



RINDGE BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD, PO BOX 163

RINDGE, NH 03461

Tel. (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964

www.town.rindge.nh.us

APPROVED

**Site Walk
Public Hearing Minutes
10-31-2006**

REVISED 11-13-06

Present: Members Joseph C. Hill, MD – Chair, George Carmichael – Vice Chair, Marcia Breckenridge, William Harper, David Drouin: Alternates: William Thomas, Charles Phillips, Janet Goodrich

**Case # 963 – Arthur Martin
Continuation:**

Harper stated that there are two items in RSA 674:33 paragraph 5 – notwithstanding, paragraph 1B. First (A), when reasonable accommodations are necessary, even without finding a hardship arising from the condition of a premises subject to the ordinance, any Zoning Board of Adjustment may grant a variance from the terms of the Zoning Ordinance to allow a person or persons with a recognized physical disability to reside there. Any variance granted under this paragraph shall be in harmony with the general purposes and intent of the general ordinance and (B), in granting any variance pursuant to this paragraph the Zoning Board of Adjustment may provide in the finding included in the variance that the variance shall survive only as long as the particular person has a continuing need to use it. This RSA reads handicapped; the intent is that if you have a handicapped person you need to make an exception for that handicap. This RSA's Variance is all based on a person or persons with a recognized physical disability.

The homeowner was asked if he has any existing situation with any physical issues with mobility, going down stairs, climbing a hill. He responded, "No."

Dr. Hill asked for any further discussion before going to the decision tree. There was none.

1. The Variance **will or will** not be contrary to the public interest?

Harper said lake properties are an exception in a lot of instances and if you look up and down those properties, there are numerous setback violations. In particular, a lot of properties around Lake Monomonac and Sunshine Lake both are full of violations that are inconsistent with the current zoning regulations. It would not be contrary to the area and the surrounding area.

Carmichael stated that he agreed with that, but he was not sure that there was any stipulation in the Rindge zoning laws that breaks out the differences



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between the lake front property, particularly on Lake Monomonac, and other properties across town. Unfortunately the regulations say 15'. It would not be contrary to public interest because it's on a dead end road, and there are no homes across the street at all. It is not blocking the public's view or access; "I don't think it is contrary to public interest."

The ZBA has to consider the purpose and intent of the zoning law when looking at that setback. The ZBA could say that the building is attractive, not intrusive, not out of keeping with other properties, it is in character with surrounding properties and well maintained.

Therefore, the ZBA determines that the variance is not contrary to the public interest because:

- 1: The property is on a dead end street.
- 2: The shed is not blocking views or access of the surrounding properties.
- 3: The shed is attractive.
- 4: The shed is non-intrusive.
- 5: The shed is in character with surrounding properties.
- 6: The shed and property are very well maintained.

2. Special conditions **do or do not exist** such that literal enforcement of the ordinance results in unnecessary hardship?

2A: The area variance **is or is not needed** to enable the applicants proposed use of the property given the special conditions of the property.

When the ZBA did the site walk, the ZBA could see that no matter what side of the property the shed was placed on, it would have to be in front of the house. Harper thinks that is asking too much to move it.

Therefore, the ZBA determines the area variance **is** needed because:

The special conditions of the property are a narrow lake front lot with minimal side setbacks. The area is needed because there are no other alternatives that were reasonable.

2B: The benefits sought by the applicant **can or cannot** be achieved by some other reasonably feasible method.

The ZBA has just answered that for the same reasons: narrow lot, minimal setbacks.



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3. The Variance **is or is not** consistent with the spirit and intent of the Rindge Ordinance.

The whole intent of the variance is to allow a person to do something that is not allowed in our town zoning ordinances. The Variance **is** needed because:

- 1: There is no other alternative for the applicants.
- 2: The shed preserves the values and attractiveness of the town.

4. Substantial justice **is or is not** done by granting the variance.

All members agree that is it **is**. If the variance is denied, the applicant will be burdened because the shed will have to be dismantled; there are no other reasonable alternatives for the applicants. and there is no significant benefit to the town in denying the variance.

5. Granting the variance **will / will not** diminish the value of the surrounding properties.

All members agree that granting the Variance will not diminish the value of surrounding properties because:

- 1: For reasons number 2,3,4,5 & 6 as stated in number one..

Because all criteria have been met, the Variance should be **granted**.

Breckenridge moved in Case #963 to approve the variance because it meets all five criteria reached on the decision tree, 2nd by Drouin. The motion carried unanimously.

Breckenridge passed out other corrections for the minutes of October 24th.

Hill stated that the ZBA needs to approve the minutes of September 26th. At the last meeting there was a gap in the minutes and that has been included in what was sent out to everybody.

Drouin suggested that page 5 of the minutes state that Art Fiorelli said there was no rebuttal period. Dr. Hill said that information was on page 4, last paragraph.

Harper made a motion to accept the minutes as amended and corrected. The motion was seconded by Carmichael. The motion carried unanimously.

A motion to adjourn was made by Carmichael, and seconded by Drouin. The motion carried unanimously.



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Julie Labonte
Interim Secretary / Clerk

Respectfully submitted

Joseph C. Hill, MD

Chairman

George Carmichael

Vice-Chairman