

## **April 27, 2021 ZBA Meeting Agenda**

7:00 pm - Meeting called to order by Chairman George Carmichael. He read the following into the record: In accordance with Governor Sununu's Emergency Order #12 and pursuant to Executive Order 2020-04, this Board is authorized to hear cases electronically. In accordance with the Emergency Order, I am confirming that we have provided public access to the meeting by telephone and online access by video utilizing the Zoom online meeting platform.

ZBA Board members introduced themselves, George Carmichael, Zoning Board Chairman, regular member, Marcia Breckenridge, regular member, Deni Dickler, regular member, Marty Kulla, alternate member, Phil Stenersen, regular member, Bill Thomas regular member.

Carmichael provided the following information about the ZBA. The ZBA has five voting members. The alternates participate in the testimony phase and can ask questions as can anyone from the audience. However, once the testimony is closed, only the 5 voting members will participate. When a regular member is either absent or recuses themselves, the Chairman appoints one of the alternates to sit on the case.

Carmichael asked if there were any recusals, Stenersen recused himself from Case 1167, Kulla was seated to replace him.

The clerk announced that the Notice of the Public Hearing was posted in the Ledger/Transcript, Town of Rindge Website, the Rindge Post Office, the Rindge Town Office, and the Ingalls Library.

Carmichael explained for the public how the ZOOM Meeting would proceed, how to be recognized to speak during the portions of the hearings that are open to public comment and when addressing the Board, to identify themselves with (name, abutter status and address for the clerk.

Carmichael opened the hearing for Case 1165 and announced that Breckenridge, Kulla, Thomas, Dickler and Carmichael would be seated for the case.

Carmichael asked Kulla to introduce the case for the record and he read the following: Case# 1165: Navian Development, 581 NH Route 119, Rindge, NH 03461, for property located at 581 NH Route 119, Map 4 Lot 23 in the Residential Agriculture District, for a Special Exception, as specified in the Wetlands Conservation District Ordinance, Section 6, to allow crossing of wetlands with a roadway associated with the proposed residential subdivision.

Dickler summarized Section 6 uses permitted by special exception of the Wetlands Ordinance, and Section 4G, permitted uses.

Breckenridge asked Carmichael if she could make a motion before proceeding with the case, Carmichael said yes. Breckenridge said she would like to make a motion. She said “the only purpose of a Zoning Board member or a Board of any kind for a Town is to address and fully hear the public and be informed so that an informed and just decision can be reached. Attorney Ratigan has written two letters, one of which arrived today. I need, and I believe the Board needs, time to further consider these”. Breckenridge then **made a motion** for the ZBA to continue the case to the May meeting to allow the ZBA time to consult with a Land use Attorney. The Board will also be seeking attorney fees from the applicant to the extent allowed by NH Law, so this would not automatically be an expense borne by the Town. One of the letters arrived today and I believe more time is needed. **Motion seconded** by Thomas, **Vote:** Aye: – 4, Nay: – 1. The case is continued to the regular scheduled meeting on May 25<sup>th</sup>.

Dickler asked the Chair if it was appropriate to respond to the letter concerning her recusal now or wait to wait until the board consults with an attorney. Carmichael said she could continue if she wanted to. Dickler said specifically that she was requesting that John Ratigan, speaking for Navian, retract the letter that request her recusal. That it contained false statements which she found very offensive. She said the first paragraph stated that she made several comments to the planning board expressing her opposition to the project. Dickler read a section from the Planning Board minutes and said that at no time did she state opposition to the Navian project. She said that she did quote “highlighting requirements from three sections, setbacks, open space, and accessory structures from the PURD Regulations and believes the entire letter should be withdrawn”.

Carmichael asked if there were any additional comments. There were none and Carmichael closed the Case, stated it would be continued to the 4<sup>th</sup> Tuesday in May and that Mr. Ratigan would receive a letter about the meeting. Stenersen said the reminder was not necessary as the case was being continued. Carmichael said that letters would be sent to the applicant and Mr. Ratigan as a courtesy.

### **Carmichael opened the hearing for Case #1167**

Sitting on the case is Breckenridge, Thomas, Dickler, Kulla, and Carmichael

Carmichael read the case into the record. Case# 1167: Wendy and Justin Charles, P.O. Box 6 Temple, NH 03084, for property located at Amalia Way, Map 11, Lot 36-1-9, East View Estates, in the Residential Agriculture District, for a Special Exception as specified in the Accessory Dwelling Unit Ordinance.

Dickler summarized the relative sections of the Accessory Dwelling Ordinance Sections 3A – L.

Carmichael asked the Applicant to describe the request for the ADU. The applicant, Wendy Charles, said she is requesting to build an Accessory Dwelling Unit above the garage at the house that is being built on Amalia Way, the septic system is designed to include the added unit. There are three other houses on the street with similar ADU's, either above the garages or in the basement and this application meets all the criteria from the application.

Wendy Charles provided an overview of details of the application which included the following:

- A. The ADU is a secondary and accessory space in a single-family home and is attached through the garage.
- B. It will be located above the garage barn, and blends with the design of the home and its appearance blends with the style of the other homes.
- C. There will be only one ADU attached to the dwelling as outlined in the ordinance.
- D. My husband and I will be residing in the principal residence.

