

City of Rochester Zoning Board of Adjustment

Wednesday July 13, 2022

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on August 10, 2022)

Members Present

Larry Spector, *Chair*

Leo Brodeur, *Vice Chair*

James Hayden

Michael King

Members Absent

Matthew Winders, excused

Alternate Members Present

James Connor

Lance Powers

Laura Zimmerman

Staff: Shanna B. Saunders, *Director of Planning & Development*

Ashley Greene, *Administrative Assistant II*

These minutes serve as 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 online at www.rochesternh.net for a limited time for reference purposes.

Chair Larry Spector called the meeting to order at 7:00 p.m.

The recording secretary, Ashley Greene, conducted roll call.

3. Seating of Alternates:

Mr. Spector said the voting members would be Leo Brodeur, James Hayden, Michael King, James Connor, and himself for the two motion to rehear applications. For the New Cases the voting members would be Leo Brodeur, James Hayden, Michael King, Lance Powers, and himself.

4. Approval of Minutes:

A motion was made by Mr. Brodeur and seconded by Mr. Connor to approve the minutes from the June 8, 2022 meeting. The motion carried unanimously.

Ms. Saunders explained the documents staff handed out for the Board members. She said they explain the variance criteria, the wording from the State Statute is on the left of the document and the definition from the NH Municipal Association of the terms is located on the right side.

Ms. Saunders said the Board needs to talk about each of the criteria during the discussion section of the meeting for each application.

Ms. Saunders said there was discussion at the last meeting regarding staff putting together draft motions. She explained it is very difficult to put together specific draft motions for each application because there is too much discussion regarding the criteria and whether the applicant meets them or not. Ms. Saunders said she did put together template motions and explained how the template should be used.

5. Motion to Rehear:

Z-22-15 GNM Solar 17, LLC Seek a Rehearing for an *Appeal of Administrative Decision* preventing the issuance of a building permit to install fifty (50) solar panels on the property.

Location: 60 Shaw Drive, Tax Map 240 Lot 49 in the Agricultural Zone.

Mr. King said the two appeals are together and hard to separate. He asked if one is denied does it deny both? Ms. Saunders said it does not deny both. She went on to explain how the two appeals worked.

There was no discussion from the Board; Mr. Spector asked what the City's position is. Ms. Saunders said staff recommends that although it is recognized that there is new information, - the primary recipient from the power generation from the solar panels will be a school district and not the business that was originally identified - it was clear that the commercial nature of the project was one of the main factors in the determination. She said it is true that the city has granted simply a building permit for the installation of a forty-eight-panel solar tracker but the city's understanding of all those permits was that the use was accessory to the primary use and the majority of the power was being used by the primary use of the property. Ms. Saunders went on to say in none of those cases did the city understand that power generation was the primary use as is the primary commercial use of this solar installation in this instance and therefore staff recommends the request for rehearing be denied.

Mr. King asked staff to review the criteria under which a rehearing would be granted. Ms. Saunders explained that there were 2 reasons a ZBA should grant a re-hearing. The first is if there was new information submitted. And although she recognized that the recipient of the power generated has changed and that's new information's she did not think that was sufficient enough to overturn the application. The second reason would be that the ZBA erred in its decision, she went on to say that for the reasons outlined in her staff report she did not feel the ZBA erred in its decision.

A motion was made by Mr. Brodeur and seconded by Mr. King to deny the Motion to Rehear case Z-22-15 GNM Solar 17, LLC located at 60 Shaw Drive because the applicant did not meet the criteria and did not provide any new information and the Board did not err in its original decision. The motion carried unanimously by a roll call vote.

Z-22-16 GNM Solar 17, LLC Seeks a Rehearing for a *Variance* from Table 18-D to permit power generation utility in the agricultural zone.

Location: 60 Shaw Drive, Tax Map 240 Lot 49 in the Agricultural Zone.

Mr. Brodeur said the Board was under the impression that both applications were tied together, and the variance criteria wasn't given the opportunity to be discussed in full. He said given that, the Board should approve the request for rehearing.

Mr. King agreed and said he still had some legal questions. Chairman Spector agreed a re-hearing would be appropriate.

A motion was made Mr. King and seconded by Mr. Brodeur to grant the Motion to Rehear case Z-22-16 GNM Solar 17, LLC located at 60 Shaw Drive because the Board did not adequately review the variance criteria at the previous meeting. The motion carried unanimously by a roll call vote.

6. New Cases:

Z-22-24 Sean Desrosiers Seeks a *Special Exception* from Section 22 to permit a detached accessory dwelling designation to the existing home so a new home can be built on the property.

Location: 326 Chestnut Hill Road, Map 206 Lot 7 in the Agricultural Zone.

Applicant Sean Desrosiers explained he is seeking a special exception to allow his current house to be considered a detached accessory dwelling unit in order to build a new house on the lot.

Mr. Desrosiers read through the five criteria. He said once he builds the new house the old one will be torn down.

Mr. Brodeur asked how big the new house will be. Mr. Desrosiers said it will be a three-car attached garage and approximately 3,000 square foot ranch style home.

