

City of Rochester Zoning Board of Adjustment

Wednesday August 10, 2022

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on September 14, 2022)

Members Present

Larry Spector, *Chair*

Members Absent

Leo Brodeur, excused

James Hayden, excused

Michael King, excused

Matthew Winders, excused

Alternate Members Present

James Connor

Lance Powers

Laura Zimmerman

Staff: Shanna B. Saunders, *Director of Planning & Development*

Crystal Galloway, *Planner I*

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.

Chair Larry Spector called the meeting to order at 7:00 p.m.

The recording secretary, Crystal Galloway, conducted roll call.

3. Seating of Alternates:

Mr. Spector said the voting members for the meeting would be James Connor, Lance Powers, Laura Zimmerman, and himself

4. Approval of Minutes:

A motion was made by Mr. Connor and seconded by Ms. Zimmerman to approve the minutes from the July 13, 2022 meeting. The motion carried unanimously.

Ms. Saunders explained the handout that was included in the Board's packet which was the same the Chair had just read. She said it has been updated because the State Statute has been revised such that Zoning Boards are now required to present a findings of fact. Ms. Saunders explained this means the notice of decision the applicant receives after the meeting must include the thought process on how the Board felt they met each one of the criteria that the Board looks at. She further explained there is an added section that states the Board must discuss each of the criteria during the meeting.

5. Motion to Rehear:

Z-22-23 86 Church Street, LLC Motion to rehear a *Variance* from Section 30.3.A to permit an expansion of a previously approved non-conforming use to allow additional multi-family dwellings in the Agricultural District.

Location: 84 and 86 Church Street, Map 258 Lots 7 & 8 in the Agricultural Zone.

Mr. Connor said he's not sure if the Board looked at the application and map wrong but believes the case should be heard again. Mr. Spector agreed. Ms. Zimmerman said she was not on the Board when the case was originally heard and would like to have more information so she can make an informed decision on the rehearing.

Ms. Saunders said the City's position is the denial that was made was not based on something specific to the five criteria. She said because of that the Board should rehear the case.

A motion was made Mr. Connor and seconded by Mr. Powers to grant the rehearing of case Z-22-23 for the reasons as discussed. The motion carried unanimously by a roll call vote.

Ms. Saunders took a moment to explain to the applicants in the audience that with only 4 ZBA members present, this was considered what is called a "Short Board". In this case, if the vote ended in a 2-2 tie, the vote would fail. With a full board, if two members voted against the vote would pass. Because of this, the State law allows applicants to continue their hearing tonight to the next meeting to request a decision by a full board. Each applicant will be asked before their hearing what choice they would like to make on this.

6. Rehearing:

Z-22-16 GNM Solar 17, LLC Seeks a *Variance* from Table 18-D to permit power generation utility in the agricultural zone.

Location: 60 Shaw Drive, Tax Map 240 Lot 49 in the Agricultural Zone.

Attorney FX Bruton requested the rehearing of the variance be continued to the September 14th meeting to allow the full Board to be present.

7. New Cases:

Z-22-26 Ian and Katherine Fogg Seeks a *Variance* from Table 19-A to permit construction of a deck within the side setback.

Location: 15 Constitution Way, Map 256 Lot 61-20 in the Agricultural Zone.

The applicant requested the variance be continued to the September 14th meeting to allow the full Board to be present.

Z-22-27 Easter Seals NH Seeks a *Special Exception* from Table 18-B to permit an adult day care center.

Location: 13 Healthcare Drive, Map 243 Lot 39-3 in the Agricultural Zone.

Chris Miller of Easter Seals presented the application for a special exception. He said they are proposing to use a portion of the vacant Frisbie Surgical Center temporarily for the adult day care program while construction for the new facility is going on.

Mr. Miller went on read through the criteria. He said they believe it is an appropriate location because it is less than 100 yards away from the current location. The use is not detrimental to the neighborhood because the use has been in the neighborhood for a very long time. There will be no undo nuisance or serious hazard related to pedestrian or vehicular traffic. Mr. Miller said he believes it will be a safer situation because the current driveway that will be discontinued is further up on Rochester Hill Road which has better sight lines.

Mr. Miller said they have done a safety inspection with the Fire Department and the State requires an inspection also before they are able to operate until they pass inspection. Mr. Miller said the use has existed in the area for a long time and this location fosters the further development of the site and a safer construction process.

Mr. Spector opened the public hearing. There was no one present from the public to speak; Mr. Spector brought the discussion back to the Board.

Ms. Saunders said the City's position is the proposal meets all of the special exception criteria.

The Board deliberated the criteria. They agreed with the applicant's interpretation of how the criteria were met.

A motion was made by Mr. Powers and seconded by Mr. Connor to grant the Special Exception for case Z-22-27 as presented. The motion carried unanimously by a roll call vote.

8. Other Business/Non-Scheduled Items:

None at this time.

9. Adjournment:

A motion was made by Mr. Powers and seconded by Mr. Connor to adjourn at 7:22 p.m. The motion carried unanimously.

Respectfully Submitted,

Crystal Galloway,
Planner I

and

Shanna B. Saunders,
Director of Planning & Development