

**TOWN OF RYE – PLANNING BOARD  
MEETING**

**Tuesday, September 10, 2019**

**6:00 p.m. – Rye Town Hall**

***Selectmen Present: Chair Patricia Losik, Vice-Chair J.M. Lord, Steve Carter, Jerry Gittlein, Jeffrey Quinn, Tim Durkin, Selectmen's Rep Bill Epperson, and Alternates Jim Finn and Katy Sherman***

***Others Present: Planning Administrator Kim Reed***

**I. Call to Order**

Chair Losik called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

**II. Approval of Minutes**

- **August 13, 2019**  
*Moved to end of meeting*

**III. Submittal of Applications for Determination of Completeness. Not a public hearing Action Required**

- a. Amendment to the Breakers Condominiums approved by the Planning Board in January 1980, recorded at the RCRD D-9440 on April 18, 1980 for Sally Sheehan of 824 Ocean Blvd, Tax Map 23.1, Lot 29-01, to raze the building and construct new within the same footprint. Property is in the Business, Coastal Overlay District. Case #12-2019.  
**Request a continuance to October 8, 2019.**

**Motion by Bill Epperson to continue the application for the Breakers Condominiums to the October 8, 2019 meeting. Seconded by JM Lord. All in favor.**

- b. Major Site Development Plan by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, Tax Map 11, Lots 52 & 6, for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage and activities room. Property is in the Single Residence District. Case #15-2019.

Chair Losik noted that the property is also in the Aquifer Wellhead District, which is code section 306. There is a requirement to conduct and produce, as part of the application, a hydrogeological study, which the applicant is aware of. For that reason, the application would not be complete at this time. She noted that the Board is not going to take comment on this application tonight. The study should be before the Board in time so it can be taken up for October 8<sup>th</sup>. The Board would like to have the application presented as a conceptual at the end of the public hearings.

- c. Lot Line Adjustment Plan by Fuss & O'Neill for Marc Grondahl for properties owned and located at 420 Brackett Road, Tax Map 19, Lot 147 and 65 Wallis Road, Tax Map 19, Lot 161. Properties are in the General and Single Residence Districts. Case #13-2019.

**Brian Pratt, Fuss & O'Neill**, spoke to the Board. He explained the proposal is for a lot line adjustment on two existing lots of record. The first lot is 420 Brackett Road, which is a 1 acre lot. The second lot is 65 Wallis Road, which is a 58 acre parcel. The proposal is to transfer 11 acres from 65 Wallis to the smaller parcel. He continued that currently there is a small house on the lot at 420 Brackett Road, which is vacant and has been neglected over the years. The purpose of the lot line adjustment is to make that lot a much larger lot so a home could be built in the back. It will continue to be one lot and the existing home will be torn down.

The Board reviewed the plan showing the existing lots and the proposed property line.

Member Carter asked if the intent is to access the new lot off Brackett Road.

Mr. Pratt replied that he thinks this would make the most sense. He noted there is a 39' right-of-way off Wallis, which may be a foot path so pedestrians could exit onto Wallis.

Chair Losik asked the frontage of Lot 147.

Mr. Pratt stated it is at least 113'. He pointed out that the reason for the odd shaped lot line is because it is following the existing stone wall, so it will have a natural boundary line.

Chair Losik clarified the combined frontage would be over 150'.

Mr. Pratt confirmed.

Chair Losik pointed out that Lot 147 is in the General Residence District.

Mr. Pratt agreed.

Chair Losik stated that Lot 161 is comprised of Single Residence, General Residence, Conservation District and a little bit of Coastal Overlay. Once the lot line adjustment is made and Lot 147 is increased, it makes it entirely in the General Residence.

Mr. Pratt reviewed the zoning on the plan with the Board. He explained that the majority would be General Residence with a small portion, towards the front near Wallis, being in the Single Residence for the new Lot 147. He noted that both access areas are in General Residence.

Chair Losik asked if there are any plans to subdivide.

Mr. Pratt replied no.

Member Durkin commented it clearly could be subdivided.

Mr. Pratt pointed out that it would need a variance for frontage because it does not have enough legal frontage.

Chair Losik explained there is not enough continuous frontage but it is feasible because it is now over 150'.

Vice-Chair Lord commented that a road could be put in off Brackett Road.

Mr. Pratt agreed. He noted that ledge is a big determining factor on subdivisions in town. A lot of area without ledge is needed. He thinks it would be very difficult to subdivide this lot because of the ledge.

Chair Losik clarified that the owner also owns Lots 136 and 40 that are contiguous with 160 that are not relevant to this proposal.

Mr. Pratt confirmed.

Selectman Epperson noted that another buildable lot is not being created.

Mr. Pratt confirmed. He pointed out there is an existing house on both lots. The owner lives at 65 Wallis Road. The small house at 420 Brackett is unoccupied. The owner intends to sell the lot at 420 Brackett.

Chair Losik stated the Board has received guidance from Attorney Donovan. Lot line adjustments are not creating a new buildable lot.

