



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

PUBLIC MEETING MINUTES

April 24, 2007

Members present were: Joseph C. Hill, MD – Chair, George Carmichael – Vice-Chair, Marcia Breckenridge, and William Harper.

Alternate Members present were: Richard Feldman, Janet Goodrich, and Bill Thomas.

Hill opened the Public Meeting at 7:00 PM.

The members and alternates of the Board introduced themselves stating their names and Board status: Janet Goodrich, Alternate; Richard Feldman, Alternate; George Carmichael, Vice Chair; Dr. Joseph Hill, Chairman; Marcia Breckenridge, Regular Member; William Harper, Regular Member; and William Thomas, Alternate.

Hill appointed William Thomas to sit as a voting member as David Drouin, regular member, will not be in attendance for this evening's meeting.

Chairman Hill read aloud the posting locations for the Notice of Public Meeting for this evening's public meeting.

Duties of Chairman and Vice-Chairman of the Zoning Board of Adjustment

Chairman Hill has asked Vice Chairman Carmichael to officiate this part of the meeting and Vice Chairman Carmichael has agreed.

Hill has drawn up the listing of what he does in terms of day-to-day operations for the Zoning Board of Adjustment. He passed it out to each member/alternate.

At the last meeting, a motion was made, seconded, and passed unanimously, for the alternates to sit at a separate table against the wall during a meeting/hearing. Hill asked the Board to revisit that decision.

Carmichael said that the motion did not mandate that alternates should sit in the audience. Rather, alternates should sit, as a group, at one end of the table, as opposed to behind the table.



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Breckenridge said that she had a proactive, not reactive question: Is there any kind of procedural preparation in which someone acts as a liaison? In other words, someone has a specific job to inform the applicant as to, "This is what you can expect in the meeting/hearing; and/or members of the Board are people who are there to help..." as opposed to reacting to concerns that come in. Carmichael agreed saying this is what he was trying to prevent. There should be no fear in the process. After discussion, the Board decided to leave the motion as passed.

As per the Code of Ethics Guidelines adopted by the Board of Selectmen, these guidelines and the civility policy have been distributed to all Board members following the annual organizational meeting.

Carmichael thanked Hill for bringing to the Board's attention that amount of ZBA work that he does each day. He said that it may be too much for him to be doing. Carmichael suggested the Board discuss this as a whole.

Harper said that he had attended an ethics seminar at Franklin Pierce College. Following a conversation with the NH Secretary of State at that event, Harper commented that the role of the Chairman is to simply chair the meetings, unless authorized by the Board to do otherwise. For example, Harper felt the entire Board should have been involved in the interviews and hiring process for the secretarial position.

Harper stated that it is the Board that should interact with Town officials.

Hill responded that the duties he does behind the scenes are that he reviews, with the Secretary, the agenda and the issues to be brought up at each meeting; that he reviews and edits all decisions and minutes after the Secretary has prepared them and before they are sent on to Carmichael for his review. Harper would prefer the entire Board receive and edit the first draft of the minutes.

The Secretary should prepare the minutes and send them to each member for review. The Board members may offer feedback to the Secretary for correction/clarification. Hill stated that he thought it would be cumbersome to do it in this manner. Until the minutes have been reviewed, edited and approved by the Board, a DRAFT can be submitted to the Town Clerk within the necessary time lines.

Hill stated that there are two issues with regard to the 144 hour rule: the decision must be worded correctly, posted and sent by certified mail to the applicant and by regular mail to the abutters.

The Secretary will be asked to repeat the language of **decisions** as the Board makes them to ensure that they will not be written incorrectly. Then she will e-mail these to Chairman Hill so



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he can affix the signatures of the Chair and Vice-Chair. The minutes, as the Secretary has prepared the draft, will be mailed (USPS) to all members for their review and they will send back proposed changes to the Secretary by e-mail or “snail” mail in a timely fashion. The Secretary will incorporate these changes in a highlighted manner and at the following month’s meeting when the minutes are approved by the Board, signatures will be affixed by Chairman Hill in PDF format.

Carmichael asked which Board members were voting members this evening. Hill stated that the voting members are Hill, Carmichael, Thomas, Harper, and Breckenridge. Goodrich is taking notes this evening.

Breckenridge asked if the email was okay as a means to send the draft minutes. Carmichael said that email is not a reliable way to communicate between people, and everything will be mailed in accordance with the ROP’s from this point on.

Carmichael expressed that he hoped Hill would feel that these changes would free him up from having to doing these administrative details and make his life easier.

Carmichael expressed his sentiments in regard to these changes as each Board member accepting ownership of their duties which will effectually take the responsibility off of Hill and Carmichael, and spread it equally among the board members.

Hill indicated that he had drafted proposed changes to application forms in PDF format as necessary and then submits for this Board’s approval. Once approved, he makes any changes as suggested by the Board and then creates PDF formatted documents.

