

**Rochester Zoning Board of Appeals  
Business Meeting Minutes  
Hybrid Meeting  
April 27, 2023**

**Board Members Present:**

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

**7:15 p.m. Meeting Called to Order by Richard Cutler**

Due to the absence of Chairman David Arancio and Vice Chair Thomas Flynn, board member Richard Cutler advised that the remaining board would have to vote for an acting chairman. Jeffrey Costa motioned for Richard Cutler to be acting chair, seconded by Donald Spirlet. Motion passed unanimously (4-0).

**Minutes:**

- Motion to approve Business Meeting Minutes for January 26, 2023 was made by Mr. Spirlet and seconded by Mr. Sullivan. The motion passed unanimously (4-0).
- Motion to approve Public Meeting Minutes for #1184 of January 26, 2023 was made by Mr. Sullivan and seconded by Mr. Spirlet. The motion passed unanimously (4-0).
- Motion to approve Public Meeting Minutes for #1182 and #1185 of January 26, 2023 made by Mr. Sullivan and seconded by Mr. Spirlet. The motion passed unanimously (4-0).
- Motion to approve Business Meeting Minutes for March 9, 2023 made by Mr. Sullivan and seconded by Mr. Costa. The motion passed unanimously (4-0).
- Motion to approve Public Meeting Minutes for #1174 of March 9, 2023 made by Mr. Sullivan and seconded by Mr. Costa. The motion passed unanimously (4-0).
- Motion to approve Public Meeting Minutes for #1181 of March 9, 2023 was made by Mr. Sullivan and seconded by Mr. Costa. The motion passed unanimously (4-0).
- Motion to approve Public Meeting Minutes for #1188 of March 9, 2023 was made by Mr. Sullivan and seconded by Mr. Costa. The motion passed unanimously (4-0).

**New Business:**

- Short discussion on Open Meeting Law; extension signed into law regarding continuation of hybrid meetings. Mr. Cutler spoke of the Open Meeting Law training which he attended, along with Chairman David Arancio and Administrative Assistant Andreia

Ribas, which took place on April 10, 2023 at the Council on Aging in Rochester, MA.

- Discussion and deliberation on the continuation of hybrid (Zoom) meetings. Board was advised that the next ZBA Meeting on May 11, 2023 would remain a hybrid meeting. Mr. Sullivan made a motion to discontinue with hybrid meetings following our next meeting on May 11, 2023. This motion was seconded by Mr. Spirlet. Mr. Cutler now opened the issue up for discussion by the board. Mr. Costa stated that he liked the idea of having more ways for the public to get involved, however, if there are any clerical errors or technical difficulties, future meetings may not be able to take place, as is what happened during the previous meeting on April 13, 2023. Mr. Cutler stated that if there is a meeting where we may feel that many residents would like to partake in, the board can simply advertise this as a hybrid meeting. Mr. Spirlet stated that he too preferred not to have hybrid meetings but did want the ability to make a meeting hybrid for the public when need be. Mr. Sullivan further added that the Zoom can be very distracting. Mr. Cutler now took the vote, as there was already a motion that was seconded. The motion passed unanimously (4-0).
- Discussion regarding Appeal #1150; Five O’Clock Farms. Board advised that there is an Order of Remand and will be advertised again and is set to be on the Agenda for the May 25, 2023 meeting. (Associate Member Michelle Upton entered the meeting at this time; 7:23 pm). Mr. Costa stated he was not sure why the petition was returning to the board. Mr. Cutler stated briefly that there was an issue with the conditions placed upon the decision. Mr. Costa stated he would have many questions for the actual hearing.

Business Meeting adjourned at 7:25 p.m.

**Rochester Zoning Board of Appeals  
Public Meeting Minutes  
Hybrid Meeting  
April 27, 2023**

**Board Members Present:**

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

**7:26 Called to Order by Richard Cutler**

**#1189**

**Sharon Grant, for property located at 24 Mayflower Lane, identified on Assessor's Map 21A, Lot 41, who is seeking a Special Permit under Chapter 20.40, Section F.9., for the approval of the construction of an additional dwelling unit above the garage.**

The applicant is present.

Mr. Cutler read the list of abutters aloud. No abutters were present, neither in person or on Zoom.

