



## City of Rochester, New Hampshire

Building, Zoning & Licensing Dept.  
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### MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF September 12, 2018

The Chair called the meeting to order at 7:01 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  
Leo Brodeur, Alternate

#### **Members Excused**

Also present: 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 August 8, 2018 were reviewed; Mr. Goldstein made a motion to accept the minutes with a change to a typo, Mr. Gates seconded the motion. The motion passed unanimously by a voice vote.

#### **Seating of Alternates:**

Chair Spector announced that the five regular members would be voting.

#### **New Cases:**

**2018-08** Glenn David's Integrity Automotive Inc, applicant to request a Variance to permit an expansion of building into the side setback in the HC zone, according to article 42, table 19-B.

**Location:** 415 No Main St, Rochester, NH 03867, 0114-0004-0000, in the Highway Commercial Zone.

Chris Berry approached the podium in representation of Glenn, the applicant. He briefed the Board on their application explaining each option they had considered before going for a Variance and why those options would not work.

He asked the Chairman if he or the Board had any questions before he moved on, no one did. Mr. Berry moved on to review the five variance criteria for the application.

Chair asked the Board Members if they had any questions. Mr. Stevens asked a few questions regarding the electrical and flat lift that the applicants answered. He also asked about another option for them to achieve what they are trying to do, the applicant explained why that wouldn't work.

Chair Spector asked if there was anyone in the audience to speak for or against the case, no one came forward.

Chair Spector asked for the City's opinion.

Ms. Libby stated that the Department of Building, Zoning, and Licensing Services reviewed the application for a variance and found the following facts: The burden is on the applicant to provide evidence that granting this variance would not diminish surrounding property values. Granting the variance is not in the spirit of the ordinance. You are taking an existing non-conformity and expanding it, thus increasing the non-conformity. Per our Zoning Ordinance Chapter 40.30.f.1 you are not to increase the nonconformity, and the property can expand by right where the proposed expansion does not increase the nonconformity. The applicant has failed to show an unnecessary hardship that relates to the property. The staff recommends the board deny the variance because the applicant has failed to meet the requirements set forth in NH RSA 674:33 I(b) based off of the reasons above.

Mr. Gates made a motion to grant the variance because it is not contrary to the public interest as described by the applicant; Mr. Goldstein seconded the motion, the motion carried unanimously by a voice vote.

Mr. Gates made a motion to grant the variance because it would result in substantial justice as described by the applicant; Mr. Lavallee seconded the motion, the motion carried unanimously by a voice vote.

Mr. Gates made a motion to grant the variance because it is not contrary to the spirit of the ordinance as described by the applicant; Mr. Lavallee seconded the motion, the motion carried unanimously by a voice vote.

Mr. Gates made a motion to grant the variance because it would not diminish surrounding property values as described by the applicant; Mr. Lavallee seconded the motion, the motion carried by a four to one roll call vote.

Mr. Gates made a motion to grant the variance because it would not result in an unnecessary hardship as described by the applicant; Mr. Lavallee seconded the motion, the motion failed by a three to two roll call vote.

Chair Spector said that the Variance failed due to the hardship requirement.

Mr. Berry asked the Chairman if there was anything he could provide to the Board that would show the special conditions of the property. Chair Spector said he thinks at this time there isn't.

Ms. Libby advised that any person directly affected by the decision has the right to appeal within thirty calendar days.

**Other Business:**

Chair Spector asked if there was any other business and there was none.

**Adjournment:**

Mr. Lavallee moved to adjourn the meeting, Mr. Gates seconded and the motion carried unanimously.

The meeting adjourned at 7:33 pm.

Respectfully Submitted,

*Julia Libby*

Julia Libby  
Secretary for Building, Zoning, and Licensing Services