

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
January 15, 2008**

DATE: January 15, 2008 TYPE: Public Hearing DATE APPROVED: 2/15/08

TIME: 7:00 PM-9:40 PM CHAIR Kim McCummings

CALL TO ORDER, 7:00 PM

ROLL CALL MEMBERS: Kim McCummings, Deb Sawyer, John Vorfeld, Roberta Oeser,
Dave Tower

ROLL CALL ALTERNATES: Art Fiorelli, Keith Halloran, Doug Gutteridge Dick Isakson

EX OFFICIO Tim Halliday who joined the hearing in time for the final vote

PLANNING DIRECTOR Jane Pitt

PLANNING ASSISTANT: Robyn Payson

APPOINTMENT OF ALTERNATES Art Fiorelli is appointed for the open seat. There is no Ex-Officio Alternate so no one was appointed.

Kim McCummings opened the hearing.

Announcements

Jane distributed a memo regarding the Aquifer on the Valley Marine Property.

Public Hearing on Zoning Changes and Citizen's Petitions

Informal Discussion

Academy Roofing Building Update

Jane updated the Board about the Veterinary Clinic that will become a new tenant in the Academy Roofing building. The only concern regarding this was one of septic capacity. DES has stated that there is sufficient septic capacity for the Clinic which will not include a kennel or provide grooming services .

Growth Management Ordinance

This is the second hearing regarding the continuation of the Growth Management Ordinance.

The amendments to the Growth Management Ordinance include:

- Update to the "Summary of Findings of Fact" adopted by the Planning Board on July 6, 2004, extend the expiration date of the Ordinance, require the Planning Board to recommend an extension of the Growth Management Ordinance if the capital facilities needs of the municipality have not been met.
- Add the requirement that Student and Elderly Housing obtain an affirmative recommendation from the Planning Board and a Special Exception from the Zoning Board of Adjustment in order to be exempted from the Ordinance.

Art Fiorelli reviewed the changes to the Ordinance, after which the floor was opened to public comment.

Roberta Oeser- said she was not in favor of the Ordinance because it has never been used. She went on to say out of the 76 new homes built only 5 new children came to Rindge. She also disputed the accuracy of the findings of fact.

Dave Tower-said he voted in favor of submitting this to the voters of the town because he thought the town should have the opportunity to decide on this issue. One can argue that there

won't be growth in the future, no one knows what is irrefutable is that the growth of the town has out paced the facilities we have to accommodate growth.

Kim McCummings said that she supported bringing this to the voters and after gaining input from the Police Chief agreed that the additional provision that applied to the College and Elderly Housing were a good idea. The need to regulate growth is not just about the impact of children on the schools but also the College and the expanding older population, which stresses Public Safety resources.

Art Fiorelli- said that they were using the best available information from the School Department. He described the school population percentages and the on going need for "temporary" modular classrooms.

Jason Czekalski of Thomas Rd. said that he supported the GMO four years ago but the statistical model is wrong and this is one more badly written ordinance that will not hold up in court.

Ed Lamoureux of West Main St.- said that when this was originally adopted, 65% of the town voted for it. He also said that he felt it did a great job managing growth and the people of the town will decide whether it is still necessary.

Judy Cypret of Sears Drive asked how the ordinance can manage growth if no permits were ever denied.

Art Fiorelli said that when developers know there is a GMO in a town they become less aggressive and build elsewhere. In reference to the cases that Mr. Czekalski indicates the GMO is an illegal ordinance that will not hold up in court, there isn't anything that says that an abutting town in another state has to be used. He said that he had a conversation with Christine Fillmore of the local government center and in her opinion it is reasonable to not include data from another state because of the different tax structures. She also said it could be risky to include data from other states because the likelihood is that if your GMO is challenged in court it would be more likely be overturned

Keith Halloran said that the GMO should not be made the scapegoat for what is not going on in the economy. The long-term economy of our town and our ability to absorb the impact of unbridled growth within the next five years if we say lets just take the GMO and toss it.

John Vorfeld said the statistics looking at the school system alone are shy of what we need to look at when we consider the GMO. If .we look at other aspects of our public facilities and infrastructure here its more than obvious that we need a GMO to be in place in case there is the necessity of issuing 90+ building permits. We can't pass a Public Safety Building, our schools are exploding and we can't accept any new roads because we can't afford to pave them the next time around. We already have road that have been accepted that are failing within three years. It more than the statistics of the school system you have to look at the entire infrastructure of the town. Without a GMO we grow at the pace that the economy allows. With the GMO we grow at an average of the region.

