

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, March 10, 2020
6:00 p.m. – Rye Public Library**

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

Others Present: Town Attorney Michael Donovan and Planning/Zoning Administrator Kim Reed

Call to Order

Chair Losik called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. The Board members introduced themselves.

I. Approval of the Meeting Minutes

- **February 11, 2020**

Motion by JM Lord to move the approval of the February 11, 2020 minutes to the end of meeting. Seconded by Jeffrey Quinn. All in favor.

- **February 18, 2020**

The following corrections were noted:

- Page 1, it should be noted that this should be listed as a **Meeting**, not a Site Walk, under the heading.
- Page 8, 6th paragraph, 2nd sentence should say: **There is a severe loss of coverage to the south of Route 1A and the Wallis Sands area.**
- Page 10, 3rd paragraph from bottom, 2nd sentence should read: **In these sets, there are usually three pictures showing the balloons and the towers at both heights.**
- Page 13, 2nd paragraph, 2nd sentence should read: **He also noted that with this design the monopine is not going to work.**
- Page 15, 6th paragraph from bottom, 1st sentence should read: **Arik Jones, Port Way and Rye Water District Superintendent, pointed out that the Water District has similar generators that are located at two points that could be clearly listened to; Washington Road and Garland Road.**

**Motion by Tim Durkin to approve the minutes of February 18, 2020 as amended.
Seconded by JM Lord. All in favor.**

II. Public Hearing:

Special Use Permit and Major Site Development Application by Celco Partnership d/b/a Verizon Wireless, with AT&T for property owned by the Town of Rye and located at 68 Port Way, Tax Map 23, Lot 1 to install a wireless telecommunication facility in the form of a 126' monopole at the property, which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box at a centerline 121' and nine (9) panel antennas, fifteen (15) remote radio heads, six (6) surge arrestors at a centerline of 109' and ground based equipment to be housed within 50'x50' fenced enclosure. **Property is in the Single Residence District. Case #20-2019.**

Attorney John Weaver, representing Verizon Wireless, introduced the members of Verizon's team for the Board;

- Chip Fredette, Site Acquisition Specialist; Keith Vallente C-Squared Systems; Audra Klumb, A&D Klumb Environmental; Sylvester Benvo, Hudson Design Group, and representing AT&T; Attorney Will Dodge and Frank Kelley.

He noted that his intention at this meeting is go through the Special Use Permit checklist and to address questions the Board may have about the application.

Addressing the Board, Chair Losik asked if there are any questions or comments at this time. Hearing no comments, she opened to the public at 6:08 p.m.

Michelle Tyminski, 121 Parsons Road, stated that at the last joint meeting with the BOA there was a lot of discussion about what size area around the cell tower compound they were going to mark trees. She noted the trees are marked and there are stakes in the ground but it seems they are only 10' outside the compound. She thought they were going to flag all the trees within the 100'x100' area.

Attorney Weaver explained that the trees that have been marked are the ones that will be removed for this project. The entirety of the 100'x100' lease area is not marked because not all trees are being removed. One color marks the trees that are within the area that requires a variance. Another color marks the trees that are being removed that can be done without the variance.

Ms. Tyminski stated that there seems to be five trees that are not marked that are greater than 4.5'. She put green flags on those so it can be clarified on the upcoming site walk whether those trees will be removed. She commented that these trees are within the 75' wetlands buffer.

Speaking to Attorney Weaver, Attorney Donovan clarified that if they are not marked, they are not being removed.

Attorney Weaver confirmed.

Chip Fredette, SIA for Verizon, stated that he was at the site before the meeting. Some of the flags that are marked in green appear to be outside the buildable area. He continued that chances are the trees are outside the buildable area and will not be cut for that reason.

Ms. Tyminski stated that she counted about 67 trees to be cut in the wetlands buffer, if the ones she marked are included. About 22 trees outside the wetlands buffer are being cut.

Chair Losik replied it would be 62 trees in the wetlands buffer because the 5 are not required to be cut.

Ms. Tyminski commented that they appear to be in the proposed road.

Chair Losik noted the road is narrow. It is 12' wide.

