substantial hardship, financial or otherwise to the petitioner.
3. The desired relieve may be granted without substantial detriment to the public good.

Mr. Arancio advised that the third criteria has been met as there are no abutters present and no parties have spoken negatively about the application. He then advised Mr. Barton that he could explain how the first two criteria apply to his case.

Mr. Barton did not seem quite sure how to respond as this is his first ever ZBA meeting. Mr. Cutler, recognizing this, interceded by stating that it was obvious from the site plan that the topography slopes off to one side, which is why the retaining wall is needed. Secondly, the grades are being changed to make it look decent. Also, this is only a 0.9 acre lot, thus it is non-conforming. Mr. Cutler stated that these met the first criteria. The remaining board members agreed and had no further comments.

For the third requirement, Mr. Sullivan explained that where the proposed addition is located encroaches less on the side setback than anywhere else and the septic is directly behind the house. With elevation issues on the North side of the lot, the proposed addition is in the best location. All members agreed and there was no further discussion or questions.

Motion to close public comment made by Mr. Cutler, seconded by Mr. Spirlet. Motion passed unanimously (5-0).

Board members discussed the matter among themselves. Mr. Cutler stated he did not see any issues with this. Mr. Spirlet also stated he had absolutely no issues with this and he was familiar with the development. The garage is tiny and does not have room for what he needs. He continued by saying that there are no abutters complaining and that the intent of the By-Law came after the development was built in the 1970's. Mr. Cutler added that knowing that development he felt these changes would actually enhance the area as it will fit in better with the neighborhood.

Mr. Arancio suggested perhaps a motion for a recess until 8:00 p.m. so that Mr. Sullivan could write up the Motion and any conditions. Mr. Cutler stated it was fine to continue and keep it open.

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 Chris Barton for property located at 3 Bennet Road, identified on Assessor's Map 44A, Lot 18, whom is seeking a Variance for the construction of an addition to an existing garage to be located closer than the 40-foot setback requirement to the side property line 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 relieve may be granted without substantial detriment to the public good.

This Variance is to be in accordance with a site plan drawn by Charon Assoc. dated January 12, 2023, as filed by the Zoning Board of Appeals.

The conditions of the Variance are as follows:

- 1) Addition will not be closer than 22' to the North side property line.
- 2) Space above the garage will not be finished.

VOTING MEMBERS:

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

Motion for no further conditions made by Mr. Sullivan and seconded by Mr. Spirlet.

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

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

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8:02 p.m. Called Meeting to Order

#1184 (*continued*)

JPF Development, LLC for property located at 0 & 25 Cranberry Highway, identified on Assessor's Map 17, Lots 29, 29A, 30, 31A, 55, 56, whom is seeking a Special Permit to allow the use of a self-storage facility in the Industrial Zone under Chapter 20.40, Section F.6. of the Rochester Zoning By-Laws.

Mr. Antonio, applicant, is present. Case was previously continued due to the necessity of Town Council's assistance with this specific case and the Mullin Affidavit. They have been unable to do so as of this present hearing on January 12, 2023.

Mr. Cutler asked Mr. Antonio if he could send the ZBA another continuance request for January 26 2023. Mr. Antonio agreed.

Motion made to continue the hearing on January 26, 2023 made by Mr. Sullivan and seconded by Mr. Cutler. Motion passed unanimously (5-0).

Motion to adjourn at 8:11 p.m. made by Mr. Spirlet and seconded by Mr. Cutler. The motion passed unanimously (5-0).

Respectfully submitted,

David Arancio, Chairman