



Rye Planning Board

August 10, 2010

Meeting Held at the Rye Town Hall 7:00 P.M
MINUTES OF THE MEETING

Members Present: Chair Jacinthe Grote, Vice-Chair Donald Cavallaro, Selectmen's Rep. Priscilla Jenness, Clerk Martin Zivic, Mel Low and Tom McCormick

Also Present: Planning Administrator Kimberly Reed and Transcriptionist Dyana Ledger.

Absent: Patricia Weathersby and Town Counsel Michael Donovan.

I. Call to order and Pledge of Allegiance

Chair Grote called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

II. Designation of sitting alternates - Action Required

- **None**

III. Approval of the July 13 and July 27, 2010 Minutes– Action Required

July 13, 2010

The following correction was noted by Vice-Chair Cavallaro:

- It should be noted that amec should be AMEC.

Motion by Mel Low to approve the minutes of July 13, 2010 as amended. Seconded by Priscilla Jenness. Vote 5-0. Jacinthe Grote abstained as she was not present at the meeting.

July 27, 2010

The following correction was noted by Vice-Chair Cavallaro:

- It should be noted that WAI is Waste Alternative Inc.
- Page 3, last paragraph reads: Mr. Nadeau explained that each homeowner will pay a due to the Association. It should read: **Mr. Nadeau explained that each homeowner will pay a ~~due~~ dues to the Association.**

Motion by Donald Cavallaro to approve the minutes of July 27, 2010 as amended. Seconded by Tom McCormick. Vote 5-0. Mel Low abstained as he was not present at the meeting.

IV. Public Hearing on Proposal – Action Required

- Major Site Development Plan on approximate lot size of 100,740 sq ft for 1215 Ocean Boulevard, Rye NH located at Tax Map 17.3, Lot 6 in the Business, General Residence and Coastal Overlay Districts. The proposal is to convert the property to the “Wentworth by the Sea Beach and Swim Club”... File 05-10. Applicant asks to be continued to the October, 2010 Planning Board meeting.

Motion by Priscilla Jenness to continue the Application for the Wentworth by the Sea Beach and Swim Club to the October 2010 meeting. Seconded by Martin Zivic. All in favor.

- Request for a one year extension on the Tuesday, April 14, 2008 Notices of Decision for the C.U.P and Major Site Development Plan for Webster at Rye Skilled Rehabilitation Addition for property located at 795 Washington Road, Tax Map 11, Lots 006 & 052; File No.: 03-08.

Referring to the conceptual for a subdivision of the property, Vice-Chair Cavallaro stated that it seems odd to request for an extension on a site plan that may potentially change.

Eric Weinreib, Altus Engineering, explained that the subdivision is on undeveloped land and would have no impact on the site. The conceptual for the subdivision is separate from this application and may not go any further.

Motion by Martin Zivic to grant the extension for the C.U.P and Major Site Development Plan for Webster at Rye. Seconded by Priscilla Jenness. All in favor.

- Site Review Plan for a Farmer’s Market to be held on Fridays during the growing season, May to October at the Rosewood located at 150 Lafayette Road, Tax Map 10, Lot 14; File 08-10.

Pat Larson, Applicant, addressed the Board. She submitted to the Board a plan of her site. She stated that she would like to start a Farmer’s Market, which will be held on Fridays from May to October. She pointed out the area, on the plan, she would like to hold the market.

Vice-Chair Cavallaro expressed concerns on the traffic in the area.

Chair Grote stated that the Site Plan must show what it is going to look like.

Ms. Larson commented that she is going to put up tents on the site.

Chair Grote explained that the Site Plan has to show where the tents are going to be and how many. A certain amount of space will be needed in between the tents and from the road.

Vice-Chair Cavallaro stated that a Use Intensity Statement would be appropriate to address adequate parking for all businesses.

Chair Grote stated that more detail is needed. Also, each Department Head will go through the plan and express their concerns and those concerns will need to be addressed. She suggested reviewing the Ordinances and the Land Development Regulations.

Kimberly Reed, Planning Administrator, clarified what is needed:

- Show all tents on the plan
- Egress – Traffic flow
- Hours of operation
- Use Intensity
- Details on the increase to the septic system

The Applicant requested a continuation until the September 14, 2010 meeting.

Motion by Priscilla Jenness to continue the proposal for a Farmer's Market at Rosewood to the September 14, 2010 meeting. Seconded by Martin Zivic. All in favor.

Vice-Chair Cavallaro recused himself for the following application.

- Major Site Development Plan and Condo Conversion for Belinda Mulvey for the property located at 48 & 50 Dow Lane, Rye NH at Tax Map 10, Lot 67 in the Commercial District and currently in use as a two family dwelling. They want to convert the existing residential duplex to a 2 unit condominium. File 07-10.

