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**ROCKLAND ZONING BOARD OF APPEALS**  
**242 UNION STREET**  
**ROCKLAND, MASSACHUSETTS 02370**  
E-mail: [zoning@rockland-ma.gov](mailto:zoning@rockland-ma.gov)

Phone: (781) 871-1874 extension 1195

Town Clerk's Date Stamp:

**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

Decision: Variance and or Special Permits

Applicant: Lighthouse Development, LLC

Property Address: 59 North Avenue, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the application of Lighthouse Development, LLC with regards to the property located at: 59 North Avenue, Rockland MA 02370 for a variance and/or special permits pursuant to §§415-22, §415.22.A(1) size and design of parking spaces, §15.22.A(2)(A)(parking setbacks)in a residential zone and §415.89 and or §415.81.1 to allow an alternate size and design of parking spaces and the applicant to maintain a parking area in the front yard of the premises known as and numbered 59 North Ave, Rockland MA 02370. The Property is located in the R-2 Residence Zoning District, §§415-9 of the ByLaw and is further identified as lot 34-48-0 on the Rockland Assessors Maps. The owner of the property is Lighthouse Development, LLC, 59 North Avenue, Rockland MA 02370.

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.

The Board lastly has taken into consideration testimony of the applicant, the

application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A Public Hearing was held via remote at 7:30 P.M. on September 07, 2021.

A Public Hearing was held via remote at 7:30 P.M. on October 5th, 2021.

A Public Hearing was held via remote at 7:30 P.M. on November 3rd, 2021.

#### **ATTENDANCE:**

**Board Members: Robert Rosa, Gregory Tansey, Timothy Haynes, Robert Baker, Jr., Stephen Galley, (alt)**

**Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.**

**(All Board members were participating remotely)**

**MEMBERS VOTING: Chairman Robert Rosa, Gregory Tansey, Tim Haynes, Robert Baker, Jr., Stephen Galley**

#### **DISCUSSION ON SEPTEMBER 7th, 2021**

(Advertised: August 23rd, 2021, and August 30th, 2021 in the Patriot Ledger.)

The Applicant Requested Continuance by the members of the board in order to provide further supporting documentation for their project.

#### **DISCUSSION ON OCTOBER 5th, 2021 (CONTINUANCE)**

The Chairman introduces the members of the board and advises the public they are all participating remotely.

The ZBA members take a roll call vote:

Chairman Rob Rosa – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous.

The Chairman reads the advertisement that was posted in the Patriot Ledger for tonight public hearing.

The Chairman asks Attorney Brodsky to touch on why he feels this lot should qualify for a variance.

Attorney Brodsky testified that parking is available in rear and front yard which is currently not allowed. The goal is to keep this thriving business in Rockland as if they do not have sufficient parking for their employees, they will need to seek to put their business elsewhere. Attorney Brodsky opined denying them parking in the front would deny reasonable use of parking for their business. They do not feel this parking would be a detriment to the public good there are no hazards to pedestrians and there is a visible fence to the neighbor. They feel they have met the burden of proof for the relief.

The Chairman opens discussion to the members of the board.

Timothy Haynes asked to see if there is a parking plan / layout as to where the vehicles would be placed

Ivy White testified that currently they park tandem spaces two in and those that come in after park behind.

Tim Haynes said reason he asked is because based on the layout he can't see how many are going to be in there / can see if there a buffer planned and dimensions shown aren't quite enough for him to see how big the spaces are where they go in

Attorney Brodsky asked Tim Haynes where he would like to see the buffer. Tim stated that he would like to see where they plan to put the spaces for safety purposes

Attorney Brodsky agrees to provide more detail than what is shown currently to show landscape and frontage along North Ave.

Robert Baker Jr asks applicant if rear lot is already maxed out

Applicant testified yes that is correct

Robert Baker, Jr ask what time would traffic roll into that front lawn

Applicant testified 6:30 a.m.

