



## City of Rochester, New Hampshire

Building, Zoning & Licensing Dept.  
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### MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF JANUARY 10, 2018

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

#### **Roll Call:**

The Zoning Secretary conducted the roll call.

#### **Members Present**

Lawrence Spector  
Randy Lavallee  
Robert Goldstein  
Robert Gates  
Shon Stevens, Alternate  
Leo Brodeur, Alternate

#### **Members Excused**

Also present: Joe Devine, Compliance Officer Building, Zoning and Licensing Services  
Julia Libby, Secretary of Building, Zoning, and Licensing Services

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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 Building, Zoning, and Licensing Office and online at [www.rochesternh.net](http://www.rochesternh.net) for a limited time for reference purposes. It may be copied for a fee.

#### **Approval of Minutes:**

The minutes of December 13, 2017 were reviewed; Mr. Gates made a motion to accept the minutes, Mr. Brodeur seconded the motion. The motion passed unanimously.

The Chair asked if any of the board members had any conflict with tonight's case. There were two, Mr. Goldstein case number 2017-14, and Mr. Stevens for case numbers 2017-16 and 2017-17.

#### **Continued Cases:**

Mr. Goldstein stepped out.

**2017-14** Stillwater Kennels, applicant requests a Variance to add an addition to an already non-conforming building. According to Article 42.22, Section (c)(8)(b).

**Location:** 100 Meaderboro Rd Rochester, NH 03867, 0232-0012-0000, in the Agriculture Zone.

Frederick Abbey and his wife approached to podium and briefed the Board of their application.

Vice Chair Spector, requested that the applicant read off of his criteria sheet for the record. After the applicant did so, Mr. Spector asked if there was anyone in the audience to speak for or against the case, no one came forward.

Mr. Spector asked Joe for the city's opinion. Joe stated that the applicant is applying for a variance to build within the setbacks. He said that the applicant provided no evidence that the addition would not diminish the surrounding property values, granting variance is not contrary to the public interest because the building is already in existence and would not change the character of the neighborhood. Substantial justice would be done by granting this variance, and the spirit of the ordinance would be observed. The applicant has failed to show any unnecessary hardship that relates to the actual property, by allowing this addition we are expanding or enlarging a non-conformity which is against the zoning ordinance. He said because the applicant has failed to show two of the five criteria the variance should be denied.

Mr. Spector asked the applicant if he wanted to add anything before the Board discussed the case. He informed the board that they are not asking for an expansion of the business that they are merely asking to have an addition to be able to train the dogs under shelter during the cold months of the year.

Mr. Gates asked the city if they give applicants an explanation of the criteria to the applicants, the zoning secretary stated that it is included in all of the applications. Mr. Gates then addressed the applicant about the hardship requirement and asked if he understood that requirement. The applicant then went over their specific property and why they chose to place the proposed addition where they did.

An abutter then approached the podium, he stated his name, Curt Olsen and that he resides at 147 Meaderboro Rd. He stated that he is a dog owner and currently brings his dog to Manchester for indoor training, he expressed his desire for the expansion and that Rochester needs it.

Mr. Spector closed the public hearing portion and asked the Board for some discussion. Mr. Gates said that what the applicant explained should have been written down as his hardship.

After some discussion the Board started working on their variance sheets. Vice Chair Spector asked for a motion. Mr. Lavallee made a motion to approve the variance for the following reasons: The variance will not be contrary to the public interest because it will not change the character of the district. The spirit of the ordinance will be observed because it does consider this district's suitability for this particular use. If granted, the benefit of 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 be visible from the abutting properties. Mr. Gates seconded, and the motion carried unanimously by a roll call vote.

Mr. Devine advised that anyone affected directly by the decision has 30 calendar days to appeal.

Vice Chair Spector indicated to the audience that the voting members for the next two cases would be the four regular, and Mr. Brodeur.

**2017-16** Eco-Site and T-Mobile, applicant for a request a Special Exception for the construction of a wireless communication facility according to Article 42.22 Section (14).

**Location:** 144 Meaderboro Rd, Rochester, NH 03867, 0232-0016-0003, in the Agricultural Zone.

Mr. Spector let everyone know that there are a lot of people here in regards to this case and that the Board would only like Rochester residents to speak with a five minute time limit.

Ricardo Sousa approached the podium on behalf of the applicant T-Mobile and Eco-Site. He introduced three people they had there to speak on specific topics regarding their proposal. Ryan Monte de Ramos, a Radio Frequency Engineer for T-Mobile, Donald Haes, a health physicist who was there to talk about EME and compliance with FCC regulations regarding radio frequency regulations, and lastly Bob Gashlin who is a site acquisition agent that was responsible for helping to identify the location for the tower on behalf of T-Mobile and Eco-Site. Ricardo briefly went over what's happened and introduced T-Mobile a bit, he asked Ryan Monte de Ramos to come up to speak to the Board.

Ryan Monte de Ramos approached the podium and introduced himself to the Board. He then walked them through the gapping coverage and explained the studies that the board was given at the time of application.

Ricardo came back to the podium and mentioned the other sites that T-Mobile has utilized in Rochester which are a part of existing structures. He pointed out that T-Mobile will identify existing structures and utilize those structures to install towers consistent with Rochester Zoning Ordinance. He confirmed with Ryan that in reference to the section of gapping coverage of Meaderboro Rd. there is no existing structure for T-Mobile to utilize.

