

LONG RANGE PLANNING COMMITTEE MEETING

Wednesday, October 3, 2018

9:00 a.m. – Rye Town Hall

***Members Present:* Chair Steve Carter, Bill Epperson and Katy Sherman.**

***Others Present:* Kimberly Reed, Planning & Zoning Administrator and Julie LaBranche, Rockingham Planning Commission.**

I. Call to Order

Chair Carter called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance.

II. Business:

Planning Administrator Reed noted that the Planning Board has a contract with Rockingham Planning Commission. Julie LaBranche, RPC Senior Planner, will be heading up the project to do a complete rewrite of the Land Development Regulations (LDR) with a public component held for input. A strong focus will be on stormwater management. The current building application will also need to be revised. Ms. LaBranche will be working with the committee to set up goals and timeline. She will be working with the committee on this project until December of 2019.

Julie LaBranche, RPC, stated that they will also be working on making sure the requirements and regulations for the MS-4 Permit are incorporated into the LDR. The permit went into effect July 1, 2018. She noted that there are certain things the towns need to do in years 1 and 2, as far as updating and adopting the regulations for stormwater management, erosion/sediment control and illicit discharge (illicit discharge detection and elimination IDDE).

Mrs. Reed noted that Ms. LaBranche is the point person on the grant working with Dennis McCarthy, Public Works Director, on the MS-4.

Ms. LaBranche explained that RPC has been contracted to do an audit of the town for compliance; looking at what is compliant now and what the town needs to be doing. The Planning Board will get a copy of that report. It outlines several tasks the Planning Board will have over the next 5 years. There are benchmarks each year of the permit that need to be met.

Referring to the current LDR, Mrs. Reed explained that it is very outdated. It was enacted in 1988 and there have only been minor amendments made to the regulations. That is the reason for the complete rewrite. She continued that the current application is very complicated. She

would like the committee to work on streamlining the application process for both site plan and subdivision.

Chair Carter asked if the purpose of this is to also tighten up the regulations so land, that probably shouldn't be developed, can't be developed. Is this enabling development or are they trying to control it? In Rye, all the good land was developed about 100 years ago. What is left is what is being developed now, which has ledge and water. People will bring in lots of fill and make the land developable, even though it shouldn't necessarily be developed. Some of the land, from the town's point of view, should really not be developed.

Mrs. Reed asked if this would be under Section 600, Land Development Standards. This might be a section they could look at.

Chair Carter noted that everything has to accommodate a septic system, since the town does not have sewer. A lot of the properties have a tiny area that is actually buildable.

Member Epperson stated they are looking for clarification more than anything else. He thinks the ordinance is pretty clear about the LDR and the setbacks. Where does the town go in the next 10 years?

Mrs. Reed explained that the LDR is more for subdivisions.

Chair Carter stated the when developers come in and want to put in ten house it becomes harder because they have a whole set of knowledge as to how it should be done.

Member Epperson pointed out that the land use boards have an obligation to try to work with the developers in order to find a way to make it viable. While something might not be able to be stopped necessarily, it can be conformed to higher standards.

Chair Carter agreed. He continued that Rye is going to see more pressure for condos; houses on pieces of properties being taken down with multiple houses going up. This brings more concentrated uses with the high-tech septic systems. The land is running out so there is just going to be more and more pressure for multi-family development on smaller and smaller pieces of land.

Mrs. Reed stated that RPC did a built-out analysis in 2002. Rye is pretty much built-out. What is now being seen is that the parcels that have not been developed need lots of variances. Developers are also coming in and putting two, three or four pieces of property together to make developments.

Chair Carter commented this is something that the Planning Board should try to get in front of.

Member Sherman asked if this is something that can be done while they are tightening up the LDR. She feels that a lot of variances are granted. Will this work to tighten up what people are requesting for variance?

Mrs. Reed clarified that the ZBA grants variances. The Planning Board can grant waivers to the Land Development Regulations. If something is not compliant with the zoning ordinance it has to go before the Zoning Board of Adjustment. She continued that the Rules and Regulations Committee considers amendments to the zoning ordinance. That committee works on “tweaking” the zoning ordinance. The Planning Board looks at the Master Plan and the Land Development Regulations. If something is not compliant with the LDR, a waiver would be needed.

Ms. LaBranche pointed out that the waiver criteria changed a number of years ago. Someone has to prove that they meet one of three standards to actually qualify for a waiver. In regards to the comment on controlling development on marginal lands, Ms. LaBranche stated that she does not know how they could stop someone from amassing a number of parcels into one and doing a development. There is just no legal way to prevent that from happening. If the zoning ordinance allows multi-family and condos, the LDR can’t restrict that.

Mrs. Reed noted that Rye only allows it for Workforce Housing on Lafayette Road. The development of condos is not allowed in the rest of Rye. Currently, Rye only allows for conversions.

Chair Carter stated that people talk about the semi-rural nature of Rye. The town is starting to look less semi-rural. He wonders how much of this would impact that.

Ms. LaBranche replied that if it is allowed in zoning the LDR can’t restrict it. How it looks and functions on the landscape can be restricted.

Mrs. Reed pointed out that by the RSA they cannot stop people from developing. The only thing they can do is make sure it fits within the landscape. The RSA’s say that the Planning Board has to work towards an end result. If it can’t fit with the zoning or LDR, the land use boards have the right to deny it; however, they have to work with property owners by law.

Ms. LaBranche noted that the Planning Board crafts the Master Plan, which sets out the vision for what the residents want the town to look like now and in the future. It would be worth a conversation with the ZBA every year to look at the type of relief they are granting. Just because the ZBA is granting a lot of variances to a certain standard does not mean that standard needs to change. It is on a case by case basis. The type of relief that the ZBA is granting should be looked at. Is it going against the vision in the Master Plan? The standards are there to protect and guide development.

