



## 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 Site Visit May 4, 2010

# APPROVED

6/22/10

**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.

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

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

**Absent:** Charlie Eicher, David DuVernay; Code Enforcement Officer.

M. Breckenridge motioned to open the meeting at 6:00pm, seconded by G. Carmichael, passed unanimously.

P. Stenersen stated that at the April 27<sup>th</sup> meeting a request was made from D.DuVernay that Mr. Stenersen disqualify himself from Case#1012 on the basis that Mr. Stenersen signed a citizens petition to repeal the wetlands ordinance. Mr. Stenersen asked all members present at this meeting who voted on this particular ordinance (a few years ago). All members stated they voted. Mr. Stenersen wished to state, for the record, that all members "took a stand" one way or the other when they voted on this ordinance, so suggestion was made that if he has to recuse himself, all should recuse themselves.

D. LaBell gave a brief description of the erosion that was occurring prior to building the wall in question. Mr. LaBell stated the erosion had made it within 2 feet of the retaining wall closest to the home. Mr. LaBell also stated if he had not built the wall in question the erosion would have eventually come up to the existing retaining wall. The photo (helicopter view) clearly shows the erosion that was occurring prior to the wall being built.

#### Questions:

Carmichael questioned what has changed with the water level since the new dam was built, and how did that affect the property?

Goodrich stated the water level has increased since the building of the dam. She stated that over the last 2 years the water has increased at her home to the point where there is no shoreline. Mr. LaBell agrees that the water has increased by at least 2ft.



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**For reference the dam being referred to is the one south and east of the outlet being reviewed. There was a question as to when this dam was built, consensus is approximately 2-3 years ago.**

Jim John questioned the stakes placed in the lake by the surveyors and the water level of 1047 being marked at the bottom of the stakes. It is not clear to him why the black marks on the stakes, which correspond evenly on both stakes, could not be the point of the water level. How do we know how the stakes were intended to be interpreted?

Stenersen: On the stake it says **Dam elevation at sand level**. Looking at specific rocks and referencing them with the photo, you can see that the water is definitely higher.

Carmichael: what is concerning to me is that the photo's show the water line quite a ways out and it is encroaching up the stone wall by 4-5". It certainly appears the water varies quite a bit.

According to Monadnock Surveyors, Licensed surveyors, the mean high water mark is 1047.

Kathy John stated the mean high water mark is set by the town of Winchendon and is also set by the spill way, which is measured, at 1047.42. If you call DES you may get different #'s. She insinuated that the water comes up and hits the wall and washes sand from behind the wall back into the lake.

Carmichael asked what DES had said about the wall - **DES – Approved wall, letter in file.**

Drouin mentioned that there are notes in the DES application that may be pertinent.

There was some discussion about how the wall was built with large stones and smaller stones behind it, suggesting the sand could not be washed through. Stenersen stated that in the state of MA when you build a septic system you back fill it with sand. Sand Stone is laid on top, then pea stone on top of that, the assumption being that sand could not travel through the two layers of stone. Mr. Labell stated when the smaller stones washed up, he took them and placed them behind the larger stones to create a barrier for the sand. Carmichael mentioned you could see some of the smaller stones when looking at the wall.

Goodrich asked Drouin if he could offer any insight from Com. Con's standpoint that might help them.

Drouin: Initially Com. Con. Got involved because of a request by D. Duvernay of violation. When they came out they saw similar conditions as to what is being seen now. Upon review of the application, Com. Con. Asked that a survey be done to show the reference line. On blow up of photo in the legend the reference line is shown at 1047.



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Carmichael: Did Com. Con. Consider that the impervious surface was being built inside the 50ft setback?

Drouin: Not that the surface was inside the setback, but that the surface was pervious.

Carmichael: We are questioning whether impervious material was put into the lake, which, right now it is. This was done prior to the dam being built. Since the dam was built the water level has increased to when the stakes were placed. This is confirmed by members present who live on the lake.

With no further questions, Carmichael asked Mr. LaBell if continuation of this case could take place on next Tuesday May 11<sup>th</sup> at 7:00 PM. Mr. LaBell stated that is fine with him.

Stenersen motioned for continuation of case #1012 to Tuesday May 11<sup>th</sup> at 7:00 PM  
Seconded by Breckenridge, all in favor.

Motion by Carmichael, seconded by Stenersen to adjourn at 6:50 PM.

Respectfully submitted,  
Carol Olesen, Clerk

Janet Goodrich  
Chairman

David Drouin  
Vice Chairman