Mr. Fredette commented that this can be discussed at the walk.

Ms. Tyminski continued that she wants to reiterate Mr. Gemmett's concerns in his letter to the Planning Board. One of the concerns is the way this is going to affect property values for the properties surrounding this cell tower area. Another concern is the health effects. The World Health Organization is taking another look at cell towers and doing a lot of studies right now, especially within the 1200' range. With regards to all the trees being cut down, she stated that they should be protecting the wetland shores, especially with sea-level rise. It is expected that there is going to be about a foot of sea-level rise over the next fifteen years in this area and two feet in thirty years. She stated that Verizon should be speaking to the existing logging roadway. They should have to apply to the State for access across their land on the existing logging road. They should not be thinking of cutting that many trees down within the wetlands buffer. Also, the Town's beautiful scenic vistas should be protected by requiring a tower to be as low as possible and requiring some camouflaging. (She presented photos of a cell tower in Dover, NH that is at a height of 154' showing the tower at 1000' away.)

Steve Borne, 431 Wallis Road, stated that this property is in the Parsons Creek Watershed. (He submitted a groundwater study from 2017 to the Board.) He noted that the study says there are too many leachfields in the Parsons Creek. The problem is the over saturation of the leachfields in this area and the Town should not be giving variances for doing anything that will take up more of the wetlands. (He read parts of the Parsons Report to the Board.) He stated the pollution in this area is terrible and the Town is not doing enough. This is a major site development being proposed in Parsons Creek. It is the exact opposite of what should be done. The Town needs to do more to stop the variances in the wetlands. There should not be any discussion about any major development in the whole Parsons Creek wetland.

With respect to the variances, Chair Losik stated that the next step would be to take this to the BOA. In talking about the leachfields and the issues for Parsons Creek, most of it is dealt with in the Building Code and Floodplain Ordinance. She encourages Mr. Borne to work with the Board and the Rules and Regulations Committee on wetlands when it comes up again. The wetlands zoning does not address septic. What it does address is the buffer issue. the work is a collaborative effort. Zoning is in many documents. The LDR is an important document that has just been updated. She continued that the Board understands what is being said; however, what is before them is an application which has very little impervious and a lot of pervious, in terms of the access road. There has been a considerable amount of work over the last several months in terms of addressing the issues that can be addressed relative to this application.

In regards to the trees being cut down, Mr. Borne stated that he would like to see a program to have the wood chopped with it being delivered by high school students to the elderly.

Chair Losik thanked Mr. Borne for his time and comments. Hearing no further comments or questions, she closed the public hearing at 6:25 p.m.

Attorney Michael Donovan stated that the first memorandum he sent to the Board was dated March 3rd. It dealt with the Board's discussion at the joint meeting about the tower being designed so it could be expanded to 150' (146'). There was discussion about the fact that if that was done another carrier who wanted to come in and negotiate with Verizon for that extension would not come back before the Planning Board, if the height extension is less than 20'. Both State and Federal law basically exempts those non-substantial modifications from having come back before the land use boards. It would only go before the building inspector.

Referring to Attorney Donovan's memorandum, Member Durkin stated that he is not sure there was an agreement amongst the Planning Board to have Verizon place a note on Sheet A-1, regarding an extension. He continued that he was in favor of considering a height of 126' and not to design the structure in such a way that would provide for the ability to increase the height an additional 20'. He believes there were other members who said the same thing.

Attorney Donovan explained that the tally showed the majority of the Board agreed that it should be designed to accommodate 150'. He pointed out that the note is on Sheet A-1. In trying to frame the condition, his suggestion was that they let Verizon write them out and that is what the Board decided to do. He reiterated that the note is on Sheet A-1 for the Board to discuss. They can always find that the tower should not be designed to accommodate the new height.

Member Durkin asked what the vote was of the Planning Board at the February 18th meeting.

Selectmen's Rep Epperson stated that the overarching issue is if the tower is 126' and a fourth co-locator wanted to come in, but was not satisfied with the coverage, they could put in a second cell tower. If the base is built to accommodate 150', up another 20', they could be accommodated.

