

Town of Rockland
Zoning Board of Appeals
July 28th, 2021
#03-21 Area Variance
54 Main St.– G. Molinet

Members present: Chairman Arthur Riegal, Perry Kuehn, Shelia Schultz, Emily Casey
Absent – Dan Smith, Allen O’Keeffe
CEO Glen Gabbard & Secretary to the Board Kaitlen Madison

Public Hearing Convened at 7pm in the Town Hall located at 95 Main St. Livingston Manor, NY

Gina Molinet was seeking an exemption, not a variance to not build an access ramp at 54 Main St. Livingston Manor, NY. Ms. Molinet’s main concerns about building the ramp was due to the right of way with a section of land that is owned by the Town of Rockland and would need permission to build on it. The access ramp would run parallel with the building facing the Renaissance Park parking lot. Ms. Molinet concerns were of the handicap ramp interfering with pedestrians in around the park and parking lot.

54 Main St. was referred to the ZBA by the Code Enforcement officer due to: “Proposed Ramp will encroach into the side yard setback, The turning platform will result in a zero (0) lot line development.

One letter was submitted and spoke in favor of building the access ramp.

Member Riegal stated that when the application came in it was not for an exemption but for a setback variance. The ZBA does not have authority to grant exemptions from NYS law. The request is being made due to the ramp, as being build would be built right on the property line giving zero setback. The building being in the General business district requires five feet (5) set back on either side yard and zero feet (0) in the rear. The proposed ramp is required by the NYS code, Federal Code and ADA standards.

CEO Glen Gabbard made comment that if that ramp cannot be built outside, an interior ramp will be a major construction project, which will be costly and take up interior space. Ms. Molinet made issue about other acupuncture business not requiring a handicap ramp but was corrected with the fact that if the entrance to the proposed business was on the front of the building where it involves the sidewalk and not municipal property it would not be possible to build the ramp. From a building perspective it is a matter of choice, either build the ramp or reconfigure the means of egress. Warning was also given in regard to particular attorneys who look for business that are out of compliance and take them to court.

Member Keuhn asked about the use of a temporary ramp, or the use of an electric elevator ramp used to move wheelchairs which are built to comply with ADA & Uniform Code of NYS. As the owner of the property, you have applied for an exemption for the ramp, due to the change in occupancy requiring a ramp as access to be ADA compliant, Federal compliant and NYS uniform code compliant. The only argument that is being made is a disturbance to public access to the parking lot which would not be hindered by the ramp.

Member Shultz questioned whether if the side entrance was closed off and the entrance to the proposed business was through the current business the real estate company would this make the issue moot? The main issue is the change in occupancy which is triggered by the change from a Mercantile (M Occupancy) to a Business (B Occupancy) and requiring an appropriate amount of means of egress.

Member Casey – Nothing to add that other’s have not already said.

A motion to close the meeting was made by Member Kuehn and seconded by Member Shultz.

Public hearing was closed at 7:10 pm

Town of Rockland
Zoning Board of Appeals
Regular Meeting: July 7, 2021, at 7:15 pm

Chairman Riegal opened the regular meeting with the pledge to the flag.

Approval of Previous Minutes

Previous minutes of June 7th, 2021 were reviewed and a motion was moved to approve the minutes by Member Smith and seconded by Member Kuehn to approve by unanimous consent the previous minutes.

Member Smith joined the meeting late via Zoom.

Case Review discussion

Continued discussion regarding the of the construction of the access ramp could trigger a partial change in the building code, due to the M/sales within a professional – “B” occupancy retail building in respect to Fire code due to an appointed egress to the public. The possibility of a lawsuit for a new prospective business due to the building not being up to ADA standards or complying with NYS uniform code it not a feasible option for the board.

Chairman Riegal stated that all decisions of the ZBA need to be defensible in a court of law and if an applicant were to approach the board in the future, they would have to be approved if they met the same criteria as code must be applied equitably:

His decision to vote for the variance was based upon the following:

According to the Uniform Code of New York State, ramp access is required unless there is “technical infeasibility” which would preclude construction.

- The business in question will have a side entrance and, according to the Code Enforcement Officer, it is technically feasible to build ramp access along the side of the building.
- Building such a ramp in the interior of the proposed space would be cost prohibitive and would take away from space required for the business.
- The ramp would be partially on an existing ROW conveyed to 54 Main St. in 1975 and already encroached upon by the Town with concrete parking bumpers and no plans for future development.

With no further discussion the Board moved into the **Standard of Review process.**