



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
September 28, 2010

APPROVED

10/26/10

Regular members present: Vice Chairman, David Drouin, Marcia Breckenridge and William Thomas

Alternate members present: Charlie Eicher, and Joseph Hill.

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

Recusals: None

Notices of public hearings were posted as follows: Town office, post office, transfer station, and newspaper.

Public Hearings

CASE 1017: [continuation] **Mary MaGuire** 12 Ferin Rd. Rindge, NH Map 4 Lot 2 for a special exception of the Rindge Zoning Ordinance Article V, Section A.1 to allow for in home dog boarding and dog day care for 20 dogs .

Charles Eicher will read the case before the board and will summarize the ordinances.

Sitting on this case will be David Drouin, Marcia Breckenridge, Bill Thomas, Charlie Eicher, and Joe Hill.

Mrs. MaGuire presented the board with documentation in support of the questions the Board had requested answers to from the July 2010 meeting (see attached letter). The documentation included possible solutions for waste management, sanitation/disinfecting, expansion (extending the fencing), and property values of abutting properties.

Mrs. MaGuire had 2 letters of reference, one from Ronald E. Chapman, a previous neighbor, who wrote that in the 10 years he lived “up the road” from Mary, he was not inconvenienced by sound, image, or loose animals on her property. A second letter from Douglas P. Whitney, Certified General Appraiser, reads that he visited Mary’s property and drove by the abutters properties to establish whether a dog day care facility would cause detrimental effect on abutting property values. He wrote the nearest house is at least 800ft. away from the proposed property.



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Mr. Whitney's opinion is that a dog day care will not have a negative impact on abutters' property values as long as guidelines are followed. The guidelines he stipulates are as follows:

1. The facility is limited to 20 dogs in day care with 8 for overnight.
2. There is no overnight boarding outside the facility or building.
3. The day care is supervised so there are not long periods of barking or boredom that could cause unnecessary noise.
4. The abutters appear to be far enough away from the property to not subject them to immediate loud levels of noise. There are currently 3 dogs there now, so there is already an established noise level.
5. The pre-existence of a rescue dog facility or the property in the past sets precedence for the proposed use.
6. The existence of a kennel just down the street is neighborhood precedence as well.

Mrs. MaGuire provided several solutions for sanitization and disinfecting, all natural and environmentally friendly. As far as disposal of waste, she has spoken with Monadnock Disposal and can set up a weekly schedule for them to pick up the waste. The waste will be picked up multiple times a day and double bagged until the weekly pick up by Monadnock Disposal. Mrs. MaGuire says she will store the waste in regular trash cans until pick up, or she can obtain a container from Monadnock Disposal.

Breckenridge asked DuVernay if there are any state licensing requirements for boarding dogs, and if there was any state mandated regulations for waste removal, and sanitation. Is there anybody who monitors this process to ensure it is actually being done?

To the best of his knowledge Mr. DuVernay does not know of any government agency for this type of thing. Mrs. MaGuire is not aware of any state licensing requirements. DuVernay suggested should the Board approve the Special Exception that it is with stipulations and with promises in writing from applicant.

Breckenridge concerned that waste product for over 20 dogs is no small amount and has concerns that there will be no monitoring of how disinfection/sanitization will be taken care of. The only monitoring will be done by the clients.

For Noise control the applicant had information about an ultrasonic device, the Dog Silencer Pro that would prevent the dogs from excessive barking. This device "sends ultrasonic, high pitched sound waves to target dogs with the most annoying frequency. Eventually the dog stops barking to keep from being harassed by the sound waves". Mrs. MaGuire reiterated to the Board that dogs will be screened before coming into the day care. If there is a dog that barks excessively and does not respond to the ultrasonic device, that dog will have to be removed from the facility. Thomas asked if this device put out a noise, or sent off a silent signal the dogs heard, he also asked if this device needs to be left on all day. Mrs. MaGuire was not certain about this.

