



City of Rochester, New Hampshire

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MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF September 11, 2013 (approved October 9, 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 Code Office for a limited time for reference purposes. It may be copied for a fee.

Approval of Minutes:

The minutes of August 14, 2013 were reviewed. Mr. Gates made a motion to accept the minutes as written, Mr. LaValle seconded the motion. The motion passed unanimously by roll call vote.

The Chair asked if members had any conflict with tonight's case. There were no conflicts. The Chair stated the five regular members would be voting on all cases this evening.

New Cases:

2013-27– Application by Peter and Sandra Hawkins for a variance under Article 42.16 Table 2 of the City's Zoning Ordinance to allow a shed that does not meet the side setback.

Location: 25 Adams Avenue
Map 119 Lot 38 Residential 1 Zone

Sandra and Peter Hawkins addressed the Board and read the five criteria.

The Chair asked if any members had any questions for the applicant. Mr. Spector asked Mr. Hawkins about the placement of the shed and if it could be moved over a couple of feet. Mr. Goldstein inquired about a fence on the property line. The Chair asked if anyone wanted to speak for or against this variance. No one came forward.

The Chair asked if there were any City comments. Mr. Grant stated he had no comments on this case. The Board Members discussed the case.

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

After the discussion, 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, as requested, for the following reasons: The variance will not be 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 negatively impact health and the general welfare. 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 also amended this variance to approve as proposed with the following stipulation: **The side setback will be no closer to the side lot line than six feet.**

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

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

2013-28– Application by Fred Newton for a variance under Article 42.16 Table 2 of the City's Zoning Ordinance to allow a shed that does not meet setbacks.

Location: 44 Anderson Lane, Map 228
Map 118 Lot 51 Block 6 Agricultural Zone

Mr. Newton addressed the Board and read the five criteria.

The 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. Spector seconded the motion.

The Chair asked if anyone wanted to speak for or against this case. No one came forward. The Chair asked if there were any City comments. Mr. Grant stated he had no comments on this case. The Chair asked if any members had any questions for the applicant. The Board Members discussed the variance.

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 requested, for the following reasons: The variance is not contrary to the public interest because it will not change the character of the district. The spirit of the ordinance is observed because it will not negatively impact health and general welfare. 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. This variance is approved as proposed with the following stipulation as suggested by Mr. Gates: **According to the information submitted the set back to the side and rear lot lines will be no closer than ten feet.**

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

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

The Chair stated because of the length of time required for case **2013-29** the Board would hear that case last.

2013-30– Application by Nicholas Wentworth for a variance under Article 42.19 Section (m) of the City's Zoning Ordinance to allow a deck in the outer 25 feet of the wetland buffer.

Location: 89 Ebony Dr.
Map 221 Lot 48 Block 17 Agricultural Zone

Mr. Wentworth addressed the Board and read the five criteria.

The Chair asked if anyone wanted to speak for or against this case. No one came forward.

There was discussion about a letter involving this case from the Conservation Commission. The Board had discussion about the use of the 10 ft. into the 25 ft. buffer. The Board had additional discussion about the lot and the development.

The Chair asked if there were any City comments. Mr. Grant commented there was 25 ft. of the lawn permitted for use. The Board discussed the case.

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 above variance as presented for the following reasons: The variance is not contrary to the public interest because it will not cause congestion in the street. The spirit of the ordinance is observed because it will not negatively impact health and general welfare. 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 with the following stipulation: **According to the information submitted the deck will not project more than 12' into the back setback and will run parallel 16' along the home. The deck will be placed in the exact spot as shown on site plan submitted in the case.**

The motion passed unanimously.

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

2013- 29- Application by Aaron Wiswell / Rockwell Homes for a variance under Article 42.14 Table 1 (B) (8) + (13) of the City's Zoning Ordinance to allow a carwash in a Residential 1 zone.

Location: 248 No Main St.
Map 115 Lot 19 Residential 1 Zone

The Chair asked if anyone wanted to speak for this variance. No one came forward. The Chair asked if anyone wanted to speak against this variance. Ms. Arlene Clough of 14 Cushing Boulevard came forward to speak against the variance request. Ms. Clough had a lot of concern about the traffic and noise from the blowers as she is an abutter to the property. The Chair asked if there were any comments from the Board. The Board discussed the case.

The Chair asked if there were any City comments Jim Grant stated there were no comments from the City.

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

Mr. Spector made a motion to deny the variance, as requested, for the following reasons:

The variance will not be contrary to the public interest because it will increase congestion in the streets, it will change the character of the district and it will diminish the value of the surrounding buildings. The spirit of the ordinance is not observed because it will increase congestion in the streets and it will diminish the value of buildings. Substantial justice is done because: If denied, the benefit to the community as a whole outweighs any disadvantage or harm to this individual applicant. A fair and substantial relationship does not exist between the general public purposes of the ordinance provision and the specific application of that provision to the property because: due to fact there is community property where there is no hardship involved.

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

Jim Grant advised the applicant of the 30 day appeal period

Other Business:

There was discussion about the variance costs for sheds and would there be a way to handle those cases differently. Mr. Grant discussed comprehensive rezoning and special exceptions

Adjournment:

Mr. Spector moved to adjourn at 8:09 pm. Mr. Gates seconded the motion. The motion passed unanimously.

Respectfully submitted,

Karen Grenier, Building & Zoning, Secretary