



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 July 28, 2009

Regular members present: Janet Goodrich, David Drouin and Marcia Breckenridge.

Alternate members present: Richard Feldman, Charles Phillips, William Thomas and Charlie Eicher.

Goodrich opened the Public Hearing at 7:00 pm with the Pledge of Allegiance. The members and alternates introduced themselves and their status. Goodrich read the rules of procedure and asked if there were any recusals. There were none.

The Clerk stated the Public Hearing notice was posted at the Town Office, Library, Police Station, Fire Station, Transfer Station and the Monadnock Ledger-Transcript.

Case #1004: Patrick J. Fisher, PO Box 146, East Templeton, MA, 01438 property address Forristall Road, Rindge, NH 03461, Map 2/Lot 33 for a Special Exception from Section 6 of the Wetlands Conservation District Ordinance to allow access to the rest of the lot for logging, etc. as allowed by Ordinance Section 4G.

Phillips read the case before the Board and Thomas summarized the ordinance(s).

Goodrich stated that sitting on this case would be herself, Drouin, Breckenridge, Eicher and Thomas.

Mr. Grasewicz handed out maps of the project to the Board. He stated that for Mr. Fisher has to cross wetlands to gain access to the rest of his land. He stated that approximately 1700 square feet would need to be filled and cultivated in order to accomplish this. He stated that there is a dredge and fill permit pending at the state level.

Discussion was held regarding runoff from the driveway and whether the driveway would be pervious or impervious. Drouin expressed his concern that it be pervious. Mr. Fisher stated he wanted to cut firewood in the summer, and that the project could protect against fire by allowing for better access. Mr. Cilibrasi, an abutter, expressed concern that the project would impact his water quality. Mr. Grasewicz stated that all the work would be downstream from his property and would not be an issue.

Drouin moved, seconded by Breckenridge to close discussion and move to deliberation and the motion passed unanimously.

The Board found that:

1. The use will not create excessive traffic, congestion, noise or odor. On these issues the applicant and others provided evidence that the area is isolated private property with no



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negative impact from noise or odor. There is no increase in traffic anticipated due to private use. Unanimous decision.

2. The proposed use will not reduce the value of surrounding properties. On this issue the applicant and others provided evidence that the outflow from the culvert will be downstream and away from other properties, and the culvert is not visible to neighboring properties.

Unanimous decision.

3. There are adequate sewage and water facilities and sufficient off street parking provided by the applicant. On these issues the applicant and others provided evidence that the water use has been addressed, and sewage and parking issues don't apply. Unanimous decision.

4. The proposed use will preserve the attractiveness of the Town. On this issue the applicant and others provided evidence that the project will not be visible from the street or neighboring residences. Unanimous decision.

5. A Special Exception for dredging, filling, draining or otherwise altering the surface configuration of surface waters, wetlands, or land within the Wetlands Conservation District must meet the four Special Exception Criteria and:

a. Prove that the proposed use will not conflict with the purpose and intent of the Wetlands Conservation District Ordinance. On this issue the applicant and others provided evidence that the proposed use is not in conflict with Section 2B of the Wetlands Conservation District Ordinance. Unanimous decision.

b. The applicant must have obtained all other applicable permits.

c. The Rindge Conservation Commission must produce an advisory opinion on the application. (Opinion attached).

A motion was made by Drouin, seconded by Breckenridge to Grant the Special Exception with the following conditions: (1) 5b must be completely fulfilled, and (2) Final top grade surface be engineered, permeable, stamped and provided to Code Enforcement Officer prior to proceeding. The motion passed unanimously.

Case #1005: Carroll Lehman, 64 Kimball Road, Rindge, NH, 03461, Map 35 Lot 8-1, for an Area Variance from Article 4 Section B-2 of the Rindge Zoning Ordinance to permit construction of an attached garage to the existing home.

Phillips read the case before the Board; Thomas summarized the ordinance(s).