Along the same lines for noise control Mrs. MaGuire does plan to extend the fencing about 40ft. back and 50ft. across, she plans on putting up a "solid wall" fence with a tongue and groove fitting so there are no spaces for sound to go through. Time frames for having the dogs outside



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were discussed, they would be brought into the house early by 6:00pm or so. Mrs. MaGuire states there would be adult supervision at all times when the dogs were outside.

A police report obtained by Goodrich dated 02/01/2002 was handed to all members of the Board for review. This report addressed the following:

Concerns arose from the State Veterinarian office to check the validity of Mrs. Maguire's establishment. The State Veterinarian had learned that 6 German Shepherd dogs had come up from North Carolina for rescue. When Chief Collins went to the residence in question with Mr. Harris they found Mrs. MaGuire did receive the puppies from NC, but had only received 3. When questioned about her licensing Mrs. MaGuire was licensed as "non-profit" through the state, under the name Northeast German Shepherd Rescue. Upon investigation of the kennel areas, the ground was found to be covered in ice and dirt. The kennels were not kept up and had an unreasonable amount of dog feces in and around them. It was determined that Mrs. MaGuire would be issued a cease and desist order for the operation and taking in further animals. Mrs. MaGuire states she never received this.

Breckenridge asked if any physical changes have been made since this police report dated 2002. Mrs. MaGuire has two fenced in areas to kennel the dogs.

Drouin feels it is hard to understand Mrs. MaGuire's plans as she is giving the Board a lot of answers but no concrete plans. It sounds like a lot of Mrs. MaGuire's statements are open ended.

Breckenridge asked about separate kennel areas. Typically when boarding dogs there is a large fenced in area, and a separate kenneled area.

Mrs. MaGuire talked with Isaac French from KDI Landscaping and she would contract with him to have the driveway and the road plowed out.

Drouin mentioned the road itself is narrow and having people pick up and drop off 20 dogs, there could be the potential for a lot of traffic all at the same time. Mrs. MaGuire doesn't feel traffic would be a problem. She believes folks will have to wait in the driveway before pulling out onto the road (as she has to do now) as the road is narrow and you could potentially cut someone off.

Forbes Farmer presented a letters from Robert Banker, real estate agent and Trustee of the East Jaffrey Realty Trust, and Paquette Appraisal Services both suggesting decrease in property values.

Drouin moved to close and deliberate, Hill seconded, unanimous vote to move to deliberations. All questions of Special Exception Decision Tree answered with the following votes:

1. 5-0 vote will create excessive traffic.
2. 5-0 vote will reduce value of surrounding properties.
3. 5-0 vote there is adequate sewage/water facilities. Off street parking DNA.
4. 3-2 vote with Hill, Thomas and Drouin voting that the proposed will not preserve the attractiveness of the town. Eicher and Breckenridge voted the proposed will preserve the attractiveness.



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Hill moved to deny the Special exception, seconded by Breckenridge, unanimous vote, Special Exception Denied. The applicant will have 30 days to ask for a re-hearing and provide new evidence.

CASE 1019: Ty Taylor 16 South Woodbound Road, Rindge, NH Map 33 Lot C9 for a special exception of the Rindge Zoning Ordinance Article V Section A1 and Article XIV Section B to replace existing garage and have a small 392 square foot retail shop within it, the remainder being used as residential space.

Joe Hill will read the case before the board and will summarize the ordinances.

Sitting on this case will be David Drouin, Marcia Breckenridge, Bill Thomas, Joe Hill and Charles Eicher.

Mr. Taylor is a federal fire arms dealer and is seeking to build a new 28 x28 ft. garage to replace the existing garage. This will allow for a small retail shop to sell firearms. This business is currently being conducted online. The size of the shop will be 392 sq. ft. which will allow for storage in the back. There will be no firing range on the property and no discharge of firearms on site. Mr. Taylor presented the members of the Board with a letter from the Rindge Police Chief stating his endorsement. For now hours of operation will be:

Wednesday and Thursday 10-5

Friday 10-8

Saturday 10-6

Sunday 10-5

Appointments can be made on Mondays and Tuesdays by request even though there will be no set hours of operation on those days.