Member Durkin stated that with these changes, the lot could be sold to a developer who could put in multiple residential lots. He asked if there could be restrictions imposed that the lot line approval would be subject to only one buildable lot.

Chair Losik stated that based on Attorney Donovan's letter, the Board has to take it at face value, unless it is determined that the lot line adjustment creates a new buildable lot. If not, the application must be approved. She continued that based on the questions and the answers given, it cannot be ascertained, at this time with this presentation, that a new buildable lot is being created.

Mr. Pratt stated the even if a road was put through, the most that someone could get would be two lots. Building a road to get another lot is not feasible.

Selectman Epperson commented a variance would also be needed.

Mr. Pratt pointed out there are also wetlands that would make subdividing difficult. He further pointed out that variances would be needed for both lots and it would have to go to the Planning Board for subdivision approval. He commented that subdivision approval for the proposal is not needed because this is over 5 acres.

Selectman Epperson stated the law is pretty clear that he is not creating another sellable lot. According to the RSA, the Board's responsibility is to approve the lot line. If there is anything else going on, or something happens that is not anticipated, they would have to go to the ZBA and come back to this Board before anything else can be done.

Member Quinn stated that he wants to be sure the Board is doing things to the recommendation from Attorney Donovan. When he looks at the plan, someone could subdivide and come in off Wallis Road.

Chair Losik reviewed Attorney Donovan's memo to the Board, referencing RSA 676:4 (1) E (1); "minor lot line adjustments or boundary agreements, which do not create buildable lots". The memo also references, LDR 201.C (201.1 C); "lot line adjustments are subdivisions which involve only adjustments among boundaries of existing lots and do not create any new buildable lots". She pointed out that in the second to the last paragraph, he again references "new buildable lots".

Member Quinn commented that was his only concern.

Member Carter stated this is starting with a buildable lot and expanding the lot by an enormous amount, but there is still only one buildable lot when it is done. If they were trying to cut that into two buildable lots, it would be a whole different process for a subdivision. It fits under a lot line adjustment the way it is currently being presented.

Vice-Chair Lord agreed.

**Motion by JM Lord to accept Case #13-2019 as complete. Seconded by Jerry Gittlein. All in favor.**

- d. Amendment to the Surf Club of Rye Condominiums approved by the Planning Board on March 12, 2002 by Peter Fregeau for property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35, to add a dormer to unit #2. Property is in the Business/General Residential, Coastal Overlay District and SFHA, Zones AE and VE. Case #14-2019.

**Motion by Jeffrey Quinn to accept Case #14-2019 as complete. Seconded by Jerry Gittlein. All in favor.**

- e. Conditional Use Permit by Patrick & Jessica Kane for property owned and located at 972 Washington Road, Tax Map 7, Lot 34, to change an existing and approved two dwellings on one lot to one dwelling with an accessory dwelling unit. Property is in the Single Residence District. Case #16-2019.

**Motion by Jeffrey Quinn to accept Case #16-2019 as complete. Seconded by Steve Carter. All in favor.**

#### **IV. Public Hearings on Applications if they are complete and/or have been continued:**

- A. Major Subdivision and Condominium Development Plan** by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82, for a 20-unit residential town houses which will comprise of 5 4-unit buildings. Property is in the Single Residence District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. **Case #06a-2019.**
- B. Special Use Permits** for the multi-family dwellings, per Section 307.3 and Section 402 and for the Aquifer Wellhead Protection District by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82, for a 20-unit residential

town houses which will comprise of 5 4-unit buildings. Property is in the Single Residence District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. **Case #06b-2019.**

Chair Losik noted the Board had a work session with the applicant on September 3<sup>rd</sup>. The applicant is in the works of developing plans, as a result of the input from that work session. The Board did not receive the plans in time to review before this meeting. The Board has requested they continue their application to October 8<sup>th</sup>, 2019.

**Motion by JM Lord to continue the applications for 1244 Washington Road to October 18, 2019. Seconded by Bill Epperson. All in favor.**

**C. Amendment to the Breakers Condominiums** approved by the Planning Board in January 1980, recorded at the RCRD D-9440 on April 18, 1980 for Sally Sheehan of 824 Ocean Blvd, Tax Map 23.1, Lot 29-01, to raze the building and construct new within the same footprint. Property is in the Business, Coastal Overlay District. **Case #12-2019.**  
**Request a continuance to October 8, 2019.**

**Motion by JM Lord to continue the public hearing on Case #12-2019 to October 8, 2019. Seconded by Jerry Gittlein. All in favor.**

**D. Lot Line Adjustment Plan** by Fuss & O'Neill for Marc Grondahl for properties owned and located at 420 Brackett Road, Tax Map 19, Lot 1147 and 65 Wallis Road, Tax Map 19, Lot 161. Properties are in the General and Single Residence Districts. **Case #13-2019.**

Chair Losik asked the Board for any further comments. Hearing none, she opened to the public.

**Bob Sweeney, 436 Brackett Road**, stated that his home is two houses away from the existing 1 acre lot. (He pointed out the location of his lot on the plan before the Board.) He noted that 65 Wallis Road is 58 acres. He asked how it is subdivided to create 11 acres. He asked if the proposal could've been something different.

