



PLANNING & DEVELOPMENT DEPARTMENT

City Hall - Second Floor
31 Wakefield Street
Rochester, New Hampshire 03867-1917
(603) 335-1338 - Fax (603) 335-7585
Web Site: www.rochesternh.net

Planning & Zoning
Community Development
Conservation Commission
Historic District Commission
Arts & Culture Commission

MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF JANUARY 9, 2013

(Approved February 13, 2013)

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
Lawrence Spector, Vice Chair
Robert Gates
Randy Lavallee
Pete Meyer
Fidae Azouri, Alternate
Robert Goldstein, Alternate
Rose Marie Rogers, Alternate

Also present: Kenn Ortmann, Director, Planning & Development Department
Caroline Lewis, Zoning 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 Planning & Development Office for a limited time for reference purposes. It may be copied for a fee.

Approval of Minutes:

The minutes of December 12, 2012 were reviewed. Mr. Spector made a motion to accept the minutes as written, Mr. Lavallee seconded the motion. The motion passed unanimously by roll call vote.

The Chair asked if members had any conflict with tonight's case. There were no conflicts. The Chair stated the five regular members would be voting on the cases this evening.

New Cases:

2013-01 Application by Lounes Yacoub for a variance under Article 42.14 Table 1 (A)(2) of the City's Zoning Ordinance to permit a two family dwelling in a Residential 1 zone. **Location:** 784 Portland Street, Map 107 Lot 53 Residential 1 Zone.

Mr. Yacoub addressed the Board. He stated this is a single family home with an in-law apartment, he is trying to have another electrical service and make the in-law apartment into a one bedroom apartment. All he needs to do is add a kitchen. Mr. Yacoub read through the five criteria.

The Chair asked if anyone wanted to speak for or against this variance. No one came forward. The one City comment was from Mr. Ortmann, noting the recent purchase of the property.

The Board members, Mr. Ortmann, and Mr. Yacoub discussed the current condition of the property, the definition of an in-law apartment, the location of the property being across from a school, the owner not living at the property, and other issues.

The Chair closed the public hearing portion of this case and the members worked on their criteria sheets.

Mr. Spector made a motion to deny this variance for the following reasons: The variance is 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 and diminish the value of buildings, if denied, the benefit to the community as a whole outweighs any disadvantage or harm to this individual applicant, and the value of surrounding properties will be diminished because it will be visible from the abutting properties. Mr. Gates seconded the motion. The motion passed unanimously.

Mr. Ortmann explained if the applicant wanted to, he has 30 days to request a rehearing. If he wants to do this, he should contact the Planning Department.

2013-02 Application by John T. Kenney, Jr. for a variance under Article 42.16 Table 2 of the City's Zoning Ordinance to permit an addition of a 20' x 30' garage that will be less than the required rear (12' where 25' is required and side setback (6' where 8' is required) **Location:** 8 Ancil Court (Gonic), Map 138 Lot 115 Business 2 and Agricultural Zones.

Mr. Art Nickless, Norway Plains Associates, addressed the Board. He informed the Board that the applicant was present also. Mr. Nickless noted some information about the site and noted the property is both residential and commercial use, however, there is no garage on this property. He read through the five criteria.

The Chair asked if anyone wanted to speak for or against this variance. No one came forward. Mr. Ortmann stated there were no comments from the City.

Mr. Goldstein questioned the difference in the boundary lines on the pictometry picture and the plan submitted by Norway Plains. Mr. Ortmann explained there is often a time gap between when information is obtained and implemented, and the pictometry boundary lines are approximate.

The Chair closed the public hearing portion of this case and the members worked on their criteria sheets.

Mr. Gates made a motion to grant this variance, as presented, for the following reasons: The variance is not contrary to the public interest because it will not negatively impact health and the general welfare, 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 harm to the community as a whole, and 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. Spector seconded the motion. The motion passed unanimously.