Hill asked if there would be display cases in the shop, and asked Mr. Taylor to address safety. Mr. Taylor stated all windows will remain locked, gated door, and a security system, there will also be video surveillance. Storage lockers will house firearms and ammunition, and he will also have a safe on the property. He will be selling rifles, shot guns, long guns and possibly black powder guns, and AK47's.

Mr. Taylor stated there would be no plumbing in the new construction so sewage does not apply. Parking will be extended towards the existing house to allow 4 additional cars. There is sufficient off street parking and he believes the increase in traffic will be minimal if any. Clients will be making appt.'s to see Mr. Taylor and no more than 2 clients will be expected at one time.

Rob Clark is a neighbor of Mr. Taylor and voiced his concerns regarding the increased traffic from putting a business in a village district. He also voiced concerns about security, lighting, and safety for children in the area. He stated he is torn because he feels that everyone should have a right to own their own business, but he feels there are some "unknowns" and is concerned about what selling that product may open the door to.



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Mrs. Taylor stated they have 2 small children themselves and would not jeopardize either themselves or their neighbors. No additional lighting is going to be needed, and that they were very thoughtful in this process to ensure the safety and concerns of their neighbors.

Several members of the audience Dennis Campbell, Mark Carbone and others spoke on behalf of Mr. Taylor (neighbors and customers) stating he was a reputable dealer, they talked about the laws surrounding purchase of a fire arm in that there is a background check required so getting a hold of a fire arm right away is not an option.

Larry Cleveland asked about future plans to expand, Mr. and Mrs. Taylor stated that if business grows to the point they require more space, they will have to relocate their retail shop. For now, they do not expect more than 2-3 customers at any one time so the additional parking should be sufficient.

Hill moved to close and deliberate, seconded by Thomas, unanimous vote to move to deliberations. All questions of Special Exception Decision Tree answered with 5-0 votes. Hill motioned that the Special Exception be granted as all criteria has been met with the Special Exception having the following conditions:

1. Retail space is not to be expanded beyond 392 sp. Ft.
2. Customer parking not to be expanded.

Thomas seconded, unanimous vote Special Exception granted.

CASE 1020: Helen Francis, Trustee Peter A Mann Sirene Family Trust

282 Wellington Road, Rindge, NH Map 21 Lot 19-3 for a special exception of the Rindge Zoning Ordinance Article XII section C and Article XIV section B to alter and expand four lawfully non-conforming residential structures and one lawfully nonconforming accessory structure to bring them up to current standards and building codes as well as bring them into closer dimensional conformity.

Charles Eicher will read the case before the board and will summarize the ordinances.

Sitting on this case will be David Drouin, Marcia Breckenridge, Bill Thomas, Charlie Eicher, and Joe Hill.

Stuart Anderson, Architect and Authorized Agent for the Sirene Family Trust presented the proposal to renovate 4 non-conforming structures to bring the up to code. The proposed plan septic design plan has been submitted to the Code Enforcement Officer and is waiting for approval. There will be no change of use or intensity of use. The total non-conforming reduction is 730sq. ft. He is applying for shoreline protection because work within 250sq. ft. buffer, has to go through the state. Sufficient off street parking will be provided via existing driveways and parking areas. The continued use of the property is residential, and the improvements will be in keeping with the surrounding areas.



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Drouin confirmed with Mr. Anderson that the total non-conforming reduction would be 750sq. ft. He asked what the existing non-conforming square footage to which Mr. Anderson replied was 1500sq. ft. to make almost a 50% reduction.

Drouin confirmed that buildings are being moved and modified, and will remain single story small cabin structures.

Mr. Anderson stated that currently they are applying for shoreline protection from the state, the application has been filed. Drouin questioned if this was for a retaining wall, Mr. Anderson stated no, it is because they are within the 50 ft. buffer of the water.

