



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 JANUARY 22, 2008

APPROVED

Regular Members Present: Chairman Joseph C. Hill, George Carmichael, David Drouin, Marcia Breckenridge, and Janet Goodrich.

Alternate Members Present: William Thomas.

Hill opened the Public Hearing at 7:00 pm with the Pledge of Allegiance.

Members and alternates introduced themselves and their status. Hill stated that Richard Feldman is excused for tonight.

Hill asked if there would be any recusals for this evening's cases. There were none. He then explained the Rules of Procedure for the hearing to all those present.

Approval of Minutes of November 27, 2007

Drouin expressed frustration with the way minutes are being handled prior to approval. He stated that Hill should not be emailing changes to the clerk before the Board votes on them at the meeting. Hill stated he was just trying to save time for the clerk, and that the Board did not have to accept his changes. After extensive discussion, Goodrich moved the question to later in the meeting. All agreed.

Case #981: Sally McCaigue, Trustee of John B. Rice, Main Street, Rindge, NH 03461, Map 30/Lot 40 Beachview Drive: Application for an Area Variance from Article V, Section B-2 of the Rindge Zoning Ordinance.

Hill stated that sitting on this case will be himself, Goodrich, Carmichael, Drouin, and Breckenridge. Goodrich read the case before the Board, Thomas summarized the Ordinance(s).

John Walsh summarized the lot boundaries, rights of way and setbacks. Discussion was held regarding septic system, perc tests, and driveway configuration. Mr. Walsh stated there would be a three bedroom house constructed on the lot, and that a review by the Code Enforcement Officer concluded the variance is reasonable.

Hill stated the Board received two letters of opposition and read them into the record as follows:

“Dear Dr. Joseph Hill and Members of the Board,



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

I have received your public hearing notice indicating a hearing to be held on January 22, 2008 at 7:00 pm at the Rindge Town Office to take up the above referenced case. I am unable to attend this meeting, as I am a business owner in New York. I am the owner of the house at 17 Beachview Drive which abuts the above referenced property. I was quite disturbed to receive your notice requesting a zoning variance for the lot that abuts mine. This is not a buildable lot according the Rindge Zoning Ordinance, I must voice my complete opposition to granting a variance. The reason that these zoning ordinances exist, is to preserve the integrity of this waterfront community.

I would like it stated in the record that I oppose the granting of an area variance for the above referenced property.

Sincerely, Eugene Cook”

“Dear members of the board:

On behalf of the shareholders of Crowpond Inc I would like to oppose the request for an area variance for the property concerned.

As we have understood it, this is not a buildable lot according to the Rindge Zoning Ordinance. That is why it has been unsold on the market for several years. The lot should not be buildable, because there is not enough setback to meet zoning standards, or to permit the installation of a septic system which would meet sanitary standards.

As it appears to us, developers are seeking a variance in order to build a house on speculation. This has happened before, when a developer built an illegal house on the Crowcroft Drive side of the pond, now owned by Mr. and Mrs. Bill O’Neill. That lot was also not buildable according to the zoning ordinance, but evidently a retroactive permit was issued. Likewise, we are concerned that the house built by William Hughes on lots 34-1 and 15-3-1 did not meet setback standards and violated easements belonging to Crowpond Inc. We are therefore concerned about a pattern of events undermining the Rindge Zoning Ordinance and Crowpond property rights.

We can see no valid reason for waiving the zoning ordinance in this case, as no hardship is involved and the rights of both the corporation and individual property owners are involved.

Crowpond representatives will not be able to attend the January 22 meeting, but we urge that the application be denied. Should the case be continued, please let us know so that we might consider employing counsel.

Sincerely yours
Margaret C. Barry”



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

After further discussion, Breckenridge moved to end discussion and go into deliberation, seconded by Drouin, and the motion carried unanimously.

The Board found that:

- 1. The Variance will not be contrary to the public interest. On this issue the applicant and others provided evidence that:**

The setbacks concerning wetland and paved town roads are still honored. The Variance is on a private right of way so there is no public interest.

- 2. a. The Area Variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. On this issue the applicant and others provided evidence that:**

Wetlands as well as public way setback preclude building elsewhere, **and the Area Variance is needed for this because:** As above.

b. The benefit sought by the applicant cannot be achieved by some other reasonably feasible method. On this issue the applicant and others provided evidence that: As above.

