



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 AUGUST 28, 2007

APPROVED

Regular Members Present: Joseph C. Hill, MD – Chairman, George Carmichael, Vice Chairman, Marcia Breckenridge, and David Drouin.

Alternate Members present: Janet Goodrich, Charles Phillips, and William Thomas.

Hill opened the public hearing at 7:00 PM with the Pledge of Allegiance and explained the Rules of Procedure for this hearing to all those present.

The members and alternates introduced themselves and announced their status on the Board.

Hill asked if there would be any recusals for this evening's case. There were none; Mr. Feldman is absent this evening.

The Secretary announced where the Notice of Public Hearing was posted: Town Office, Police Station, Transfer Station, Post Office, Fire Department, Library and the Monadnock Ledger.

Hill asked that the record show the Board's appreciation for Bill Harper's service on the Board of Adjustment. A motion was made by Goodrich seconded by Carmichael, and passed unanimously.

Minutes – July 23, 2007

A motion was made by Drouin that the minutes be postponed to the end of the hearing as he had several structural questions and/or comments with regard to same. The motion was seconded by Breckenridge and the motion passed unanimously.

Case # 974: Donna Cuzzi, 52 Redgate Lane-Map 34/Lot 31 requesting relief from the Rindge Zoning Ordinance for an Area Variance to allow an 8'x8' storage shed within the 15' side setback and within the 50' right-of-way setback.

Those voting on this case this evening are: Goodrich, Hill, Carmichael, Drouin, and Breckenridge.

Thomas read aloud Case # 974. Hill summarized the article(s) affecting this application; it is the Zoning Ordinance Article IV:B-2.

Donna Cuzzi was in attendance to present her application. She stated that she wished to locate an 8' x 8' pre-fabricated shed on her property to store lawn tools, gasoline cans, lawn chairs, etc into. The shed will be delivered to the site. Cuzzi said this would not be living space.



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Anthony Cuzzi, son of Donna Cuzzi, said that the other out buildings had become dilapidated and have fallen down and been removed from the site. There was a shed on the property previously that was 12' x 12'. The shed will be placed on either crushed stone or blocks and will not be a permanent structure.

The shed will be located behind a clump of trees and not visible from the road. Drouin has accompanied the Conservation Commission to the site and feel it is the best location. DuVernay agreed that the location chosen is the best site for the shed given the placement of the driveway, septic field, and that the lot is only 100' deep. The other issue is that no matter where the shed is located on this lot, it will be non-conforming in light of current zoning laws. The shed is proposed to be 30' from the right-of-way (Red Gate Lane) 8'-10' from the abutting property line owned by Wozniak, and 55' from the other abutting property, owned by Bennett.

Hill questioned why the shed could not be placed in a conforming manner 50' from the road and 15' from the edge of the Wozniak property line. Cuzzi responded that it would be in the middle of the lawn if it were placed 15' from the abutting property line and 50' from the road; also that there was a right-of-way. Cuzzi said that there was a right-of-way that Mrs. Perry, at a time when there was no electricity, drove her boat to the other side of the pond, where there was a small cabin. It was not clear where this access/right-of-way was located but after discussion, thought to be on the Wozniak property.

The drawings submitted to the Board are not drawn to scale and do not reflect the true representation of the lot. The lot is very tight, narrow and extremely small.

Anthony Cuzzi said that they are trying to improve the property that has been in disrepair and not maintained for 10 – 20 years.

Bill Herzog, Ben Whalen, and Lois Winn were in attendance to offer their support for this application. Donna Cuzzi said that she had spoken with abutter Wozniak who had no problems with the proposed shed and placement.

Breckenridge made a motion to close the testimony phase of the hearing and proceed to deliberation seconded by Drouin, and the motion passed unanimously.

1. The variance will not be contrary to the public interest because:

Provides storage for yard equipment.

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:

Placing the shed anywhere else interferes with the reasonable use of the property.



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2.b: The benefit sought by the applicant cannot be achieved by some other reasonably feasible method because:

Placing the shed anywhere else interferes with the reasonable use of the property and the lot is limited in size and shape.

Special Conditions do exist such that literal enforcement of the ordinance results in unnecessary hardship because:

Placing anywhere else interferes with the reasonable use of the property and because any placement requires relief.

3. The variance is consistent with the spirit and intent of the Rindge Zoning Ordinance because:

It is consistent with the spirit and intent because it promotes health and safety.

