



City of Rochester, New Hampshire

Zoning Board of Adjustment

MINUTES OF THE ROCHESTER ZONING BOARD OF ADJUSTMENT MEETING HELD ON MAY 13, 2020

The Chair called the meeting to order at 7:01 PM.

Roll Call:

The Zoning Secretary conducted the roll call.

Members Present

Larry Spector – Chair
Bob Gates – Vice Chair
Paul Giuliano, Alternate
Terry Garland, Alternate
Taylor Poro, Alternate
Susan DeLemus, Alternate

Members Excused

Leo Brodeur

Members Unexcused

Shon Stevens

Also present: Jim Grant, Director for Building, Zoning and Licensing
Dee Mondou, Secretary for Building, Zoning, and Licensing

These minutes serve as 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 online at www.rochesternh.net for a limited time for reference purposes.

MEETING PREAMBLE DURING COVID-19 EMERGENCY

Good Evening, as Chairman of the ZBA, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name and ward, also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.

Approval of Minutes:

The minutes of April 15, 2020 were reviewed; Vice Chair Gates made a motion to accept the minutes, Mr Giuliano seconds the motion. The motion carried unanimously by a voice vote.

Seating of Alternates:

Chair Spector assigned alternates Paul Giuliano, Taylor Poro and Susan DeLemus to vote with the two regular members present for the first 2 cases then assigned Terry Garland to replace Susan Delemus for the cases following.

New Case:

Z-20-07 Brianne St. Pierre applicant seeks a *Special Exception* from Table 18-A and Article 23.2(a)(1)(a) of the Zoning Ordinance to permit a detached accessory apartment in the R1 Zone.

Location: 54 Church St, Rochester, NH 03867, MLB 0142-0019-0000 in the Residential 2 zone

Brianne St. Pierre presents her case and reviews the 5 criteria and why she feels a Special Exception should be granted.

Chair Spector asks if there is any comments for or against the Special Exception.

Mr. Grant read the one comment called in by an abutter.

Vice Chair Gates makes a motion to grant the Special Exception based on the application submitted. Ms. DeLemus seconds the motion. Roll call vote carried unanimously to grant the Special Exception.

Mr. Grant advised that anyone affected directly by the decision has the right to appeal within 30 calendar days.

Z-20-08 Boudreau Living Trust, Bruce Boudreau, Trustee applicant seeks a *Variance* from Table 19-A, to be waived to permit the subject lot to be subdivided into 2 lots consistent with the R-1 frontage and lot area requirements.

Location: 68 Ten Rod Rd, Rochester, NH 03867, MLB 0221-0049-0000 in the Agricultural Zone

Attorney Jerome Grossman Applicant presents the case reviewing the 5 criteria and why he feels the Variance should be granted.

Chair Spector asked for the City's opinion. Mr. Grant reviews how the old ordinance allowed for this type of subdivision and feels our new ordinance is what created the hardship and that the ZBA should grant the Variance.

Chair Spector asks if there is any comments for or against the Variance.

Mr. Grant reads the one abutters comments received by email.

Vice Chair Gates makes a motion to grant the Variance based on the criteria heard from the City. Ms. DeLemus seconds the motion. Roll call vote carried unanimously to grant the Variance.

Mr. Grant advised that anyone affected directly by the decision has the right to appeal within 30 calendar days.

Z-20-9 EIP Communications I, LLC applicant seeks *Special Exception* to permit construction, operation and maintenance of wireless communications facility including without limitation 150' tower, associated radio communications equipment and fenced compound in the Agricultural Zone

Location: 133 Blackwater Rd, Rochester, NH 03867, MLB 0257-0024-0000 in the Agricultural Zone

Attorney Brian Grossman presents the case and reviews the 5 criteria and why he feels the Special Exception should be granted.

Chair Spector asks if there is any comments for or against the Special Exception.

Mr. Grant reads the three abutters comments received by email.

Chair Spector asks the applicant if he would like to respond to any of these comments.

Attorney Brian Grossman addresses the concerns brought forth by the abutters.

Vice Chair Gates makes a motion to grant the Special Exception based on the application submitted. Mr. Giuliano seconds the motion. Roll call vote carried unanimously to grant the Special Exception.

Mr. Grant advised that anyone affected directly by the decision has the right to appeal within 30 calendar days.

