



City of Rochester, New Hampshire

Building, Zoning & Licensing Dept.

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MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF September 9, 2015 (Approved October 14, 2015)

The Chair called the meeting to order at 7:00 p.m. in the Council Chambers.

Roll Call:

Roll call was taken with the following members present

Members Present

Ralph Torr, Chair
Robert Gates
Randy Lavallee
Robert Goldstein
Fidae Azouri, Alternate
Leo Brodeur, Alternate

Members Excused

Lawrence Spector, Vice Chair

Also present: Jim Grant, Director of Building, Zoning & Licensing
Karen L. Grenier, Building, Zoning & Licensing Secretary

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 Department for a limited time for reference purposes. It may be copied for a fee.

Approval of Minutes:

The minutes of August 12, 2015 were reviewed, Mr. Gates made a motion to accept the minutes as written. Mr. Lavallee seconded the motion. The motion passed unanimously by roll call vote.

The Chair stated the four Regular Members and two Alternate Members would be voting alternately, on the cases this evening.

The Chair asked if any of the members had a conflict with this case being presented. There were no conflicts.

New Cases:

2015-20 Application by John Branscombe of Colony Used Auto for a Special Exception to allow a cold storage warehouse. This request is according to the City's Zoning Ordinance, Article 42.18, Table 18-D. **Location:** 0 Milton Rd Rd. Map 205 Lot 134, Highway Commercial Zone

The Chair asked who was presenting. Mr. Branscombe approached the podium and stated his business was Colony Used Auto, at 181A Milton Rd. and why he needed a cold storage building. Chair Torr asked the board members if they had any questions and they did not. The Chair asked if there was anyone from the audience to speak for or against the case, no one came forward.

Mr. Grant stated the building meets the criteria for a Special Exception as the surrounding area is an outdoor junkyard and this is inside storage. The City Manager had no comments.

Chair Torr asked if any board member would like to make a motion. Mr. Gates made a motion to grant the Special Exception as requested. Mr. Lavallee seconded the motion. The motion passed unanimously by the voting members.

Mr. Grant advised anyone aggrieved by this decision has 30 days to appeal.

2015-21 Application by Luke Rivais for a Variance to allow a closer lot line between buildings than allowed. This request is according to the City's Zoning Ordinance, Article 42.19, Table 19 A. **Location:** 10 McDuffee St. Map 115 Lot 63, Residential 1 Zone.

Mr. Luke Rivais approached the podium to state his needs for the addition. Chair Torr asked Luke Rivais to read his five variance criteria. The board members had few questions. Mr. Brodeur asked if there was access to the back yard. Mr. Rivais answered the questions accordingly.

The Chair asked if anyone from the audience were present either for or against the case? No one came forward.

The Chair asked Mr. Grant about the City's view. Mr. Grant stated for the standard of safety and the building codes he had no problems with the project. Mr. Rivais had the option of attaching a garage to the house and the garage would have one wall fire protection. The City Manager had no comments about the case.

The Chair closed the public hearing and the board members worked on their criteria sheets.

Mr. Gates moved to grant the variance for the following reasons: The variance will not be contrary to the public interest because: It will not increase congestion in the streets. The spirit of the ordinance is observed because: It will not negatively impact health and the general welfare. If granted, the benefit to this individual applicant, outweighs any or harm to the community as a whole. The value of surrounding properties will not be diminished because: It will not generate levels of noise, light, activity or traffic that are significantly different from that which currently exists. Mr. Lavallee seconded the motion. The motion passed unanimously by the voting members.

Mr. Grant advised anyone aggrieved by this decision has 30 days to appeal.

2015-22 Application by Melanie Venditti for a *Variance* to allow vehicle sales in an Office Commercial Zone. This request is according to the City's Zoning Ordinance, Article 42.18, Table 18-B. **Location:** 69 Rochester Hill Rd. Map 127 Lot 29, Office Commercial Zone.

Ms. Melanie Venditti approached the podium and spoke about the details of her business, Green Car Club Inc. Ms. Venditti explained the company deals with eco friendly vehicles. There would be only three customers a day by appointment only; therefore the neighborhood would not be adversely affected. Ms. Venditti stated up to six cars can be stored inside. Mr. Brodeur asked about the storage situation if they received up to twenty cars. Mr. Goldstein inquired about repairs to the vehicles. Mr. Azourj asked if the vehicles were being inspected. Ms. Venditti answered all these questions accordingly. Chair Torr asked Ms. Venditti why that particular location was chosen. Ms. Venditti stated the lot was bought because of location and price. The Chair asked if there was anyone in opposition or in favor for the case from the audience. One person came forward, who shares the driveway with Ms. Venditti's property with concerns about parking and snow plowing. Ms. Venditti assured the abutter she would work with him.

Mr. Grant read into record a letter from Mr. Ken Clark who is opposed to this case.