Mr. Ortmann advised the applicant of the 30 day appeal period.

2013-03 Application by Mark Murphy for a variance under Article 42.14 Table 1 Section (E)(2) of the City's Zoning Ordinance to permit mini-storage buildings in the Agricultural Zone. **Location:** 201 Highland Street – Route 202, Map 106 Lot 3 Agricultural Zone.

Mr. Art Nickless, Norway Plains Associates, addressed the Board. He gave a brief history of this property noting clearing that was done and the present state of the site. Mr. Nickless stated there is no water, sewer or utilities on this site and the property across the road is zoned commercial. He read through the five criteria.

The Chair asked if anyone wanted to speak in favor of this case. No one came forward. He asked if anyone wanted to speak against this case. Ms. Sarah Nice and Ms. Janice Murray came forward.

Ms. Nice stated she and Ms. Murray are on the Woodland Green Board of Directors and were there representing Woodland Green. Ms. Nice gave several reasons for being against this variance which included property values, bright lights, obstruction of privacy, and there already being 17 mini storage facilities in a 15 mile radius of this property. She read NH RSA 672 which states: "Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape and shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers." Ms. Nice handed out information to the Board members.

The Board members, Ms. Nice, Ms. Murray and Mr. Nickless discussed which buildings they live in, the number of buildings and units (12 buildings, 112 units), drainage, this location access to the City, this being a low impact for commercial use, Heath Bog, seeing through the tree buffer and other issues.

There were no comments from the Director of Planning and Development, or the City Manager. The Chair closed the public hearing portion of this case and the members discussed accepting businesses into the City, being a good neighbor, the rural look of the area and other issues. Mr. Ortmann stated there are clearly some issues that are under the preview of the Planning Board, some that are clearly under the preview of the Zoning Board, and some that overlap. He noted it would be appropriate for the Zoning Board, if they wanted, to put buffer restrictions in the motion if they decided to grant this variance.

Mr. Gates made a motion to grant this variance with the following stipulation:

The pavement at the rear of the property must be a minimum of 50 feet from the rear property line. Reasons for granting this variance are: The variance is not 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 increase congestion in the streets, if granted, the benefit to this individual applicant outweighs any harm to the community as a whole, and 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. Meyer seconded the motion. The motion passed unanimously.

Mr. Ortmann advised anyone aggrieved by this decision has 30 days to appeal by asking for a rehearing.

Other Business:

Election of Chair and Vice Chair

Mr. Gates nominated Larry Spector as Vice Chair for the coming year. Mr. Lavalley seconded the nomination. There were no other nominations.

Mr. Spector was unanimously elected Vice Chair for 2013.

Mr. Spector nominated Ralph Torr as Chair for the coming year. Mr. Gates seconded the nomination. There were no other nominations.

Mr. Torr was unanimously elected Chair for 2013.

Memo from Karen Pollard

Mr. Ortmann passed out a memo to the Zoning Board members from Karen Pollard regarding "Adjusting to New Hampshire's New Normal" by Russ Thibeault, President of Applied Economic Research. He explained that some of the information was based on Rochester, and the Planning Board thought it might be useful to have a presentation by Mr. Thibeault. Mr. Ortmann asked if the Zoning Board would be interested in this, and the consensus of the Board was they would find this interesting, and also suggested inviting other boards such as the School Board.

Sites of possible violations

Rochester Tire – Map 121 Lot 340

Board members have seen many, many vehicles on this site. Mr. Ortmann advised the Board that Sheldon Perkins, Compliance Officer has been checking into this.

Title Cash – Map 116 Lot 195

Board members noted there are cars parked there with no plates. Mr. Ortmann will ask Mr. Perkins to check this site.

Adjournment:

Mr. Lavallee moved to adjourn at 8:15 p.m., seconded by Mr. Spector. The motion passed unanimously.

Respectfully submitted,
Caroline Lewis, Zoning Secretary