



City of Rochester, New Hampshire

Building, Zoning & Licensing Dept.
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MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING OF JUNE 14, 2017

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
Larry Spector, Vice-Chair
Robert Gates
Randy Lavallee
Robert Goldstein
Leo Brodeur, Alternate
Shon Stevens, Alternate

Members Absent

Also present: Jim Grant, Zoning Administrator, City of Rochester
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 Office for a limited time for reference purposes. It may be copied for a fee.

Approval of Minutes:

The minutes of May 10, 2017 were reviewed. Mr. Spector made a motion to approve the minutes as written. Mr. Gates seconded the motion. The motion passed unanimously by roll call vote.

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

New Cases:

2017-02 Edward W. DuClos applicant, request a use variance to permit an indoor skateboard/ bicycle facility with allocated space for retail sales. According to said terms Article 42 Table 18C.

Location: 54 Allen St. Rochester, NH 03867, 0117-0002-0011, in the Industrial Zone

Chair Torr asked who was presenting the case tonight. Attorney Frank Quinn approached the podium and briefed the board about the case in representation for Mr. DuClos.

Attorney Quinn introduced Mr. Edward DuClos applicant for the case, to present his power point presentation. Mr. DuClos answered any questions presented.

Attorney Quinn then approached the podium to read the five variance criteria for the case.

There was reference to uniqueness in this case as the size of the building is obsolete for manufacturing in this zone. The high ceilings and the size of the warehouse is exactly what is needed for this new business. Attorney Quinn also referenced two Supreme Court cases that were similar to this case.

Chair Torr asked the board members if they had any questions. Mr. Goldstein asked for confirmation the business would be contained inside. Mr. Gates questioned parking, it was stated Planning would determine spaces required.

Chair Torr asked if anyone was present to speak in favor of the case. Three children who attend Red Alert approached the podium to speak in favor of the case. Jamie Hurley, from Red Alert was present to speak in favor of the case.

Ms. Lisa Stanley, owner of the building approached the podium to speak of all the attributes this business would bring to the City of Rochester.

Mr. Grant read three letters into record; one from Karen Pollard, Manager Economic Development, Chris Bowlen, Director Recreation/ Arena Department, City of Rochester and an e-mail from Mr. Tim Gill a business neighbor. All letters were in favor of the Red Alert Skate Park.

Chair Torr asked Mr. Grant for the City view. Mr. Grant stated doesn't meet the five variance criteria, and doesn't meet a hardship.

City Manager stated this situation is the perfect example of an amendment to the Zoning Ordinance to allow such use.

Chair Torr closed the public hearing portion of the meeting and the board worked on the variance criteria sheets.

Chair Torr asked for a motion. Mr Spector motioned 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. The value of the surrounding properties will be diminished because: It will be visible from the abutting properties. Literal enforcement of the provisions of the ordinance will not result in an unnecessary hardship.

For the purposes of this section “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area: i. relationship does not exist between the general public purposes of the ordinance provision and the specific application of that provision to the property because: otherwise can be used – no hardship.

Mr. Stevens seconded the motion, but he was not a voting member. There was not a second so motion was not accepted.

Chair Torr asked for another motion.

Mr. Gates motioned to approve the variance for the following reasons: The variance will not be contrary to the public interest because: It will not exacerbate the overcrowding of the land. The spirit of the ordinance is observed because: It will not exacerbate the overcrowding of the land. Substantial justice is done because: If granted, the benefit to this individual applicant, outweighs any harm to the community as a whole. 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. Literal enforcement of the provisions of the ordinance will result in an unnecessary hardship. For the purposes of this section “unnecessary hardship” means that, owing to special conditions* of the property that distinguish it from other properties in the area: A fair and substantial relationship does not exist between the general public purposes of the ordinance provision and the specific application of that provision to the property because: structure is unsuitable for industrial uses of modern manufacturing operations and owing to special conditions of the property the proposed use is a reasonable one because: it allows existing building to be used properly.

Mr. Goldstein seconded the motion.

The motion passed with a vote of four to one in favor of the case.

Mr. Grant stated if there was anyone aggrieved by this decision they have thirty days to appeal from today’s date.

Adjournment:

Chair Torr asked if there was any other business. Mr. Goldstein thanked Ms. Grenier, Secretary to the board for her years of service as she retires from the City of Rochester.

Chair Torr asked for a motion to adjourn. Mr. Lavallee motioned to adjourn the meeting. Mr. Gates seconded the motion. The motion passed unanimously by roll call vote.

The meeting adjourned at 7:58pm.

Respectfully submitted,

Karen L Grenier

Karen L. Grenier, Building, Zoning & Licensing Secretary