Kim closed the hearing on the GMO

Public Hearing Citizen Petitions

PRIVATE RECREATION PETITION

“Shall the Town of Rindge insert the following into Article 3 General Provisions of the Zoning Ordinance?

The Town shall not have the authority to restrict or prohibit private, personal, non-commercial recreation in the any Zoning District in the Town of Rindge. The range of activities protected by this clause shall include, but not be limited to, team sports such as Little League baseball or Pop Warner football; unorganized versions of the same team sports; BMX or mountain biking; paintball, whether organized or unorganized, OHRV riding by property owners or their invited guests; family picnics or outings; or any other private, personal, non-commercial recreational activity.”

Ben Asaff North Street.-spoke for the petition. The impetus for this petition was the dispute between Mr. Asaff and Red White over the use of his Sand Pit. Mr. Asaff contends that there is no language in the Zoning that allows for public recreation of any kind and the intention of this amendment is to correct the omission in the Zoning.

Jason Czekalski- said he had assisted Mr. Asaff and Mr. White in writing this ordinance change and pointed out could not supersede nuisance law. He said that the point of this is to prevent people from being harassed.

Steven Aho said that the town has to recognize that people have rights and they should be able to snowmobile on their own property. There is an economic impact for communities that welcome these activities. If the town is going to prohibit these activities, where are they going to go?

Ed Lamoureux-Zoning is here to protect the entire community. And he knows that the sand pit has been an issue, as it stands now-if someone wants to recreate wherever they want what's the protection of things like property values and peace and quiet?

Ben Whalen of Red Gate Lane-He agrees that people should have the right to recreate but the issue has been people exercising their right with their machines and being excessively loud. This can interfere with people trying to entertain in their yards or children sleeping. Zoning is designed to protect everyone. We may never be able to completely settle the issue of recreational machines but he said he did know there needs to be some sort of zoning to protect the homeowners and businesses.

Dave Duvernay-Read his letter to the planning board regarding the petition warrant article. (on file with the minutes) It said that the town has never, and will never attempt to curtail any private non commercial recreational activities- accept one After years of complaining, the board acted against one individual.

Police Chief Mike Seilicki- said zoning cannot supersede state law so people cannot trespass regardless of zoning.

Keith Halloran-said that part of the responsibility of living in a community respecting each others quality of life.

Phil Stenersen of Rand Rd.-Said he takes issue with some of the alarmists (in his opinion) Kids need a place to blow off steam, can we get out there or are we regulating our kids to do video games?

Ben Asaff-said he has a problem with spot enforcement. If everyone had to play by the same rules it would be ok.

Jason Czekalski-said this cannot supercede nuisance law. This is an attempt to take the issue out of the zoning arena.

Keith Halloran- said the petition was ridiculous and should be quashed.

Doug Gutteridge- said that the intention of this was to allow people to recreate on their own property and have the right to do what they want on their own land.

Keith Halloran-said that encouraging behavior that disrupts and disturbs neighbors is not a good idea.

Art Fiorelli said the issue came to a head because of one particular issue with one particular group. This is a one case issue. He said he was a strong supporter of individual rights and recreation. He also said he had never heard of any other case when the Board of Selectmen had any interest in limiting or regulating anyone's recreating.

Roberta Oeser- said she has no problem with recreation but thinks the language is incorrect but including something like this in uses in the upcoming zoning changes for the special Town Meeting in September is a possibility.

John Vorfeld- said that the idea was going in the right direction but this was not ready to be written in to the zoning. He went on to say he would like to see a Nuisance Ordinance considered in the future.

Roberta Oeser made a motion for the Planning Board to not support this warrant article. Dave Tower seconded the motion.

Vote: Kim McCummings-Yes, Deb Sawyer-Yes, John Vorfeld-Yes, Roberta Oeser-Yes, Dave Tower-Yes Art Fiorelli-Yes the motion carried unanimously.

Kim Closed the hearing

REPEAL OF THE SIGN ORDINANCE PETITION

"Shall the Town of Rindge repeal the Rindge Sign Ordinance in its entirety?"

