



RINDGE BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD, PO BOX 163

RINDGE, NH 03461

Tel. (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964

www.town.rindge.nh.us

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES OCTOBER 23, 2007

APPROVED

**Members Present: Joseph C. Hill, MD – Chairman, Marcia Breckenridge,
David Drouin, Janet Goodrich**

Alternates Present: Charles Phillips, William Thomas

Excused: George Carmichael, Richard Feldman

Voting Members: Drouin, Goodrich, Hill, Phillips, Thomas

The meeting opened with the pledge of allegiance and an introduction of the members and alternates. First on the agenda was the acceptance of last month's minutes. Before this discussion began, Drouin objected to the lack of a secretary since the vacancy had been known for a month; furthermore he objected to the use of the digital recording of the meeting as the substitute for a secretary and expressed disapproval of the chair acting as both the transcriber of the recording and voting member. Breckenridge offered to act as secretary for the evening and recused herself in order to attend solely to taking minutes. Thomas was appointed as a voting member for the evening and elected as acting vice-chair. Noticing the large audience and the need to hear three cases, Hill made the following motion. I MOVE TO POSTPONE THE APPROVAL OF THE MINUTES FROM SEPTEMBER AND PROCEED DIRECTLY TO THE THREE CASES. Goodrich seconded. The motion passed. Yays were Goodrich, Thomas, Hill and Thomas. Nays were Phillips.

The hearing of Case 976 Carroll Lehman asking for an Area Variance began. Mr. Lehman explained that he had added a portable carport and didn't know he needed a permit. After talking to the CEO who explained that the carport did not meet set back regulations, he filed for a variance. When asked whether he could move the carport to another spot on the property, Lehman explained that there is a drop off of land which makes a different placement impossible. Board members voiced concerns about a driver's ability to see the road safely before exiting the structure. Phillips suggesting removal of one panel of the structure to allow a broader view. Drouin made the following motion: I MOVE TO CLOSE THE DISCUSSION. Phillips seconded. The motion passed unanimously. Before Hill began the decision tree discussion, Drouin made the following motion. I MOVE THE DECISION TREE QUESTIONS BE BASED ON THE MODIFICATION OF REMOVING ONE PANEL TO ALLOW A BROADER VIEW OF THE ROAD. Phillips seconded. The motion passed unanimously. The Board agreed granting the variance will not be contrary to public interest because public safety will be enhanced. The Board also agreed granting the variance is needed to enable the proposed use of the property because of special conditions of topography and lot size. No other reasonable



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alternative exists. The Board agreed granting the variance is consistent with the spirit and intent of the Zoning Ordinances since the carport provides neat, attractive protection for a vehicle. The Board agreed that granting the variance does provide substantial justice, and there is no negative effect.* See attached Decision Tree for Case # 976. Since all criteria were met satisfactorily, Drouin made the following motion: ****I MOVE THE BOARD GRANT THE VARIANCE WITH THE MODIFICATION THAT THE FIRST LOWER PANEL BE REMOVED UP TO THE SECOND VERTICAL UPRIGHT.** The approval was unanimous.

Discussion of Case # 979 Lyle Stenersen applying for an Area Variance began. The applicant's brother began by giving a brief background of the case. Lyle's elderly parents summer in Rindge, and the younger family members want to provide a place for them that allows privacy but keeps them close enough to help. Kirk Stenersen, a relative and licensed contractor, explained that no shared adjacent wall is present between the proposed structure and the younger Stenersen's home. The variance is needed because the proposed structure is detached; it is the family's plan to convert the new structure to a three car carriage shed after the death of the inlaws. They are not asking for a separate housing unit on the existing property and Stenersen believes the request meets the criteria of the decision tree for variances. He further explained that the existing house is a split level which poses problems with attaching the new 670 square foot structure; in addition the younger Stenersens do not want or need this extra space after the need for an inlaw quarters passes so converting to a garage is a definite part of the plan. Dr. Hill began Board comments by saying, "You are proposing a second house, not an ADU." Stenersen replied, "By the words in the ordinance, I am proposing an ADU." Thomas asked, "What happens when the next owner has two living quarters? That is a major concern." Goodrich responded, "The intent and spirit of the zoning ordinances are to encourage reincorporation." Hill agreed. "I have a major hang up. Isn't opening the door to a second noncontiguous structure opening Pandora's Box?" Drouin suggested including a stipulation that the approval of an ADU be limited to the lifetime of the parents. He too worried about setting a precedent. The CEO (Code Enforcement Officer) commented that at first he thought the Stenersens wanted a guest quarters, but the kitchen area and living facilities make this proposal a separate dwelling. Hill added that the ZBA has no ability to change written ordinances, and the current ordinance says ADU's are attached. The ZBA can't imply that there is such a thing as a detached ADU. Stenersen pointed out that was the exact reason the variance was filed. Debate continued when Thomas pointed out his concerns about the septic system. He felt that when the conversion to carriage shed should occur, there will be a temptation to continue using the second dwelling. Drouin agreed and pointed out the temptation to rent to college students or other nonfamily people. No method for enforcing a "family only" occupation exists. Hill asked about the relative cost of an attached ADU and a detached ADU. There is no significant difference. Discussion about the septic system resumed, and Stenersen pointed out that the approved septic system plan for a five bedroom house exists, but this can't be used if an attached ADU is placed in the back yard area, and other areas won't work for attachment because of a seven foot rise. Mrs. Susie Stenersen, daughter of the elderly parents in question, said she could not see the problem. The CEO replied, "The proposal is illegal." Hill concurred and said that a second