Member Quinn stated that the middle ground that Selectman Epperson offered at that joint meeting was that the tower be built at the 126' robust enough to be extendable.

Selectmen's Rep Epperson agreed. He commented this is to avoid another cell tower being built in close proximity to this one.

Speaking as one of the 150' proponents, Member Quinn stated that is exactly what he was trying to move forward.

Member Durkin stated that Verizon has requested a 126' tower. If it is only designed for 126', there may be someone who will come back to the Board but there may not be. There are constant changes in technology that may negate the need for another cell tower.

Member Quinn explained the structure is going to be built at 126'. If poles are not built strong and deep enough, it is not going to hold up 150', if it has to go to that point.

Member Durkin replied that he understands. He reiterated that Verizon has requested a cell tower at 126'. That is what he thinks the Board should be voting on. He thinks there should be clarity on this. If it is going to be designed in such a way that it can go another 20', then the Board is basically giving the green light to do that. In listening to the public, he has not heard anyone in favor of going higher than 126. He thinks the Board would be doing their job by agreeing to have a cell tower here at 126' to satisfy what Verizon has proposed. If down the road there is another cell tower request, the Board can deal with it at that point.

Vice-Chair Lord replied the Board is voting on a 126' cell tower. The only thing they are doing is conditioning the approval on stiffening the foundation so the tower could be extended in the future, if necessary. He pointed out it might never be necessary.

Member Durkin stated that he understands but does not support that condition.

Alternate Finn noted the 126' tower that Verizon has proposed allows for transmitters from four different providers. There are two proposed now and there is room for two more. He agrees with Member Durkin that the Board should go with what has been proposed and leave it at that.

Member Quinn asked if the Board is going to ask for the note to be struck on Sheet A-1.

Referring to the minutes of February 18th, Chair Losik read the comments from the Planning Board, at that time, in regards to the height of the tower. She asked the Board if they are solid at 126' or if they feel a condition should be added to allow for the additional 20'.

Selectman Epperson stated this has to be quantified to say that the Board agrees to the 126' tower. What is being said is that with extra expense and extra effort, Verizon would have to build a platform strong enough to support another 20' in case another provider came along.

Chair Losik agreed.

Member Carter stated he is in favor of what Selectman Epperson is saying; except, what he heard from Attorney Donovan is if this were to be done, the Board would be de facto allowing them to put in a 150' tower without another process. That concerns him because he would like to know there is another process to go through.

Attorney Donovan explained that even if the note is struck and the 126' height is approved, someone can still come in and negotiate with Verizon and put on another 20' without coming back to the Board. Whether this note goes on the plan or not, the tower can be expanded by 20' without ever coming back to this Board.

Member Durkin commented it would have to be designed that way.

Attorney Donovan explained it can be retrofitted. It is just a matter of if it is done now and if the Board should require it. He continued that if the Board does not require it to be designed for 150' and another carrier comes in for a Brackett Road site, if they say that something cannot be negotiated satisfactorily with Verizon, the fact that the Board did not require the tower to be designed to accommodate the additional 20', would make it harder in court, in his opinion, to defend a denial of the Brackett Road site as a site for that next carrier, than it would be if they were made at this time to accommodate that extra tier. They could also work out with Verizon the extension of the tower but either way it is not going to come back to the Board, unless it is more than 20'.

Vice-Chair Lord stated that he is hearing this is really a safe guard for not building on Brackett Road.

Attorney Donovan stated that in his opinion it will make it easier for the Town to deny another tower somewhere in this area in the future.

Member Gittlein stated that he can still live with 126', which is what Verizon asked for. He can't anticipate what will happen in two or three years. For now, he will live with what he thought they agreed to last time, which was 126'.

Member Quinn pointed out there is a note on Sheet A-1 that says "the proposed tower will be expandable to 150' to accommodate the installation of four antenna arrays". He asked if he is voting to remove that note.

Speaking to Mr. Gittlein, Chair Losik clarified that she is hearing that he is in favor of approving 126' with no language regarding the expansion.

Member Gittlein agreed.