Jason Czekalski- said that this sign ordinance has had problems for a long time and as long as it is on the books change will not happen. He said in his opinion there could have been a basic ordinance ready for Town Meeting this year but it was not brought forward because one member (Art Fiorelli) of the board made a decision that the ordinance would not be ready in time. This is meant to force the Planning Board to act because he doesn't trust the Board. This is not eliminating the sign ordinance in Rindge but we need to do something to force the Planning Board to act.

Ed Lamoureux-This sign problem has been going on for a long time. He has been reading about it in the paper. The Sign Ordinance has been in existence for 20 to 30 years. If this is taken off the books, what is to prevent anybody from putting up a sign like was put up in New Ipswich. What if someone out of spite puts up a neon sign?

Les Cypret-(member of sign committee)said in fairness to Art, he did speak to him about not bringing forward the Sign Ordinance and it seemed like the right thing to do at the time. We all

intended that the Sign Committee should move forward and that Ed Lamoureux raised some good points.

Dave Duvernay read from his letter which is enclosed with the minutes. an excerpt is below;

*“What happens if voters **repeal** it? Hopefully, nothing, but with **no** sign ordinance in place, **anyone** could erect **any sign** they please. We would have **no way to stop them**.”*

*Do you want to see the **billboards** the present ordinance prohibits? It doesn't allow **neon signs** on gas stations or convenience stores. Do you want to see them sprout up? It prohibits **banners, balloons, and moving advertising devices**. If we repeal the Sign Ordinance, chances are you will see them all over. Remember the **streamers** at Atlas and the car dealerships? You may see them again, too.*

Let me quote Jason Czekalski's Viewpoints article. “Make no mistake, the sign ordinance is important. Without it, we get the Vegas strip.”

*We cannot merely adopt a **replacement ordinance** in September. It's just not that simple”.*

Dave also stated that any signs that would be erected during the time there was no sign ordinance would be grandfathered once the new ordinance was adopted.

Dave Tower said that he had been on the Board in 1988 when the Sign Ordinance had originally been adopted. He said that there has been some good work done by the sign subcommittee working on updating the ordinance over the past months and sees no reason why it will not be ready to be included in the proposed Zoning Changes for September. He said this approach is a simplistic and unthinking approach and deserves to be rejected. He said he hopes it is.

Art Fiorelli said he wanted to clarify some of the facts presented by Mr. Czekalski. The last week that the subcommittee had to get together a meeting had been scheduled. The chair person, Roberta Oeser was on a cruise, and he attempted to set up three meetings that week. He left two messages at Mr. Czekalski's home and spoke to Mr. Cypret. The only one Mr. Cypret could attend was 8:00AM on Tuesday meeting and the other two meetings would have been attended by Art alone. The only reason he heard from Jason to put forward the ordinance in the form it was in was to put some sort of time limit on the Planning Board as if we weren't working hard enough to get this ordinance completed. The subcommittee was working very hard on this ordinance and making very good progress.

Kim said work has been on going over the last two years the Sign Subcommittee has been instructed to continue meeting in order to complete its work so it will be ready for the warrant in September. Working on the Sign Ordinance is not being dropped. She sees no need to support this petition

Dave Tower made a motion for the Planning Board to Not recommend adoption of this article. Art Fiorelli seconded the motion.

Vote: Kim McCummings-Yes, Deb Sawyer-Yes, John Vorfeld-Yes, Roberta Oeser-Yes, Dave Tower-Yes Art Fiorelli-Yes the motion carried unanimously.

REPEAL OF THE WETLANDS ORDINANCE PETITION

“Are you in favor of repealing the Town of Rindge Wetland Conservation District Ordinance? The Town of Rindge shall allow the State of New Hampshire Wetlands Bureau to continue to regulate and protect the wetlands within the Town of Rindge. This amendment if it passes would include repealing any amendments to the Town of Rindge Wetland Conservation District Ordinance proposed at this Town election.”