After the abutter's list was read, Mr. Cutler requested that the petitioner explain what her intended plan was while the board reviewed the site plans that were presented along with the application. One site plan was certified from 2002 and another was a sketch done by the petitioner. Mrs. Grant stated that they weren't changing anything on the outside, except a set of stairs. Mr. Cutler advised that this could be an issue to which Mrs. Grant stated that there would need to be a second means of egress. Mr. Cutler asked Mrs. Grant if she had spoken with anyone from Conservation. Mrs. Grant stated no and that it wouldn't affect this as the stairs were wrap around the side of the home and the wetlands are in the back. ZBA Administrative Assistant, Andreia Ribas, then advised the Board that Conservation had already been informed and had responded via email about what Mrs. Grant would have to do through the Conservation Board. This email was located in the meeting packet for the board to review.

Mr. Cutler asked if there was anything that showed what the stairs would look like, other than the sketch presented by the petitioner. Mrs. Grant stated there was not. Mr. Cutler then asked who did she (Mrs. Grant) plan on having do the work. She stated that they would have to have a plumber and electrician come out for those specific purposes but otherwise, they would be doing the work themselves. Mr. Cutler asked if they would be pulling permits and if there would be a site plan that shows what the stairs will look like and where they'll be located. Mrs. Grant answered in the affirmative. Mrs. Grant's mother stated the apartment was for herself and her husband, as they were getting older.

Mr. Cutler then asked the petitioner if she knew that there were covenants in place to which she stated there were no covenants that she knew of as she never signed anything of the sort and never paid anything to an HOA. Mr. Cutler stated that the ZBA has absolutely no influence, one way or the other, in regards to those covenants. He reiterated that he wanted to make sure she

knew because that an Association could appeal a decision. Mrs. Grant stated she understood and that when she bought the property in 1999, she was told no HOA rules could take effect until all the lots were sold. And as of today, two of those lots are still unsold.

Mr. Cutler asked the board if they had any questions before closing public comment. Mr. Costa stated he had some questions and would like to keep the discussion open. He then requested that the petitioner receive a copy of the covenants; to which she was given one. Mrs. Grant stated that this was the first time she was ever seeing them.

Mr. Costa asked the petitioner what side, according to her sketch of the proposed apartment, was facing the street. Mrs. Grant rose and showed the board directly on the plan where the wrap-around stairs would go. Mr. Costa then asked what the square footage of the dwelling is. Mrs. Grant stated that the garage is 24' x 24'. Mr. Costa was given a copy of the Assessor's Property Card which states the particulars of the dwelling; including the square footage which is 2016 square feet. The proposed apartment would have 676 square feet which is about 33% of the total square footage. Mr. Cutler reiterated that they are not increasing the structure floor plan as they are converting a space that already exists above the garage. The only addition to the structure is wrap-around stairs. The discussion continued about whether the petitioner needed a Variance for the lot size or if a Special Permit was most appropriate. Mr. Cutler advised that the Board is supposed to approve Variances "sparingly" and so a Special Permit is more flexible.

Mr. Cutler asked if there was anything further and Mr. Sullivan motion to close public comment which was seconded by Mr. Costa. Mr. Spirlet spoke up asked Mrs. Grant to explain why she was appeal at tonight's meeting. Mrs. Grant stated she wanted to convert the space above the garage into an apartment for her parents. She continued by saying she has no intentions of leaving the home and has lived there for twenty-four years. She intends to create a bedroom, living space, kitchen and bathroom. Mr. Spirlet confirmed with her that she would be living in the main dwelling, to which she confirmed. She continued by saying her parents would like to travel and this way they will always have a place to call home with her.

Mr. Cutler stated that there was already a motion to close public comment and all were in favor, thus public comment was closed with a unanimous vote of 5-0. The board began deliberations.

Mr. Costa asked if the Board of Health had looked over the application in order to confirm the current septic tank was appropriate. The ZBA Administrator advised that they had, and that there was an email attached to the meeting packet stating from the Board of Health regarding this. Mr. Cutler added that it wasn't something the ZBA had to be too worried about as the Building Inspector would look into that before a permit was given. A common stipulation to the ZBA's decision on cases as this is that they must conform to all other boards and standards.

### **Deliberation:**

All parties have been provided with an opportunity to present evidence and discuss this matter and the issues associated therewith. The Board has deliberated and, in accordance with the vote indicated herein below, the Zoning Board of Appeals finds that the Applicant has met its burden of demonstrating those elements necessary to obtain a Special Permit from the requirements of

the Rochester Zoning By-Laws. The Zoning Board of Appeals made the following determination:

1. The proposed use is appropriate to the specific site in question.
2. Adequate and appropriate facilities will be provided for the proper operation of said use.
3. There will be no hazard to pedestrians or vehicles.
4. There will be no nuisance or adverse effect upon the neighborhood.

