



RINDGE BOARD OF ADJUSTMENT
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September 27, 2022 ZBA Meeting Minutes

Meeting called to order: 7pm by Chairman, George Carmichael with the Pledge of Allegiance. Members and alternates introduced themselves.

Members present: Terrence Fog, alternate; Bill Thomas, member; George Carmichael, Chair; Marcia Breckenridge, Vice Chair; Ross Thermos, alternate: Phil Stenersen, member

Members absent: Marty Kulla, member

Others present: Gerard Vaillancourt, Lindsey Vaillancourt, John Bertrand, Denise Bertrand, Joshua Parker, Stacey Strout, Andrew Cotzin, Reuben Goddard

Chairman Carmichael provided the following general information about how the meeting would proceed. The ZBA has five voting members. Alternates participate in the testimony phase and can ask questions as can anyone from the audience. Once the testimony is closed only the voting members participate in deliberation. When a regular member is either absent or recuses, the Chairman appoints one of the alternates to sit on the case. He added that once the testimony was closed only the five voting members would participate and there would be no more input from the public. He asked if there were any recusals and there were none.

ZBA Clerk, Kim McCummings, announced that the notice of the Public Hearing was posted in the Ledger/Transcript, Town of Rindge Website, Rindge Post Office, the Rindge Town Office, and the Ingalls Memorial Library.

Carmichael reminded the audience they would have to be recognized by the Chair before speaking and asked that they identify themselves by stating their name, abutter status and address for the Clerk.

Chairman Carmichael opened the hearing for Case 1194. Sitting on the case was Thomas, Carmichael, Breckenridge, Stenersen, and Fogg, in place of the absent Kulla.

Terry Fogg read case 1194 into the record. Case 1194, Gerard Vaillancourt, 2 Bradford St. Rindge, NH 03461 for property located at Tax Map 33 Lot 2 in the Village District, for a Variance from Article VI, Section III of the Zoning Ordinance. The applicant is proposing to construct a deck egress to be built within the setback.

Marcia Breckenridge summarized the relevant information from Article 6 Section III regarding frontage requirements.

Carmichael welcomed Gerard Vaillancourt of 2 Bradford St and asked him to tell the Board why he was before the board. Mr. Vaillancourt explained that their house was destroyed in a fire last year and they had to do a demo and a total rebuild, and the house is much higher. The problem with the old house was that it was deep into the water table and had a lot of flooding. The goal with the new house is to get the basement out of the water table. We need a second egress and want to build it with the deck on the side of the house which is why we're here before the Board for a variance because it takes us closer to the setback.

Carmichael asked if there were questions from the Board and suggested that that the Board seek additional clarification to the five criteria and as answers may cause confusion when read at a later date.

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

We are seeking a small deck with stairs “it matches the aesthetic of the rest of the neighborhood and it’s really a deck to get out the door in the event of a fire.”

2. Granting the variance would be substantial justice because:

Currently there is only one approved egress exit and a second egress is necessary.

3. The variance would be consistent with the spirit and intent of the Rindge Zoning ordinance because:

Allowing this deck provides a secondary egress in case of emergency.

4. Granting the variance would not diminish surrounding property values because.

A second exit would be obtained. Without this exit there would not be an occupancy permit, leaving the home unoccupied and essentially abandoned which would hurt property values.

5. Special conditions do exist on the property that distinguish it from other properties in the area, such that literal enforcement of the ordinance results in unnecessary hardship.

- a. No fair and substantial relationship exists between the general purposes of the Zoning Ordinance provision(s) to the property because:

We are seeking a safe egress to our new structure

- b. The proposed variance is a reasonable one because:

The property cannot be safely used in strict conformance.

He highlighted question #1 from the application “This variance would not be contrary to the public interest because: and followed with the response on the application “we are seeking a small deck with stairs.” Carmichael asked if he could say more about it and Lindsey Vaillancourt responded that “it matches the aesthetic of the rest of the neighborhood and it’s really a deck to get out the door in the event of a fire.” Carmichael said that’s good and asked if there were any questions from the audience. There were none.

Thomas said that there was a similar situation with another house up the street on the corner. They’re on the railroad right of way and they also had a deck on the back of the house. It was the same situation; it was too close to the right of way. Carmichael said as he looked at the responses to the other questions, they looked okay. It was just the first one that he had a question on.