Robert Baker, Jr asked once vehicles there for the morning are they there for the day?

Applicant testified yes pretty much unless they have to go to a jobsite.

Robert Baker, Jr asks applicant if correct that they acquired parking in 2007

Applicant testified yes; they believe so.

Robert Baker, Jr asked the Applicant has footprint of building changed at all

Applicant testified No

Robert Baker Jr agrees that before he is willing to vote – he would like to see the plan showing proposed parking

Stephen Galley stated he would like to see a parking lay out for the rear of the parking lot to be able to justify the front being turned into a parking lot.

Applicant testified that the rear lot is not striped because they did not want it to look commercial with respect to their neighbors.

Applicant agrees to provide rear parking layout

Attorney Brodsky opined he feels they can do a layout for front and rear without striping in so they can see how the vehicles are positioned.

The Chairman stated with regards to the fences in the rear are substantially on their property – if the fences were moved further back towards the property line on Righthand Side and Rear Property Line it would give them much more room for parking in the back.

The Chairman stated that Google Earth shows there is someone parking to the rear of them asked why.

The Applicant testified they were trying to be good neighbors

The Chairman stated to the Applicant that it is a detriment to parking that they have in the back. Asked if his driveway at the end of Garrity St

The Applicant testified he owns both properties around them.

The Chairman stated it is great to be a good neighbor however you are hindering yourself by doing so

Attorney Brodsky opined if they were to relocate the fence they would still be encroaching and need a variance, but it would be a different type.

The Chairman stated yes however he feels the members of the board can work with them if that is the case as that is the rear of the building.

The Chairman asked Attorney Brodsky what he feels the hardship to the land is again. Attorney Brodsky opined it is an irregularly shaped lot

The Chairman stated It is a parallelogram – not irregularly shaped

Attorney Brodsky opined it is a historic building that takes up a lot of the area with limited ability to park on property

The Chairman asked applicant what happened to the company around 2017, because 2017 barely any cars / 2018 A lot of cars / 2019 A lot of Cars

The Chairman asked Attorney Galvin to review with him as he doesn't feel how it qualifies for a variance.

Attorney Galvin opined that before the board forms any opinion, they should wait to receive the additional info that they have asked to receive.

Attorney Galvin opined members of the board should ask client when they feel they can provide the additional information. Then review and then make the decision.

The Chairman asked applicant when they can provide the updated plans.

Applicant testified that they need at least 30 days

Attorney Galvin asked to get an extension of time from applicant via Attorney Brodsky

Attorney Galvin opined to have Greg Tansey & Robert Baker Sr do a Mullen Affidavit and have them watch meeting – sign and provide to town clerk.

Stephen Galley asked questions with regards to rear lot – is a fence require, and if is required how far to the property line so they can see how many spaces they can add in

The Chairman asked Tom Ruble if he has any questions for the applicant. No complaints on that site in 15yrs or more.

Timothy Haynes has the following questions:

- Looking to see the square footage so that they can match that to the bylaw
- Parking Layout would like to see how the vehicles are going to park
- Wants to see where does the snow go?

Attorney Brodsky asks if they were to relocate the fence to the easterly side of the property is that an idea for parking that would be more palatable for the board?

The Chairman stated it could be discussed.

Stephen Galley makes a Motion to continue the hearing for a variance to November 3<sup>rd</sup> 2021 at 7:30p.m.

Robert Baker Jr, seconded the motion to continue the hearing

The ZBA members take a roll call vote:

Chairman Rob Rosa – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes - The vote is unanimous.

### **DISCUSSION ON NOVEMBER 3<sup>rd</sup>, 2021 (CONTINUANCE)**

(Advertised: October 19th, 2021, and October 26th, 2021 in the Patriot Ledger.)

The Chairman of the Zoning Board introduces the members of the board advising to the public that all are participating remotely.

The Chairman asks the members of the ZBA for roll call vote to open the public meeting.

The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous,

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of November 3<sup>rd</sup>, 2021.

