

September 28, 2021, ZBA Meeting Minutes

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

Members present: Bill Thomas, George Carmichael, Chair, Marcia Breckenridge, Vice-Chair, Deni Dickler, member, Phil Stenersen, member, Marty Kulla, alternate

Others present: Nate Chamberlain, John Ratigan, David Drouin, Richard Mellor, Caleb Symons – Keene Sentinel, Judy-Unger Clark, Ashley Saari

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 5 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. Carmichael asked if there were any recusals for the evening's cases and Stenersen recused himself from Case 1175 and was replaced by Kulla.

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

Carmichael reminded the audience that they would have to be recognized by the Chair before speaking and **opened the hearing for Case 1175:**

Sitting on the case were Breckenridge, Kulla, Thomas, Carmichael and Dickler. Kulla read the case into the record. Rindge Conservation Commission, 30 Payson Hill Road, Rindge, NH 03461, for the Appeal from an Administrative Decision of the Planning Board on 08/03/2021 approving a Major Subdivision, Kings Way, Map 6, lot 73 it failed to condition its approval on the Developers application to allow encroachment in the wetland buffer, and other activities not permitted by the Ordinance.

Carmichael suggested that before proceeding it would be helpful to hear from the applicant as information was submitted that may lead to either tabling or continuing of the hearing of the application. The Conservation Commission sent a letter requesting the following for Case 1175 to the ZBA. “The Commission respectfully request the Board of Adjustment to table the above noted case for a period of 90 days, to a future BOA meeting. The applicant has revised their plan to more closely comply with the requirements of the Rindge Wetlands Ordinance. He asked that the new revision, dated September 9, 2021, be submitted to the Planning Board instead of the original plan.” (Note: complete letter is on page 5)

Drouin said the applicant received some relief from the State, their Alteration of Terrain Permit. The designer of the plan came forward with a new plan that complies much more with the ordinance, and they plan to submit the new plan to the Planning Board. If they plan is accepted, then we would withdraw the appeal at a later date.

Carmichael asked if 90 days would be enough time. Drouin said yes.

Carmichael motioned to continue the case 90 days from today second by: Thomas, **Vote: 5-0-0**. The case is continued to December 28, 2021

Richard Mellor asked, “if the applicant comes back before the 90 days they won’t be held up or anything, will they?” Carmichael said no, they can come back before that date if they are ready.

Carmichael opened the continued hearing for Case 1176 and Stenersen read the case into the record.

Sitting on this case will be Breckenridge, Stenersen, Thomas, Dickler and Carmichael.

Case 1176: Navian Development, 581 NH Route 119, Rindge, NH 03461, Map 4, Lot 23 for a Special Exception as specified in the Wetlands Conservation District, Ordinance Section 6, as specified in Article XV, Section B. of the Zoning Ordinance. Breckenridge summarized the relevant ordinances.

Thomas raised a point of order and asked about the status of the Appeal made by the applicant to the State of New Housing Board of Appeals.

Board. Carmichael said he hadn't heard anything. There's been no information from the Selectmen. He asked Attorney Ratigan if he had heard anything.

Dickler raised a question about the number of units listed on the application and the number that were approved by the Planning Board. The information that was carried over to the application says 66 units with 15 workforce housing. The approval from the Planning Board stated 59 units with 8 workforce housing units and that number should be reflected in the minutes. Nate Chamberlain said the numbers were old numbers and the correct number is 59, including 8 workforce housing units.

Chairman Carmichael asked Drouin to read the attached letter into the record. Chamberlain gave an overview of the changes to the plans for the wetland crossings and pointed them out on the plans. He pointed out how the water would be discharged, location of basins, culverts, catch basins and treatment swales and showed how it now will be treated outside of the 50ft setback.

Carmichael asked for additional questions, there were none. **Motion:** by Dickler to enter deliberation. **Second:** by Carmichael, **Vote:** 5-0-0

The board entered deliberation and reviewed the testimony from Con Com, the new documentation the applicant submitted, and stipulations discussed. Carmichael reminded the board that if the applicant met all stipulations of a Special Exception, they must be approved. He said the Conservation Commission's letter saying the applicant is in alignment and they are in favor of approving. He suggested, that going forward, the Board consider adding language to decisions that would prevent plans from being changed after they have been approved.

Carmichael asked Attorney Ratigan if we can say you would consider dropping the lawsuit. Ratigan said that on an earlier telephone call with Carmichael he had agreed to do that. He also said that conversations had been held with the Selectmen and Town Legal Counsel that he would do that.

Breckenridge said that items one – four had already been addressed in the previous hearing and they had one item to consider for approval. Dickler asked about the wetlands on the application near the multi-family section

and Stenersen clarified that the application was only for the wetlands areas that had been discussed.