Breckenridge said that the emphasis seemed to be on safety. Vaillancourt said the way the house was designed that’s the only place for a second egress. Carmichael said the only reason he was asking the questions was because this gets recorded in the Cheshire County Registry of Deeds forever, so it should have a little more input on question one, which is what you did in your response. Carmichael asked for additional questions and there were none. Thomas said it looked straightforward. **Motion:** by Thomas to go into deliberation, **Second:** by Breckenridge **Vote: 5-0-0**

The Board entered deliberations:

Thomas said the property is close to the old railroad, and the house is on the same footprint. Carmichael said they’ve elevated the new structure and it’s higher to address issues with flooding and the second means of egress is necessary.

Breckenridge said they clearly followed the zoning regulations to the best of their ability and for safety reasons. **Motion:** by Breckenridge to approve the variance application as written because it meets all five criteria in the Decision Tree, with the alterations to question number one that were discussed. **Second:** by Thomas **Vote: 5-0-0**
The variance is approved.

Chairman Carmichael opened the hearing for Case 1195. Sitting on the case were Thomas, Carmichael, Breckenridge, Stenersen, and Thermos.

Thermos read the case into the record. Case 1195: Reuben Goddard, 25 Bemis Tavern Rd. for property located at Tax Map 9, Lot 13-3 in the Residential/Agriculture District for a Special Exception as specified in the ADU Ordinance Article 674 Section 15, 21 of the Zoning Ordinance for a detached ADU.

Thomas summarized the relevant information from Article 674 Sections 15 and 21 of the Zoning Ordinance for a detached ADU into the record.

Carmichael welcomed Reuben Goddard, 25 Bemis Tavern Rd and asked him to tell the Board why he was here. Goddard said he was here for a Special Exception for an ADU and felt that he met all the requirements. They are on 24 Acres, there is not much to see from the road you can hardly see the neighbors from the road. The septic design is there, and it will have its own septic and we drilled a well. Carmichael asked for the overall footprint, Goddard said it 732sq ft. Carmichael said it looks like you're going to be living on the property and there are two means of egress. He asked if anyone else had questions. Stenersen asked how many sq ft Goddard said 20 – 30.

Carmichael asked for more language in the response to the questions.

1. It is set far enough back and away from other properties and the applicant has stated that it will not create excessive traffic, congestion, noise or odors.

Thomas asked if the Board had moved to deliberation. Carmichael said no not yet. He asked for questions from the audience. There were none. **Motion:** by Breckenridge to go into deliberative session. **Second:** by Thomas. **Vote:** 5-0-0 The Board entered deliberative session.

2. The use will not reduce the value of surrounding properties.

It's well away from other properties and will not create excessive traffic, congestion, noise or odors.

3. There are adequate sewage and water facilities, and sufficient off-street parking is provided by the applicant.

The applicant has stated there will be a new septic system and a new well has already been drilled.

4. The proposed use will preserve the attractiveness of the town.

It is set far back and away from other properties and the applicant has stated that it will not create excessive traffic, congestion, noise or odors.

Carmichael explained for the audience, that for a Special Exception it is the Boards job to review the documents and ensure that they have met the criteria. If the criteria have been met, then they must be approved.

Motion: by Breckenridge to approve the Special Exception for an ADU application because all four criteria have been met. **Second:** by Thomas. **Vote:** 5-0-0

The application is approved.

Chairman Carmichael opened the hearing for Case 1196. Sitting on the case was Breckenridge, Stenersen, Thomas, Carmichael and Fogg.

Fogg read Case 1196 into the record. Case 1196: HDA Carpentry, LLC, 14 Cider Mill Rd, P.O. Box 84, Rindge, NH 03461 for property located at 14 Old Ashburnham Road, Tax Map 4, Lot 18 in the Residential/Agriculture District, for a Variance from Article V, Section B-2, No Building shall be located closer than thirty (30) feet to an abutter's property line or fifty (50) feet from the edge of a right of way.

Stenersen summarized Article V, Section B-2 for the record.

