



# City of Rochester, New Hampshire

## *Zoning Board of Adjustment*

### MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING HELD ON MARCH 13, 2019

The 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  
Leo Brodeur, Alternate

#### **Members Excused**

Also present: Julia Libby, Secretary of Building, Zoning, and Licensing Services  
Joe Devine, Code Compliance Officer for 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 neither is intended nor is it represented that this is a full transcription. A recording of the meeting is on file online at [www.rochesternh.net](http://www.rochesternh.net) for a limited time for reference purposes.

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

The minutes of February 13, 2019 were reviewed; Mr. Gates made a motion to accept the minutes, Mr. Goldstein seconded the motion. The motion passed unanimously by a voice vote.

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

Chair Spector asked if any of the members had a conflict, there were none.

#### **New Cases:**

**2019-04** Lambert's Auto & Truck Recyclers Inc. applicant seeks a *Special Exception* according to section 22.a.8 of the City Zoning Ordinance to permit a 980 square foot addition to the business, whose use was lawfully established prior to the adoption of the current Zoning Ordinance.

**Location:** 2 Salmon Falls Road, Rochester, NH 03868, MLB 205-218-0000 in the Highway Commercial Zone.

Scott Snedeker approached the podium and introduced what he would like to do. He read off the five criteria that they need to meet for the special exception.

The Chair asked the board if they had any questions for the applicant, no one did. He asked if there was anyone in the audience to speak for or against the application and no one came forward.

Chair Spector asked for the City's opinion and Mr. Devine stated that the City feels the Special Exception should be granted for the reasons stated in the application.

No one had any further questions. Mr. Gates motioned to approve the Special Exception for the reasons stated in the application, Mr. Lavallee seconded and the motion carried by a unanimous voice vote.

Mr. Devine stated that anyone affected directly by the decision has the right to appeal within 30 calendar days from today.

**2019-05** SCR River Street LLC applicant seeks a *Variance* from table 19-A of the City Zoning Ordinance to permit one 6 unit building and 4 rental cottages with a lot area per dwelling unit of 2,047.32 square feet, where 5,000 square feet is required.

**Location:** 27-29 River Street, Rochester, NH 03867, MLB 0121-0077-0000 in the R2 Zone.

Robert Previti approached the podium to present the Variance application. He introduced what he would like to do and read off the criteria.

Mr. Goldstein asked for clarification on how many units total were being presented on the lot. It was determined that the applicant is looking for ten total units on the lot.

No one had any other questions for the applicant, the Chair asked for the City's opinion.

Mr. Devine stated that the City feels that the application is contrary to the Zoning Ordinance density regulations which are designed to promote health and general welfare, permit overcrowding, and to secure safety from fires and other dangers. Granting the variance and adding the two extra dwelling units on the third floor is contrary to all of these dimensional density regulations. This violates the Zoning's basic objectives and thus the spirit of the ordinance. The applicant has failed to show any hardship. The building presents as a standard multifamily and is not unique or different from any other multifamily dwellings in the neighborhood. This lot and use are already non-conforming and if approved violates zoning ordinance 42.30.c.1 which states: "non-conforming property or a nonconforming condition may not be expanded, enlarged, extended, or intensified except as specifically provided for in this section and not without appropriate approvals" furthermore according to 42.30.e.1.e a non-conforming lot in separate ownership may by right, be used in any manner allowed in that zoning district provided that "the lot meets minimum lot and/or coverage requirements as provided for in section 42.19". Following this rule, the lot still must conform to all density requirements regardless because it's already non-conforming. Based on the evidence presented we feel you should deny the application for the variance.

Chair Spector asked the applicant if he had anything else. The applicant stated that his analysis in his application was all, he proceeded to say that the hardship would be that there used to be living space there it just got dismantled at one point.

Mr. Stevens asked the City if the applicant would be allowed to finish the space as additional living space for the units that are currently there. Mr. Devine said that he would have to look at the regulations more, but that he would assume that there are provisions to allow that.

Mr. Stevens made a motion to deny the Variance because the applicant failed to prove a hardship based on the City's findings, Mr. Gates seconded and the motion carried by an unanimous roll call vote.

Mr. Devine stated that anyone affected directly by the decision has the right to appeal within thirty calendar days from today.

**Other Business:**

There was no other business.

**Adjournment:**

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

The meeting adjourned at 7:17 pm.

Respectfully Submitted,

*Julia Libby*

Julia Libby

Secretary for Building, Zoning, and Licensing Services