



RINDGE BOARD OF ADJUSTMENT
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May 23, 2023 Meeting Minutes

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

Members present: Adam Rickenbach, alternate; Terrence Fogg, Alternate; George Carmichael, Chair; Marcia Breckenridge, Vice-Chair; Ross Thermos, Member; Phil Stenersen, Member; Marty Kulla, Member

Members absent: None

Others present: Ed Rogers, Rogers Engineering Solutions

Chairman Carmichael provided the following general information on 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. Once the testimony is closed only the five voting members will participate and there will be no more input from the public.

Carmichael asked if there were any recusals and there were none.

ZBA Clerk, Kim Mc Cummings, 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 that they must be recognized by the Chair before speaking and asked that they identify themselves by stating their name, and address for the Clerk.

Carmichael announced **Case 2008**, opened the hearing and announced that Marty Kulla would read the case before the Board. Kulla read **Case 2008:** 73 Willard Road LLC, P.O. Box 261, Rindge, NH 03461, for property located at 11 Tico Road, Map 22 Lot 22-4, Monomonac East Development in the Residential District, for an Equitable Waiver of Dimensional Requirements from Article IV Section B.2. of the Zoning Ordinance, to permit a building to be located 48.2ft. from Tico Road right of way, where 50 ft. is required.

Rickenbach summarized Article IV Section B. 3 of the Zoning Ordinance, to permit a building lot with less than the required area of 2 acres for the record.

Carmichael announced that in addition to himself, Breckenridge, Stenersen, Kulla, and Thermos, would be seated for the case.

Carmichael asked who would be speaking for the Case. Ed Rogers of Rogers Engineering Solutions said that he would be speaking on behalf of his client, 73 Willard Road, LLC, that he had prepared the application and plot plan for the equitable waiver of dimensional requirements from Article IV section B.2. of the zoning ordinance, and that Ezra Ketola is the current owner on the application. He also added that the substantially complete home located at map 22 lot 22-2 is to be located 48.2 feet from the Tico Road right of way where 50 feet is required.

Rogers continued with his responses to the questions from the application:

1. Does the request involve a dimensional requirement, not a use restriction?

Yes X No _____

2. Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot violation had been transferred to a bona fide purchaser.

Mr. Rogers said construction on the home began in 2021, but the non-conformity was not discovered until a mortgage plan was completed by G.C. Engineering on March 31, 2023. The original site layout and septic design for the s proposed in April of 2020 set the structure back approximately 63 feet from the right of way. When this location was viewed on the ground, the owner decided to move the house forward approximately 12.5 feet. However, the original house plan was also changed, which now included a bump out in the front which had not been included in the original house design. It was overlooked that this bump out would now contain the critical corner with respect to the front setback.

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

Fortunately, the non-conformity is minimal, retaining 96.4% of the intended setback. Without a precise and accurate survey, the non-conformity was not apparent to the untrained eye. The critical corner of the building is located approximately 65.5 feet from the edge of the pavement on Tico Road, which poses no issues for public safety or road maintenance. The as-built set-back setback is similar or greater than some buildings on other properties in the same zone in this neighborhood on Tico Road and Swan Point Road. Furthermore, the house maintains vegetated

screening in the front which minimizes any effect it might have on abutting properties. Also, because the critical dimension is from the right of way and not an abutting sideline, the non-conformity will have no foreseeable effect on future uses of other properties in the area.

4. Explain how the cost of correction far outweighs any public benefit to be gained.

Rogers said, to modify the existing building and bring it into conformity with the front setback would require the demolition and reconstruction of a portion of the front of the building including part of the foundation. The cost to perform the work is likely in the \$40,000 to \$50,000 range. In addition to this cost, the work would risk compromising the structural integrity of the foundation and would slightly reduce the livable area of the home which also reduces the value. Roger perceives no public benefit that would outweigh the cost.

Carmichael asked why they moved the building 12 ½ ft. forward instead of back. Rogers said that they had changed the house plan and the angle of the house and didn't realize how far forward it would be pushed.

Rogers said the non-conformity was discovered when the potential buyer applied for a mortgage. The problem was discovered in March 2023 when the Bank Mortgage research required a survey.

Rogers said it's a non-conformity, the corner of the building is approximately 42ft from Tico Road. The as-built structure was built smaller and fits in with the neighborhood. The house maintains a fairly good vegetative screen. It looked good enough and they just started building. The cost of the correction would far outweigh any benefit to the Town. Stenersen added it's been done in other towns, and it's seen as an appropriate job.

Motion: by Breckenridge to enter deliberative session. **Second:** by Carmichael **Vote:** 5-0

Carmichael said that he spoke to NH Municipal and was told there have been a lot of cases like this. He reminded the Board that they would have to agree with all four questions and asked "was it an honest mistake" or was it intentional? Thermos said they should have done their due diligence beforehand. Carmichael said he went to the property, and it looks like pure sand right up to the lake. He mentioned that NH Municipal went to court with a case and the applicant had to level the house.

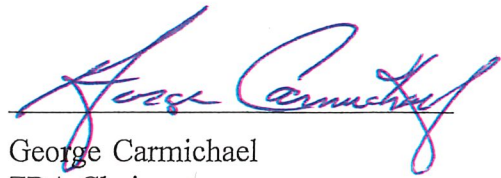
Breckenridge said, "but was it an honest mistake?" Stenersen said "you stake everything in advance. You measure with tape, mark it with flags etc." Carmichael said it could have been an honest mistake. He also mentioned that NH Municipal said it's better to apply for both equitable waiver and a variance at the same time. **Motion:** by Carmichael to accept the application as written. **Second:** by Breckenridge **Vote:** 5-0 The application is approved.

Carmichael asked if everyone had a chance to read the April 25, 2023, minutes. Breckenridge said that she reviewed them, and two corrections were needed. **Motion:** by Carmichael to accept the April 25th, 2023, minutes as corrected, **Second:** by Thermos **Vote: 5-0**, the April 25th, 2023 minutes are approved.

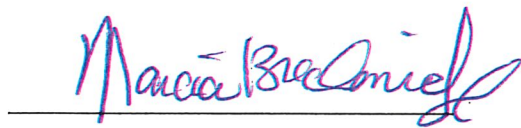
Carmichael asked if there was any other business to come before the Board and there was none.

Meeting adjourned at 7:49 pm

Kim McCummings
ZBA Clerk

A handwritten signature in blue ink, reading "George Carmichael", written over a horizontal line.

George Carmichael
ZBA Chair

A handwritten signature in blue ink, reading "Marcia Breckenridge", written over a horizontal line.

Marcia Breckenridge
ZBA Vice Chair