**MOTION:** Grant a Special Permit to Sharon Grant for the property located at 24 Mayflower Lane, identified on Assessor's Map 21A, Lot 41, whom is seeking a Special Permit for the construction of an additional dwelling unit above the garage, under Chapter 20.40, Section, F.9.a., of the Rochester Zoning By-Laws with the following conditions:

1. At least one unit is to be owner-occupied.
2. Wrap-around stairs will be located on the NE corner of the garage and not to exceed 4 feet in width.
3. All parking is to be off-street.
4. Unit to be constructed according to and in compliance with all local boards and standards.

This Special Permit is to be in accordance with Site Plan entitled, "Site Plan Showing Proposed Garage Assessors Lot #41 on map #21A at #24 Mayflower Lane at 'Mayflower Woods' in Rochester, MA" dated June 5, 2002 and drawn by N. Douglas Schneider & Associates, INC.

**Voting Members:**

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

**Vote:**            **5** in Favor      **0** Opposed

*Special Permit is thereby deemed granted.*

**Rochester Zoning Board of Appeals  
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April 27, 2023**

**Board Members Present:**

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

**8:05 Called to Order by Richard Cutler**

**#1190 & #1191**

**Carl H. MacDermott III, for property located at 128 Dexter Lane, identified on Assessor's Map 6, Lot 11E, who is seeking a Special Permit (#1190) for the approval of the conversion of the basement into an additional dwelling unit, under Chapter 20.40, Section F.9., and a Variance (#1191) for minimum required lot area of 105,000 sq. ft. and a Variance for minimum required lot frontage of 300 ft, under Chapter 20.40, Section E.16., of the Rochester Zoning by-laws.**

The applicant is present.

Mr. Cutler first read the petitioners intent from the application and then read the abutter's list aloud. Bruce Maksy, Jr. of 150 Dexter Lane was present in person.

Mr. Cutler asked the petitioner, Mr. MacDermott, to come forward and explain his purpose. Mr. MacDermott explained that his son was currently going through a divorce and has two children, whom he has on weekends and holidays. His son also has a job as a homicide detective and can be called out to a scene at any hour and often, he would have to have the petitioner pick up the children to stay with him and his wife. He stated, that this way, his son will have a place to live and his grandchildren will already be in their care should their father be called away. He continued by stating that when the house was constructed in 2019, it had a 4-bedroom septic put in. The dwelling currently has only 3 bedrooms. Mr. MacDermott had prepared a packet of information for each Board member, explaining his reasons for the conversion, plans and photos of the property and the current state of the basement. He continued by describing that all methods of egress are already in place and there would be no structural changes to the exterior of the home.

The Board then began to review the application and the provided documentation. They discussed the need for the Variances and the Special Permit. Mr. Costa had questions regarding the section of Chapter 20.40 that the applicant was appealing. Section F.9.a, for the special permit, requires that the home have been occupied for a minimum of seven (7) years. This home, however, was built in 2019, therefore it does not meet that requirement. The Board debated the best route for the applicant as the requirements under said Section cannot be superseded, unless a Variance could be given on the Special permit for the years of occupancy. Mr. Cutler admitted they had not run into this situation before. Mr. Costa asked if it was

possible for the applicant to withdraw from the Special Permit and only seek the two Variances under Section E.16. of Chapter 20.40, but Mr. Cutler advised it best not to take any action at the time until clarification could be obtained from Town Counsel. He then asked the present abutter, Mr. Maksy, if he had anything he would like to add before closing public comment. Mr. Maksy stated that he was there to support what the MacDermott's intended as they were good neighbors who always took great care of their property and he had no objections.

Mr. Spirlet made a motion to close public comment, which was seconded by Mr. Costa. The motion passed unanimously. Mr. Cutler stated that due to the complications of the case, it would be best to continue the petition and seek Town Counsel's advice. The Board deliberated and decided that a continuation was truly best in this situation and that the petitioner. Mr. Davis made a motion to continue petitions #1190 and #1191 until the following meeting on May 11, 2023 which was seconded by Mr. Spirlet. The motion passed unanimously 5-0.

A motion to adjourn the meeting was made by Mr. Spirlet at 8:31 and seconded by Mr. Costa.