The Chair asked the applicant to read the five variance criteria for her case. Mr. Brodeur corrected the applicant to read what she submitted in the original five criteria and not to ad-lib. A correction is made to number one of the criteria sheet to read "The merchandise" instead of "The majority of the merchandise" Referencing number four of the criteria sheet, the word "antique" was removed.

The Chair asked Mr. Grant what the City wanted to say about the case.

Mr. Grant stated he wanted to ask a series of questions first to be clear about the case.

Mr. Grant asked Ms. Venditti "How many cars will be parked outdoors that are displayed for sale? Ms. Venditti answered "zero."

Mr. Grant then asked "Will all the cars that will be sold be contained inside the building?"

Ms. Venditti stated yes.

Mr. Grant asked how the business will advertise, even though in the OC Zone a sign is permitted by right. Ms. Venditti stated the advertising will be done on line and by appointments only.

Mr. Grant asked Ms. Venditti if she would have two employees and two customers at best at the location? Ms. Venditti stated there would only be one employee at a time.

With all of this being said, Mr. Grant shared if this is contained all within the structure, there should be little impact on the neighborhood as such. The City Manager had no comments on this case.

Because the variance follows the property and not the applicant, Mr. Grant suggested the board members may put on conditions on any approval to control anything in the future from getting out of hand

There was a lot of conversation from the board members as how they would word the conditions, as the conditions and variance go with the property and not the applicant.

Mr. Gates made a motion to approve the variance as requested with the following stipulations:

1. No vehicles left outside of building overnight.
2. No more than twenty (20) vehicles total on property.

3. No engine conversion on site.
4. No repairs on site due to noise.

Additional Stipulations:

- No vehicles that are for sale will be displayed outside on the lot.
- All the vehicles that will be sold will be stored inside the building.

Ms. Venditti agrees to have no vehicles displayed outside on the property at 69 Rochester Hill Rd. at anytime.

Mr. Goldstein seconded the motion.

The Chair stated a yes will be to approve the motion.

The motion passed unanimously by the voting members.

Mr. Grant advised anyone aggrieved by this decision has 30 days to appeal.

2015-19 Application by 1110 Salmon Falls Rd., LLC, William C. Stowell, for a Variance to allow a pork chop subdivision with less than six acres total and less than average lot area of 120,000 square feet. **Location:** 1114 Salmon Falls Rd. Map 241 Lot 12, Block 1, Agricultural Zone. This case was continued from the August 12, 2015 Zoning Board of Adjustment meeting.

Mr. William Stowell approached the podium to speak again of his request for the porkchop subdivision and read the five variance criteria. Mr. Stowell stated his engineer Bob Stowell was present to answer any technical issues. He stated he had five acres where each lot would have about two and a half acres each. A pork chop subdivision was created to work with the natural scape of the agricultural area. One driveway would service both houses. Mr. Stowell is choosing the pork chop style subdivision to stay with the character of the land. Mr. Stowell approached the podium again to discuss the differences between V-1 and V-2 plans for the subdivision.

Mr. Bob Stowell, Engineer for Tritech Engineering in Dover, NH. 03820, shared the State of New Hampshire's requirements for the Shoreland Protection. Mr. Bob Stowell shared this hand out explaining the setbacks with the board members. Mr. Stowell also conducted a sensitive bird species profile from the NH Wildlife and Division of Forests and Lands. Mr. Stowell's research showed there were no sensitive bird species in this are according to his research. The new information was handed out to the board members to review.

Chair Torr asked who was present to speak in favor of the case and no one came forward.

Chair Torr asked who was here to speak against the case and many hands went up.

Chair Torr only requested new evidence from the abutters. The abutters present from the last meeting already had their information on record for this case.

Mr. Grant stated the proposed pork chop subdivision would be a better fit for the area than a conventional subdivision.

Mr. Goldstein motioned to grant the variance based on the limitation of no more than two structures.

Mr. Gates seconded the motion. The vote was yes to approve.

The motion was denied by roll call vote three (3) to (2).

Mr. Stowell was called back into the meeting to have a motion be legally recorded so he knows why it got denied.

The board members worked on their criteria sheets.

Mr. Lavalley made a motion to *deny* the variance for the following reasons:

The variance will be contrary to the public interest because: It will change the character of the district. The spirit of the ordinance is not observed because: It will change the character of the

district. Substantial justice is done because if denied, the benefit to the community as a whole outweighs any disadvantage or harm to this individual applicant.

Mr. Brodeur seconded the motion.

The variance was denied as presented by roll call vote of three (3) to two (2).

Other Business: No other business.

Adjournment:

Mr. Gates moved to adjourn at 8:33 p.m. Mr. Lavalley seconded the motion. The motion passed unanimously by roll call vote.

Respectfully submitted,

Karen L. Grenier, Building, Zoning & Licensing Secretary