Ryan spoke again at the podium regarding the coverage that would be provided if the proposal were to air. He also touched on SAI's report to the Board and confirmed that their report is consistent with what T-Mobile is showing in their application he also explained a bit more in depth what SAI did to collect their data.

Mr. Spector asked the other Board members if they had any questions for Ryan, no one did.

Ricardo has Don Haes approach the podium. Dr. Haes introduced himself to the Board, and briefed them on the compliance of the proposed wireless cell tower. He explained how they test the compliance.

Once Dr. Haes finished speaking Vice Chair Spector announced that he was on call for work and that he unfortunately had to leave. Mr. Gates took his place to cover as Chair.

Mr. Gates asked the applicants if they would like to proceed with the application with only four voting members and Ricardo stated that he felt they would really need all five. Therefore he asked for a postponement once again until the February 14<sup>th</sup> meeting.

Mr. Goldstein motioned to grant the request to postpone cases until February's ZBA meeting, Mr. Lavallee seconded and the motion carried unanimously.

The board took a five minute recess while the audience departed.

**New Cases:**

**2018-01 Johanna** K Garneau, applicant requests a Special Exception to allow a Home Occupation-3 in a Residential 2 zone. According to Article 42, table 18-A.

**Location:** 24-26 Church St. Gonic, NH 03869, 0142-0010-0000, in the R2 Zone.

Johanna Garneau approached the podium and briefed the Board on what she is looking to do. She read off her criteria sheet for the Special Exception. She also said that she will be moving to the property if the exception gets approved.

Mr. Gates asked the board members if they had any questions. Mr. Stevens verified with the applicant that she is not currently living on at the property. Johanna said that they are remodeling her half of the duplex and she would be moving there in June.

Mr. Gates asked the audience if there was anyone present to speak in favor of the case, no one came forward. He asked if there was anyone there to speak in opposition, no one came forward.

Mr. Goldstein expressed that his only concern was that because it is a Home Occupancy that they attach a requirement that the applicant provides proof that they have moved in.

Mr. Stevens made a motion that they grant the special exception with the condition that the homeowner shows occupancy, Mr. Goldstein seconded and the motion carried unanimously.

**2018-02 Suncrest Realty LLC**, applicant requests a Variance to permit a six unit apartment building with a lot area per dwelling of 1,960 sq ft where 5,000 sq ft per dwelling is required. According to Article 42.19, Section (b)(8).

**Location:** 147-149 No Main St. Rochester, NH 03867, 0121-0341-0000, in the NMU Zone.

Bernie Pelech, on behalf of Suncrest Realty approached the podium. He briefed the Board on some background of the location they wish to make into a six unit apartment building; he also mentioned the Zoning change that is being applied for currently regarding the density downtown. He went over the five criteria required for the application.

Mr. Gates asked the Board if they had any questions, no one did. He then asked if there was anyone in the audience to speak for or against the case, no one came forward. He asked for the city's opinion. Mr. Devine stated that the burden is on the applicant to provide evidence that granting this variance would not diminish surrounding property values; the city does not feel that he did. Granting the variance is not contrary to the public interest, this building would fit in with the character of the neighborhood. Substantial justice would be done, and it is in the spirit of the ordinance. The city feels that the applicant failed to show unnecessary hardship that relates to the property, they actually state in the application that it is similar to surrounding properties. It is in the city's opinion that the applicant applies for a Zoning Change not a Variance. Because the application has failed to meet all five criteria we feel the application must be denied.

Mr. Stevens made a motion to deny case number 2018-02 for the reason of not meeting the unnecessary hardship requirement, Mr. Brodeur seconded and the motion carried unanimously by a roll call vote.

Mr. Devine advised that anyone affected directly by the decision has 30 calendar days to appeal.

Mr. Spector came back from being called out.

**Other Business:**

Mr. Devine asked the Zoning Secretary to speak to the e-mail accounts. She let the board know that they would be set up with City of Rochester e-mail accounts for all things related to the ZBA.

**Election of Chair & Vice Chair, Review By-Laws:**

Mr. Spector stated that we would review the By-Laws. There was some discussion about the new voting system being put into the By-Laws. Mr. Devine said that because that has been passed by Ordinance, he doesn't think it is necessary.

They moved on to the Abutter criteria in the By-Laws and confirmed it was already addressed. The Board did notice the By-Laws say his and determined they would change all "his" to "their".

Mr. Goldstein made a motion to accept the By-Laws as amended, Mr. Brodeur seconded and the motion carried unanimously.

Mr. Brodeur nominated Larry Spector for Chair, Mr. Lavallee seconded, the motion carried unanimously by roll call vote.

Mr. Brodeur nominated Robert Gates for Vice Chair, Mr. Goldstein seconded.

Mr. Gates moved that nominations cease and roll call be taken. The motion passed unanimously.

**Adjournment:**

Mr. Brodeur made a motion to adjourn the meeting, Mr. Gates seconded and the motion carried unanimously.

The meeting adjourned at 8:32 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Julia Libby". The script is cursive and elegant, with the first letters of each name being capitalized and prominent.

Julia Libby, Secretary of Building, Zoning, and Licensing Services