- E. The entrance will be located on the side of the garage and will not be visible from the street.
- F. With regard to lot size, because the ADU is located within the principal dwelling unit it is not considered an additional structure on the lot, so lot size does not apply.
- G. There will be two means of egress, one through the main door to the apartment and the other through the upstairs access to through the house.
- H. The living area of the ADU is approximately 3100 square feet and the finished living space of the attached Dwelling Unit is approximately 3100 square feet. The ADU is approximately 26% of the total floor area which meets the requirement.
- I. The building permit has been approved pending the approval of the Special Exception. The unit will have an interconnected fire building codes alarm system and meet all safety and building codes.
- J. Adequate off-street parking will be provided by two spaces for the principal unit in the driveway and space next to the south side of the barn for the Attached Dwelling Unit. This will include adequate space for vehicles to enter and egresses. Details regarding planned turning space are included on the septic plan.
- K. The proposed septic system is attached and is designed for the added unit and the principal dwelling unit in accordance with RSA 485A:38.

Carmichael thanked the applicant for the thorough job in presenting the overview of the application and asked the board for questions.

Dickler asked about the door designated as an egress door that had a lock on it. Following a discussion it was clarified that there is an entry door, in addition to egress windows. Kulla referenced RSA Section 3. 8 one of the requirements says at least one common interior access between the principal dwelling structure and the ADU must be maintained and have an effective means of egress. Dickler said the application specifically stated that one of the points of egress was that locked door. It was determined that without the door there is adequate egress with the egress windows. Dickler clarified that the correction to the application is item "G". As the door is an "access to the

primary dwelling unit”, but not an emergency egress since it is sometimes locked.

Abutter, Phil Stenersen, was recognized by Chairman Carmichael and said that he fully supported the change.

Carmichael motioned to move into deliberative session, second by Breckenridge. **Vote:** Aye – 5, Nay -0, Abstain - 0

Carmichael motioned to approve the application as written with the deletion of “the door is a means of egress”, item G regarding the access door, because there are two means of egress by door and egress window. Second by Dickler. **Vote:** Aye -5, Nay -, Abstain – 0

The Application is approved. Carmichael reminded the applicant that although the application was approved there is a 30 day wait period in the event that there are any appeals of the decision.

Acceptance of minutes: March 23, 2021– Minutes were not reviewed.

Discussion on suggestions for changes to Rules of Procedure will take place at the June meeting. Dickler asked if there were specific areas to review. Carmichael said that it’s been some time since they had been reviewed so it made sense to review the entire document and bring any questions you may have to the next meeting.

Other Business:

Breckenridge shared her concerns about the status of the Zoning Office and the following: Letter to the Editor she submitted to the Monadnock Ledger Transcript.

ZONING BOARD April 27, 2021 letter to the editor

I am writing this letter both as a member of the ZBA and as a concerned citizen. Two weeks ago I wrote an editorial in the Monadnock Ledger expressing concern over the public’s lack of access to the Zoning Board. The Board chairperson has been informed that the ZBA and Planning Board will no longer share a first- floor office, despite the long -standing precedent of successfully sharing. The ZBA had no input into this decision by the Selectmen and has been given no reason why two important but part time office staffs cannot continue to share an office space. The ZBA has also been told there is a shared downstairs office possibly available. This

office space is already small and filled with multiple file cabinets and often used by others. I personally saw the office and talked with a town employee who spoke of the various groups that often, but not always, use this space.

Today April 27, I checked the status of the ZBA office and access to the public. Here are the current facts:

The front door to the town office lists SELECTMEN, PLANNING BOARD, TAX COLLECTOR, TOWN CLERK AND BUILDING CLERK. The WELFARE DEPARTMENT is also listed. NO ZONING BOARD information

Inside the there is a sign stating PLANNING and ZONING. The door lists the PLANNING BOARD hours. NO ZONING BOARD information.

Downstairs the public entrance lists all the offices downstairs with an erroneous sentence stating the PLANNING BOARD AND ZONING offices are upstairs.

Currently the ZBA's official space is a mail cubicle in an area for staff. PERIOD.

THE PUBLIC HAS A RIGHT TO SPEAK WITH THE ZONING BOARD. No contact name is given in any of the locations previously mentioned. The public deserves to be served and expects to be served. The current situation is unacceptable. ZBA needs are the following: continued sharing of the first- floor office, a designated computer for the legal records of cases and a designated phone with a contact person on the zoning board.

The current discussions about whether the ZBA office will move or stay in the present location in the Planning Office. She also asked that her letter be part of the public record and that she would send a copy to ZBA Clerk to add to the minutes. Other concerns mentioned was that there is neither an office location nor telephone extension listed for the ZBA. Carmichael said that he received call from the Town Administrator and a telephone has been ordered.

Carmichael suggested that the Board consider going back to holding public meetings. Following a brief conversation, it was decided to hold hybrid meetings, Public & ZOOM, at either the Meeting House or the Recreation Building starting with the May meeting. Kim will follow-up on the availability of both locations and get back to Carmichael.

Motion to adjourn By Breckenridge, second by Carmichael

Meeting Adjourned 8:07pm