Mrs. Reed commented that Section 603 is for a non-conforming property that has a structure on it. Section 603.1 is the most popular variance that is brought before the ZBA. That is granted almost 99.9% of the time.

Ms. LaBranche stated this raises a question. It is almost like doing spot zoning.

Member Sherman asked why they would have the ordinance if an exception is being made 99.9% of the time.

Chair Carter asked why they are being allowed to go more non-conforming from what it already is.

Member Epperson stated that it is easier to get if it is less non-conforming.

Member Sherman stated that a lot of people stick to the zoning ordinance and don't ask for relief. However, they see all this relief being granted and they wonder why they didn't ask or go for more. She is afraid this thought is going to spread. It is also setting a precedent for the next case that comes in.

Ms. LaBranche stated it would be interesting to read the minutes on some of the past cases to see the types of justification that was given for the variances. Certain criteria has to be met, which is very strict and stringent. It would be interesting to see if they really do meet the criteria or not. Not necessarily in Rye, but in many cases, she has seen that the Zoning Board does not make adequate findings. It is really for the purpose of maximizing the investment and the development potential of a lot, especially, when multiple variances are necessary. She reiterated that there needs to be a discussion between the boards about the nature of this. The Planning Board propagates zoning ordinances changes, amendments, new zoning, the vision of the Master Plan and the Land Development Regulations. All of that needs to mesh together and it doesn't like they are.

Chair Carter stated that the ZBA does a very good job. They are good about asking questions. It seems like they are under a lot of pressure and it is going to continue in this part of the country.

Ms. LaBranche agreed. She continued that as more marginal lands are being looked at for development, more relief will be needed. However, the whole idea of having zoning requirements in the first place is to make sure that marginal lands, because they are environmentally sensitive or for whatever reason, do not get developed. Now they are being developed because extensive relief is being granted.

Chair Carter commented this is not "Mom and Pop" coming in and saying they want to put a house on the property next door for their daughter. Developers with lawyers and a full team are coming in.

Ms. LaBranche stated it would be a good idea to revisit what the zoning relief standards are. Just like a waiver, there should be an extenuating strong reason why it should be granted.

Mrs. Reed submitted a list of all the relief granted by the ZBA back to 2015 for the committee to review.

Ms. LaBranche stated that if the Planning Board is crafting the Master Plan and the vision for the community, and the community supports that vision, then it is up to all boards to work within the parameters of that vision.

Referring to the LDR update, Chair Carter asked where they start for the update.

Ms. LaBranche stated that the first task would be for her to go through the LDR and flag the areas that need to be changed. Also, they should try to customize it more because site plan review and subdivision review are in the same document. There are some slight differences in those requirements so it should be defined clearly as to where it applies.

Chair Carter noted that at a meeting there was some discussion about having one packet for site development and a different packet for subdivision so applicants aren't trying to mix and match.

Ms. LaBranche stated that they can be separated into two separate documents; however, a lot of the sections will be repeated. The big difference is Section 6, Land Development Standards. Delineating what is specific to site plan and what is specific to subdivision would make it a lot clearer.

Chair Carter asked if there could be a "general" LDR, which would be all the common chapters, with site plan and subdivision split out. People will then know there is a core and then two specialized regulations depending on what is being done.

Member Sherman commented that she likes the idea. It would make it clearer.

Mrs. Reed pointed out that under Section 4, Required Submittals, a lot of required submittals has been added. The Planning Board has taken over the accessory dwelling units and the Aquifer special conditions. There is more that the Planning Board has taken over that is not in this document.

Ms. LaBranche reiterated that she will go over the document and make notes on anything that needs to be changed. In the meantime, the committee could be thinking about things that the Board has thought about changing in the past. Those could be sent to her by email or they can discuss this at the next meeting.

Mrs. Reed stated that for homework the committee should go through the document and mark it up. It could be funneled through her back to Ms. LaBranche.

Ms. LaBranche commented that they should flag the areas where the language is unclear or it was something that the Board struggled with implementing in the past. Anything that does not work well or causes confusion on the part of the applicant or Planning Board.

Next Steps:

- The committee agreed to meet once every three weeks. Julie LaBranche will meet with the committee less often, as she may need more time between meetings for drafting the document. (Meetings will generally be kept to 1 hour.)
- Next committee meeting scheduled for Wednesday, October 24th, 9:00 a.m.
- Homework: The committee members will go through the document and flag areas that are unclear and do not work for the Planning Board. That information will be funneled back to Mrs. Reed to send on to Julie LaBranche.
- Next meeting with Julie LaBranche scheduled for Thursday, November 15th, 9:00 a.m.

- Other Meetings:
 - Thursday, December 6th – committee only
 - Monday, December 17th – w/Julie LaBranche

There was some discussion on the possibility of having a public workshop in addition to a public hearing before the document is adopted.

Mrs. Reed explained that the Master Plan and Land Development Regulations can be adopted by the Planning Board after a legally noticed public hearing. Zoning Ordinances must go before the town on a ballot after the Planning Board holds two public hearings.

There was also some discussion about education for the Planning Board on the MS-4 Permit and the new regulations. There was also some discussion on illicit discharge and the need for it to be in the zoning ordinances, as it applies to every application not just the ones that go to the Planning Board. Ms. LaBranche has worked on language for a proposed zoning amendment, which she will email to Mrs. Reed.

Adjournment

Motion by Katy Sherman to adjourn at 10:10 a.m. Seconded by Bill Epperson. All in favor.

Respectfully Submitted,
Dyana F. Ledger

