



City of Rochester, New Hampshire

Zoning Board of Adjustment

December 14, 2021

Melissa Silvey

Tri City Consumers' Action Co-Operative d/b/a Infinity Peer Support

55 Summer Street

Rochester, NH 03867

Notice of Decision

Z-21-30 Tri City Consumers' Action Co-Operative, d/b/a Infinity Peer Support Seeks a *Variance* from Table 18-A to permit a Community Residence-1.

Location: 55 Summer Street, Rochester, Map 117 Lot 55 in the Neighborhood Mixed Use Zone.

At the December 8, 2021 meeting, the Zoning Board of Adjustment ***Denied*** the Variance based on the information and recommendation from the City, the applicant failed to prove all five criteria under 275-4.1.B(1) of the Zoning Ordinance including:

The proposed use at the Property does not meet the character and function of a NMU District in general or of this one in particular.

The application fails to address the issue of the public health, safety, and welfare of the existing neighborhood.

In determining if granting this variance would diminish the values of surrounding properties, the ZBA is encouraged to rely upon real estate experts, appraisers, economists, common sense, and the ZBA's own knowledge of the area, observations, and experience. The applicant has not provided any expert testimony or evidence on this issue.

The owner of a property must show that the hardship is a result of a specific condition or conditions of the property, not the area in general. The burden cannot arise as a result of the zoning ordinance's equal burden on all property in the district as a certain degree of hardship is implicit in all zoning. *Harrington v. Town of Warner*, 152 N.H. 74 (2005). Inability to use land for one particular purpose was irrelevant to whether a variance should be granted. *Ouimette v. Somersworth*, 119 N.H. 292 (1979). As the applicant has made no effort to demonstrate that the Property is different in any way from the other properties in the area and, hence, uniquely burdened by Community Residence-1 not being a permitted use in the NMU District, the application fails this criteria.

(cont. pg 2)

Shanna B. Saunders

12.14.21

Shanna B. Saunders,
Director of Planning & Development

It is the applicant's responsibility to obtain any applicable permits from local, state, and federal agencies. Any work completed within the thirty (30) day appeal period, explained below, is at your risk.

Note: Any person affected has a right to appeal this decision. A request for a rehearing is the first step of an appeal. The request must be submitted to the Planning Department within **thirty (30) calendar days**, starting the day after the decision is made. If a rehearing is not granted, the next step is to appeal to Superior Court within thirty (30) days. If a rehearing is granted, it is the responsibility of the original applicant to present the case to the Zoning Board, with the same obligations and following the same procedure used when the case was first heard.

As Per RSA 674:33.I.a.(a)

Variances authorized by the Zoning Board of Adjustment, Rochester NH shall be valid only if exercised within 2 years from the date of this application.

Cc: View Point Z-21-28
File