Hill has created the draft changes the Board requested. Harper said this also is the Secretary’s responsibility and most members the Board agreed. For the Secretary to assume these responsibilities, the Board authorized the purchase of software with PDF capability.

Carmichael noted that the Secretary of the Zoning Board of Adjustment reports to the entire Board, not to the Chairman.

The Board discussed the appropriate way to assist ZBA applicants. The Board feels that the Code Enforcer should know how each application applies to the Zoning Ordinance, that it is his job to determine which type of relief should be sought by the applicant. If the Code Enforcement Official makes a mistake, then the Board will correct it at the meeting/hearing.

Breckenridge questioned if the Code Enforcement Officer has a problem with direction to the applicant, he must notify the Secretary who will in turn notify the Board members via e-mail. She should address the Board. Harper said that the Board would be happy to help an applicant



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when they come before the Board. There may be a delay of a month to the applicant when the Board suggests the applicant has made an error, but that is okay.

If a Town Official has a question as to the status of a case before the Court or requests information they may need, the Board should then determine the language of any question or answer prior to it being discussed with any other entity. There should be one conduit or vehicle for information.

The Board agreed the Chairman reviews and signs the Secretaries' time card.

A proposed annual budget will be developed in a BOA meeting/hearing whereby the Secretary will be asked to give the Board a synopsis of the expenditures and what is needed for the upcoming year. The Board will then formulate the budget for submittal to the Selectmen and the Budget Committee in early December.

Hill presented a summary of Board expenses for this year. The amount spent to facilitate an application is consistent with the amount charged for the facilitation of same.

The Chair will prepare a draft of the Annual Report of the Board of Adjustment to be reviewed and approved by the entire Board prior to being submitted for the Town Report.

If the Chair is asked a question by Town Counsel the reply must be, "I must speak with the entire Board before I can answer". If counsel needs information or documents that are required immediately or within a day or so, it is the Secretary's job to provide information that is of public record only.

Carmichael informed the Board that recently the Secretary called him stating that she was asked to assist a citizen with questions regarding his application and the information that was needed for same. The majority of the board felt that if an applicant has questions about what and how to proceed he/she must come before the Board to determine the answers.

Carmichael said in all honesty he looks at the Chair's position as being active one or two times per month and not one or two times per day.

Goodrich said that she was one of the members who left the last meeting feeling as if some members had been treated inappropriately. She felt that if a member had a concern it should be discussed as a constructive criticism as opposed to a destructive criticism. Breckenridge suggested that there is a thin line between being impassioned and being intimidating.



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Thomas said that it is easy to be trapped into feeling like one person has to do all the work. Carmichael said that was the reason the Board had a Secretary. Thomas is appreciative, since he is a new member, to know how things should work and it is good to have this information.

Breckenridge stated that the Zoning Board of Adjustment are discussing the role of any Chair of the Board of Adjustment.

Hill took over the meeting with the proposed Decision Trees for the Application for Rehearing, Equitable Waiver of Dimensional Requirements, and the Appeal from An Administrative Decision. These were discussed at the last meeting, this being the 2nd hearing/reading of them. The Board approved these documents unanimously. No motion is required.

The Board had requested changes to the Decision Tree of the Area Variance at the last meeting. These changes were under # 2 where the language "Special Conditions do/do not exist such that literal enforcement of the ordinance results in unnecessary hardship because:" will be placed under Paragraph 2b as opposed to above paragraph 2a. This section has been amended as noted above and the Board agreed with this language as written.

The proposed checklist for completeness of an application was reviewed by the Board. Hill questioned the Board as to whether each application should have the this entire checklist for each application or only the pertinent checklist associated with an application attached to it. Harper wished to amend the checklist to include, in each instance, involving the Administrative Decision, the Use Variance, the Area Variance, the Equitable Waiver, and the Special Exception to allow 3 copies of the plot plan, not 11. One would be for the Code Enforcement Officer, two for the Board. The Board specified, after discussion, that 11 copies at a size of 8" ½ x 14" (legal size) and in addition to 3 full size plans being a minimum of 24" x 36" with the words "if applicable" added after this requirement are specified in each checklist. The Secretary will change the wording in each application to include the above mentioned changes along with the checklist. This will be done when she receives the Adobe Acrobat. Motion made by Harper, seconded by Carmichael, that the Board purchase the Adobe Acrobat for the Secretary. The motion passed unanimously.

Hill stated that he and the Secretary had noted errors in the following applications: Rehearing, Area and Use Variance, Special Exception, Administrative Decision, and Equitable Waiver. These applications under sections 9 and 10 require one copy of documents when it should read 11 copies in each instance.

Hill noted that in the Rehearing Application that paragraph 7b is in conflict with the new section requiring 11 copies. The Board determined that this sentence may be deleted.



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Hill indicated that the next item is to review expenditures and set application fees if applicable. He has drawn up a listing of the total expenditures to date beginning from 8/1/06. The first line item is Salaries – this number includes Olson’s salary, Labonte’s salary (at a time and a half rate) and McDermott’s salary to date equaling \$4,444.09. This is the amount that has been paid out and includes Salaries, FICA, and Medicare.