Attorney Brodsky speaking on behalf of the Applicant and reviews that after the prior hearing on 10/5/2021 they have provided the members of the board with 6 deliverables which are reflected in the revised site plan as well as Paul Seaburg's letter on 11/1/2021.

1. Parking Calculation they are proposing 12 spots – 7 spots in the rear; 5 spots in front; one of the rear spots reserved for the box truck.
2. Layout of Proposed Parking, reminded the board that they are not proposing to strip the parking spaces
3. Clients have shown on rear of plan where their snow storage area will be
4. Provided ZBA with a turning analysis to show the members of the board how they accommodate the neighbors truck and trailer. The Applicant still wants to utilize this location to accommodate their neighbor, as even if they were to eliminate this truck and trailer it still doesn't take care of their full need for parking.
5. With regards to relocating the fence – if the applicants did relocate the fence, it would only free up 1 additional parking space which doesn't solve their parking

problem. Additionally, if they were to relocate the fence it would require they add a retaining wall.

6. They have proposed Planted Landscaping along the street as requested previously from the members of the board.

Attorney Brodsky let the members of the board know that he can have Paul bring up the site plan to explain in more detail, and that he hopes that answers all the questions from the prior hearing.

The Chairman opens to the members of the board:

Robert Baker, Jr asked the Applicant to refresh their memories on the original submission on how many spaces were in the rear and how many spaces were being requested for in the front.

Attorney Brodsky opined the Applicant was not proposing any changes in the rear parking lot that is where they currently park which is 7 spaces in the rear, and with regards to the front parking in the original submission they did not articulate how many spaces and have since listed those out on the plan using standard dimensions for parking spaces which will accommodate 5 spots in the front.

Robert Baker, Jr asked the Applicant with regards to changes with fencing etc if he was correct in hearing that if they were to make changes to the rear lot it still would not provide additional parking.

Attorney Brodsky confirm yes that is correct, any change to the fence would only provide 1 additional parking space and in order to do that they would need to construct a retaining wall in the rear setback which is a much more involved item.

Robert Baker, Jr thanks the Applicant for taking the time to look at the rear lot to see if anything could be done to provide more parking spaces.

Timothy Haynes asked the Applicant with question on the front parking spaces. He wanted to know if they will be parking at the angle presented on the plan, and if it is how it is going to be used how would they be limiting the use of these spaces. Would like the Applicant to speak on the design aspect of the project

Attorney Brodsky testified that the purpose of the plans was to lay out the parking so show how many spaces can be utilized in the front, with respect to if they will us the spaces in the exact manner shown on the plan, he deferred to Ivy White.

Ivy White testified that they have 11 employees so it would be as designed or shown on design the tandem parking.

Timothy Haynes stated he was more referring to the angle of the parking, as currently when he see's people parking there they are parking parallel to North Ave, not Parallel to the front of the building. There is a nice big buffer in front corner by the fire hydrant, just hasn't seen anyone park this way.

Attorney Brodsky opined that perhaps if they were to be granted the variance that the board could condition the parking to be that way as presented on the plan.

Timothy Haynes stated lot is gravel right up to the edge so he is wanting to know if they will be pulling back the gravel and plant the buffer area?

The Chairman stated to the Applicant that what they are creating here is a parking lot and they have standards to go by when doing so and that paving is required. Vehicles leak fluids and the point of the paving is to not allow said fluids to leak in the soil and then in turn pollute the ground water.

Robert Baker, Jr stated that one advantage of paving is that there would be delineated spaces showing where people are to park, rather than just basing it off a notion on where they are "supposed to" park.

Timothy Haynes feels that a bit of "green space" between the front parking lot and the street will go a long way, a landscaped buffer is what they ask for.

Stephen Galley stated there is a sidewalk very close to that and he would like to see if they can extend that barrier closer towards Garrity so that people aren't just coming off the sidewalk. He would like to see a buffer strip maintained all the way along North Ave and stopped just short of Garrity Ct.

