

RINDGE BOARD OF ADJUSTMENT  
30 PAYSON HILL ROAD,  
RINDGE, NH 03461  
**PUBLIC HEARING MINUTES**  
July 23, 2019  
Tel. (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964  
www.town.rindge.nh.us

Members Present: Chairman Janet Goodrich, Cynthia Childs, Phil Stenersen,

Alternates: Joseph Hill MD, Martin Kulla, Susan Wessels

Recusal: None

Absent: Marcia Breckenridge, Bill Thomas

Others Present: Dave DuVernay, Bernd Foecking, Ronia Foecking, James Druyer, Phyllis McKoon, Dawn Dunbar, Sally Dunbar, Suzanne Hepburn, Judy Unger-Clark, Craig Clark, Susan Edwards, John Martin, Joseph Cincotta, Marybeth Quill, J. Quill, Ashley Saari

The meeting convened at 7:00 PM with the Pledge of Allegiance.

The clerk announced where the notice of Public Hearing was posted. The notice of public hearing was posted at the town office, police station, fire station, library, transfer station and on the town website.

Kulla read the case before the board.

Case #1130: Joseph Cincotta, Linesync Architecture, 14 Castle Hill, Wilmington, VT 05363 on behalf of Hampshire Country School for property located at 45 Deer Run Lane, Rindge, NH 03461, Tax Map 4, Lot 30 for a Special Exception as specified in the Zoning Ordinance Article XIII, Section C, for the expansion or alteration of a lawful nonconforming building (a dormitory) in the Residential-Agricultural District.

Hill summarized the ordinances.

Sitting on this case were: Janet Goodrich, Phil Stenersen, Cynthia Childs, Joe Hill, Susan Wessels

Testimony

Joseph Cincotta stated that the application was completed and he would like to hear from the Board with any concerns. Kirk Stenersen advised Mr. Cincotta how to answer the questions that were presented on the application. Goodrich stated that there are four criteria that must be met for a special exception. The property is

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located at the end of Deer Run. Bernd Foecking stated that there is an existing dormitory there that houses 10 students. The occupancy of the area is not going to be increased, it simply moves existing staff to a different location on the HCS Campus. Deer Run Lane is inside the campus lot and only serves school traffic. The residents in the area will not be affected. Goodrich asked if there was going to be any changes to the septic design. Foecking stated that they have a new septic design which has been approved by DES.

Goodrich stated that the second criteria is that the use will not reduce the value of surrounding properties. Foecking stated that there are no abutters for at least ½ mile from the site. The new dorm will not be visible from adjacent lots that are not already owned by HCS. The building will be aesthetically pleasing and compliment the area. Jim Draper is one of the Trustees of the school and he stated that three units are being replaced by one building for faculty housing in the middle of a field. Hill asked if it was going to be a central area and it is actually going to be a trio with kitchenettes, bathrooms and living space.

MOTION: Hill moved to go to into Deliberative Session, seconded by Stenersen.  
Vote: 5-0-0

### DECISION TREE FOR A SPECIAL EXCEPTION

1. The Board finds that the use will not create excessive traffic, congestion, noise, or odors. The applicant provided evidence that they are not increasing the number of units they are simply relocating them. Vote: 5-0-0
2. The proposed use will not reduce the value of surrounding properties because the new dormitory will not be visible from adjacent lots and will not decrease the that are not already owned by HCS and the new building will be more attractive and will have no negative impact on the surrounding properties. Vote: 5-0-0
3. There is adequate sewage and water facilities and sufficient off street parking provided by the applicant. The site has a sewage plan that has been approved by the NH DES and it has adequate water facilities and off street parking. Vote: 5-0-0
4. The proposed use will preserve the attractiveness of the town because the dorm will have a well thought out and aesthetically appealing look and will not be seen unless you are on the school property. Vote 5-0-0

MOTION: Hill moved to grant the special exception because all four criteria have been met, seconded by Stenersen. Vote: 5-0-0

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The Variance has been GRANTED. Tel: (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964  
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Wessels read the case before the Board.

Case# 1131: Dawn Dunbar, 44 Dale Farm Road, Rindge, NH 03461 (direct abutter to property subject to appeal) c/o Patricia Panciocco, Panciocco Law, LLC, One Club Acre Lane, Bedford, NH 03110. Request for a Rehearing of an Administrative Appeal of Case #1126 by the Rindge Planning Board concerning a vote taken for a major site plan and major subdivision for a 27 unit (multi-family) Planned Unit Residential Development (P.U.R.D.) for property located at the north side of Dale Farm Road, Rindge, NH, 03461, Tax Map 2, Lot 45 in the Residential-Agricultural District. Date of Meeting: May 28, 2019.

