



# City of Rochester, New Hampshire

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## MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF August 14, 2013

(Approved September 11, 2013)

The Chair called the meeting to order at 7:00 p.m. in the Council Chambers.

### **Roll Call:**

Roll call was taken with the following members present

#### Members Present

Ralph Torr, Chair  
Lawrence Spector, Vice Chair  
Robert Gates  
Randy Lavallee  
Robert Goldstein  
Fidae Azouri, Alternate  
Rose Marie Rogers, Alternate  
Leo Brodeur, Alternate

Also present: Jim Grant, Director of Code Enforcement  
Karen Grenier, Zoning/Code Secretary

These minutes are the legal record of the meeting and are in the format of an overview of the Zoning Board of Adjustment meeting. It is neither intended nor is it represented that this is a full transcription. A recording of the meeting is on file in the Planning & Development Office for a limited time for reference purposes. It may be copied for a fee.

### **Approval of Minutes:**

The minutes of July 10, 2013 were reviewed. Mr. Gates made a motion to accept the minutes as written, Mr. Spector seconded the motion. The motion passed unanimously by roll call vote.

The Chair excused himself from the first case and the Vice Chair took over the meeting.

The Vice Chair welcomed Mr. Leo Brodeur as an Alternate Member.

The Vice Chair asked if members had any conflict with tonight's case. There were no conflicts. The Chair stated there would be four regular members and Mr. Azourie would be voting on the first case this evening.

**New Cases:**

**2013-24** – Application by Scott Marshall for a variance under Article 42.16 Table 2, number 2 of the City's Zoning Ordinance to allow placement of an aboveground pool closer to the rear lot line than allowed.

**Location:** 59A Tebbetts Road  
Map 253-79- Agricultural Zone

Mr. Scott Marshall addressed the Board and read the five criteria.

The Vice Chair stated there was a waiver request for the need of a certified plot plan.

Mr. Gates made a motion to waive the need of a certified plot plan based on the information provided and the distance into the setback will not create any problems to the abutting property. Mr. Lavalley seconded the motion.

The Vice Chair asked if anyone wanted to speak for or against this case. No one came forward. The Vice Chair asked if there were any City comments. Mr. Grant stated he had no comments on this case. The Board shared discussion of an e-mail that came in from an abutter for this case at the last minute. Mr. Grant read the letter into record. The Vice Chair asked if any members had any questions for the applicant. Mr. Goldstein asked Mr. Marshall about the placement of the ladder for the pool in reference to the e-mail. Mr. Marshall stated he would do whatever was needed to make it work for the variance.

The Vice Chair closed the public hearing portion of the case and the members worked on their criteria sheets.

Mr. Gates made a motion to grant the variance, as requested, for the following reasons: The variance will not increase congestion in the streets. The spirit of the ordinance is observed, because it will not change the character of the district. If granted the benefit to this individual applicant, outweighs any harm to the community as a whole. The value of surrounding properties will not be diminished because it will not generate levels of noise, light, activity or traffic that are significantly different from that which currently exist. Mr. Azouri seconded the motion. The motion passed unanimously.

Mr. Grant advised that anyone aggrieved by this decision has 30 days to appeal.

The Chair returned to the dias.

**2013-25** – Application by N Miles Cook III of Rochester Motor Sports for a variance under Article 42.8 section (c) (3) of the City's Zoning Ordinance to allow three wall signs where only one is allowed.

**Location:** 23 Farmington Rd.  
Map 216 Lot 10 Granite Ridge Zone

The Chair stated the five regular members would be voting on this case.

Mr. Cook addressed the Board. He read through the five criteria.

The Chair asked if anyone wanted to speak in favor of this case. No one came forward. He asked if anyone wanted to speak against this case. No one came forward. Mr. Grant stated that the three signs do not exceed the allowed square footage. If there were three tenants in the building three signs would be allowed. Mr. Grant thought this was a reasonable request.

The Chair closed the public hearing portion of this case and the members worked on their criteria sheets.

Mr. Gates made a motion to grant the variance for a third wall sign as presented for the following reasons: The variance will not negatively impact health and the general welfare. The spirit of the ordinance is observed because it will not exacerbate the overcrowding of the land. If granted, the benefit to this individual applicant outweighs any harm to the community as a whole. The value of the surrounding properties will not be diminished because it will not generate levels of noise, light, activity or traffic that are significantly different from that which currently exists.

Mr.Lavalle seconded the motion. The motion passed unanimously.

Mr. Grant advised that anyone aggrieved by these decisions has 30 days to appeal.

**2013-26** - Application by Geoffrey R. Aleva, P.E. Civil Consultants, (Land of Horizon Trust of NH) for a variance under Article 42.16 Table 2 of the City's Zoning Ordinance to allow redevelopment of lots by allowing reduced rear setback.

**Location:** 5 & 7 Dreyer Way  
Map 120 Lot 322 & 323 Business 2 Zone, Special Downtown

The Chair the five regular members would be voting on this case.

Mr. Aleva addressed the Board. He read through his five criteria.

The Chair asked if anyone wanted to speak for or against this variance. No one came forward. The Chair asked if there were any comments from the Board  
Mr. Goldstein asked how tall the building would be and why the setback would be approximate.

Mr. Aleva stated the building would not be more than 35' tall. The setbacks were approximate because that lot is so tight in setbacks. Therefore at this point he was stating the setback would be either somewhat less than or a little more than 6 feet.  
Ms. Rogers wanted to know what the plan was for parking. Mr. Grant would make the decision to use the Municipal public parking to accommodate.

The Chair asked if there were any City comments. Mr. Grant stated the project would be a definite improvement to the neighborhood.  
After the discussion, the Chair closed the public hearing portion of this case and the members worked on their criteria sheets.

Mr. Goldstein made a motion to grant the variance as presented for the following reasons: The variance is not contrary to the public interest because it will not increase congestion in the streets. The spirit of the ordinance is observed because it will not change the character of the district. If granted, the benefit to this individual applicant outweighs any harm to the community as a whole. The value of surrounding properties will not be diminished because it will not generate levels of noise, light, activity or traffic that are significantly different from that which currently exist.  
Mr. Gates seconded the motion. The motion passed unanimously.

#### **Other Business:**

Mr. Spector had concerns about receiving materials late on the day of the meeting for case review. The board did not have adequate time to review the new information. After discussion by the board and the retiring secretary Caroline Lewis, it was decided to change the verbiage on the letters. Mr. Gates made a motion to change the verbiage in the Public Hearing Notices indicating the material deadline is noon time for emails or letters the Monday before the Wednesday meeting. Mr. seconded the motion.

#### **Adjournment:**

Mr. Gates moved to adjourn at 7:46 pm. Mr. Lavallee seconded the motion. The motion passed unanimously. The motion passed unanimously.

Respectfully submitted,

Karen Grenier, Building & Zoning, Secretary