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separate structure on the same lot as an existing home is illegal. Goodrich said she needed more time to consider the issues. She also asked if the parents could be housed in a lower level of the split level. The answer was no since the space was small and provides little privacy from the eighty plus grandchildren. Goodrich made the following motion: ****I MOVE THE BOARD TO CLOSE TESTIMONY ON THIS VARIANCE FOR TONIGHT.** Phillips seconded. The motion passed unanimously. Then Drouin made this motion: ****I MOVE THE ZBA ASK TOWN COUNSEL TWO QUESTIONS. 1. IS THERE A LEGAL INSTRUMENT TO LIMIT THE VARIANCE TO THE PRESENT OCCUPANTS AND THE ELDERLY PROPOSED OCCUPANTS? 2. DOES THIS VARIANCE SET A PRECEDENT FOR OTHER NON ATTACHED ADU'S?** Thomas seconded. The motion passed unanimously. The Board then agreed that the chair would send a letter to Beth Fernald with a cc to Kirk Stenersen. Drouin then ended this case's discussion by making the following motion: ****IMOVE TO CONTINUE THIS CASE UNTIL NOVEMBER 27.** Phillips seconded. The motion passed unanimously.

Discussion of case # 978 Alain J. Choquette's request for a special exception began. Kirk Stenersen of Higher Design represented the applicant who could not be present. He stated the proposal for a driveway would meet Rindge ordinances regarding wetlands. The applicant plans to build three additional houses on the 35.5 acres; each house would meet the need for 250 square feet of frontage because of the shared cul de sac. Drouin was told that all the houses would share the cul de sac. Hill was told the proposed driveway would be gravel and the road involved would be brought up to town code though not maintained by the town. Redvers White in the audience expressed concerns over the frontage requirement being met by a non public road. Further concerns about expanding plans for a larger subdivision were expressed by Steve Johnson whose property is close to the proposed site of the houses. He reported that college students already speed on that road, and building this new driveway will have a terrible impact. He believes this proposal is the first step in a plan for expanded growth of housing units in an already congested area. Drouin pointed out that the ZBA can only deal with the particulars of this case, not long range projections. Shawn Dwyer, also a member of the affected area, said Abel Road was dangerous with no sidewalks, many cars and rapidly expanding development. He felt allowing one cul de sac to provide required frontage for several houses was a very bad idea. Hill pointed out the ZBA can't do anything except assess this particular application based on the decision tree used by the Board for all Special Exceptions. Goodrich suggested that concerned citizens should speak to the Planning Board about subdivision objections; the only issue the Board can address is the driveway. Drouin made the following motion: ****I MOVE TESTIMONY ON THIS CASE BE CLOSED.** Phillips seconded. The motion passed unanimously. The decision tree questions were discussed, and these conclusions were reached. Granting this Special Exception will not create excessive traffic, congestion, noise or odors. Granting will not reduce the value of surrounding property. There are adequate sewage, water facilities and parking. Granting the exception will preserve the attractiveness of the town. Since all criteria were met, Goodrich made the following motion: ****I MOVE THE BOARD GRANT THE SPECIAL EXCEPTION WITH THE PROVISION THAT ALL STATE PERMITS BE**



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RECEIVED. Phillips seconded. The motion was passed unanimously. *See attached decision tree for Case # 978.

Because the hour was late, Drouin made the following motion: ****I MOVE THE BOARD CONSIDER THE SEPTEMBER MINUTES, AND THE HIRING OF THE SECRETARY TONIGHT AND DELAY ROP CHANGES.** Phillips seconded. The motion passed unanimously. After discussion, changes were made in the Sept 25 minutes and will be available at the Nov meeting. Drouin made the following motion: ****I MOVE ACCEPTANCE OF THE AMENDED SEP 25 MINUTES.** Thomas seconded. The motion passed unanimously. Drouin then made the following motion: ****I MOVE THE BOARD GO INTO EXECUTIVE SESSION.** Phillips seconded. Coming out of executive session, Drouin made the following motion: ****I MOVE THE BOARD HIRE KATHRYN STRASSER AS BOARD CLERK.** Phillips seconded. The motion passed unanimously. At 10:27 Drouin moved to adjourn; Thomas seconded. The motion passed unanimously.

Respectfully submitted,
Marcia Breckenridge
Recorder for this meeting

Respectively submitted:

Joseph C. Hill, MD

Chairman

William Thomas

Acting Vice Chairman