



PLANNING & DEVELOPMENT DEPARTMENT

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

MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF June 12, 2013 (Approved July 10, 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
Fidae Azouri, Alternate
Robert Goldstein, Alternate
Rose Marie Rogers, Alternate

Also present: Jim Grant, Director Code Enforcement Department
Caroline Lewis, Zoning Secretary
Karen Grenier, Code 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 May 8, 2013 were reviewed. Mr. Spector made a motion to accept the minutes as written, Mr. Gates seconded the motion. The motion passed unanimously by roll call vote.

The Chair asked Peter Meyer to come forward. Mr. Meyer resigned from the Zoning Board. The Chair presented him with a certificate of appreciation from the City and the members of the Board. (Mr. Meyer served on the Board from March 2, 2004 to May 7, 2013). Mr. Meyer thanked the Board members and stated "I'll be back."

The Chair welcomed Jim Grant, Director of Code Enforcement who will now be taking Kenn Ortmann's place at the meetings.

The Chair asked if members had any conflict with tonight's cases. No members had any issues with the first case. The Chair stated he was going to reclude himself from the second case in light of comments made in the rehearing application

New Case:

2013-21 Application by MHF Design Consultants, Inc. (Taco Bell Restaurant) for a variance under Article 42.8 Section (c)(3) of the City's Zoning Ordinance to permit more wall signs than allowed. Location: 280 North Main Street, Map 115 Lot 29-1 Business 2 Zone.

Mr. Huseyin Sevincgil, P.E., MHF Design Consultants, addressed the Board. He showed a plan of where the Taco Bell building will be situated in the parking lot nearest North Main Street in front of Home Depot. He explained they would be doing a small subdivision to create a small lot for the Taco Bell.

Mr. Sevincgil stated the total square footage of the signs requested will be less than the total of square footage allowed. They are asking for a variance to have six wall signs where one is allowed. Mr. Sevincgil read through the five criteria.

The Chair asked if anyone wanted to speak for or against this case. No one came forward. The Chair asked if there were any City comments, and Mr. Grant stated he had no comments on this case. The Chair asked if any members had any questions for the applicant. Mr. Spector asked the size of the building (approx. 1,680 sq. ft).

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

Mr. Gates made a motion to grant the variance, as requested, for the following reasons: The variance will not be 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 benefits to this individual applicant outweighs any harm to the community as a whole, and the value of surrounding properties will not be diminished because the hours of operation are such that impacts from increased levels of noise, light, activity or traffic are not problematic. Mr. Spector seconded the motion. The motion passed unanimously.

The Chair advised that anyone aggrieved by this decision has 30 days to appeal.

Request for Rehearing:

2013-10 Application by Attorney James H. Schulte, on behalf of Route 202, LLC for a motion for a rehearing under RSA 677:2 and 677:3 in relation to Article 42.14 Table 1 (B)(1),(6) & (9) of the City's Zoning Ordinance to permit construction and use of buildings with retail and/or office or restaurant uses which are not allowed in an Residential 1 zone. **Location:** 19 & 26 Labrador Drive, Map 130 Lots 43 & 43-1 Residential 1 Zone.

The Chair left the dais and the Vice Chair took over the meeting. The Vice Chair stated that the three remaining regular members, Ms. Rogers and Mr. Goldstein would be voting on this case. The Vice Chair asked the members if they had read the application for the rehearing and if they had any comments.

Mr. Lavallee noted he was not at the May meeting, however he had read through the application and felt there was no reason to rehear the case.

Mr. Spector stated he had read through all the material and didn't feel there was any new information.

Mr. Gates said that even with the comments that were made by the Chair, he was not swayed at that time, and doesn't see any reason to grant a rehearing.

Ms. Rogers noted that a number of people had testified about the wetlands in that area, and though she had not voted on the case last month she would have voted against it because of the wetlands.

Mr. Goldstein said he read through the application material more than once, and there was nothing there that would change his vote.

Mr. Gates made a motion to deny the request for a rehearing of case 2013-10 as no new information was presented, and the members were not influenced by any comments by the Chair. Ms. Rogers added that development on these sites would hamper natural resources as these wetlands are part of a larger wetland system. Mr. Lavallee seconded the motion. The motion to deny passed unanimously.

As the rehearing was not granted, the next step would be to appeal to Superior Court within thirty (30) days.

Other Business:

None to discuss.

Adjournment:

Mr. Gates moved to adjourn at 7:25 pm. Mr. Lavallee seconded the motion. The motion passed unanimously.

Respectfully submitted,
Caroline Lewis, Zoning Secretary