Carmichael welcomed Mr. Cotzin and asked him to present case 1196 to the Board. Carmichael added that for the purpose of full disclosure, he had assisted Mr. Cotzin with the application process, looking up abutters and what to expect at the hearing. Cotzin said he is doing work on the garage and will have to tear down some of the roofing as part of the demo work on the garage. They will also have to extend the garage by six feet and raise the roof so that the owners van can be stored inside the garage. There are two different roof lines, and places where there are leaks in the garage walls, roof, and the attached covered outdoor room which also will have to be replaced. He said the plan is to level out the roof, replace it and extend it by 6ft. Cotzin said the house itself is in great shape. **Motion** by Stenersen to enter deliberative session, **Second:** by Breckenridge. **Vote:** 5-0-0

The board entered deliberative session and determined that

1. The variance would not be contrary to the public interest because the changes and additions do not impede the public or any utilities or issues with public works or grade concerns for the watershed.
2. Granting the variance would do substantial justice because it will allow the roof pitch to be adjusted to alleviate ice buildup, and leaks/water problems faced currently will also allow owners to park any of their vehicles inside the garage.
3. The variance would be consistent with the spirit and intent of the Rindge zoning ordinance because it will allow the residents or 14 Old Ashburnham Rd to utilize their garage space more effectively and not continue to be burdened by the current snow and icing issues in Winter. It also allows for replacement of garage foundation.
4. Granting the variance would not diminish surrounding property values because: Adding square feet and upgrading curb appeal will only add to all surrounding properties, not just this one. One of the abutters was present and had no issues with the proposed changes.
5. Special conditions do exist on the property that distinguish it from other properties in the area, such that literal enforcement of the ordinance results in unnecessary hardship.

With the current foundation system and roof design that need to be addressed. Also, the limited use of spaces due to current dimensions can be alleviated with the proposed alterations.

- a. The existing structure is currently situated within the setback restrictions and only changes the line by approximately 2 feet. There are structural issues. The building is currently encroaching into the setback. It would be further encroaching by 10%
- b. The proposed variance would be a reasonable one because it will afford the current residents to maintain long-term results without the burden of falling structures, snow & ice buildup causing leaks and not being able to park ANY vehicles inside the garage.

Motion: by Stenersen to grant the variance, second by Carmichael. **Vote:** 5-0-0

Other business that may come before the Board:

The Board will consider a re-hearing application from William Hillis regarding ZBA Case 1193, for property located at 58 Homestead Lane, Map 2, Lot 3-1-1 in the Residential Agriculture District.

Taylor Milsal provided additional information; she said she was not able to attend the earlier hearing due to an injury. She said that had she attended she would have been able to clarify some of the questions the Board had asked.

Neighbors in the audience voiced concerns about noise from the farm over the last 3 years, and Mr. Milsal's response to their questions. They asked that the Board consider the letter from Mr. Bumpus and shared some concerns about the lack of communication regarding the overall plan.

Carmichael reminded the audience that the Board will only be deciding whether or not to rehear the case and if it did, everyone would get a chance to speak at the re-hearing.

Breckenridge added that Mrs. Milsal's reasoning for a re-hearing conflict with the Testimony the Board heard at the original hearing and thus very confusing. Carmichael said the new information conflicts with the original testimony presented. Breckenridge said she

would like to hear the facts then make a decision. Carmichael stated that in his opinion, a re-hearing may help explain the conflicting information. Thomas suggested having a site walk prior to the next meeting to see the farm close up. Stenersen said it made sense to rehear the case. **Motion:** by Stenersen to approve the rehearing request. **Second:** by Breckenridge. **Vote:** 5-0-0. The case will be reheard. The Board scheduled a site walk with Taylor Misal for Wednesday, October 5th at 1pm.

Approval of Minutes: August 23, 2022

Motion: by Breckenridge, **Second:** by Carmichael **Vote:** 5-0-0 the minutes are approved

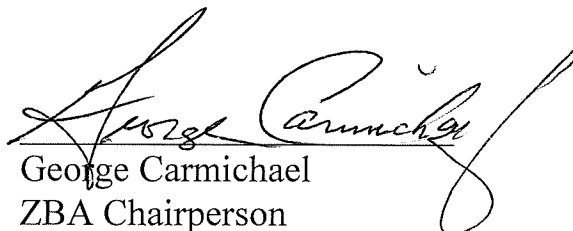
Continuation of discussion regarding application fees

Motion: by Carmichael to make the fee changes for the remaining applications. **Second** by Thomas. **Vote: 5-0-0** Application fee changes for the remaining applications are effective as of September 27, 2022.

Motion to adjourn by Breckenridge, second by Thomas **Vote:** 5-0-0

Meeting adjourned

Kim McCummings
ZBA Clerk


George Carmichael
ZBA Chairperson