4. Substantial justice is done by granting the variance. If the variance is denied, the applicant will be burdened because: Would interfere with reasonable use of the property and there is no significant benefit to the Town in denying the variance because: It promotes health and welfare.

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

The shed will promote health and welfare.

Motion was made by Breckenridge to GRANT the variance, seconded by Drouin and the motion passed unanimously.

CASE REVIEWERS FOR SEPTEMBER

The case reviewers for the month of September will be: Breckenridge and Carmichael.

Hill Said that Home Depot has dropped their suit against the Town; however, they submitted to Beth Fernald, Town Attorney, a motion to substitute Veneto and Smith for Home Depot in their appeal to the Supreme Court and asked for a 30 day extension. Beth replied that the Town would not object to a 30 day extension but did not mention the substitution of Veneto & Smith for Home Depot.

Hill suggested that each regular and alternate email their thoughts to Beth Fernald, Carlotta Pini, Town Administrator, and the Board of Selectmen.



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Drouin, Carmichael and others felt this was inappropriate for the members of the Board of Adjustment to do. Each case is viewed on an impartial basis and if Veneto and Smith come before the Board for a hearing it will be considered an entirely new case based on it's merits.

It was agreed that no member would email thoughts to Beth Fernald in this regard.

Minutes – July 23, 2007

Hill had corrections:

1. Remove the fifth sentence from “Hill asked” to “William Thomas”. The sentence will begin with “The sitting....” and end with “Charles Phillips”.
2. Page five, near the bottom, “t he” will be replaced with “the”.

Breckenridge had a correction:

1. Page five, near the bottom, the end quote should be added after the word, “Preschool.”

Drouin had comments:

1. Page one, last paragraph – This is essentially retyping the whole Article, is this necessary? The Board agreed it was not. That listing the Article itself was enough. Drouin suggested that putting just the actual Article number under the announcement of a case was appropriate. Whoever is reading the Articles should do it after the case is announced.
2. Page five, first sentence: Is this the appropriate location for the reviewers to be appointed? This is where Hill had brought up the nomination of the August reviewers – but it should be listed at the end of the public hearing, not in between the cases. The Board members agreed that for future applications, it will be listed after the case(s) is/are finished.

Motion was made by Goodrich to accept the minutes of July 23, 2007 as corrected, seconded by Carmichael. The motion passed unanimously.

Hill said that the Notice of Public Hearing this month did not include the Article numbers that were being appealed. It described the proposal and what relief was being sought.

The Secretary explained the series of events. The past two hearings have had problems with the applications and have filed for relief for Articles that they did not need relief from. The applicant should go to the Code Enforcement Officer for explanation as to what Articles they are appealing. He will generate a letter to the applicant advising which Article is appropriate for his/her application. This letter should be a part of the



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application when it is submitted to the Board with eleven copies. This would stop the problem we have been experiencing.

Motion was made by Breckenridge to include the applicable accurate Ordinances, Articles, and if appropriate the RSA's in the Notice of Public Hearing, seconded by Carmichael and the motion passed unanimously.

Drouin moved that all checklists be amended to include review by Code Enforcement Officer prior to BOA reviewers with a letter provided to the applicant, seconded by Hill and the motion passed unanimously.

Hill handed out to the members information he would like them to review. These are further proposed changes to the Rules of Procedure having to do with appointed and elected officials.

Drouin suggested the following language be placed on page one, #1:A" that until March of 2010 alternates and replacements shall be appointed by the BOS and on Page one #1 and 2 should read, "after March 2010 the following applies: # 2,3,4 and 1A no longer applies."

There was significant discussion by the Board and it was agreed that the decision did not need to be made this evening and to review what Hill had passed out and be prepared to discuss this further next month.

Hill passed out the response from NHMA regarding the filling of a vacancy on the Board of Adjustment. The Town Administrator had contacted NHMA for clarification regarding elected and appointed officials. Hill said the information given was wrong and he called NHMA to inform them. Drouin reminded Hill that the Board had specifically told him not to make calls to anyone without their express permission and wording of the questions to be asked in such calls. Carmichael said that the Selectmen were about to make a decision based on misinformation and that is why Hill called NHMA, without discussing with the Board. Hill said he did not inquire anything from the attorney. Drouin thought the Administrator should have been told of the perceived error and it was her job to contact NHMA again presenting the correct information and that the Board could have taken it up at the next hearing. There is no urgency for the ZBA to act immediately. It does not need to be addressed until March 2008. Carmichael concurred. Hill disagreed.

