



TOWN OF ROCKLAND ZONING BOARD OF APPEALS

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FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

ZBA Case No.: 2023-10

Date: July 5, 2023

Decision: Section 6 Finding

Applicant: Michael Bonina

Property Address: 603 Liberty Street, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application submitted by Michael Bonina, for a Section 6 Finding pursuant to Zoning Bylaws §415-24, Non-conforming Uses, and a Variance pursuant to Zoning Bylaws Section 415-89.1, Zoning Variances, and Section 415-22.4, Building and lot regulations, to allow applicant to replace an 11'3" wide front porch with a front porch that matches the width of the house. The residence is situated 4 to 5 feet off the side property line, a pre-existing, nonconforming structure. As the house itself does not meet the side yard requirements, for the porch to match the house, it would also not meet the fifteen' setback at the premises known as and numbered 603 Liberty Street, Rockland, Massachusetts. The property is located in the R-2 Residence Zoning District, Section 415-9 of the Bylaw, and is further identified as Lot 63, Map 30, on the Rockland Assessor's Maps. The owner of the property is Michael Bonina, 603 Liberty Street, Rockland, Massachusetts.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

ROCKLAND ZONING BOARD OF APPEALS
DECISION: Section 6 Finding
Applicant: Michael Bonina
Address: 603 LIBERTY STREET

Advertised: June 2, 2023, and June 9, 2023, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the public, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A virtual remote Public Hearing was held via Zoom at 7:54 P.M. on June 20, 2023.

ATTENDANCE:

Board Members: Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr. and Stephen Galley.

Also present: Land Use Counsel Attorney Robert W. Galvin.

MEMBERS VOTING: Chair Robert C. Rosa, III, Gregory Tansey, Robert Baker, Jr., Robert Baker, Sr., and Stephen Galley.

DISCUSSION:

The Chair of the Zoning Board introduced the members of the Board advising the public that the hearing is being recorded.

The Chair asked the members of the ZBA for a roll call vote to open the public hearing. The ZBA members then took a roll call vote:

Robert C. Rosa, III – Yes, Gregory Tansey – Yes, Robert Baker, Sr. – Yes; Stephen Galley – Yes, Robert Baker, Jr. – Yes. The vote was unanimous and the public hearing was opened.

The Chair read the advertised notice in the Patriot Ledger with a Public Hearing Date of June 20, 2023.

The applicant, Michael Bonina, stated that his front porch staircase was falling apart and he wanted to make usable porch space across the front width of the house instead of just having a staircase.

The Chair then opened the meeting to the Board for questions.

Gregory Tansey wanted clarification that the applicant was removing a landing and staircase with a porch. Chair Rosa pulled up the plans for the Board of

ROCKLAND ZONING BOARD OF APPEALS
DECISION: Section 6 Finding
Applicant: Michael Bonina
Address: 603 LIBERTY STREET

review. Mr. Tansey then stated that the finding qualifies as not increasing the nonconforming use and was not more detrimental.

Chair Rosa asked the Board if they were clear on what the applicant is proposing and is seeking a Section 6 finding.

Stephen Galley asked if the stairs would be in the same location leading up to the front door. Applicant answered yes.

Robert Baker, Jr. had no questions.

Robert Baker, Sr. had no questions.

The Chair then opened the meeting up to members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

No one spoke in favor.

No one spoke in opposition.

Attorney Galvin had no comment.

The Chair asked the members of the board for a motion to close the public portion of the hearing. So moved by Gregory Tansey. Seconded by Robert Baker, Jr.

The ZBA members then took vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous, and the public portion of the hearing has been closed.

The Chair read to the applicant the appeal process and stated a decision will be made later the same night after the public portion of the hearing, and that he was welcome to stay and await the result. The Chair also stated that if the relief was granted, one of the conditions would be to show the Building Commissioner proof of recording of the decision.

Robert Baker, Sr. then makes a motion to take deliberations on the hearings out of order.

Seconded by Stephen Galley.

ROCKLAND ZONING BOARD OF APPEALS
DECISION: Section 6 Finding
Applicant: Michael Bonina
Address: 603 LIBERTY STREET

The ZBA members take a vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous, and the Board deliberates 603 Liberty Street at 8:06 P.M.

DELIBERATION:

Mr. Baker, Sr. asked if they were going to consider this as a Section 6 finding or as a Variance.

The Chair pulled up the plans for review.

Attorney Galvin opined that the existing house is already 5.1 feet from the side set back. The Chair stated 5.1 feet in the front but the back is probably 4 feet. Attorney Galvin asked if the existing porch is on the front. Mr. Rosa stated there is a front landing with the stairs coming down exactly in the same place. Attorney Galvin opined that the existing nonconformity is not going to be exacerbated by this proposed extension of the nonconforming structure. Chair Rosa agreed that it is non going to get any more nonconforming than it already is. It is conforming on the right side and on the front. Attorney Galvin stated in his opinion that the Board could approve this via a Special Permit or a Section 6 finding if it finds that the proposed extension of the structure will not be substantially more detrimental to the neighborhood and recommend that the board deny the variance as moot.

DECISION ON SPECIAL PERMIT/SECTION 6 FINDING:

Gregory Tansey makes a motion to approve a Section 6 finding as the proposed extension of the structure will not be substantially more detrimental to the neighborhood and that the variance be denied as moot.

Seconded by Robert Baker, Jr.

The ZBA members take a vote: Robert Rosa – Yes, Robert Baker, Sr. – Yes, Gregory Tansey – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous.

FINDINGS:

The Board found that that the addition of the porch is not going to create more of a nonconformity than there already is and that it is not more detrimental to the neighborhood. It is conforming on the right side and on the front.

ROCKLAND ZONING BOARD OF APPEALS

DECISION: Section 6 Finding

Applicant: Michael Bonina

Address: 603 LIBERTY STREET

REASON FOR DECISION:

The Board found that the proposed extension of the structure is not substantially more detrimental to the neighborhood than the existing nonconforming structure and is approved per the plan submitted to the Board and that the variance is moot.

CONDITIONS:

1. Prior to the commencement of any work, the decision shall be recorded with the Plymouth County Registry of Deeds and proof shall be provided to the Building Commissioner.
2. All work shall be performed substantially in compliance with the approved plan.
3. The applicant shall comply with all other local, state and federal laws and regulations.

NOTE:

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

FOR THE ZONING BOARD OF APPEALS

By: 
Robert C. Rosa, III, Chairman