Phil Stenersen Rand Road spoke on behalf of the petition stating New Hampshire Department of Environmental Services regulations are sufficient to protect wetlands and water bodies in town. He reviewed the DES regulations and asked why we need a Wetlands Ordinance. Is it to stop development or protect isolated low value wetlands. He talked about paved roads having less impact than gravel roads but according to the Wetlands Ordinance paved roads are not allowed. The town wouldn't allow Home Depot to fill a very small minor wetland in exchange for protecting a very large important wetland area. Home Depot was removing 90-95% more particles out of the water they were treating than was required by state and the town shot them down. Rindge Country store would have made much more sense to pave their drive through.

Ed Lamoureux –this has the most far-reaching and detrimental effects to the town of Rindge we get our water from what comes down from the heavens. We lose that we lose life. This is more critical to the future of Rindge than anything. Antrim and Sharon are upgrading their Aquifer and Wetlands protections. The Board has been voting 100% against these petitions so far tonight I urge you to continue voting that way because the damage that will be done if the Wetlands Ordinance is repealed will be tremendous.

Cathy John Lapham Lane-Conservation Commission The Conservation Commission is in the process of updating the town's Wetland Ordinance to more closely reflect the new state Wetland Protection Ordinance that goes into effect in April. In the mean time we must protect our own wetlands. To find proof that our Wetlands Ordinance works you can look to the Monadnock Ledger Transcript dated 12/31/07 in that issue the story of the year has to do with the flooding in 15 of our neighboring towns. Rindge was absent from that list as a result of our guardianship of our wetlands. Our wetlands ordinance works.

Ben Whalen Red Gate Lane-His real concern is that because we have had a Wetlands Ordinance the town has been able to meet with and make contact with the state on professional level about how much the state should interfere. Just in the last year, people have done things. Without our Conservation people having the authority under the Wetlands Ordinance, it would be a lot longer before the state could come to the town and act on the problem.

Richard Mellor Chairman Conservation Commission- he read the official opinion of the Conservation Commission about this Warrant Article.

The Conservation Commission strongly opposed the petition to repeal the current Rindge Wetlands Ordinance. This Ordinance provides advantages that cannot be achieved under state review including:

1. Local enforcement and review of applicable development plans.
2. Reasonable protection of groundwater and surface water resources.
3. Protected buffer zones around all streams ponds and vegetated wetlands.

The Rindge Conservation Commission recognizes that the current Wetlands Conservation Ordinance needs to be revised and improved. The process is already underway. The importance of our groundwater can't be overstated.

Dave Duvernay read his letter regarding the repeal of the Wetlands Ordinance (on file with the minutes) He stated without a Wetlands Ordinance we will be relying on an overburdened agency.

Jason Czekalski said that this ordinance is very poorly written. Town does not have the resources nor the expertise to manage it properly.

Dick Isakson-The town and the Conservation Commission need to have a chance to sit down together after the changes have been made to the statutes by DES in April.

Rick Godin Lechance Drive-The current ordinance has served the town fairly well in site of its faults. He urged the board not to support this petition. He said giving over control to the stat may not be in the best interest of the town. He encouraged the board and the Conservation Commission to work together on improving the existing ordinance.

John Vorfeld- said it was naive to say that the state will handle it if we don't have a local Ordinance. The state always says "you enforce our ordinance, we just don't have time" that is the case and that has always been the case. He said he thought it was alarmist in nature to say we need to get rid of it all together its more appropriate to amend what has worked fairly well all these year than to throw it out. Anarchy is worse than working with what you have and making it better.

Roberta Oeser-said she was thrilled to hear that the Wetlands Ordinance was being worked on and will hopefully be more in line with the state. She suggested referencing state statute by number and not use the verbiage so when statute language changes you don't need to change the language of the ordinance.

Art Fiorelli-said that Water is our most valuable natural resource especially in Rindge and to take a step back to lesson restrictions for protecting it is not a good idea.

Roberta made a motion for the Planning Board to Not recommend adoption of this article. Deb Sawyer seconded the motion.

Vote: Kim McCummings-Yes, Deb Sawyer-Yes, John Vorfeld-Yes, Roberta Oeser-Yes, Dave Tower-Yes Art Fiorelli-Yes the motion carried unanimously.