Rehearing of Case:

Z-20-01 717 Rochester Holdings, LLC applicant seeks *Variance* from section 5.5(b)(3) and 5.5(c)(3) of the Zoning Ordinance to permit off-street parking spaces in the front yard of property in the NMU Zone.

Location: 717 Columbus Ave, Rochester NH 03867, MLB 0131-0007-0000 in the NMU Zone.

Attorney John Cronin introduced himself as presenter. He talks about previous times before the board as he reviews his case. He discusses the 5 criteria focusing more on the hardship.

Chair Spector asked if anyone has any questions for the applicant.

Vice chair Gates asks Mr. Grant what has changed on the layout from the time the Variance was approved in 2018. Mr. Grant explains that the first Variance was for the use but parking wasn't addressed at the time. He mentions that if anyone motions to approve they should also waive the 0 to 20 foot build to line for any structure.

Chair Spector asked if there was anyone that has any other questions for the applicant. No one does so he asks for any public input.

Mr. Grant reads the one abutters comments received by email.

Vice Chair Gates makes a motion to grant the Variance as requested based on the stipulation Mr. Grant just articulated. Mr. Giuliano seconds the motion. Roll call vote carried unanimously to grant the Variance.

Mr. Grant advised that anyone affected directly by the decision has the right to appeal within 30 calendar days.

Motion to Rehear:

Z-19-13 Thomas Demchak applicant seeks a *Variance* from section 20.2(q) of the Zoning Ordinance to permit a commercial stable where none of the following requirements will be met:

- i. 1. The minimum lot size required shall be 5 acres.
- ii. 2. The side and rear setbacks for structures housing horses shall be 100 feet from any property line.
- iii. 3. Any storage areas for manure shall be set back at least 200 feet from any lot lines. Manure must be handled according to best management practices.

Z-19-14 Thomas Demchak applicant seeks a *Variance* from section 23.2(a)(3)(e) of the Zoning Ordinance to permit the keeping of the horses as an accessory use to a residence, not carried out as a business, where the following requirements will not be met:

- i. A lot in the AG District is at least 3 gross acres;
- ii. A lot in all other districts is at least 2 gross acres;
- iii. There is an additional $\frac{1}{4}$ acre of land beyond the minimum specified in iii. and iv, above, for each animal kept beyond the first one;
- iv. No area or structure for the housing, stabling, storage of manure/animal waste, or feeding of animals shall be located within 100 feet of any property line;
- v. Handling of manure/animal waste must follow best management practices and not be a nuisance for neighbors;
- vi. No animals shall be pastured within 25 feet of any side or rear property line except where the abutting property owner consents to a reduced setback.

Z-19-15 Thomas Demchak applicant seeks a *Variance* from section 23.2(a)(3)(e) of the Zoning Ordinance to permit the keeping of the horses as an accessory use to a residence where the following requirements will not be met:

- i. The activity is not carried out as a business;
- ii. A lot in the AG District is at least 3 gross acres;
- iii. A lot in all other districts is at least 2 gross acres; 11
- iv. There is an additional $\frac{1}{4}$ acre of land beyond the minimum specified in iii. and iv, above, for each animal kept beyond the first one;
- v. No area or structure for the housing, stabling, storage of manure/animal waste, or feeding of animals shall be located within 100 feet of any property line;
- vi. Handling of manure/animal waste must follow best management practices and not be a nuisance for neighbors;
- vii. No animals shall be pastured within 25 feet of any side or rear property line except where the abutting property owner consents to a reduced setback.

Location: 72 Crown Point Rd, Rochester, NH 03867, MLB 0235-0050-0000 in the Agricultural Zone.

Chair Spector asks the board if anyone has any comments or wants to discuss. Mr. Garland say does not want to rehear the case due to no new evidence. Vice Chair Gates and Chair Spector voice that they agree. Mr. Giuliano speaks up and also agrees that there is no reason to rehear. Vice Chair Gates makes a motion to deny a request for a rehearing as there is no new evidence. Mr. Garland seconds the motion. Roll call vote carried unanimously to deny a motion to rehear.

Mr. Grant advised that anyone affected directly by the decision has the right to appeal within 30 calendar days. That appeal would be to the courts.

Other Business:

Adjournment:

Vice Chair Gates motioned to adjourn the meeting. It was seconded by Mr. Giuliano and the motion carried unanimously by voice vote. Meeting adjourned at 8:07 PM.

Respectfully Submitted,

Dee Mondou

Dee Mondou Secretary for
Building, Zoning, and Licensing Services