Breckenridge asked if there would be any tree removal, to which Mr. Anderson stated there would be some minor tree removal.

Nancy Stratton spoke in favor of Mr. Anderson, stating she is happy to see the structures being revived. Her daughter who now owns the property has taken a lot of care to find someone to come up with a great design to preserve the property.

Hill moved to close and deliberate, Breckenridge seconded, unanimous vote to move to deliberations. All questions of Special Exception Decision Tree answered with 5-0 votes. Hill motioned that Special Exception be granted, Thomas seconded, unanimous vote.

Other Business

Approval of Minutes – Minutes from July 2010 meeting were reviewed and changes suggested. Minutes from July 2010 approved as amended.

Rules of Procedure: ROP with 7/24/10 edits to be reviewed – ROP reviewed with changes suggested. On page 7, add #8 to read:

All closed cases shall be delivered to the building dept. to be filed by map and lot#.

The Clerk shall keep a master index by case#, Map/Lot#, and type of case, decision (granted or denied) and date of decision.

Applications for Alternates – There was one application for an alternate position. Mr. Richard Sirvint was in attendance and was able to speak as to why he would be interested in being an alternate for the ZBA and give the board a little bit of his background.

After speaking with Mr. Sirvint, Breckenridge moved to accept the applicant as an alternate for the Rindge ZBA, seconded by Hill, unanimous vote 5-0 for applicant to serve a 3 year term.

Revisions to Special Exception and Variance Applications: final review of documents. Documents reviewed and accepted as amended. Copies will be put in the files, and to the Town Administrative Assistant to be put online.



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Reviewers for October 26, 2010 meeting will be Thomas and Hill. Deadline for Oct. meeting is Tuesday October 5th at 4:30pm.

Discussion of consistent filing system for ZBA cases – DuVernay mentioned that he thought last year (2009) it was decided that cases would be filed by Map and Lot#. The current Clerk was unaware of this and has been filing them in chronological order by Case#. This creates a problem when other members of the Town Offices are looking for a case to review and there is no master “log” of what case# coordinates with map and lot#. For the building dept. it would make much more sense to file all cases by map and lot# as they do so that the filing system would be both consistent and would give other employees easier access for cross referencing cases. See above addition to ROP.

No other business to come before the Board. Hill motioned to adjourn, seconded by Thomas. Meeting adjourned at 10:17pm.

Respectfully submitted,
Carol Olesen/Clerk



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Attachment A

31, July 2010

RE: Special Exception Application Continuation
Case # 1017

To Whom It May Concern:

At the July 27, 2010 Public Hearing, the Town of Rindge Zoning Board of Adjustment elected to continue the following case to the September 28, 2010 public hearing:

CASE 1017: MARY MAGUIRE 12 Ferin Rd. Rindge, NH Map 4 Lot 2 for a special exception of the Rindge Zoning Ordinance Article V, Section A.1 to allow for in home dog boarding and dog day care for 20 dogs

The board felt it necessary to receive additional information in order to make a decision on your application. The following is a list of information the board is requesting. Please be prepared to either speak to, or provide documentation regarding these issues at the September 28, 2010 public hearing.

1. The board would like to hear testimony regarding past history with this owner and a previous dog day care business. The Chairman of the board will be in touch with Larry Harris, Animal Control Officer for his testimony.
2. The board would like professional input from either a Real Estate Agent, or Property Appraiser regarding the impact to abutting properties, and their ability to sell, and build on those properties.
3. Provide a concrete plan for noise management.
4. Procedure for sanitation, and waste disposal, how this will be done, and whom (what company) will be providing this service.
5. Please address the traffic issues in more detail than outlined in your application. How will traffic be controlled?
6. Given the road is a class six road un-maintained by the town, how will you deal with weather related issues such as snow or ice
7. .What is the plan for expansion, additional fencing, tree removal etc.

Thank you for your attention to this matter,

Janet Goodrich,
Chairman

cao



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