The Applicant testified they have no issue with putting in the landscaping right to the edge of where the earth is exposed. There is about a 2ft sidewalk there so they would have no problem bringing the plantings as far down as the earth is exposed there.

Greg Tansey stated his first concern is esthetics. The residents around this property and across the street are lawns that are kept lawns. His big issue is the safety, as that hydrant is not just being used for that building is it being used for homes within 500ft of that building. He is in favor of the landscaping and understands with everything there is a give and take. He just doesn't want to see anything interfere with the operation of that hydrant. Additionally, the tandem parking so close the sidewalk is a safety concern for him.

Tom Ruble request that if the Arborvitaes go all the way out that they do not block the view of the cars coming out of Garrity Ct, and that they stay at a certain height. He



would also like the Applicant to have the Fire Department provide a letter to sign off on the view from the corner with respect to the Arborvitaes etc.

Attorney Galvin does not have anything further to add.

Robert Baker, Jr made a motion to close the open portion of the public hearing. Stephen Galley seconded the motion

The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Stephen Galley – Yes. The vote is unanimous, and the public meeting has been closed.

The Chairman reads the appeal process to the Applicant and lets them know they are more than welcome to wait until the end to see the outcome.

### **DELIBERATION**

Timothy Haynes stated he is ok with the 5ft buffer, paved.

The Chairman would like a stoned landscaped 5ft buffer along North Ave, along the right-hand side property line, which would end up being a little less, because the fence on that side is also substantially into the applicants property. So perhaps maybe just maintain a 5ft buffer on right side. Parking lot to be paved, doesn't feel it needs to be striped.

Timothy Haynes stated that his only objection to the gravel rather than a planted landscaped buffer is that he feels gravel says "go ahead and park on me". Green scape is a soft way of showing the buffer.

### **CONDITIONS**

- 1) Parking area shall be paved
- 2) No Additional Lighting
- 3) Discussion and Approval by Rockland Fire Department with Letter of approval provided by Rockland Fire Department
- 4) 5ft Landscaped Buffer shall contain nothing taller than 24 inches
- 5) 5ft Landscaped Buffer along North Avenue from the RIGHT side property line to the right side of the paving as it enters the lot.
- 6) 5ft Landscaped Buffer along the easterly (RIGHT) property line, running north easterly no further than the front of the existing building.
- 7) Topographical "As Built Plan" to be submitted to the Building Department

**DECISION ON VARIANCE:**

Upon a motion duly made Timothy Haynes and seconded by Robert Baker, Jr in a roll call vote the Board voted (4-1) to GRANT, via roll call vote, with members, Robert Rosa, Greg Tansey, Tim Haynes, Robert Baker Jr., Stephen Galley in favor; Greg Tansey voted opposed, to grant the Variance subject to conditions.

**FINDINGS:**

Upon a motion duly made by Timothy Haynes and seconded by Robert Baker, Jr. in a roll call vote the Board further voted unanimously (4-1), by roll call vote, to find that:

- (1) there are conditions that are unique to the applicant's lot, and do not necessarily apply to the neighboring lands, in the same district.
- (2) that strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot since the proposed additions were supported by neighbors and did not detract from the neighborhood,
- (3) the unique conditions are not the result of actions of the applicant taken after the adoption of this bylaw.
- (4) the zoning relief will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw since the proposed use, as conditioned, represents a reasonable use of the site, and
- (5) the variance, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

**REASON FOR DECISION:**

The Board found that existing topographic conditions of this lot created dimensional hardships that were not caused by the current owners. The proposed parking area is modest in size, is in harmony with neighboring properties, was not opposed by anyone and constituted a reasonable use of the land which made the land more conducive to the existing use.

**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**

A handwritten signature in black ink, appearing to read "Robert C. Rosa III". The signature is written in a cursive style with a large, stylized "R" and "C".

Robert C. Rosa III

Chairman