AMENDING ACCESSORY DWELLING UNIT ORDINANCE PETITION

"Are you in favor of amending the Requirements/Limitations section of the Town of Rindge Accessory Dwelling Unit Ordinance by amending bullet #3 to state: "Only one ADU (*attached or detached*) shall be allowed per principal dwelling unit and/or lot.", by amending bullet #5 to state: "Any necessary additional entrances or exits *for an attached ADU* shall be located to the side or rear of the building whenever possible.", by eliminating bullet #8 which states: "At least one (1) common, interior access between the principal dwelling structure and the ADU shall be maintained. A second means of egress from the ADU shall be provided." And by adding a bullet which states: "*Detached ADU's may be designed to allow for possible reincorporation into the lot as an outbuilding (carriage shed, garage, private workshop, etc.).*"

Kirk Stenersen of Cathedral Road presented the petition. He wants to allow for a detached ADU.

Phil Stenersen-said he supported this petition.

Jill Lamoureux asked if this was for another dwelling on a piece of land that may not be able to support a second dwelling? Like a two acre property with two houses? She said she loved the idea of taking care of elderly parents but was concerned about people abusing it.

Kirk Stenersen said that there are restrictions on the size and only one would be allowed.

Lois Walen-is there something that says when the parent or family member moves on it needs to be converted back to a garage to keep it from becoming a rental property.

Roberta Oeser said there was nothing that says it has to revert to what it was before. It remains an apartment and it can be rented. It is that way now.

Rick Goden-He was concerned about opening a door to all sorts of accessory units going in to garages and sheds. He saw in Massachusetts people turning garages into rental units. He sees no limits on how many of these can be done in a year and it seems a very slippery slope. Opening up zoning to an unlimited number of conversions is concerning because he has seen it before.

Ed Lamoureux he said he agreed about the slippery slope.

Dave Duvernay read his letter into the record(filed with the minutes)

“The only real issue presented by this Warrant Article is whether the residents of Rindge want second, smaller dwelling units to be located on a single building lot, which are presently prohibited.

The ADU Ordinance limits the size of the ADU to 25% of the square footage of the combined building once the ADU is completed. In other words, if your present house contains 1,000 square feet of space, the new ADU would be limited to 333 square feet, as 25% of the combined 1,333 square feet is 333 square feet.

Admittedly, a second dwelling of only 333 square feet is small and its addition to a building lot could negatively impact its value, but if your existing home were 2,000 square feet in size, you could add a 666 square feet dwelling and rent it out.

Encouraging the construction of second dwellings on a single property, albeit a small second house, is just a bad idea.”

Dick Isakson said that when the ordinance was originally written it was in such a way so there would not be rental units that were the intent. We were providing for family members and care givers. Dick Isakson suggested letting the system work.

Phil Stenersen this is no change to the ADU ordinance just to make it detached.

Roberta Oeser-she endorses this because there are a lot of houses you cannot add on to. These are not cheap to do. These will be very small apartments that will be expensive to do. A second dwelling unit on the property will raise their taxes and detract from their marketability and market price. On the other hand, we have a housing shortage in this town what is wrong with having apartments for your children on your property. She thinks it's a good idea. If you have a two car garage you can put an apartment above it.

Art Fiorelli the purpose of the ADU was to allow for grandparents to live in the ADU or in the main house for taking care of people living there. There was a long discussion with the planning board and a lot of people thought it shouldn't be rental.

Doug Gutteridge thought it would be a good idea.

Dave Tower-The discussion when ADU was adopted two separate units unattached was not what was in mind when the Ordinance was developed. He said he was in favor of retaining the ADU Ordinance as it is presently written..

Dave Tower made a motion to oppose the adoption of this article. Art Fiorelli seconded the motion.

Tim Halliday was present for this vote only

Vote: Kim McCummings-Yes, Deb Sawyer-Yes, John Vorfeld-Yes, Roberta Oeser-No, Dave Tower-Yes Art Fiorelli-Yes Tim Halliday-No the motion carried

WORK MEETIN

Planning Board Stipend

Originally, Roberta made a motion to amend the Planning Board pay goes from minimum wage to a \$300.00 stipend. Tim Halliday seconded the motion for discussion purposes. Kim suggested reducing it to zero

Roberta Oeser amended her motion for the selectmen to put on the ballot a warrant reducing the Planning Board members and Alternates pay from minimum wage to zero. Deb Sawyer motion carried unanimously.

Meeting Adjourned 9:40pm

NEXT MEETING

February 5, 2008

Respectfully submitted,

Robyn Payson