Chair Losik commented that Member Gittlein would be in favor of removing the note on Sheet A-1 and only accepting 126'.

Member Durkin stated he is in favor of removing the note on Sheet A-1.

Selectman Epperson stated that he thinks it is shortsighted to take this off. It is asking for trouble, within the next 24 to 36 months, to not allow this base to be built in a fashion to support 150'. He supports the 126' with the expanded base. He would leave the note on Sheet A-1.

Member Quinn stated that some time ago when Priscilla Jenness was on the Board, there was some discussion about the cell tower at the Garland Road site. At the last meeting, there was a comment that the Garland Road tower exceeds 150'. Mrs. Jenness' remark was that she does not see the tower anymore. It just blends into the background. She is surprised when she actually notices it. He continued that he would suggest that this is exactly what is going to happen with this site, whether the tower is 126' or 150'. He is not looking for height but is looking for flexibility. In looking at the photos that were put up at the joint meeting, it showed a series of photographs with the tower at 126' and 150'. There was a shot along Ocean Boulevard right at the junction of Wallis Road.

Attorney Weaver presented the photos for the Board to review.

Member Quinn stated that whenever a decision is made something has to be given. At some point in time, the Town has sacrificed a line of vision here in order to have telephones and power. This is just a different space right now. He agrees with Selectman Epperson that the note belongs and it should be built to the specifications to allow for the greatest flexibility and the least amount of heartache for the Town. Yes, it should be built to 126' but to do this all over again, for another site and another contractor when it could've been done with a vote tonight, does not make any sense.

Member Durkin stated it is presumptuous to assume that is going to occur. He thinks this is balancing the need for additional cell coverage with what has been heard from the public. He has not heard anyone from the public say it should go to 150'. That is where he respectfully disagrees with those who think this should be done in a way to accommodate additional height.

Selectman Epperson stated in his opinion it is shortsighted to not plan for the potential future. Three years from now this may be obsolete and the tower will have to be taken down.

Mr. Fredette stated that just because the tower is designed not to be extendable, does not mean a fourth carrier wouldn't be able to extend it. If a fourth carrier decides they cannot use the lower height, they might only extend it 10'. They might not extend it the full 20'. It is not known who that fourth carrier is. He can appreciate planning in advance for what may come, but if he was the fourth carrier and saw the tower at Port Way, he would try to find a way to work with that location over building a new one. He reiterated it is not totally impossible to extend a tower that was not necessarily designed to be extendable.

Chair Losik clarified that if the Board approves 126' the tower is still extendable.

Attorney Weaver commented it can also be done without further land use process.

Mr. Fredette agreed.

Selectman Epperson asked if is being said that if the Board approves 126' and the infrastructure is built to support a 126' tower, it is possible to go to 136' or 146' on that infrastructure.

Mr. Fredette replied an engineer would say that anything is possible.

Vice-Chair Lord stated if he was Verizon's structural engineer he would push back. At that time, there would be two structural engineers trying to decide what is right or wrong. If this is designed to create the flexibility, it is there to begin with and there would be no argument.

Mr. Fredette commented as long as standards do not change.

Chair Losik asked if a carrier could go vertical.

Attorney Weaver explained they could go out 10' but could not shoot an arm 20' out. The idea is that it can go up 20' and out 10' to accommodate another carrier to make co-location easier on an existing tower.

Speaking to Mr. Fredette, Member Carter asked if it is being said that there is enough redundancy designed into the base of the tower so it can really go to 140', even though it is designed for 126'.

Mr. Fredette replied that it really depends on the site.

Sylvester Benvo, Engineer with Hudson Design Group for Verizon, explained that towers are built with a certain capacity. Even though a tower might be built at 126', it might not be at its maximum capacity. The foundation is also taken into consideration to see if the site can handle the extended height. Sometimes it is just a slight modification of the tower itself, which would strengthen the tower.

Attorney Weaver stated that if a carrier coming in proposed new equipment or an extension onto the tower and it required modifications, they might reexamine the equipment they want to put onto the tower and go lower to avoid the cost of extending the tower.