Attorney Patrick Mulvey, representing the Applicant, spoke to the Board. He submitted a revised Site Plan to the Board. He pointed out that the water shutoff is now noted on the plan. Also, Note #10 states that no additional meters or utilities will be required. He continued that there will not be any breaking of ground and no change of use. This is a two family dwelling currently and will continue to be a two family.

Member Low asked if there are two septic systems.

Attorney Mulvey explained that there is one septic, which was constructed in 2005, for two two-bedroom units. This remains the same. The additional information is the interior dimensions. He submitted these plans to the Board and reviewed. He also pointed out the Declaration and Master Deed.

Member Low asked if there are two septic tanks.

Attorney Mulvey clarified that there are two septic tanks that service one unit. The two tanks do not each service a separate unit.

Member Zivic asked if this has gone before the Technical Review Committee (TRC).

Attorney Mulvey stated that it was submitted to the TRC and passed.

Mrs. Reed confirmed.

The Board continued to review.

Mrs. Reed stated that the designated common area in the back needs to be defined. There needs to be some limited common area in the back. She pointed out that Attorney Donovan requested that this be more defined.

Attorney Mulvey stated that he did not think that needed to be done. However, if Attorney Donovan would like to follow up on this he would be happy to address this.

Chair Grote stated that they will ask Attorney Donovan to clarify. She would like Attorney Donovan to review the final Declarations and the common area.

Motion by Martin Zivic to accept jurisdiction. Seconded by Priscilla Jenness. All in favor.

Chair Grote reviewed the six waivers:

- Surface Water Drainage Management
- Water & Sewer Extension Plan
- On-site Disposal Waiver
- Erosion Control Plan Waiver
- Use Intensity Statement Waiver
- Topical Soil Waiver

Chair Grote opened to the public at 7:45 p.m. Hearing no comments or questions she closed the Public Hearing at 7:45 p.m.

Chair Grote asked the Members of the Board if there are any concerns with the proposal.

The Board agreed there were no objections or concerns.

Motion by Martin Zivic to grant all six waivers, for property located at 48 and 50 Dow Lane, because specific circumstances relative to this site plan or conditions of the land in such site plan, indicates that the waiver will properly carry out the spirit and intent of the regulations and create a hardship to the Applicant. Seconded by Mel Low. All in favor.

Motion by Priscilla Jenness to approve the Major Site Development Plan and Condo Conversion for property located at 48 and 50 Dow Lane, with the conditions that;

- Attorney Donovan review and is in favor of the Declaration;
- The limited common area is addressed per Attorney Donovan's recommendation;
- The Zoning Board of Adjustment approval for variances is noted on the plan;
- The escrow is established and;
- The Chair to sign once the conditions are met.

Seconded by Tom McCormick. All in favor.

Vice-Chair Cavallaro reseeded for the following applications.

- Partial Release of Letter of Credit from the Rickert Subdivision on the Major Subdivision Plan for Rickert Investment Real Estate, LLC for the property located at 160 Lafayette Rd, Tax Map 10, Lot 15; File: 06-07 in the approximate amount of \$92,000 from the April 8, 2008 approval.

Kimberly Reed, Planning Administrator, explained that on April 10, 2010, Attorney Brown came to the Board and asked for a one year continuance. They also needed a one year extension on surety currently held by the Town of Rye. At the April 13th meeting, the Board voted, Don Cavallaro made the motion and it was seconded by Martin Zivic to allow for a one year extension of the surety, which is held by the Town of Rye. She continued that the Attorney for the Ricketts has come to the Board requesting a partial release of the escrow being held by the Town of Rye. They have met all the criteria and they have a Declaration by the Engineer. She pointed out that it is two phases. One is the signing of the amendment for the extension of the escrow. The second part is the request for the relief of \$90,000, which is part of \$198,000.

Member Cavallaro pointed out that the road is not done. The trees have not been planted. He commented that he was confused by this.

Member McCormick stated that the breakdown has nothing to do with paving. It covers the utilities, water main, fire hydrants and graded structures.

Mrs. Reed explained that there will still be \$100,000 being held by the Town. The escrow was \$198,000. They are asking for a release of approximately \$90,000. She continued that the catch basins, which were part of the original agreement, have been done. They are fully aware of the trees and the pavement. The pavement cannot be done until the RCD is complete. They are hoping to complete that next spring.

Member Cavallaro stated that he is okay with this as long as the money is accounted for.

Motion by Donald Cavallaro to approve the partial release of escrow, in the amount of \$90,741.90, for the Rickert Subdivision. Seconded by Martin Zivic. Vote 5 – 0. Tom McCormick abstained.

V. Non-Public Hearings:

- Conceptual Consultation for Webster at Rye one lot subdivision located at 795 Washington Road, Tax Map 11, Lot 052 to subdivide 66,000 Sq. ft parcel. Applicant requests waiver from the 200' frontage requirement since lot would only have 150' of frontage.

