



## 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 May 11, 2010

# APPROVED

6/22/10

**Regular members present:** Chairman George Carmichael, Vice Chair: Janet Goodrich, David Drouin, Marcia Breckenridge and Phil Stenersen.

**Alternate members present:** William Thomas, Joe Hill, Charlie Eicher

**Recusals:** Drouin, Thomas will be sitting in.

George Carmichael opened the Public Hearing at 7:00 pm with the Pledge of Allegiance. The members and alternates introduced themselves and their status.

Carmichael announced that the notice of continuation was posted at the Town Office.

**Case #1012 (continuation):** Daniel LaBell, 104 LaChance Dr., Rindge, NH 03461, Map 17 Lot 17, for a Variance from Section 5A of the Rindge Wetlands Ordinance to allow for a retaining wall that was built in 2005 to remain

Thomas questioned the violation of building the wall without any approval from the state. His concern is that if a variance is granted **after the fact** this would set precedence.

Carmichael placed phone calls to both Monadnock Surveyors and NH DES for an opinion as to where the base of the wall fell, either above or below the water line. According to Monadnock Surveyors, the wall is either at or above the water line.

The application is not referencing the state ordinance it references 5A of the town ordinance. The state ordinance cannot override the town ordinance.

The letter from the Conservation Commission states the wall is pervious. There was much discussion of rocks vs. walls in that a rock is impervious but a wall would be considered pervious.

J. John stated sand is continually filtering thru the wall into the lake because the wall is pervious. If erosion was the problem to begin with, in that the reason the wall was built is because of the erosion, why is erosion not occurring now? Mr. John is requesting the ordinance be followed as it is written not swayed by other factors that do not apply, i.e.; inconclusive photo's, hydraulics



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etc. Mr. John Requests that the board deny the request for exception due to the information supplied being insufficient and flawed.

Carmichael feels the question at hand and what needs to be decided tonight is whether the wall is pervious or impervious, and whether it is within 50ft of the high water mark.

Carmichael moved to deliberate, seconded by Goodrich, all in favor.

After discussions regarding the wall being pervious and the ordinance clearly stating the variance would only apply if the surface was impervious, a motion was made by Breckenridge, seconded by Goodrich to remove consideration of this application, stating "given the conditions under which the wall was constructed a variance is not needed because the ordinance applies to impervious surfaces".

In Favor: Thomas, Breckenridge, Goodrich, and Stenersen

Opposed: Carmichael

Motion by Carmichael seconded by Goodrich to adjourn at 8:43PM

Respectfully submitted,  
Carol Olesen/Clerk

Janet Goodrich  
Chairman

David Drouin,  
Vice Chairman



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**Case #1012**

**Hearing Date 5/11/10**

**Decision Date 5/11/10**

### NOTICE OF DECISION

You are hereby notified of the decision of Daniel LaBell, 104 LaChance Dr. Rindge, NH 03461 Map 17, Lot 17 for a variance from section 5A of the Rindge Wetlands Ordinance to allow for a retaining wall that was built in 2005 to remain.

The Board found that:

Given the conditions under which the wall was constructed a variance is not needed because the ordinance applies to impervious surfaces.

Marcia Breckenridge moved, seconded by Janet Goodrich for this application to be removed from consideration. Motion passed 4 to 1.

Respectfully submitted  
Carol Olesen, Clerk

George Carmichael

Chairman

Janet Goodrich

Vice-Chairman