Goodrich stated that sitting on this case would be herself, Drouin, Breckenridge, Eicher and Thomas.



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Mr. Knowlton stated the homeowners want to replace their carport, which is a safety issue, by adding an attached garage. He stated the garage would help improve road maintenance, plowing and would be safer than the carport, which encroaches into the right-of-way. Discussion was held. Mr. DuVernay submitted a memo to the Board. He asked if granting this variance would negate the previous one that was granted allowing for construction of the carport. He expressed concern that a future owner of the property could reconstruct the carport since the variance would still be with the land. Discussion was held with the issue left unsettled.

Breckenridge moved, seconded by Thomas to close discussion and move to deliberation and the motion passed unanimously.

During deliberation, Drouin moved, seconded by Thomas to reopen the discussion regarding the previous variance that was granted, and the motion passed unanimously. Various suggestions were made as to how the previous variance could be nullified; however, none were unanimously accepted. Breckenridge stated that she did not want to add any conditions for a situation that may never happen. The Board then resumed deliberations.

The Board found that:

1. The Variance will not be contrary to the public interest because removal of existing carport will improve safety and ease of snow removal. Unanimous decision.

2. a. The Area Variance is needed to enable the applicant's proposed use of the property given the special conditions of the property, which are small lot size and limited setback, **and the Area Variance is needed for this because** without it the application does not meet the requirements of Article 4 Section B-2. Unanimous decision.

b. The benefit sought by the applicant cannot be achieved by some other reasonably feasible method because it is the only feasible location for the garage. Unanimous decision.

Special conditions do exist such that literal enforcement of the ordinance results in unnecessary hardship because the only alternative would be to use the existing carport which is less safe and encroaches into the right-of-way. Unanimous decision.

3. The variance is consistent with the spirit and intent of the Rindge Zoning Ordinance because the project increases safety and restores the charm of the site. Unanimous decision.

4. Substantial justice is done by granting the Variance. If the Variance is denied, the applicant will be burdened because the only alternative would be to use the existing carport which is less safe, **and there is no significant benefit to the Town in denying the Variance because** there is no cost to the Town and it meets all criteria of the ordinance to promote health, safety and charm. Unanimous decision.



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5. Granting the Variance will not diminish the value of surrounding properties because the project improves curb appeal and increases safety. Unanimous decision.

A motion was made by Drouin, seconded by Eicher to Grant the Area Variance conditional upon removal of existing carport and parking area and re-grade/reseed into lawn, and the motion passed unanimously.

Thomas moved, seconded by Drouin to approve the minutes of the May 26th Public Hearing and the motion passed unanimously.

Breckenridge and Eicher were appointed reviewers for August.

Drouin asked if the hours for Board members had been submitted to Bookkeeping. The clerk stated they had. Drouin also stated he would like phone numbers on applications so that an applicant could be contacted if needed. The clerk will screen applications for phone numbers.

Breckenridge moved, seconded by Thomas to adjourn at 8:30 pm and the motion passed unanimously.

Respectfully submitted,
Kathy Strasser, Clerk

George Carmichael

Chairman

Janet Goodrich

Vice-Chairman



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Rindge Conservation Commission
30 Payson Hill Road
Rindge, NH 03461

July 24, 2009

Rindge Zoning Board of Adjustment

Re: Dredge and Fill Application
Map 2, Lot 33

The Conservation Commission conducted a site review concerning the Dredge and Fill application (7/7/09 re: Map 2, Lot 33) submitted by Mr. Patrick Fisher.

- 1) We recommend that the culvert be 2 to 3 inches lower than shown in the plan to allow for a natural bottom.
- 2) The ZBA should verify that the surface is permeable. If the surface is impervious, it must meet the requirements of Town Ordinances for runoff.
- 3) The Conservation Commission finds that the plan meets the minimal impact to wetlands required.

Robert Henderson
Co-chairman
Rindge Conservation Commission

Cc: Mr. Fisher
DES Wetlands Bureau