Frank Kelley, Engineer for AT&T, stated that foundations can also be upgraded in order to support greater loads. That would be part of the modification costs for another carrier who wanted to come in.

Attorney Weaver noted that if the compound increases in size a new site plan would have to be filed.

Attorney Will Dodge, representing AT&T, pointed out that by the same token, if they are staying within the same compound but the foundation is being expanded, the building permit process would still be followed.

Chair Losik stated that years from now there will be different ordinances and different realities, in terms of water and wind.

Attorney Donovan explained they would still have to meet all the building code requirements. One of the conditions he proposed is that the building inspector would be able to retain the consultants necessary to be sure that the building code requirements, code requirements that govern wind resistance and flood ordinances are complied with.

Mr. Fredette explained the carrier would submit to the code enforcement officer a construction drawing showing the modifications to the tower and/or the foundation. Whatever the design might be, would be accompanied by stamped structural analysis by the same standard, or current standard, for which the tower was designed in the first place.

Chair Losik stated there has been such incredible increases in wind and water. Right now, it seems it is the most compact tower that could be designed for that property. What would it look like if a carrier had to start playing with that design?

Mr. Fredette explained that generally speaking, the modifications that a carrier would have to make to that tower to extend 10' would be invisible to the person driving around. They would not be able to notice a difference.

Selectman Epperson suggested striking the note based on the conversation tonight.

Attorney Donovan pointed out that when this "mythical" carrier comes in, they are going to be looking at a six month process, versus a three year process. The expense of modifying the tower may well be oriented towards making the new carrier bear all that expense. They would most likely rather do that than fight this Planning Board for three years and still not get anywhere. This is a rationale that undercuts what he was saying about the chances of sustaining a denial in court.

Referring to his March 4th memo, Attorney Donovan stated that he went through Section 505 of the current Telecommunications Ordinance and listed the things that are supposed to be submitted. Basically, the conclusion is that everything that is required to be submitted, as part of this application, has been documented. The second part of the memo are the factors to be considered in reviewing the Special Use Permit Application. These are factors taken right out of the ordinance. These are things that should be discussed and balanced by the Board. The Board does not have to vote on each one and does not have to vote positively on each factor in order to

reach a decision on whether or not to grant the Special Use Permit. He continued that the last thing he sent were some draft conditions of approval, which the Board can go through one at a time.

Chair Losik stated that she would like the Board to take up the discussion of the Special Use Permit factors, which are listed under Part I of Attorney Donovan's memo. She noted that Mrs. Reed also included in the Board's packages the existing ordinance, which is what the Board is operating under today. She would then like to move onto Part II and then discuss conditions of approval.

Referring to Part I, Special Use Permit checklist, Chair Losik asked the board members if they had any questions.

The members had no questions, except for one from Chair Losik.
"Painted a color which blends in. Proposal complies. Will be painted to match forest." Chair Losik asked which part will be painted to match forest.

Attorney Weaver commented that they can paint to the tree level.

Mr. Fredette proposed that they paint to the 40' or 50' elevation. The color could be green or brown, depending upon what the Board would like. Above that will be the galvanized dull metal array.

The Board agreed with the color brown.

Referring to the NEPA evaluation, Chair Losik asked if they have received this yet.

Attorney Donovan replied no, as this can take a long time to get. Typically, this is a condition of approval.

Referring to "evidence that no other existing structures can accommodate proposed antennae", Chair Losik stated that Attorney Manougian's letter of November 15, 2019 notes that the key components of 68 Port Way are the size, lack of existing development and the natural buffer that exists of trees surrounding the proposed monopole.

Referring to 'Bonding, Security, Insurance'; Chair Losik commented this is not included if the new ordinance gets passed.

Speaking to Chair Losik, Selectman Epperson stated that he has to leave the meeting to go back to the polls. He has read the conditions of approval and approves. He also supports the site plan. If it comes to a vote, he is affirmative on both.

Referring to RZO 505.7 D.2, Chair Losik stated that the board members should go through Attorney Donovan's memo and be sure there is no misunderstanding or areas that are not clear on these factors. She reviewed the 'Factors to be Considered in Reviewing the S.U.P. Application'.

