

City of Rochester Zoning Board of Adjustment

Wednesday May 10, 2023

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on June 12, 2023)

Members Present

Larry Spector, *Chair*

Lance Powers, *Vice Chair*

James Connor

Michael King

Matthew Winders

Members Absent

Brylye Collins, excused

Laura Zimmerman, excused

Alternate Members Present

Stephen Foster

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. Powers, Mr. Winders, Mr. Connor, and himself.

4. Approval of Minutes:

A motion was made by Mr. Winders and seconded by Mr. King to approve the minutes from the April 12, 2023 meeting. The motion carried unanimously by a voice vote.

5. Continued Cases:

Z-23-08 Lagasse Family Revocable Trust Seeks a *Appeal of Administrative Decision* to construct a new detached garage with an additional dwelling unit above located on the same lot as an existing multi-family building.

Location: 10 Shelby Lane, Map 138 Lot 11 in the Residential-2 Zone.

Mr. Spector let the Board know the applicant withdrew the application for an Appeal of Administrative Decision.

6. New Cases:

Z-23-13 Johnny Lam Seeks a *Variance* from Section 29.14.B(10) to permit a second 25 square foot freestanding sign on a corner lot where 24 square feet is allowed.

Location: 24 Signal Street, Map 120 Lot 315 in the Downtown Commercial Zone.

Carrie Vaughn of Portsmouth Sign Company read the variance criteria. She said it would not be contrary to the public interest because they have two frontages so it is an allowed use and they are only looking for a variance to size of 1 sq ft and the variance will not only bring more business to the surrounding area and thus increasing the economic welfare for this business and surrounding businesses, but it is also an enhancement to the current signage on the property which increases curb appeal. The spirit of the ordinance would be observed because the variance would ensure that the fundamental purpose of the ordinance is upheld while allowing for reasonable and necessary modifications to be made. Substantial justice would be done because it would allow the applicant to make necessary improvements or changes to their property as well as allow them to utilize their property more effectively and efficiently to enhance the surrounding community. And it is a variance for only 1 sq ft. The proposed change would have a positive impact on the local economy by attracting more customers to the business which would result in increased revenue and job opportunities for the community. Such a positive economic would likely have a positive impact on the value of surrounding properties as well as an enhancing the curb appeal to the surrounding area. The signage currently on the property is run down and nonconforming, so not being able to update and upgrade this signage will result in a hardship for the businesses on the property. The proposed use is a reasonable one because the changes being proposed enhance the current signage allowing businesses in and around the Dynasty Plaza to increase business, property value, and curb appeal.

Mr. Connor asked if the variance is for a second sign or for the existing one. Ms. Vaughn explained the new tenant directory sign will be located on Signal Street, the existing sign will be reduced in size, leaving only the electronic message center. She went on to explain the electronic message center is one foot larger than what is allowed.

Mr. Spector opened the public hearing. No one from the public was present to speak; Mr. Spector brought the discussion back to the Board.

The Board began deliberations on the five criteria.

Mr. King said he believes substantial justice would not be done and the business would be substantially hurt if they are not allowed to upgrade the sign. M. Winders and J. Connor agreed.

Ms. Saunders clarified the applicant is not upgrading the electronic message center, they are keeping the existing one which is one square foot over what is allowed. The hardship would be having to reduce the sign by one square foot.

Mr. Winders agreed that the applicant has met the hardship criteria. J. Connor agreed.

A motion was made by Mr. Winders and seconded by Mr. Powers to approve case Z-23-13 as presented citing all criteria have been met. The motion carried unanimously by a roll call vote.

Z-23-14 Ivan Geschwindner Seeks a *Variance* from Table 19-A to permit the demolition of an existing garage and breezeway to be replaced with a new structure with 10-foot expansion forward and 6-foot expansion to the rear located 4 feet from the property line.

Location: 5 Church Street, Map 142 Lot 35, in the Residential-1 Zone.

Applicant Ivan Geschwindner explained he is concerned the existing garage will fall because it has deteriorated so much.

Mr. Geschwindner read the variance criteria. He said granting the variance would not be contrary to the public because it is an existing structure with a failing cinder block foundation. It is outdated and he is concerned for the safety of his house, which is attached, the neighbor's property, and other people's safety. The spirit of the ordinance would be observed because it is an existing structure that he is concerned will become more dangerous if it is not taken care of. He is planning rebuild in the same footprint with a small expansion. Substantial justice would be done because of the safety concerns to the foundation. The values of the surrounding properties would not be diminished because instead of an old, dangerous, dated garage, the lot would get a new garage and footprint expansion with an updated look that would add value to the surrounding properties. Denial of the variance would result in an unnecessary hardship because the zoning ordinance is there to protect individual from encroachment and a house-to-house scenario. This is not the case since the property line is a driveway which prevents the houses from being too close. There is no other location on the lot to place the garage. The proposed use is reasonable because it is an existing structure that is already in use. The structure does abut the property line but there is no a structure-to-structure situation in this instance. Also, making the structure larger adds home and tax value. The property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it. The neighbor at 61 Church Street has the same issue, the property line is a driveway. The slope that must be used to hold the cinderblock foundation is causing the water to run down to the neighbor's property. By expanding and updating these pitches can be alleviated, making a nicer look.

Mr. Spector let the Board know the applicant has requested a waiver requiring a Certified Plot Plan.

A motion was made by Mr. Winders and seconded by Mr. King to approve the waiver request for a certified plot plan. The motion carried unanimously by a voice vote.

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

Mr. King asked if construction of the new garage would make it closer to the property line than it is now. Mr. Geschwindner explained by expanding the garage ten feet forward it will be further away from the line, however the expansion to the rear of the structure would be closer to the property line because the property line is located at an angle.

Mr. Spector closed the public hearing.

The Board deliberated the five variance criteria.

Mr. King said he feels the variance request is a reasonable one because he believes the applicant has met the criteria. There is no other place to put the garage on the lot. And the property line is located next to a driveway which doesn't seem to be an issue for property value, public interest and spirit of the ordinance.

Mr. Winders said based on the testimony given he also believes the applicant has met the five criteria.

A motion was made by Mr. Winders and seconded by Mr. Powers to approve case Z-23-14 as presented citing all the criteria has been met. The motion carried unanimously by a roll call vote.

7. Other Business/Non-Scheduled Items:

Mr. Winders informed the Board he is taking a leave of absence until January 2024 because he will be traveling abroad for school.

8. Adjournment:

A motion was made by Mr. Powers and seconded by Mr. Connor to adjourn at 7:22 p.m. The motion carried unanimously.

Respectfully Submitted,

Crystal Galloway,
Planner I

and

Shanna B. Saunders,
Director of Planning & Development