Carmichael asked for additional questions and said the applicant had done a good job mitigating the issues. Carmichael said there were a couple of issues and I think they have done a good job in mitigating the wetland issues. They clarified that the plans being referenced were the “Revision E” plans.

Motion: by Carmichael to grant the Special Exception as per the plans presented on Revision E plans presented today as the criteria have been met.

Second: by Thomas **Vote:** 5-0-0

The Special Exception is Granted.

The Hearings were closed. The Board went into a work meeting to complete the second review of proposed changes to ZBA application fees, and Rules of Procedure, under Records item 7 proposed at the August 24, 2021 meeting.

Second reading of changes to ZBA Rules of procedure: (Text highlighted in yellow is proposed change.)

2. Public Notice

- c. To read: Costs of all required notices must be paid for, in advance, by the applicant. An application fee of \$175.00 is required for applications under three lots. Multi-lot developments of three or more lots will be charged an additional \$150.00. The fees are required with the application.

The Board reviewed and discussed the changes. **Motion:** by Carmichael to accept the changes. **Second:** by Breckenridge. **Vote:** 5-0-0

Records

7. The ZBA is authorized to retain the services of consultant services or investigative services review documents and other matters that may be required of a particular application. Such fees shall be subject to the provisions of RSA 673:16

Proposed change

7. “The ZBA is authorized to retain the services of “consultants, investigative and/or legal services” review of documents and other matters that may be required of a particular application. Such fees shall be subject to the provisions of RSA 673:16.” Fees shall be paid in full prior to issuing of the final written decision.”

Dickler read the proposed change into the record. Following the second reading **Motion:** by Carmichael to approve the changes as amended.

Second: by Thomas **Vote:** 5-0-0

Approval of minutes of July 27, and August 24, 2021. **Motion:** by Kulla to approve the minutes as amended, **Second:** by Breckenridge, **Vote:** 5-0-0
The minutes are approved.

Motion to adjourn the meeting and enter Nonpublic Meeting: per RSA 91-A:3, II (a), (c) made by Kulla, seconded by Breckenridge. **Vote:** 6-0-0



CONSERVATION COMMISSION

30 PAYSON HILL ROAD
RINDGE, NH 03461

Tel: (603) 899 5181 Fax: (603) 899 2701 TDD: 1 800 735 2594
Email: rindcecomm@town.rindge.nh.us

Sept. 21, 2021

Board of Adjustment
Town of Rindge
30 Payson Hill Road
Rindge, NH 03461
Attn: Chairman Carmichael

Subj: Case 1175, RCC Appeal of Planning Board, King's Way

Chairman Carmichael,

The Rindge Conservation Commission respectfully requests that the Board of Adjustment table the above noted case for a period of ninety days to a future BOA meeting.

The project developer has revised their plan to more closely comply with the requirements of the Rindge Wetlands Ordinance and we have asked that the new Revision A plan of Sept. 9, 2021 be submitted to the Planning Board for acceptance as substitution of the original plan.

Respectfully submitted,

David G. Drouin
Chair, RCC



CONSERVATION COMMISSION

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 898-5181 Fax (603) 898-2101 TDD 1-800-735-2981

Email: rindcc@rindge.com or cc@rindge.nh.us

Sept. 21, 2021

Board of Adjustment
Town of Rindge
30 Payson Hill Rd.
Rindge, NH 03461
Attn: Chairman Carmichael
Subj: Case #1176, Navian Development, Placid Acres

Dear Chairman Carmichael,

At the September 13, 2021 Rindge Conservation Commission meeting the Commission reviewed the new Special Exception application for the above named BOA Case #1176. Mr. Nathan Chamberlain of Fieldstone Engineering presented revised plans dated August 30, 2021 Revision E.

This new plan is substantially different from the prior Special Exception application for the roadway wetlands crossings, in that all of the runoff discharges are beyond the 50 foot wetland buffer, the clearing of trees in the buffer has been reduced to a reasonable amount and the grading in the buffer is minimal and related to the storm water treatment system of this application.

For the reasons above, the Commission renders a positive opinion of this application to the Board of Adjustment. This opinion applies to the wetlands crossings of this application only, the other areas of concern that the Commission has brought to the attention of Fieldstone Engineering we expect be addressed as the project moves forward in the future.

We thank Navian Development and Fieldstone Engineering for their efforts to reduce the impact of these crossings in conformance with the Wetlands Ordinance and we wish them luck with this project.

Respectfully Submitted,

David G. Drouin
Chair, RCC

Cc: Fieldstone Engineering
Navian Development
Board of Selectmen