Chair Losik reviewed Attorney Donovan's proposed conditions of approval.

Conditions:

1. The plans shall be revised as follows:
 - a. Add a signature block for planning board chair to sign to the Title Sheet and Sheets C3 through C7 and A-1. Two sets each of the full plan set are to be submitted for signature.
 - b. Add the following notes to Sht. C-6 re: generators:
 - 1) The generators shall be fueled by propane. Diesel fuel is prohibited.
 - 2) All generators on the site shall be programmed to run concurrently during the following period: Wednesday at noon.
 - 3) All generators on the site shall be enclosed in sound attenuating cabinets.
(enclosures)
 - c. (other changes requested by planning board)

Speaking to Mr. Fredette, Chair Losik asked for clarification on the sound proofing for the generators.

Mr. Fredette explained that Verizon typically buys the generators with the sound attenuating enclosure.

Mr. Kelley explained that AT&T selected a generator that has the lowest noise level of the ones that were available.

Attorney Donovan asked if better wording for the condition would be "sound attenuating enclosers".

Mr. Fredette confirmed.

Attorney Donovan noted to strike Sheet A-1. There should also be a note indicating the brown color up to 40' to 50'.

Conditions (continued):

2. The planning board engineer should certify that all of his concerns have been satisfactorily addressed.

Attorney Donovan noted that the Planning Board engineer was concerned that they had not received a revised stormwater report. He suggested "revised stormwater report shall be submitted to the planning board engineer for review and approval", as part of #2.

Mr. Benvo, representing Verizon, stated that the way the stormwater was calculated, it was done conservatively and it showed that the runoff is going to calculate at 2cf per hour. A percolation test revealed that the conditions of the soil were conducive to simple drainage. When the analysis is rerun, it will show the same result.

Attorney Weaver asked if this could be done as a letter, rather than a full blow report. He believes Sebago would have the same reassurance without the need and expensive of a full report.

Attorney Donovan suggested leaving condition #2 as he had it originally and the engineers can work it out.

Conditions (continued):

3. A Collocation Agreement similar to the at Tab 14 of the 11/22/2019 submittal shall be reviewed and approve by town counsel and signed by Verizon and the planning board chair.
4. The NEPA evaluation required by RZO § 505.4 C(2) shall be satisfactorily completed an evidence of same provided to the planning board.
5. The special exception and variances required from the ZBA shall be obtained. Any conditions of approval imposed by the ZBA are incorporated herein by reference.
6. Sufficient funds shall be placed in escrow with the planning board to pay final statement of planning board engineer, town counsel and the other consultants of the board.
7. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
8. Planning board chair may sign plans when foregoing conditions Nos. 1-7 are met.
9. A Certification of Major Site Development Review Approval shall be recorded by the board.
10. The grading of the gravel drive where it turns westerly towards the compound shall allow for continued travel north on the woods road by other parties who may have access rights over the old woods road. (See note on Sht. C-2).
11. After the compound has been constructed Verizon shall retain a forester acceptable to the planning board who shall identify which trees, if any, should be removed because they pose the threat of falling on the compound.
(Stumps and roots for trees identified by forester to be left in place. *See comment below.*)

Attorney Donovan stated there was discussion about them cutting quite a few trees. He thinks there should be a requirement that the stumps and roots be left in place. He continued the Shoreland Protection Act allows for one half the basil area to be cut within 150' of the shoreline; measured in 50' horizontal segments. The Shoreland Act also requires that stumps and roots be left in place to retain soil infiltration and not have erosion. The stumps and roots do tend to hold the soil in place, even though the trees are gone.

