



# City of Rochester, New Hampshire

## Zoning Board of Adjustment

### MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING HELD ON APRIL 10, 2019

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

#### **Roll Call:**

The Zoning Secretary conducted the roll call.

#### **Members Present**

Lawrence Spector  
Randy Lavallee  
Robert Goldstein  
Robert Gates  
Shon Stevens  
Leo Brodeur, Alternate

#### **Members Excused**

Also present: Julia Libby, Secretary of Building, Zoning, and Licensing Services  
Joe Devine, Code Compliance Officer for Building, Zoning, and Licensing Services

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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 neither is intended nor is it represented that this is a full transcription. A recording of the meeting is on file online at [www.rochesternh.net](http://www.rochesternh.net) for a limited time for reference purposes.

#### **Approval of Minutes:**

The minutes of Mach 13, 2019 were reviewed; Mr. Goldstein made a motion to accept the minutes, Mr. Gates seconded the motion. The motion passed unanimously by a voice vote.

#### **Seating of Alternates:**

Chair Spector asked if any of the members had a conflict, there were none.

Mr. Brodner had a conflict with case numbers 2019-06/07. Mr. Spector said the five regular members would be the voting members.

#### **New Cases:**

**2019-07** One80 Solar, LLC, applicant seeks a *Variance* from table 18-D of the City Zoning Ordinance to permit a photovoltaic power station for the generation and distribution of electricity in the Agricultural zone.

**Location:** 68 Flagg Road, Rochester, NH 03867, MLB 0262-0058-0000 in the Agricultural Zone.

Attorney Tim Briton approached the podium in representation of the applicants. He introduced himself and the applicants for the case. He reviewed who would be presenting for the Board and what each of their applications are for.

There was discussion between the Board and the applicants of which application should be heard first.

Ting Cheng approached the podium to brief the Board on what the project is for and why they are applying for the variances. She reviewed the lot and some of its characteristics.

The Chair asked the board if they had any questions for Ting, no one did.

Tim Briton approached the podium again, he added on to some of what Ting presented. He continued to review the five variance criteria for the Board.

The Chair asked the Board if they had any questions. Mr. Gates asked the applicant what characteristics of the property distinguish it from others in the area. Mr. Briton pointed out different characteristics that the applicant has determined as different from others in the area as well as the fact that the Zoning Ordinance does not speak to the use that they are proposing.

Alan Funk from Blue Planet Funding approached the podium to brief the Board on some more background of what type of sites that they look at for projects like this, also explaining the low impact of the solar panels.

Mr. Stevens asked why they are subdividing the lot. Alan Funk explained that it is a formality to enable them to comply with State law that says that only 1 megawatt is permitted per site.

Chair Spector opened the meeting for public comment.

Noreen McCosker an abutter of the property approached the podium and expressed her concerns for wildlife in the area if the project were to go through.

An abutter from Huckins Lane expressed a couple concerns and wanted to know if it would affect what he can do with his property. The board assured him it would not affect the rights on his property.

Tim Briton approached the podium again and clarified some things about the panels themselves and that they are not reflective, so they would have less effect on birds in the area.

Mr. Gates expressed his concern with the hardship requirement again. Mr. Briton explained to him the characteristics that they felt distinguish it from others in the area again.

Chair Spector asked for the City's opinion and Mr. Devine stated that the City feels the applicant has failed to meet the hardship criteria, the application failed to provide evidence that the property has characteristics that distinguish it from others in the area and they feel the application should be denied and the applicant could explore the option of an ordinance change.

Mr. Gates motioned to deny the variance because the applicant failed to prove a hardship, Mr. Lavallee seconded and the motion carried with a four to one roll call vote.

Mr. Devine stated that anyone affected directly by the decision has the right to appeal within 30 calendar days from today.

**2019-06** One80 Solar, LLC, applicant seeks a *Variance* from table 19-A of the City Zoning Ordinance to permit a subdivision of the parcel that creates two lots in which neither have the minimum 150 ' of frontage required in the Agricultural zoning district.

**Location:** 68 Flagg Road, Rochester, NH 03867, MLB 0262-0058-0000 in the Agricultural Zone.

Tim Briton stated that they withdraw case number 2019-06.

**2019-08** Joel Runnals C/O Norway Plains Associates, INC. applicant seeks a *Special Exception* according to section 22.a.8 of the City Zoning Ordinance to permit an expansion of a veterinary clinic in an agricultural zone.

**Location:** 100 Ten Rod Road, Rochester, NH 03867, MLB 0220-0025-0000 in the Agricultural Zone.

Joel Runnals from Norway Plains Associates approached the podium he introduced himself and the applicant. He handed it over to Dr. Myrhe.

Dr. Myhre approached the podium and briefed the Board on why they need the application. He reviewed some background of what they do there and went over the criteria for the Special Exception.

Chair Spector asked if there were any questions for the applicant, no one had any. He asked for the City's opinion. Mr. Devine stated that the special exception only requires the criteria in 42.22.b be met and they feel the applicant has met all the requirements and that it should be granted.

Mr. Stevens made a motion to grant the special exception, Mr. Lavallee seconded and the motion carried with a unanimous voice vote.

Mr. Devine advised that anyone affected directly by the decision have 30 calendar days to appeal.

**Other Business:**

There was no other business.

**Adjournment:**

Mr. Brodner moved to adjourn the meeting, Mr. Gates seconded and the motion carried unanimously.

The meeting adjourned at 8:00 pm.

Respectfully Submitted,

*Julia Libby*

Julia Libby

Secretary for Building, Zoning, and Licensing Services