Special conditions do exist such that literal enforcement of the ordinance results in unnecessary hardship. On this issue the applicant and others provided evidence that:

There are four (4) setbacks that limit buildable space.

- 3. The variance is consistent with the spirit and intent of the Rindge Zoning Ordinance. On this issue the applicant and others provided evidence that:**
It protects the setbacks and the wetlands and the building is still 50' back from the public right of way.
- 4. Substantial justice is done by granting the variance. If the variance is denied, the applicant will be burdened. On this issue the applicant and others provided evidence that:**
The buildable area is not practical, **and there is no significant benefit to the Town in denying the variance because:**
It is in keeping with the spirit and intent of Rindge Zoning Ordinances and the 10' violation is not excessive.
- 5. Granting the variance will not diminish the value of surrounding properties. On this issue the applicant and others provided evidence that:**
It is in keeping with the neighborhood.



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

A Motion was made by Breckenridge, seconded by Drouin to GRANT the Area Variance with the provision that a State approved septic design is obtained. The motion carried unanimously.

Case #979: Lyle Stenersen, 49 School Street, Rindge NH 03461, Map 29/Lot 5: Application for an Area Variance from Article I, Section 13 of the Rindge Zoning Ordinance – Accessory Dwelling Unit.

Hill stated that this case has been continued from October 23, 2007 and November 27, 2007, and sitting on this case will be himself, Drouin, Thomas, Goodrich, and Breckenridge. Goodrich read the case before the Board and Thomas summarizes the Ordinance(s).

Hill asked if there was any further testimony. Mr. Kirk Stenersen submits numbers for detached ADU vs. an attached, and stated it would be roughly 13% cheaper to do a detached ADU. Mr. Luke Ciarfella asked if the lot needed to be professionally surveyed and expressed concerns about the new septic design. Mr. Stenersen stated neither issue is a problem.

Mr. DuVernay stated that based on the way the Ordinance is written, the Board would have to deny this variance. He stated that there will be a warrant article on the ballot in March to change this ordinance, but the Board will have to decide the issue with the current Ordinance as it stands. Discussion was held.

After discussion, Breckenridge moved, seconded by Drouin to close discussion and go into deliberations. The motion passed unanimously. Drouin stated he would like to put three conditions on the deliberations as follows: 1. The ADU is to be screened in such a way that it cannot be seen from the street. 2. Only two persons will ever occupy the ADU. 3. The ADU may never be expanded beyond the proposed 656 square foot living area regardless of any future expansion of the main dwelling. Breckenridge stated she has a problem with condition #2, in that there is no way to enforce it, and it would put the zoning and code enforcement officers in the role of police officer. Thomas concurred. Following discussion, the Board proceeded with deliberations with no conditions attached.

The Board found that:

1. The Variance will be contrary to the public interest because:

It goes against the purpose of what was adopted by the Town in 2006 concerning single family dwellings per lot.

2. a. The Area Variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. The special conditions of the property are:

Grade change on the right hand side limits access, split level construction on left side eliminates single floor living.



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

b. The benefit sought by the applicant can be achieved by some other reasonably feasible method because:

An attached ADU can be constructed to provide housing for elderly parents.

Special conditions do not exist such that literal enforcement of the ordinance results in unnecessary hardship because:

There are no special conditions that exist.

3. The variance is not consistent with the spirit and intent of the Rindge Zoning Ordinance because:

It is not consistent with voters' decision of 2006 regarding ADU's.

4. Substantial justice is not done by granting the variance and if the variance is denied, the applicant will not be burdened because:

There are alternatives, and there is significant benefit to the Town in denying the variance because:

It confirms the town vote regarding one house per lot.

5. Granting the variance will not diminish the value of surrounding properties because:

There will be minimal traffic increase, limited visibility from the street, it would have the appearance of a carriage house, and does not change the appearance of the current residence.

A Motion was made by Goodrich, seconded by Hill to DENY the Area Variance because all 5 criteria were not met. The motion carried 4-1.

In favor: Breckenridge, Goodrich, Hill, Thomas

Opposed: Drouin

Mr. Stenersen requested that Case #980, Lyle Stenersen, 49 School Street, Rindge NH 03461, Map 29/Lot 5: Application for a Special Exception from Article I, Section 13 of the Rindge Zoning Ordinance-Accessory Dwelling Unit, be withdrawn from the Agenda. Hill directed.

