

**Rochester Zoning Board of Appeals
Business Meeting Minutes
Hybrid Meeting
January 27, 2022**

Board Members Present:

Davis Sullivan, Richard Cutler, Kirby Gilmore, Donald Spirlet, and Jeffrey Costa

7:00 p.m. Called Meeting to Order

Minutes:

- A motion to approve the Business Meeting Minutes of January 13, 2022 was made by Mr. Spirlet and seconded by Mr. Costa; Mr. Cutler abstained. The motion passed unanimously (4-0-1).
- A motion to approve the Public Hearing #1170 Minutes of January 13, 2022, was made by Mr. Spirlet and seconded by Mr. Gilmore; Mr. Cutler abstained. The motion passed unanimously (4-0-1).

Correspondence:

- An email dated January 26, 2022 was received from Shayna Galinat, Esq., General Counsel for Industrial Communications requesting to continue Appeal #1170 for property located at 0 High Street, until February 10, 2022 at 7 p.m. A motion to continue the public hearing until February 10, 2022 was made by Mr. Cutler and seconded by Mr. Spirlet. The motion passed unanimously (5-0).

David Arancio and Thomas Flynn arrived.

**Rochester Zoning Board of Appeals
Public Hearing Minutes
Hybrid Meeting
January 27, 2022**

Board Members Present: David Arancio, Davis Sullivan, Richard Cutler, Kirby Gilmore, Thomas Flynn, Donald Spirlet, and Jeffrey Costa.

7:05 p.m.

#1171 Ben Bailey for property located at 0 Gerrish Road, identified on Assessor's Map 43A, Lot 29B, who is seeking a Variance to the frontage requirement of 225 feet to allow the lot to be designated as a single home residential lot under Chapter 20.40, Section D.1. Lot Dimensions of the Rochester Zoning By-Laws.

Ben Bailey was present in person.

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

- Michael Sylvia of 18 Bishop Road
- Colman Lalli of 16 Bishop Road
- Catia Ferreira of 0 Gerrish Road
- Robert Mogilnicki of 20 Bishop Road
- Jeffrey Powers of 22 Bishop Road (Zoom)
- Kevin Michael Crimi & Christine Gagnon (Zoom)

Mr. Bailey explained to the Board that he has been granted a Form C Definitive Subdivision Plan from the Planning Board that created this lot, however, he would be required to construct a 50-foot-wide road to access the lot from Gerrish Road. He stated that he has also received approval by the Conservation Commission. Mr. Bailey has not recorded the plans yet, as he is hoping to be granted a Variance of the frontage requirement. He is proposing to construct a 12-foot-wide driveway, that would be less of a disturbance for the neighbors and the environment. If the request for a Variance is denied, he plans to record the subdivision plan granted by the Planning Board, otherwise he will disregard it and go with the proposed driveway plan.

Mr. Arancio read the following correspondence received by the Board:

- An email from Board of Health Director, Karen Walega, dated December 21, 2021 stating the she has no comment on the proposed plan.
- An email of opposition from abutter, Leonne Paquette of 23 Bishop Road, dated January 24, 2022.
- An email of support dated January 27, 2022 from abutters, Roger and Diane Poulin, building a home at 28 Gerrish Road.
- An email from Conservation Commission Chairman, Christopher Gerrior, dated January 27, 2022 stating that the Conservation Commission would support a Variance that would result in less alteration and impact to the surrounding area and that the requirements of constructing a driveway would have less of an impact on this site, than the requirements of constructing a road. Mr. Arancio read the letter, however, noted that the Conservation Commission did not take a formal vote prior to this letter being drafted and sent to the Zoning Board of Appeals.

The public comment segment was opened at 7:50 p.m., first to anyone on Zoom that wishes to be heard, then anyone in person.

Abutter Jeffrey Powers stated that he is in favor of the driveway instead of a 50-foot-wide clearing of trees that would be directly behind his property.

Abutters Kevin & Christine Crimi stated that they are in favor of the proposed Variance.

Abutter Robert Mogilnicki is in favor of the driveway plan, as it would be less intrusive with less clearing and construction for drainage.

Abutter Catia Ferreira is in favor of the driveway plan.

Abutter Michael Sylvia commented that the proposed driveway would be a vast improvement over having a road behind his house, as he already has a road in the front. A driveway would give him more of a buffer to his property line.

Abutter Colman Lalli stated that he wishes that Mr. Bailey would have proposed this plan before going to the Planning Board; he is in favor of a Variance being granted.

A motion to close the public comment segment at 7:56 p.m. was made by Donald Spirlet and seconded by Kirby Gilmore. The motion passed unanimously (7-0).

Deliberation:

Several of the Board members commented on the fact that some abutters were present and spoke in favor of the project and gave comments, which is very helpful.

Mr. Arancio read the three requirements of granting a Variance; the Board determined that all criteria has been met.

Vote:

A motion to grant a Variance to Ben Bailey for property located at 0 Gerrish Road, Assessor's Map 43A, Lot 29B for a reduction of the frontage requirement of 225 feet to allow the lot in question to be designated as a single home residential lot under Chapter 20.40, Section D.1. was made by Mr. Flynn and seconded by Mr. Gilmore.

This Variance is to be in accordance with the following site plans drawn by G.A.F. Engineering, Inc. as filed with the Zoning Board of Appeals:

- "Approval Not Required Plan of Land" dated October 27, 2020.
- "Longbow Lane" Definitive Subdivision Plan Lotting Sheet" dated February 26, 2021 and most recently revised on June 30, 2021.
- "Longbow Lane" Proposed Driveway Plan" dated November 8, 2021.

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

1. There being unique circumstances relating to the shape, topography, or soil conditions of the land including the location and existence of older growth trees and the shape of the lot within the context to access to the existing road; and
2. Literal enforcement of the by-laws would involve substantial hardship, financial or otherwise to the petitioner, and
3. The desired relief may be granted without substantial detriment to the public good.

Conditions of this Variance are as follows:

1. The driveway is to be made of permeable materials, including but not limited to recycled asphalt.
2. The lot is to remain a single-family dwelling.
3. The lot may not be further sub-divided.

VOTING MEMBERS:

David Arancio, Davis Sullivan, Richard Cutler, Kirby Gilmore, & Thomas Flynn

VOTE: 5 in Favor 0 Opposed

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

A motion to adjourn at 8:05 p.m. was made by Mr. Gilmore and seconded by Mr. Spirlet. The motion passed unanimously (7-0).

Respectively submitted,



Patrice Braz, Board Administrator



David Arancio, Chairman