

City of Rochester Zoning Board of Adjustment

Wednesday February 8, 2023

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on March 8, 2023)

Members Present

Larry Spector, *Chair*
Michael King
Lance Powers
Matthew Winders

Members Absent

Alternate Members Present

James Connor
Laura Zimmerman

Staff: Shanna B. Saunders, *Director of Planning & Development*
Crystal Galloway, *Planner I*

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, Crystal Galloway, conducted roll call.

3. Seating of Alternates:

Mr. Spector said the voting members for the meeting would be Mr. King, Mr. Winders, Mr. Powers, Ms. Zimmerman, and himself.

4. Approval of Minutes:

A motion was made by Mr. King and seconded by Mr. Winders to approve the minutes from the January 11, 2023 meeting. The motion carried unanimously by a voice vote.

5. Continued Cases:

Z-22-34 New Hampshire Signs Seeks a *Variance* from Sections 29.13.G(1), 29.14.B(1), and 29.14.B(2) to permit a second free standing sign where only one is allowed, to allow a free-standing sign height of 50 feet where only 30 feet is allowed, to allow a sign of 252 square feet where only 75 square feet is allowed, and to allow an Electric Message Center of 180 square feet where only 32 square feet is allowed.

Location: 298 North Main Street, Map 115 Lot 31 in the Highway Commercial Zone.

Peter March of New Hampshire Signs explained they appeared before the Board in November with two applications, one for a larger message center located at the Ten Rod Road parcel and one for a sign that served the highway.

Mr. March said they originally sought a 50 foot tall highway sign with a 180 square foot message center, 72 feet of an internally luminated sign which came to a total of 252 square feet. He said Hammond Lumber is unable to match the big box stores marketing spends so they need to be creative in how they advertise.

Mr. March explained the changes made to the sign since they were last before the Board. He said they have maintained the 50 foot height, decrease the overall size of the sign from 252 feet to 196 square feet, reduced the size of the digital sign from 180 square feet to 98 square feet which is approximately half the size of what was originally applied for.

Mr. March said they estimate the Home Depot sign to be approximately 200 square feet and the Lowes sign to be around 220 square feet between two signs.

Mr. March explained they have attached scientific reports that indicate there is no detriment to traffic safety from electronic signs.

Mr. March went through the five criteria. He said public interest is served by allowing businesses to identify different elements of their offering and also ensuring they are a viable competition in the same market.

Public interest is served by Hammond Lumber continuing to serve the city by offering choice and variety in the type of services they offer. It is important to level the playing field between Hammond Lumber and its two well-funded competitors.

Mr. March read an excerpt from the Department of Transportation which states electronic signs do not pose an issue with vehicular traffic.

Ms. Saunders clarified the size of the sign they are seeking. In the testimony given it was said they are seeking a 196 square feet of the overall size of the sign but in the packet provided it shows 198 square feet. Mr. March said it was most likely a typo, they are requesting 196 square feet.

Mr. Connor asked if the Department of Transportation study was the latest report. Mr. March said it was the only one he could find.

Mr. Spector said he searched for studies regarding electronic signs and found there have been issues. He went on to say most electronic signs are not located on a highway off ramp such as this one would be.

Mr. Powers noted it is not up to the Board to level the playing field for businesses as the applicant stated.

The Board discussed road safety and electronic signs. Ms. Zimmerman clarified that Home Depot and Hannaford do not have electronic signs and she is concerned if this sign is allowed, Home Depot and Hannaford would also want one. So in a very small area there could possibly be three electronic signs.

Mr. Spector said he is concerned people would be distracted with an electronic sign located on a highway off ramp. Mr. King argued people can be just as easily distracted by a regular sign.

Mr. King asked if they could make the sign change every minute instead of every eight seconds. Mr. March said that wouldn't be an issue. He went on to say they have submitted a substantial amount of scientific evidence showing electronic signs do not pose a threat.

Mr. Spector opened the public hearing. There was no one from the public present to speak.

Ms. Saunders clarified that electronic message centers are allowed in this zone but are limited to thirty-two square feet in size. She went on to review the three variances the applicant is applying for. Ms. Saunders explained under Section 29.13.G.6, it states electronic message centers and animated signs cannot include colors of red, amber, or green flashing lights that would cause the appearance of municipal vehicle warnings from a distance.

Mr. Spector closed the public hearing, and the Board began deliberating the criteria.

The Board first discussed the variance request to permit a free-standing sign height of 50 feet where only 30 feet is allowed, and to allow a sign of 196 square feet where only 75 square feet is allowed.