The total expenditures are \$7,065.16.

The ZBA had 14 cases or rehearings from 8/1/06 to date. The total amount of receipts or the amount of money taken in, for fees is \$1,925.00. A few cases had waivers that allowed them to pay lesser fees, and one case had no fees at all.

The cost/case (including salary, FICA & Medicare) = \$504.65

The cost/case (not including salary, FICA & Medicare) = \$187.21

The current ZBA charge is \$175.00 per application so the fee is appropriate. A motion was made by Carmichael to keep the fee structure the same, seconded by Harper. The motion passed unanimously.

Harper expressed concerns that the salary line item was excessive. Hill explained that part of this was the rate paid to Labonte (time and one half) and part was the length of time that Olson took to document things.

Carmichael brought up the fact that there are many elderly people who cannot afford the \$175.00 fee.

The Board agreed to give The Overseer of Welfare authority, on a case by case basis, to lower the application fee to \$25.00. Motion was made by Thomas, seconded by Carmichael, and the motion passed unanimously.

The Board discussed how to write the statement on the application.

A motion was made by Thomas to approve this statement, “In case of financial hardship, please contact the Welfare Overseer.” The motion was seconded by Hill, and the motion passed with Thomas, Carmichael, Harper, and Hill voting in the affirmative. Breckenridge voted in the negative.

Hill brought up the changes to the Rules of Procedure – these changes are highlighted in red ink on the draft documents and will read as follows:

Page one: Members and Alternates, #1: is changed to read “673:3” in the first sentence.



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Page one: Members and Alternates, #2: will read “Up to five alternate members may be appointed for three (3) year terms, as provided by the Zoning Board of Adjustment. They shall be appointed in such a manner so not more than two alternate members shall be appointed each year. The alternate members should attend all meetings to familiarize themselves with the workings of the Board and should attend all meetings to stand ready to serve whenever a regular member of the Board is unable to fulfill his/her responsibilities. The Alternates will sit at a separate table off to the side of the Board unless appointed by the Chairman to fill in for a regular Member of the Board.”

Page 2: Members and Alternates, #3: will read “Whenever a vacancy occurs on the elected Zoning Board of Adjustment, an Alternate shall be appointed to be a regular member by the remaining regular members of the Zoning Board until the next municipal election, at which time a successor shall be elected to either fill the unexpired term or start a new term as appropriate pursuant to NH RSA 673:12-I.”

Page 2: Members and Alternates, #4: will read “Whenever a vacancy occurs for any Alternate position, that position may be filled by appointment by the regular elected members of the Zoning Board of Adjustment for the unexpired term pursuant to NH RSA 673:12-II.”

The Board of Adjustment found that the Board of Selectmen should not have appointed Feldman because this is now an elected Board. Motion was made by Harper, seconded by Carmichael to appoint Feldman as a three year Alternate member. The motion passed unanimously.

Page 3: Order of Business, letters c. and d. c. will read Minutes of previous meeting and d. will read Public Hearing(s).

Page 4: paragraph h.: will read “Each month the Zoning Board of Adjustment will have two members or alternates review and initial each application, checking for completeness of the ZBA’s application requirements. One of these members or alternates will continue to review applications for one more month; the other will be replaced by another member. In this way, all Board members will rotate and share reviewing of the applications.”

Page 5: Public Hearings letter c.: will read, “The Chairman shall appoint a member or alternate to read the Public Notice and a member or alternate to read the Ordinance(s) that are being appealed.”

Page 6: letter o. and p have been added; to read “o. The hearing on the appeal shall be declared closed and either the Board shall go into deliberation and decision on that case, render a decision within 30 days, or have the next case called up.”

Page 6 letter p.: has been added to read, “Legal advice shall be obtained only upon a recommendation of a majority of the Board. The language of the question(s) to be posed for



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legal advice shall be decided by a majority of the Board. The Board shall designate the contact person to obtain the legal advice.”

Page 7: Records #4: will read “All meeting minutes and decisions shall be signed by the Chair and/or Vice Chair before being posted, and they shall contain the official Zoning Board of Adjustment Logo letterhead.”

Page 5: Records #5: will read, “The official record of each decision, Public Meeting and Public Hearing shall be the approved minutes which have been signed by the Chairman and the Vice Chairman. In addition, all Public Meeting and Public Hearing minutes shall be approved by the voting members of the Board. A copy of these shall be on file with the Town Clerk and the Secretary of the Zoning Board of Adjustment.”

Hill reminded those present that the Spring Planning and Zoning Conference was this weekend.

Carmichael made a motion to adjourn the meeting at 9:15 PM, seconded by Harper, and the motion passed unanimously.

Respectfully submitted,

Jody McDermott

Secretary

Respectfully submitted

Joseph C. Hill, MD

Chairman

George Carmichael

Vice-Chairman