Chair Losik stated the lot line adjustment, as long as it is not creating a new lot, could be in a different location.

Mr. Pratt (engineer for the proposal) reviewed the proposal on the plan for the Board and Mr. Sweeney.

Mr. Sweeney pointed out on the map a stone wall that runs behind his house.

Mr. Pratt noted that the area that was chosen made sense for current use open space requirements.

Selectman Epperson noted that if the easterly stone wall becomes the boundary line, by law, it can't be removed because it delineates the end of that lot.

Mr. Sweeney expressed his concerns with potential blasting to any ledge.

Mr. Pratt explained there are some fingers of exposed ledge through that area. Three test pits were done in the back. The first test pit hit shallow ledge (he pointed this area out on the plan) but the other two test pits went down at least 5 to 6'.

Selectman Epperson asked how many test pits were done.

Mr. Pratt replied 5, which were all witnessed by the town's septic consultant.

Selectman Epperson asked how far the easterly side of the lot is from Mr. Sweeney's property line.

Vice-Chair Lord stated it is probably about 75' from the property line to the stone wall.

Referring to Lot 151, Chair Losik asked if that lot is treed (the lot being referred to is two lots over from Mr. Sweeney and runs behind his property.)

Mr. Pratt commented that the lot looks like it is all wooded.

Mr. Sweeney confirmed. He stated there are also rocks back there. He spoke about an agreement to alter the lot lines on the back lots (behind his lot), which involved the land swap of three parcels and was approved by the Planning Board about 10 or 15 years ago. He asked if the access to the 12 acres will be totally from Brackett Road or if there was any chance it could come off Wallis Road.

Chair Losik noted there is 39.25' on Wallis.

Referring to the tax map in the Board's packets, Vice-Chair Lord stated that it seems different from the map that is presented on the easel before the Board.

Mr. Pratt explained that the plan on the easel is a survey boundary plan from the surveyor. He continued that tax maps are approximate and sometimes they are wrong. The survey is correct. He would stand by the survey plan versus the tax map.

Mr. Sweeney asked if there is potential access from both Brackett and Wallis to the lot.

Mr. Pratt stated it is intended that the driveway will be off Brackett Road. There may potentially be a cart path or pedestrian path off Wallis, so people can walk down to the beach. He continued that he does not think there is going to be a driveway; however, he does not think the driveway ordinance would prohibit one. He noted that they would not be able to have two driveways. One or the other would have to be picked. He pointed out that DPW generally likes driveways off the lesser travelled road. They would probably force the driveway to come off Brackett.

Mr. Sweeney stated he agrees with Selectmen Epperson. The way this has been presented is there is 1 existing acre with a house that has been sitting in a dilapidated state for many years. If it is going to be one house on the lot, that would be consistent with the neighborhood. However, adding another 11 acres and saying it is still going to be one single family home, he would have to be convinced of. The land is not being sold with any covenants or stipulations on it that it will only be one building. He asked if there would be any consideration of that.

Mr. Pratt stated it could hurt a potential sale just to have a restriction on the deed. He reiterated there are a lot of hurdles that someone would have to jump through if they did want to subdivide the property and he is not sure they would get that approved.

Chair Losik stated that from a Planning Board perspective they are looking at a particular point in time and the guidance from the Land Use Development Regulations. The Board cannot predict into the future. The Board cannot take action on something that may happen in the future. She agrees there are some challenges with the property and it may go back before a land use board. However, she does not think the Board can do anything more at this time.

Mr. Pratt commented that it is envisioned that someone who wants to build a house, on a big private piece of land near the beach, will be interested in this property.

Mr. Sweeney thanked the Board for their time.

No other questions were heard from the Board.

**Motion by Jeffrey Quinn to accept the Lot Line Adjustment for Case #13-2019. Seconded by Jerry Gittlein. All in favor.**

- E. Amendment to the Surf Club of Rye Condominiums** approve by the Planning Board on March 12, 2002 by Peter Fregeau for property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35, to add a dormer to unit #2. Property is in the Business/General Residential, Coastal Overlay District and SFHA, Zones AE and VE. **Case #14-2019.**

Applicant was not present at the meeting.

Chair Losik asked if there is a sketch showing the size and location of the dormer.

Mrs. Reed suggested that the application be continued, as the applicant is not present, so the Board can get the answers at the next meeting.

Chair Losik stated she also had a question regarding the references the applicant included on the waiver forms. They did not seem to be correct.

Mrs. Reed confirmed that she will go over this with the applicant.

Vice-Chair Lord stated that if the applicant is going to be guided, some of the justifications seem contrite and should be expanded.

Chair Losik noted the Board is asking the applicant to look at the referencing to the LDR areas and some additional information to support the request for each waiver.

There was some discussion on the condo documents. The Board agreed that submission of the condo documents was also needed. The Board also agreed that clarification of the location on the tax map and photos would be helpful.

