



ZONING BOARD OF ADJUSTMENT
30 PAYSON HILL ROAD
RINDGE NH 03461
PH. (603) 899-5181x105 FAX (603) 899-2101 TDD 1-800-735-2964
www.rindgenh.gov

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
September 22, 2026 – 7:00pm

Members present: George Carmichael, Marcia Breckenridge, Ross Thermos, Phil Stenersen, Marty Kulla

Alternates present: Kevin Sawyer, Peter Letourneau, Terrence Fogg

Public Present: Kenyon Salo, Daniel Muller, David Drouin, Rick Viviani

Meeting called to order: 7:00pm

For general information, the Zoning Board of Adjustment (ZBA) has five voting members. Alternates may participate during the testimony phase and are permitted to ask questions, as may members of the public. Anyone wishing to speak during portions of the hearing open to public comment must first be recognized by the Chair and should state their name and address for the record. Once the testimony phase is closed, only the five voting members participate in deliberations and the decision-making process. If a regular member is absent or recuses themselves from a case, the Chair will appoint an alternate to serve in their place.

Recusals: None heard.

Notice of Public Hearing was posted: Town Offices, Rindge Post Office, Monadnock Ledger-Transcript, and Rindge town website.

Public Hearings:

- **ZBA Case #2026-12: A Variance is requested from Article V, Section B(1) of the Rindge Zoning Ordinance to permit the subdivision of the lot into two lots with the proposed lot with existing house having 85.3 feet of frontage on Forristall Road and have 250 feet of boundary of UA Route 202, located at 668 Forristall Road, Tax Map 2, Lot 61-2.**
 - Carmichael read the case notice. Thermos read the applicable frontage requirement and the Article XX definition of frontage, which requires the lot to border a qualifying public right-of-way to which the lot has a legal right of access.
 - Sitting on this case is: George Carmichael, Marcia Breckenridge, Ross Thermos, Phil Stenersen, Marty Kulla
 - Daniel Muller appeared on behalf of Silver Lining Development, LLC., explained that the approximately 9.7-acre parcel contains an existing single-family residence and that the proposal would create one additional building lot. The existing-house lot would contain approximately 4.4



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acres with 85.3 feet on Forristall Road, while the new lot would contain approximately 5.2 acres with 250 feet on Forristall Road.

- Muller acknowledged that the deed history associated with the Route 202 taking relinquished access rights to Route 202. He nevertheless argued that a variance may not be required because the Town had previously approved subdivisions where a parcel had less than 250 feet on a local road but sufficient boundary along a state highway. He characterized this as an administrative-gloss or pattern-of-enforcement argument.
- Muller presented the five variance criteria. He argued that the proposal would not alter the character of the area or create public-safety concerns because the existing residence and curb cut already exist, the lots would remain substantially larger than the minimum lot size, and the proposal would add only one additional single-family building lot. He further argued that wetlands in the central portion of the property affect the practical configuration of the subdivision.
- Carmichael questioned how the Route 202 boundary could qualify as frontage under Article XX, Definition 17 when the property has no legal right of access to Route 202. He also questioned whether prior Town treatment of other properties could override the express legal-access requirement and whether the hardship arose from the property itself rather than from the owner's desire to subdivide an already conforming and reasonably used residential parcel.
 - Muller responded that prior Town approvals could inform interpretation of the ordinance under administrative gloss. He also distinguished the current statutory hardship test from the older reasonable-use-only analysis and argued that the proposed second single-family lot is itself a reasonable residential use.
- Public testimony included comments both supporting the proposed subdivision and questioning reliance on prior approvals. One area resident stated that other subdivisions had occurred in the vicinity and supported allowing the additional subdivision. Other testimony emphasized that Route 202 frontage without legal access should not be treated as qualifying frontage and that any prior Planning Board error should not control the present case.
- Roberta Oeser stated, based on her review and experience, that Route 202 boundary without legal access had not historically been treated as usable frontage under the ordinance. She noted that the frontage definition has been in place for many years and stated that Town Counsel had concurred that the Route 202 boundary in this case was not qualifying frontage.
- Additional discussion concerned examples along Route 119 and the DTS property on Route 202. Board and public comments distinguished properties that had actual or deeded access, or later obtained state driveway access, from the subject property, which does not presently have a legal right of access to Route 202.



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Deliberative Session

- Breckenridge moved to enter deliberative session, seconded by Kulla. Board voted 5-0 in favor.
- Before proceeding through the five criteria, the Board discussed two threshold issues: whether the Route 202 boundary could be treated as frontage under Article XX, Definition 17, and whether the applicant's administrative-gloss argument changed the Board's interpretation of the ordinance.
- The Board discussed that the definition expressly requires a legal right of access. Members distinguished examples involving Route 119 or properties that had actual, deeded, shared, or subsequently approved access. The Board also discussed the risk that treating inaccessible Route 202 boundary as frontage could allow future subdivisions with very little usable frontage.
- Kulla stated that each variance should stand on its own merits and that a prior approval or mistake should not determine the present case. Other members agreed that the administrative-gloss argument did not eliminate the need to evaluate this application under the ordinance as written.