Mr. Spector opened the public hearing. There was no one from the public there to speak; Mr. Spector brought the discussion back to the board.

Mr. Spector asked for the City's position. Mr. Saunders said staff believes the applicant has met the Special Exception criteria and recommends approval.

A motion was made Mr. Hayden and seconded by Mr. Brodeur to grant the Special Exception in case Z-22-24 Sean Desrosiers located at 326 Chestnut Hill Road because the all the criteria has been met with the condition the accessory dwelling unit is demolished after completion of the construction of the new house. The motion carried unanimously by a roll call vote.

Z-22-25 Shawn Richardson/The Freeman House, LLC Seeks a *Special Exception* from Table 18-A and Section 22 to permit a Residential Facility.

Location: 10 Whitehall Road, Map 126 Lot 13 in the Hospital Special Zone.

Justin Horsappo and Mia Allan presented the special exception application on behalf of The Freeman House, LLC.

Ms. Allan read through the five criteria. She said the lot is big, has ample parking, and there is a medical boarding house on one side and a residential house on the other with a large, wooded area in the back. She said the proposed use is consistent with the ordinance and master plan because it is a residential use and provides opportunities for resident and business growth.

Ms. Allan said the Freeman House has been operating in Strafford County since 2005, specifically in Dover for the last five years. She said the organization provides a much-needed service to the community, especially to Strafford County.

Mr. Brodeur asked if the house is already occupied. Ms. Saunders said yes and explained the applicant is before the Board due to an enforcement case.

Mr. Hayden asked if there will be onsite staff or personnel 24 hours a day. Mr. Horsappo said that is his job.

Mr. Spector opened the public hearing.

Andrew Fischer of Dover said zoning use for this house is positive for Rochester. He said residents of the house are involved in the community.

Kim Bock of NH CORR (NH Coalition of Recovery Residences) in Hooksett said she has worked with the Freeman House for two and a half years and they work diligently to maintain their standards to make sure they are in compliance with the national standards.

Daniel Brown of Rochester said he went through the Freeman House three and a half years ago in their Dover facility. He said without them he wouldn't be a homeowner or business owner.

Peggy Brown of Rochester said she went through the Freeman House, they helped her achieve basic life goals, become a productive member of society, and gain employment.

Dan Charron of Dover said he just graduated from The Freeman House just a few days ago. He said the accountability and structure of the house helped him grown in his recovery.

Justin Horsappo of Rochester said the Freeman House saved his life four years ago. He said at the time he was homeless, in and out of jail, he hadn't seen his kids, and his family wasn't speaking to him. He said to be standing in front of the Board with the position he has is nothing short of a miracle.

David Clark of Rochester said he is familiar with the Freeman House, the structure, accountability, and how it's run is a really great organization.

Shawn Richardson, owner and founder of the Freeman House said he has been helping people for 18 years with forty residents between two houses currently.

Pauline Brierley of Rochester said she supports the Freeman House as she is a graduate of sober living and works in recovery as well.

Ms. Saunders read the following email from ConcernedCitizen03867@gmail.com into record:

I think it should be on record that as evidenced by publicly filed mortgages, Mr. Richardson purchased this property with a low-down payment government guaranteed loan meant for the purchase of a single-family residence by an individual. Additionally, he obtained taxpayer funded cash assistance from the New Hampshire Housing Finance Authority for closing the mortgage in the amount of \$9,603.00. These programs are meant to assist potential homebuyers to purchase a home in our community. Effectively, Mr. Richardson's for-profit business has been subsidized by taxpayer money under a program it should not benefit from. These mortgages have a residency requirement which has not been met and do not allow commercial purposes. Additionally, this has taken a single-family residence off the market and reduced available assistance for a family or individual seeking to buy a residential home.

The City of Rochester should strongly consider their support of this for-profit business and any zoning allowance that promotes the removal of even a single residential family home from the already depleted single family residence stock in the city.

There was no one further from the public to speak; Mr. Spector brought the discussion back to the Board.

Mr. Spector asked for the City's position. Ms. Saunders said staff believes the applicant has met the criteria for a Special Exception and recommends approval.

Mr. Richardson addressed the email saying said the processes they have to go through for the house to be used as it is, is to apply and be purchased as a single-family house in order to be used as it is today.

A motion was made by Mr. Hayden and seconded by Mr. Brodeur to grant the Special Exception for case Z-22-25 for Shawn Richardson/The Freeman House, LLC located at 10 Whitehall Road as presented because the applicant has met all the criteria. The motion carried unanimously by a roll call vote.

7. Review and adoption of updated By-Laws

The Board reviewed the updated by-laws.

A motion was made by Mr. Brodeur and seconded by Mr. Hayden to accept the revised By-Laws. The motion carried unanimously.

8. Other Business/Non-Scheduled Items:

None at this time.

9. Adjournment:

A motion was made by Mr. Brodeur and seconded by Mr. Hayden to adjourn at 7:55 p.m. The motion carried unanimously.

Respectfully Submitted,

Crystal Galloway,
Planner I

and

Shanna B. Saunders,
Director of Planning & Development