Hill passed out a series of letters to the Planning Board for the Zoning Board to review for discussion of possible changes to the ROP's for everyone to consider with regard to where the alternates sit, identification of regular and alternate members, nameplates, etc. The Zoning Board of Adjustment recently changed it's Rules of Procedure with regard to some of these items. Hill asked the Board to consider whether they want to change them again after reviewing this information.

The Board agreed that in the minutes of each hearing the members and alternates sitting on each case will be listed under the case number so as to alleviate confusion as to who is a voting member. This will also help with knowing who sat on a case in the event that information is necessary.



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Hill said he was going to resign as Chair of the ZBA unless there was a vote of confidence by the Board and the Board wished him to continue.

Carmichael and Breckenridge wanted Hill to continue as Chair.

Drouin said that Hill spent too much time doing things that are not required of him to do.

Carmichael said that a very good member of the Board recently quit, Bill Harper, who brought an area of expertise and knowledge to the Board that was needed. Furthermore, what happened to Bill was a witch hunt and he was disturbed by it. He never wants to see that happen again. Misinformation was spread around that was wrong.

Drouin agreed, stating that Hill had called him to inform him of the rumor wanting to hold a special meeting based on one statement, out of context, in the newspaper and Drouin had suggested that if someone on the Board was concerned about it, to bring it up in Business Before the Board at the next meeting and clear the air. Hill said he wanted to head off potential problems in the newspaper. Drouin said that was not his job. Hill said he had different views and that's why he is tendering his resignation.

Goodrich said that the Board unanimously voted for Hill as Chairman and he is the same person he was then and that is a statement in itself.

Hill said that the Board needed to move forward without him as Chairman; he is not resigning from the Board.

Motion was made by Breckenridge not to accept the resignation of Hill, seconded by Carmichael. Those voting on this are Carmichael, Breckenridge, Drouin. Voting in the affirmative – Carmichael and Breckenridge; Drouin abstains. This means the resignation was not rejected or accepted. Hill remains as Chair of the ZBA.

Hill asked the Board to reconsider the Secretary's duties, since they recently added work to her workload, taking it away from Hill. The Secretary said that the work was not over burdening. She set up a filing system, and completed the new applications and directions over the summer, as there was no time line or urgency in getting them done.

McDermott read aloud a letter written, from a former applicant of the ZBA, to the Board of Selectmen stating that her assistance was exemplary.

Carmichael reiterated that the Secretary worked for the Board and not for the Chairman of the Board and that he thought she was doing a phenomenal job.

Breckenridge asked how the Secretary viewed her job; Was she seeing her job as being more than creating minutes? She asked what exactly the Secretary did. She asked if job descriptions would be appropriate to



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obtain for the three positions of Chairman, Vice-Chairman, and the Clerk. Others agreed and asked the Secretary to obtain these.

The draft applications were passed out and the members were asked to review them and make any additions/changes they felt necessary. These documents are in Word not Adobe so they can be changed. Hill asked if the Board would allow him to insert the signature stamp and approved stamp on the approved minutes. The Board suggested that there is no reason for the minutes to be put in Adobe, or for the signature stamp to be applied, a real signature could be applied by Hill who is at the Town Office regularly.

Hill said that he put everything regarding the ZBA on his computer. He made a disk that contained everything that transpired in 2006 and made copies for the Board. He asked if the draft minutes could be emailed to him in word format so that he could make his corrections to that document, since this is more comfortable for him than writing. These minutes would not be sent back to the Secretary. This might necessitate the changing of the ROP's from the recent change which said no emailing back and forth. Additionally, Carmichael suggested adding that the Secretary will mail the applications to the Board members each month.

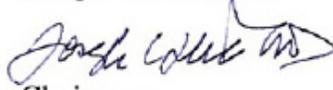
Carmichael said that the Secretary should not speak during the hearing, rather send a note to the Chairman, who can ask her to say what it is she is questioning.

The Board instructed the Secretary to purchase plaques that slide in for all names of alternates and members. The plaque can be turned over if that member is not sitting on the case.

Motion was made by Breckenridge to adjourn the public hearing at 9:34PM, seconded by Carmichael, and the motion passed unanimously.

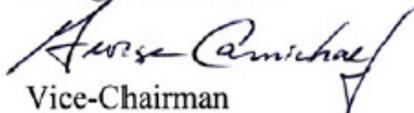
Respectfully submitted,
Jody McDermott
Zoning board of Adjustment Clerk
Respectfully submitted

Joseph C. Hill, MD



Chairman

George Carmichael



Vice-Chairman