Sitting on this case were Janet Goodrich, Cynthia Childs, Phil Stenersen, Susan Wessels and Martin Kulla

### Testimony

Goodrich stated that the discussion is limited to the members of the ZBA. Goodrich gave an overview of what has transpired since November 2018 with regard to this case. She also went through the application and noted discrepancies in the points made by the applicant.

Goodrich stated that in reviewing the points of argument she found no statements of new evidence that would warrant a rehearing. In addition she stated that she found several of questionable accuracy.

Point 2: the document states the Planning Board relied on the variance the ZBA granted reducing the frontage requirement to fifty feet without proof that fifty feet frontage was a town maintained road. A NH Licensed Professional Engineer stated in the March 5, 2019 Planning Board minutes that more than 50 feet exists on a Class V road. The applicant also erroneously states the Planning Board assumed that when issuing the variance, that the ZBA authorized the construction of the PURD. The ZBA cannot approve a PURD without granting a special exception. No special exception was applied for, nor was a special exception granted. There is no reference to granting a PURD in the ZBA deliberations or decision. The Planning Board made its decision having full authority on innovative land uses per RSA 676.5, not because of the variance granted by the ZBA.

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Point 14: The applicant states the Res Ag lots require 50' frontage. However a variance was granted waiving the frontage requirement. It should be noted that the Planning Board was dealing with an application for a PURD which requires 100 foot frontage if no frontage variance had been granted.

Point 29: The applicant notes that a PURD is inconsistent with the Master Plan. The Master Plan encourages employment of innovative land use regulations.

Point 38: Claims that the ZBA committed error in approving the variance. The time to present that argument has passed. The applicant did not file an appeal within the 30 day period. Also stated was that a variance was approved knowing the Planning Board would view it as a wholesale pass through of the ordinance on which it then relied to approve a large development on a Class VI road. To state that the ZBA would know the Planning Board's mind is not worthy of comment.

Point 20: The applicant states that a PURD is not permitted in the Residential-Agricultural district. The Planning Board also used past practice as a guide. There are at least three PURDs in town in the Residential-Agricultural district.

The Planning Board was allowed to make its decision because in Article 3 – General Provisions of the Zoning Ordinance, The Planning Board may approve PURD's in which density or intensity of land use and frontage may vary from the provisions of this ordinance as provided in the PURD regulations adopted by the Town of Rindge on March 24, 1987 and subsequently amended.

Goodrich stated that in reviewing the points of argument presented in the application I find statements of questionable accuracy, do not find evidence that the planning board's decision was unlawful or unreasonable and no new evidence that would warrant a rehearing.

Hill stated that he is not sitting on the case, but he feels that Goodrich summarized this beautifully. He also stated that he sees no reason to grant a rehearing. Childs also stated that there was no new evidence that would suggest that we grant a rehearing. Kulla stated that he saw no new evidence.

MOTION: Hill moved to go to Deliberative Session, seconded by Stenersen.  
Vote: 5-0-0.

### DECISION TREE FOR A REHEARING OF ADMINISTRATIVE APPEAL

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1. Is the application for rehearing complete? **Yes. Vote: 5-0-0**  
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2. Has the applicant supplied new information that was not previously available to the Board? Childs stated that there was no new information in the application. Stenersen stated that there is no substantial or compelling information that would change the outcome of the original vote. Therefore the answer to this question is no. Vote: 5-0-0
3. Did the Board of Adjustment make any procedural or structural (legal) error in rendering the previous decision? Childs stated that the decision tree was followed and there were no errors. Therefore the answer to this question is no. Vote: 5-0-0

Goodrich stated that she would entertain a motion to deny the rehearing request.

MOTION: Stenersen moved to deny the Rehearing of an Administrative Appeal seconded by Childs. Vote: 5-0-0

The Request for a Rehearing of an Administrative Appeal is DENIED.

Hill motioned to approve the minutes of June 25, 2019 as amended, seconded by Childs. Vote: 5-0-0

Pick reviewers for August Hearing. Application deadline date is Tuesday, August 6, 2019 for hearing on August 27, 2019. Childs and Hill will be reviewers for August. Goodrich will be out of town and Breckenridge will Chair the August hearing. In the event the Breckenridge is not available Stenersen as the senior member agreed to Chair the meeting.

Is there any other business to come before this board tonight?

Motion for adjournment was made by Hill and seconded by Childs.

Vote 5-0-0

Adjournment 7:45 PM

Respectfully submitted,

Michele Christian, ZBA Clerk