1. The variance will not be contrary to the public interest.

- The Board discussed whether the proposal would alter the essential character of the neighborhood or threaten public health, safety, or welfare. Members noted that the existing residence and driveway already serve the property, the proposal would create only one additional residential lot, and no persuasive evidence was presented that the subdivision would create a public-safety problem or materially change neighborhood character. Public testimony included support from an area resident who did not believe the proposal would harm the neighborhood.
- **Breckenridge moved that granting the variance would not change the character of the neighborhood or threaten public health, safety, or welfare, as evidenced by positive testimony, seconded by Stenersen.**
 - **Vote: 5-0 in favor. Motion approved.**

2. Granting the variance would be consistent with the spirit and intent of the Rindge Zoning Ordinance.

- This criterion generated substantial discussion. Carmichael noted that the existing parcel currently has conforming frontage on Forristall Road, while the proposed subdivision would allocate 250 feet of that frontage to the new lot and leave the existing residence with approximately 85.3 feet on Forristall Road. The Board again discussed that the Route 202 boundary does not meet the ordinance definition of frontage because there is no legal right of access. Members also revisited administrative gloss and whether prior approvals created a pattern that should influence interpretation. Kulla and other members stated that prior cases should not override the ordinance and that each case should be decided on its own merits. A motion finding the criterion not satisfied was offered but did not receive a second.



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A subsequent motion found that, despite the missing legal-access element, granting relief could be consistent with the overall goals of the zoning ordinance.

- **Kulla moved that granting the variance would be consistent with the overall goals and spirit and intent of the zoning ordinance because it is just missing the wording for legal access but essentially has the same frontage, seconded by Stenersen.**
 - **Vote: 4-1 in favor. Motion approved.**

3. Granting the variance would do substantial justice.

- The Board applied the balancing test between the loss to the landowner if the variance were denied and any gain to the general public from denial. Discussion focused on the owner's inability to create the proposed second residential lot without relief, while members identified little specific public benefit that would result from denying the variance. The proposed use would remain residential and consistent with the general character of the area.
- **Stenersen moved that granting the variance would do substantial justice because the loss to the landowner from denial of being able to put two houses on approximately 10 acres would not be outweighed any identifiable gain to the general public, seconded by Kulla.**
 - **Vote: 3-2 in favor. Motion approved.**

4. Granting the variance would not diminish surrounding property values.

- The Board noted that no evidence or testimony had been presented showing that creation of the additional residential lot would diminish surrounding property values. The existing residence would remain, and no contrary valuation evidence was offered.
- **Breckenridge moved that granting the variance would not diminish surrounding property values because no evidence or testimony of diminished values had been presented, seconded by Carmichael.**
 - **Vote: 5-0 in favor. Motion approved.**

5. Literal enforcement of the ordinance would result in unnecessary hardship.

- The Board discussed the property's acreage, its existing Forristall Road frontage, the Route 202 boundary, the lack of legal access to Route 202, the location of wetlands, and the proposed residential use. Supporters of the criterion emphasized that the parcel has sufficient overall acreage and substantial boundary along Route 202 and that the principal deficiency is the lack of legal access required for that boundary to count as frontage. Other members questioned whether the hardship resulted from the land itself, noting that the existing parcel is already conforming and reasonably used as a single-family residence and that the frontage deficiency would be created by the proposed subdivision.



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- Kulla moved that literal enforcement of the ordinance would result in unnecessary hardship, based on the parcel acreage, its boundary along Route 202, and the fact that the principal deficiency was the lack of legal access required for that boundary to qualify as frontage, seconded by Stenersen.
 - **Vote: 3-2 in favor. Motion approved.**
- Following the five criterion votes, Breckenridge moved that, because all five criteria had been approved by a majority, the variance in ZBA Case #2026-12 be approved, seconded by Stenersen.
 - **Vote: 4-1 Motion approved.**
 - Carmichael advised the applicant that parties have 30 days to appeal the decision and that proceeding before expiration of the appeal period would be at the applicant's risk.

Approval of Minutes: July 28, 2026

- Breckenridge moved to approve minutes the July 28, 2026 meeting minutes, seconded by Carmichael.
 - **Vote 5-0 in favor, motion approved.**

Adjournment

- Stenersen moved to adjourn, seconded by Breckenridge.
 - **Vote 5-0, motion approved.**