**Motion by Tim Durkin to continue Case #14-2019 to October 8, 2019. Seconded by JM Lord. All in favor.**

- F. Major Site Development Plan** by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, Tax Map 11, Lots 52 & 6, for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage and activities room. Property is in the Single Residence District. **Case #15-2019.**

*Addressed below*

- G. Conditional Use Permit** by Patrick & Jessica Kane for property owned and located at 972 Washington Road, Tax Map 7, Lot34, to change an existing and approved two dwellings on one lot to one dwelling with an accessory dwelling unit. Property is in the Single Residence District. **Case #16-2019.**

**Jessica Kane, 972 Washington Road,** explained that the top floor of the main building is already approved to be an accessory dwelling unit. They are asking that the downstairs be considered the accessory dwelling unit, instead of the top floor. The next step would be to connect the two buildings. There is a main structure and a detached structure, which is currently used as a home office, storage and work out space. The intent is to attach the two building with a garage and living space above. It would make the most sense to have the accessory unit on the first floor because of the flow of the new plans. The important part of asking for the accessory to be switched is that currently it is just over 1200sf. She commented it is just about 40sf over. She pointed out that the bump-out on the left side of the house is going to be coming off when the two structures are combined, so the unit would be less than 1200sf and would qualify for all the accessory dwelling requirements. She noted that they cannot get the approval for construction without the Board first approving the switch.

The Board reviewed the plans.

Selectman Epperson asked when the current accessory dwelling was approved.

Mrs. Kane explained that it was approved about two years ago. When they purchased the home, they thought it was a two-family.

Mrs. Reed explained that this property went before the ZBA, about two years ago, because it was an illegal apartment. It was approved. Now that they want to connect the garage, it will meet the requirements for an accessory dwelling unit and they are seeking approvals for an accessory dwelling unit. She noted that the ZBA vote was for two family dwellings on one lot. Now that they are connecting the garage, it is no longer going to be two dwellings on one lot. It is going to be one dwelling on one lot and it meets the requirements for an accessory dwelling unit.

Chair Losik read the letter from the Rye Fire Department in regards to the accessory dwelling unit, approving the request with further review with the department prior to starting construction.

Member Carter asked if there will be more bedrooms then what is there currently.



Mrs. Kane replied that one bedroom is being added above the garage.

Member Carter asked if the septic system is sufficient for that.

Mrs. Kane confirmed the system has already been approved.

Selectman Epperson stated that when he looks at the application and the preparations that have been done; he sees that there has been some significant work. He also sees that the applicants have gone through the checklist. The expectation is that all of these items will be met.

Chair Losik commented that she appreciates the design, as it is very thoughtful with the neighborhood and the abutters. There are a lot of farmhouses and connected homes, so this design works really well in this location.

**Motion by JM Lord to conditional approve the Conditional Use Permit by Patrick and Jessica Kane for property owned and located at 972 Washington Road, Tax Map 7, Lot 34, to change an existing and approved two dwellings on one lot to one dwelling with an accessory dwelling unit; property is in the Single Residence District, Case #16-2019; conditioned upon the abandonment of approximately 40sf, limiting the accessory unit to 1124sf and the conditions set forth in the Fire Department's letter to meet fire code, to be done concurrently with construction and prior to the issuance of the certificate of occupancy. Seconded by Jerry Gittlein. All in favor.**

**H. Conditional Use Permit Application** by Celco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground-based equipment to be housed within a 30'x40' fenced enclosure. Property is in the Single Residence District. **Case #03-2018.**

**Request continuance to December, 2019.**

**Motion by JM Lord to continue to December 2019. Seconded by Steve Carter. All in favor.**

- **Approval of Minutes of August 13, 2019**

The following corrections were noted:

- Page 3, last paragraph, 1<sup>st</sup> sentence, the Long Range Planning Commission should be **Long Range Planning Committee.**
- Page 5, 4<sup>th</sup> paragraph, second to last sentence should read: **The proposal is to demolish the house and rebuild with the new structure being raised up to the VE Zone, which is 2ft higher.**

**Motion by Jerry Gittlein to approve the minutes of August 13, 2019 as amended. Seconded by JM Lord. Vote: 5-0-2 Abstained: Patricia Losik and Bill Epperson**

- **Sewer along Route 1**

There was discussion with Eric Weinrieb regarding the proposed sewer extension along Route 1/Lafayette Road from Portsmouth.

Mr. Weinrieb explained the proposal has been going back and forth with DOT and the City of Portsmouth with regard to the placement. The City of Portsmouth said they are not going to do anything further, until there is some progress with the municipal agreement. He continued that last week the team submitted the inter-municipal agreement documents to Portsmouth. He explained the city will review it and there will probably be some back and forth with legal counsel and public works. It then goes through a vote with the city council and PUC, after which it will come back to the town sewer commission for signatures. He expects there will be a meeting with Public Works within the next few weeks to iron out the final locations. He noted that progress is being made on the project.