Eric Weinrieb, Altus Engineering, representing the Applicant spoke to the Board. He explained that they are before the Board for a conceptual review for a one lot subdivision. He pointed out the site on the plan before the Board. He continued that the parcel has frontage on Washington Road. There is an existing lot, to the front of the parcel, with open space to the side. In this open space, they are proposing a 66,000 square foot subdivision of the parcel. He continued that two test pits have been done on the parcel and those met the minimum requirements. Wetlands mapping has been completed on the parcel. He pointed out the wetlands on the map. The lot exceeds the minimum lot size by soil and there is 54,385

square feet of contiguous uplands. He continued that the frontage on Washington Road is 151.95 feet. They will be going before the Board of Adjustment for a variance on the frontage. He commented that all other aspects of the project meets or exceeds the Town requirements.

The Board reviewed and discussed the proposal.

- **Payment of Escrows: - Action Required**

- i. Payment to Attorney Donovan from the Moorings at Rye Harbor Escrow account in the amounts of: \$372.50 from May 15 to June 15, 2010 invoice; \$330.00 from June 17 to July 17 invoice and current expenses \$1565.00 for a total of \$2267.50 to be paid from the Moorings Escrow.

Motion by Priscilla Jenness to pay Attorney Donovan in the amount of \$2,267.50 from the Moorings at Rye Harbor Escrow. Seconded by Mel Low. All in favor.

- ii. Payment to AMEC for the following:
 - a. Peer Review for Site Plan in the amount of \$224.74 from Mooring's at Rye Harbor;
 - b. Peer review of stormwater management plan in the amount of \$254.07 from Moorings;

Motion by Mel Low to pay AMEC in the amount of \$532.61 from the Moorings at Rye Harbor Escrow. Seconded by Priscilla Jenness. All in favor.

- c. Construction monitoring for the RCD in the amount of \$797.28 from the RCD Escrow.
- d. Construction monitoring for the RCD in the amount of \$390.00 from the RCD Escrow.

Motion by Priscilla Jenness to pay AMEC in the amount of \$1,087.28 from the RCD Escrow. Seconded by Martin Zivic. All in favor.

VI. Committees Reports:

- **Long Range Planning:**

No report

- **Rules and Procedure:**

Member Zivic stated that he is forming a group to focus on rewriting the Land Development Regulations (LDR) and then the focus will be on the Ordinances. He requested the Members of the Planning Board to give their input on any issues and concerns, in particular with the LDR, that have come to their attention during their time on the Board. Most concerns will come from the Board. However, people who appear before the Board, on a regular basis, will also be asked for their comments.

All email correspondence will be sent through **Kimberly Reed, Planning Administrator**.

Meetings will be held every Tuesday and a Work Session will be held on Thursdays. Dates and times to be posted in at least 2 public places and since they are a subcommittee of the Planning Board, minutes are required and the rules of the board should be followed.

Member Zivic talked about a permit that he learned about from Dennis McCarthy, DPW Director on the MS4 and he wondered if the Saunder's Project had the permit. (E-Mail from Zivic on file).

Kimberly Reed, Planning Administrator stated it was not right to talk about the Saunders application since they were not present before the Board and that they already received their approvals with conditions and it was not right to require something of them after-the-fact.

Member Cavallaro stated it would not hurt to ask them.

- **TRC**

No report

VII. Communications/miscellaneous

- **CHAPTER 39 ` SB 328 – FINAL VERSION ` 2010 SESSION**
- **To be continued and reviewed when Attorney Donovan is present.**
- Crawl space within the Floodplain TB-11 and putting it in our zoning Ordinance.

Susan Labrie, Building Inspector, is requesting the Planning Board review the Technical Bulletin 11-01 and to consider whether or not it should be added to the Zoning Ordinances.

The Board agreed to review and discuss at the September meeting.

Kimberly Reed, Planning Administrator explained about a meeting with FEMA and that currently some homes were built based on this bulletin and currently no crawl spaces are allowed, PER FEMA on buildings within the Floodplain. She asked the board to consider the bulletin and be prepared to discuss whether the board wants to go forward with potential changes to the Zoning Ordinance to include this or not.

- Driveways under the Planning Board permitting process

Kimberly Reed, Planning Administrator, explained that there has never been a formal driveway application for the Town. This could be put in place fairly quickly. She continued that the RSA's do state, that in all other NH Towns, Planning Board review is where the driveway applications should go. The Planning Board can grant the authority to the Highway Officer. However, there should be some formal application and review. She reiterated that currently there is no driveway application in place for the Town of Rye.

Chair Grote asked the Members if they would like to schedule this for a Public Hearing at the next meeting.

Kimberly Reed, Planning Administrator requested that the Members email her with any concerns on the application format. She also asked if the Permit could go at the beginning of the agenda.

The Board agreed.

Mrs. Reed requested that the Members email her with any concerns on the application format.

VIII. Adjournment

Motion by Martin Zivic to adjourn at 8:48 p.m. Seconded by Donald Cavallaro. All in favor.

Respectfully Submitted,

Dyana F. Ledger