Hill called at recess at 9:17 pm for 5 minutes.

Case #982: Aylmer Givney III, Woodbound Lodge, 247 Woodbound Road, Rindge, NH 03461, Map 49/Lot 21: Owner Kohlmorgen Hospitality: Agents – William & Maryann Harper, West Rindge Builders, P.O. Box 350, Jaffrey, NH 03452. Application for a Special Exception from Article X, Section C of the Rindge Zoning Ordinance.



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

Goodrich read the case before the Board; Thomas summarized the Ordinance(s). Hill stated that sitting on this case would be himself, Breckenridge, Goodrich, Carmichael and Drouin.

Mr. Harper showed plans and pictures of the proposed additions, which are a stair tower to comply with Life Safety Code and NFPA requirements and two new bathrooms that will be in compliance with the Americans with Disabilities Act; and a covered loading dock that will be more efficient and also improve the appearance of the side of the Inn. Discussion was held regarding the setback issue and septic system.

Mr. DuVernay reads from a memo:

“The only reason this application is required at all the Woodbound Inn is a grandfathered, nonconforming business operating in the Residential District and any addition or alteration to it requires a Special Exception.

Mr. Harper has measured the distance from the edge of the right-of-way to the location of the proposed additions and assured me they do not violate the 50-foot setback required in the Residential District.

The Town of Rindge should be pleased this long-standing business will be upgraded by the proposed alterations and particularly the improvements in the Stair Tower to achieve compliance with the current Life Safety code and NFPA requirements, replacing a non-compliant, exposed fire escape stairway.

Inasmuch as these alterations seek to improve an existing business, it meets all criteria established by Article XII-B and you should grant the Special Exception.”

Hill read the following Planning Memo into the record as follows:

“On Thursday, January 3, 2008, at its regularly scheduled meeting, the Planning Board voted unanimously to endorse the proposed renovations to the Woodbound Inn and to recommend to the Zoning Board of Adjustment that the Special Exception requested to permit these renovations be approved.”

Carmichael moved, Breckenridge seconded to end discussion and go into deliberations, and the motion passed unanimously.

The Board found that:

- 1. The use will not create excessive traffic, congestion, noise or odors. On this issue the applicant and others provided evidence that:**
There will be no excessive traffic.



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

- 2. The proposed use will not reduce the value of surrounding properties. On this issue the applicant and others provided evidence that:**
The existing property is being renovated and updated to code.
- 3. There is adequate sewage and water facilities and sufficient off street parking provided by the applicant. On this issue the applicant and others provided evidence that:**
There will be less load on the system and better lighting for parking.
- 4. The proposed use will preserve the attractiveness of the Town. On this issue the applicant and others provided evidence that:**
The existing property is being renovated and updated to code, the appearance will be upgraded, and the alterations will not further violate the grandfathered setback.

A Motion was made by Carmichael, seconded by Breckenridge to GRANT the Special Exception. The motion carried unanimously.

Carmichael and Drouin were appointed case reviewers for February.

Mr. Stenersen requested a refund of the fee for Case #980 that was taken off the Agenda. Carmichael moved, Breckenridge seconded to refund the fee, and the motion passed unanimously.

Second reading of changes to Rules of Procedure

Discussion was held regarding Mr. DuVernay's role in reviewing cases that come before the Board. Drouin stated he should only be reviewing cases for completeness, and not on merits. Carmichael concurred. After discussion, Breckenridge moved and Goodrich seconded to amend Page 5 of the Rules of Procedure by adding statement as follows:

- j. The Code Enforcement Officer will review applications for technical completeness, and notice the Board of that. Any written report on the merits of the case will be presented at the meeting.

The motion passed unanimously.

Breckenridge moved, seconded by Goodrich to approve the Minutes of the November 27, 2007 Meeting as amended. The motion passed unanimously.

Carmichael moved, seconded by Breckenridge to adjourn at 10:40 pm and the motion passed unanimously.



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

Respectfully submitted,

Kathy Strasser, Clerk

Respectfully submitted

Joseph C. Hill, MD

Chairman

George Carmichael

Vice-Chairman