- **Rannie Webster Foundation d/b/a Webster at Rye, 795 Washington Road**

**Eric Weinrieb, Altus Engineering**, spoke to the Board in regards to the proposal for Webster at Rye located at 795 Washington Road. He explained the total parcel area is 48.8 acres. The proposal is to expand the existing facility from 135 beds to 158 beds. The lot is currently 10.4% impervious and will be increasing a small amount to 10.8%. The building coverage will go from 4.0% to 4.9%, where 15% is allowed in this zoning district. This is well under the allowance. He continued there are 124 parking spaces on the site right now and it will be increasing to 135 spaces. He noted that by zoning only 80 spaces are required, but it is felt there is a need for 135 spaces.

Chair Losik asked why they are adding spaces.

Mr. Weinrieb replied that it is based on demand. The zoning ordinance doesn't really fit based on the facilities use. They have a lot of employees and visitors because the facility is also used by the community.

Chair Losik clarified that there are times when there are special events; such as, the art show and Christmas fair.

Mr. Weinrieb stated the design is based on a real demand. He noted that one of the conditions (from the ZBA) for the Special Exception was that there be no parking along Blueberry Lane, which was a concern of the neighbors. The extra spaces are being provided to help solve that problem.

Selectman Epperson asked if this is also during construction.

Mr. Weinrieb replied yes. He reviewed the conditions imposed by the ZBA:

- Outdoor site lighting be lowered to 12'.
- The employee smoking area to be moved away from Blueberry Lane.
- No dumpster removal (garbage pickup) before 7:30 a.m.
- No employee, contractor or visitor parking on Blueberry Lane.
- The loop driveway near Blueberry Lane will remain restricted flow and not for general traffic.

Selectman Epperson asked how close the new construction is to the closest house.

Mr. Weinrieb pointed out the closest homes are 275', 220' and 223'. (He reviewed the expansion history of the facility shown on the plan before the Board. He also reviewed the proposed construction for the Board.)

Selectman Epperson asked if one of the septic is being redone.

Mr. Weinrieb confirmed. He noted that the septic is right in the building envelope. (He reviewed the new location for the septic on the plan.) He noted that it is a pretty small addition and they are adding two more fields. One of the reasons is because laundry has been brought back in-house. Prior to 2014, it was about 70 gallons per day per person. When the laundry was brought back in it went up to 86. That forces two additional leach beds. He noted that all the tanks are below grade. The transformers will be above grade. He also noted that the generator is being moved away from the property line because it does get exercised once weekly and this will help with noise to the neighbors.

Chair Losik stated that Sebago said that the Planning Board may wish to provide an opinion on an enclosure of a vinyl fence for the dumpster and generator.

Mr. Weinrieb stated they did not provide one for the generator. There is not one for the dumpster. It is at the back of the facility; however, there would be no issue if that is the desire of the Board. (He reviewed the area for the dumpsters and the generator on the plan. He also reviewed the location and the flow for the septic. He explained the pumping process for the Advanced On-site Septic System.) He stated that after they had submitted the proposal, they had some discussion about adding some more tanks. Onsite, there has been some residual odor from the tank and the pump chamber. There has been some discussion about moving all the tanks to the area in-between the raingarden and the leachfield. This is something that is going to be explored. The costs will be greater but there is an opportunity to clean it up.

**Tom Argue, CEO Webster at Rye**, explained that putting the addition on is going to create a courtyard area. There is a likelihood the air will be caught in that area.

Member Carter asked if the dumpsters cause the same type of problem.

Mr. Argue replied no. The dumpsters are emptied three times per week when necessary.

There was some discussion about the neighborhood children playing on the property.

Mr. Argue explained that he and Mr. Weinrieb met with a couple of the residents on the street. They had mentioned that their children play on the rock and they were hoping that it wouldn't be moved because it's their fort.

Hypothetically speaking, Selectman Epperson asked if there would be any consideration given to supplying playground equipment in that area, as there are a lot of children in that neighborhood.

Mr. Argue stated that he has been thinking about doing a playground somewhere on the property because there are grandchildren that visit the facility all the time. He is not sure on the location but it is something that he would very much like to do.

Selectman Epperson stated this would be a very good public relation move.

Mr. Argue reviewed an area on the plan that he has been considering for this idea. He noted that the neighborhood children skateboard and ride their bikes through that location all the time.

Referring to the septic, Chair Losik stated that there were some concerns from the neighbors about additional clearing for putting the septic under the parking.

Mr. Weinrieb noted that one is under the parking. One of the abutters had a concern about the clearing in the forest. They wanted a buffer planted because there were no structures and it was an open area. (Mr. Weinrieb showed the areas that the septic will be under the parking.) He explained that he designs a lot of septic systems with chambers under parking areas. About 25 years ago, they started seeing that a lot of parking lots were failing because they were putting the chambers on sand. He continued that he designs them with 6" of crushed stone, which adds bearing strength to the concrete chambers. There is a layer of sand for the receiving area, a layer of stone, plus the concrete chamber volume with a series of pipes. The vents are vented up through the building. On top of the chamber is a layer of gravel and then the pavement. He noted that they have done many concrete chambers. He stated that even though a hydrogeological study has not been provided, a lot of thought and effort has gone into this project. A lot of the plantings are starting to take off. One of the things that is being done in the first phase, instead of cutting down trees, the trees will be relocated that were planted in 2014.