Mr. Winders said he didn't think it would be contrary to public interest because it wouldn't pose a risk. It would fit the spirit of the ordinance because of how it will be used. It will not diminish property values. He said because of the layout of the land and the entrance to the parcel it meets the hardship criteria. Ms. Zimmerman disagreed, saying she believes it is contrary to public interest because there is a safety issue due to the height and size of the proposed sign.

Second, the Board discussed the criteria to permit two freestanding signs on one lot. The Board stated they feel the applicant met the criteria to allow a second sign.

Third, the Board discussed the criteria to permit an electronic messaging center of 98 square feet where only 32 square feet.

Mr. King said he would like to see a smaller sign with a greater delay time. Mr. Powers said he doesn't see a hardship because he is still able to have an electronic sign it just can't be as large as they would like. Ms. Zimmerman pointed out that they already have an electronic sign located on Ten Rod Road.

A motion was made by Mr. Powers and seconded by Mr. King in case Z-22-34 Section 29.14.B(2) to approve a second freestanding sign because it meets all five criteria. The motion carried unanimously by a roll call vote.

A motion was made by Mr. Powers and seconded by Ms. Zimmerman in case Z-22-34 Section 29.13.G(1) to deny an Electronic Messaging Center larger than the 32 square feet allowed because they do not meet the hardship criteria. The motion carried by a 4-1 roll call vote. Mr. King opposed.

The Board discussed the variance request from Section 29.14.B(1) which would permit a freestanding sign height of 50 feet where only 30 feet is allowed, and a sign of 196 square feet where only 75 square feet is allowed.

Ms. Saunders explained where the larger electronic message center was denied the Hammond Lumber sign would be 164 square feet if the Board were to approve the 196 square foot sign.

A motion was made by Ms. Zimmerman and seconded by Mr. Winders to continue case Z-22-34 Section 29.14.B(1) to the March 8, 2023 meeting to allow the applicant time to revise the rendering to reflect the change of a 32 square foot electronic message center. The motion carried unanimously by a roll call vote.

6. New Cases:

Z-23-03 Beth Wiggins Seeks a *Variance* from Table 19-A to permit the creation of a new lot without the required frontage.

Location: 6 Coleman Street, Map 128 Lot 88 in the Residential-1 Zone.

Applicant Beth Wiggins explained Norway Plains Associates did a subdivision feasibility study. She said it showed the property lacked approximately twenty feet of frontage to be able to create a new lot. Ms. Wiggins explained the parcel was originally two separate lots however, the former owner combined them in order to save money.

Ms. Wiggins explained the reason for the subdivision is to create a lot for an elderly neighbor to construct a new smaller home for himself.

Ms. Wiggins read through the five variance criteria. She said it will not be contrary to the public interest because public water and sewer are already in place, and other lots in the neighborhood have less road frontage. Granting the variance would do substantial justice because there is a lack of land and housing in New Hampshire. If the variance were granted, the values of the surrounding properties would no be diminished because a new house would be built and would raise values. The proposed use is a reasonable one because the variance will not impact the neighborhood, many lots do not have the required 100 feet of frontage and this will allow a single-family home to be built.

Mr. Spector opened the public hearing. There was no one from the public to speak.

Ms. Saunders explained that in part, a variance is granted because of special conditions of the property that distinguish it from other properties in the area. This is one of the larger lots in this neighborhood. She said for this reason the City recommends approving the variance.

Mr. Spector closed the public hearing, and the Board began deliberating the criteria. Mr. King said it is true that this lot is larger than other lots in the area. The Board felt, public interest, substantial justice, spirit of the ordinance, value of surrounding properties were all met, as well.

A motion was made by Mr. Powers and seconded by Mr. Winders to approve case Z-23-23 as presented because all of the criteria has been met. The motion carried unanimously by a roll call vote.

7. Annual Meeting

A. Election of Officers

Ms. Saunders opened the nominations.

Mr. Powers nominated Mr. Spector for Chair, Mr. Winders seconded. A roll call vote carried unanimously in favor.

Mr. Spector nominated Mr. Powers for Vice Chair, Mr. Winders seconded. A roll call vote carried unanimously in favor.

8. Other Business/Non-Scheduled Items:

Ms. Saunders told the Board a lot of information that was discussed at the joint Retreat with the Zoning Board and Planning Board is contained in the new RSA book they received. If anyone has any questions make sure they reach out.

9. Adjournment:

A motion was made by Mr. Powers and seconded by Mr. Winders to adjourn at 8:16 p.m. The motion carried unanimously.

Respectfully Submitted,

Crystal Galloway,
Planner I

and

Shanna B. Saunders,
Director of Planning & Development