Mr. Argue commented the arborvitae were at 8' and are now 12 and 14'.

Mr. Weinrieb noted they are doing this in order to provide a better buffer.

Selectman Epperson stated that on the east side, it was discovered there were a lot of wetlands and people were putting leaves in that blocked the water. He asked Mr. Weinrieb if he has been back down in that area to see how this is going.

Mr. Argue noted that leaves in plastic bags were being put up against the stone wall. Water was running down the Harrington's lawn and accumulating on the Harrison property. He and Mr. Weinrieb took photos and showed Mrs. Harrison that the water is actually flowing from the Harrington's down to her property and being trapped by the lawn bags that were piled up.

Mr. Weinrieb stated that when the 2014 addition was done, all the runoff on the site at the time was sheeting right into that area. A curb and closed drainage were built to get the runoff away from there so it would be providing treatment. He continued that in 2014, an AOT Permit was filed and they brought it up to code, as much as possible. Since then, the 15% rule has been implemented on coastal communities. There has been discussion on whether 15% has to be done here when a new AOT Permit is filed. He noted that they were told to add the 15% to the area that they are working.

Member Carter commented the Webster has been building and building. He asked if this is the end of the building.

Mr. Argue replied it has to be. There is no other place for building.

Member Carter stated he was just wondering if they were looking at a full build-out.

Mr. Argue stated the only other thing that could happen on the site in the future, which would be long after his retirement and probably 20 years down the road, would be a proposal to demo the one-story building and do a two-story facility.

Alternate Finn asked the rationale for not doing a two-story.

Mr. Argue replied the cost per square foot for a two-story building was significantly higher with the steel concrete and elevators. He went on to talk about the parking challenges that the facility faces, especially during events and constructions periods. He noted that Webster has made a commitment to not allow parking on Blueberry Lane, so an alternate solution is being considered, such as parking off-site for employees with a shuttle bringing them in.

Member Carter asked how long the construction will take on this project.

Mr. Argue replied it is typically 12 months. The project will probably start in a year or so.

Referring to the plan, Alternate Sherman asked about the access for emergency vehicles on the backside of the building.

Mr. Weinrieb explained the access. He noted that the access in the back is for the fire trucks so they can loop around. The ambulances would typically access the main entrances.

Member Quinn asked if there is any concern with the new entrance and the proximity to the dumpsters. He asked if there would be enough space for ambulance access.

Mr. Weinrieb confirmed that the access is adequate.

Chair Losik asked if there were any letters or communications from abutters.

Mrs. Reed noted that she did not receive any communication.

Mr. Argue stated that he had talked to two of the abutters and they have been kept up to date on the site plan development. He noted that he and Mr. Weinrieb set up a meeting with them and they did not show. Instead, some non-abutters showed up and they spent time talking with them about the buffer zone and what was going on. He also noted that the abutters have had opportunities to set up another appointment with him but he has not heard from them.

Referring to the ZBA meeting, Member Durkin stated that having served at that meeting, he voted "no" on the special exception request, as he was on the ZBA at that time. There were quite a number of residents and abutters of Blueberry Lane who expressed their concerns about the property. They were saying there is already a lot of density on the property and the additional structure will be closer to the neighborhood. There were some clear concerns about that. It was voted 3 to 2 in favor. He reiterated there were some serious concerns about the scale of what not only exists there today but what is being added to it and the impact that has on the wellbeing of the neighborhood.

Chair Losik stated this is why she asked the question. At the Planning Board level, there are a flurry of letters before the meeting date. She had a question about the build-out also. If the abutters are hearing

that it is about done, it would probably be appealing to them. For young families in that neighborhood who are going to be there for some time, to hear the build-out is just about done, would help them to rest.

Mr. Argue noted that the only place to build would be on the front lawn and they have already committed to not doing that. There is no town sewer and the site is already tight with engineering underground.

Mrs. Reed asked if Member Durkin should recuse himself from this application where he sat on the case for the ZBA.

Selectman Epperson noted that only Member Durkin can make that decision.

Member Durkin noted that his decision on the ZBA was nonpartisan, until he heard all the pros and cons and he then voted against it. Since he voted against it as a ZBA member, he asked if this would force him to recuse himself from voting for or against it as a Planning Board member.

Chair Losik stated that he should listen to the presentation and answer objectively.

Member Durkin noted that he has had the benefit of listening to the public and the Planning Board hasn't. The nature of the meeting is a little one-sided, in that the Board has had the proposal and all the attributes without hearing the public concerns. He thinks this is a less objective form of review, than the way it occurred with the ZBA.

Chair Losik stated it may appear a little different from what was expected to be done tonight. Referring to her observation about the public, she noted that they have been through a lot of cases in the past few years with a lot of letters and pushback. She has read every detail, of every page, of the minutes. Her observation is that there were people who were pretty upset and concerned at the Board of Adjustment. There were participators at that meeting and she would like to know where they are now. The reason there is a little change in tempo tonight, is she knows what the Board has gone through with hydrogeological studies. The reason it is an important part and why she felt it needed to be waylaid until it is received, is because it is a two-part process; they do the study, and then the Board's expert looks at it. However, more than that, the Board has to take, in the Conditional Use Permit, an extra step. In getting into 306, the Board has to ultimately answer the questions (each member), particularly with the proposed use not detrimentally impacting the quality of groundwater and the proposed use will not cause a significant reduction in the long-term volume of the aquifer. Those are two big issues. She felt the Board could go through what was before them but not even think about those issues. Those are going to be really important issues for this Board. She commented that is why the tone is different tonight.

Referring to whether he should recuse himself, Member Durkin stated that he thinks the answer is "no". At the ZBA, the issue was whether or not a Special Exemption should be granted. That is different than what the Planning Board is looking at. For that reason, he does not think it is necessary to recuse himself.

Selectman Epperson asked about the taxes on the property to the town.

Mr. Argue explained that Webster pays what is called a shelter rent. As the revenue increases for the facility the taxes increase. The calculations on the revenue are submitted to the tax collector and the tax payment is paid directly from HUD.

Selectman Epperson commented the ambulances are not free. There is a charge for each trip.

Member Carter commented that the people pay for the ambulance.

Mr. Argue replied that insurance covers the ambulance, if the patient is paying privately, and other times Webster covers the cost.

Chair Losik summarized that the Board would like C1 and C2 in color, along with the landscaping plans. Also, the Board is requesting the hydrogeological study to be submitted.

Mr. Weinrieb requested a continuance to the November meeting.

It was agreed to set an escrow at \$6,000. The applicant also agreed to provide the Board with a rendering showing the proposal from Blueberry Lane.

**Motion by JM Lord to continue the application to November 12, 2019. Seconded by Jeffrey Quinn. All in favor.**

**V. Public Hearings on amendment to the Land Development Regulations: Action Required**

- a. LDR Amendment 2019-01: Appendix B: Construction Site Runoff-Erosion and Sediment Control Standards**

Chair Losik read the legal notice for proposed LDR amendment 2019-01. She noted the Board has four pages of Appendix B to LDR, Construction Site Runoff-Erosion and Sediment Control Standards.

Member Carter noted that approval from the Board is needed for Appendix B. Most of the items are things the town already does.

Chair Losik stated the recommendation from Julie LaBranche, Rockingham Planning Commission, and Dennis McCarthy, Public Works Director, is to adopt this because the town is not in compliance timewise with the MS-4 Permit.

**Motion by Bill Epperson to accept LDR Amendment 2019-01 as written. Seconded by JM Lord. All in favor.**

**VI. Subcommittee Updates**

- b. Land Development Regulations Public Forum, September 24, 2019 at 6:30 p.m., Rye Town Hall**

- c. Rules and Regulations**

**Next meeting to be held September 24<sup>th</sup>** – At that meeting there will be discussion on 304.4, proposal on height in the Coastal Overlay District. Review of Attorney Donovan suggested amendments. DES wetland standards which come into effect in December 2019. Review of building department enforcement on illegal apartments. Review of draft language from Attorney Donovan on “amnesty”.

The Rules and Regulations Committee has had two meetings with the chair of the Demolition Review Committee in terms of changes that the DRC would like to make. There is a question in to Attorney Donovan now about that language.

**VII. Old Business**

- d. Planning Board voted at the August meeting to continue the Samonas 1215 Ocean Blvd application to the October meeting, upon the applicant's request.

**Requested for a continuance to October 8, 2019 granted August 13, 2019.**

- e. Status of the cell tower application

The shot clock has been continued on the 120 Brackett Road property, until December 31, 2019. In the meantime, the leases for the properties on Port Way have been recorded at the Rockingham Registry of Deeds. The attorney for Verizon has submitted the building permit application to the building inspector's office. The application is waiting for review from the building inspector. It will then be scheduled for a joint Zoning Board and Planning Board meeting in late October.

A cell tower committee for the town has been formed. A consultant has been hired to work with the committee.

**VIII. New Business/Other**  
**None**

**IX. Pay Escrows**  
**None**

**Adjournment**

**Motion by JM Lord to adjourn at 8:50 p.m. Seconded by Bill Epperson. All in favor.**

*\*All corresponding documents and files may be reviewed at the Building Department, Rye Town Hall.*

**Respectfully Submitted,**  
**Dyana F. Ledger**



# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

**Applicant/Owner:** Patrick & Jessica Kane

**Property:** 972 Washington Road, Tax Map 7, Lot 34  
Property in the Single Residence District

**Case:** Case #16-2019

**Application:** Conditional Use Permit by Patrick & Jessica Kane for property owned and located at 972 Washington Road, Tax Map 7, Lot 34 to change an existing and approved two dwellings on one lot to one dwelling with an accessory dwelling unit. Property is in the Single Residence District. Case #16-2019.

**Date of Decision:** Tuesday, September 10, 2019

**Decision:** The Board voted to accept Jurisdiction over the application. The Board voted to accept the application for a Conditional Use Permit for an accessory dwelling unit with the following conditions:

1. Additional 40ft removed to make the structure meet the 1,200 requirements of the ADU;
2. The applicant to meet all the recommendations in the Fire Department letter dated 9/4/2019; and
3. The removal of the bump-out to take place concurrently with construction.

9.12.2019  
Date

  
Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

Applicant: Cellco Partnership d/b/a Verizon Wireless

Owner: Dolores F. Lintz

Property: 120 Brackett Road, Tax Map 22, Lot 95-A  
Single Residence District

Case: Case #03-2018

Application: Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. Property is in the Single Residence District. Case #03-2018.

**Date of Decision:** Tuesday, September 10, 2019

**Decision:**

<u>    </u>	Approved
<u>    </u>	Conditionally Approved
<u>    </u>	Denied
<u>  X  </u>	<b>Continued to the December 10, 2019</b>

9.12.2019  
**Date**

  
\_\_\_\_\_  
**Patricia Losik, Chairman**  
**Rye Planning Board**

# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

**Applicant/Owner:** Harbor Street Limited Partnership

**Property:** 1244 Washington Road, Tax Map 10, Lot 82  
Property is in the Commercial District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District

**Case:** Case #06-2019

**Application:** Major Subdivision and Condominium Development Plan by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82 for a 20-unit residential town houses which will comprise of 5 4-unit buildings. Property is in the Commercial District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. Case #06a-2019.

Special Use Permits for the Multi-Family dwellings, per Section 307.3 and Section 402 and for the Aquifer Wellhead Protection District by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82 for a 20-unit residential town houses which will comprise of 5 4-unit buildings. Property is in the Commercial District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. Case #06b-2019.

**Date of Decision:** Tuesday September 10, 2019

**Decision:** The Board voted to continue these applications to the October 8, 2019 Planning Board meeting.

9.12.2019  
Date

  
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Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

## Notice of Decision

**Applicant/Owner:** Sally Sheehan of 111 Cottage Street, Mansfield MA

**Property:** 824 Ocean Blvd, Tax Map 23.1, Lot 29-01  
Property In Business, Coastal Overlay and SFHA, Zone AO+1

**Case:** Case #12-2019

**Application:** Amendment to the Breakers Condominiums approved by the Planning Board in January 1980, recorded at the RCRD D-9440 on April 18, 1980 for Sally Sheehan of 824 Ocean Blvd, Tax Map 23.1, Lot 29-01 to raze the building and construct new within the same footprint. Property is in the Business, Coastal Overlay District, Case # 12-2019.

**Date of Decision:** Tuesday September 10, 2019

**Decision:** The Board voted to continue the application to October 8, 2019

9-12-2019  
Date

  
\_\_\_\_\_  
Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

**Applicant/Owner:** Peter Fregeau

**Property:** 1196 Ocean Blvd, Tax Map 17.3, Lot 35  
Property is in the Business/General, Coastal Overlay and SFHA,  
Zones AE and VE

**Case:** Case #14-2019

**Application:** Amendment to the Surf Club of Rye Condominiums approved by  
the Planning Board on March 12, 2002 by Peter Fregeau for  
property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35 to add  
a dormer to unit #2. Property is in the Business/General  
Residential, Coastal Overlay District and SFHA, Zones AE and  
VE. Case #14-2019.

**Date of Decision:** Tuesday September 10, 2019

**Decision:** The Board voted to continue the application to October 8, 2019

7.12.2019  
Date

  
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Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

**Applicant/Owner:** Marc Grondahl

**Properties:** 420 Brackett Road, Tax Map 19, Lot 147 and 65 Wallis Road, Tax Map 19, Lot 161  
Properties in the General and Single Residence Districts.

**Case:** Case #13-2019

**Application:** Lot Line Adjustment Plan by Fuss & O'Neill for Marc Grondahl for properties owned and located at 420 Brackett Road, Tax Map 19, Lot 147 and 65 Wallis Road, Tax Map 19, Lot 161. Properties are in the General and Single Residence Districts. Case # 13-2019.

**Date of Decision:** Tuesday September 10, 2019

**Decision:** The Board voted to accept Jurisdiction over the application.  
The Board voted to accept the application as presented.

9/12/2019  
Date

  
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Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

*10 Central Road Rye, NH 03870 (603) 964-9800*

## Notice of Decision

**Applicant/Owner:** Rannie Webster Foundation d/b/a Webster at Rye

**Property:** 795 Washington Road, Tax Map 11, Lots 52 & 6  
Property is in the Single Residence District

**Case:** Case #15-2019

**Application:** Major Site Development Plan by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, Tax Map 11, Lots 52 & 6 for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage and activities room. Property is in the Single Residence District and the Aquifer, Wellhead Overlay. Case #15-2019.

**Date of Decision:** Tuesday September 10, 2019

**Decision:** The Board voted to continue the application to the November 12, 2019 meeting so that the applicant may prepare the Hydrologic Study for the Conditional Use Permit for the Aquifer District.

9/12/2019  
Date

  
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Patricia Losik, Chairman  
Rye Planning Board