Conditions (continued):

12. The application for a building permit for the tower shall include the certification of a professional engineer that the tower and supporting infrastructure are capable of supporting the antennae arrays depicted on Sht. A-1; that the requirements of RZO § 505.5 A2-A5 are met. The building inspector may require the applicant to post an escrow for peer review of the tower and supporting infrastructure design.
13. The corners of the leased area shall be surveyed and monumented with iron pins not less than five-eighth (5/8) inch in diameter and 36 inches long, set 24 inches in the ground.
14. (construction of the compound area should introduce no restrictive liners or layers which would restrict functionality of infiltration of compound area. *See comment below.*)
15. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the tower compound.
16. As-built plans for all site improvements shall be submitted to the planning board (3 sets).
17. Per Section 303.7 of the Land Development Regulations, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

Attorney Donovan suggested a condition to be inserted near number 14; "construction of the compound area should introduce no restrictive liners or layers which would restrict functionality of infiltration of compound area".

Referring to the stumps and roots, Attorney Weaver asked if this is for the trees being identified by the forester.

Attorney Donovan explained it is for all trees.

Mr. Fredette commented that some trees are in the road. He continued that he would not be comfortable saying they will leave any stumps and root systems belonging to the trees that are flagged to be cut right now. It might be that the stumps and roots be left from the trees that are identified by the forester. At that point, it will be known what trees are outside the excavation area of construction.

Attorney Donovan agreed the stumps and roots should be applicable for the trees identified by the forester.

Member Quinn asked the status of the case for the 120 Brackett Road site. He sees that it is still continued so that gives him the impression that it is still pending.

Attorney Donovan replied that it is. He explained that Attorney Weaver has continued the practice of Attorney Manougian and has periodically extended the shot clock. The shot clock has now been extended to September 1st for that application. It keeps rolling along on the Planning Board's agenda until this issue is resolved.

Member Quinn asked if it can be a condition of approval that the application be withdrawn.

Attorney Donovan replied that he would advise against that.

Chair Losik commented this will be addressed later in the meeting.

Member Durkin asked if there will be a condition requiring camouflaging.

Attorney Donovan commented there will not be camouflage for the view that comes over the Marsh Road pond.

Attorney Weaver showed the images to the Board that shows the “hump” that screens the compound from the view over the Marsh Road pond, which eliminates the need for screening.

Member Durkin pointed out that he was thinking about the tower.

Chair Losik stated that the concern at the site walk on January 3rd was the viewshed from Parsons. The concern was to not see the fencing and equipment.

No further questions were heard from the Board.

Attorney Donovan commented that the next appropriate step is to have a motion for approval for the S.U.P and a conditional approval for the Major Site Development.

Motion by JM Lord to accept the Special Use Permit by Celco Partnership d/b/a Verizon Wireless with AT&T. Seconded by Jeffrey Quinn. Vote: 7-0 (Selectman Epperson’s vote counted.)

Motion by JM Lord to approve the Major Site Development Application by Celco Partnership d/b/a Verizon Wireless with AT&T, Case #20-2019, subject to the conditions read and amended. Seconded by Jeffrey Quinn. Vote: 7-0 (Selectman Epperson’s vote counted.)

Motion by JM Lord to move item IV D to be next on the agenda. Seconded by Tim Durkin. All in favor.

- **Conditional Use Permit Application by Celco Partnership d/b/a Verizon Wireless for property owned and located by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install a 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 September 2020.*

Attorney Donovan stated that the last joint meeting for the Brackett Road application was held in August of 2018. The BOA closed its public hearing and scheduled another meeting in September, in which they were going to deliberate on the application. The Planning Board never closed their public hearing. The Planning Board continued it to their September 2018 meeting. Then the process started for this particular application, as an alternative to Brackett Road. The understanding that he and Attorney Manougian had was that Brackett Road would stay on the table until this one gets its final approval. The reason was because if this did not get a final approval, Verizon would have a right to go back and finish the Brackett Road process. It made sense for Verizon to not withdraw that until they got their final approval on this application. He continued that they do not have final approval. They have the Planning Board's approval tonight but they do not have the BOA's approval and it has not survived the thirty-day period for anyone to file a court appeal. It will still be some months away. He noted that they have been working in good faith for the past year and a half knowing that eventually the Brackett Road application, if approved by both boards, is going to go away. He commented that it should not be a condition of approval by either board. The appropriate step now is for this board to continue the Brackett Road application to the August meeting, since the shot clock has been extended to September 1st.

Motion by JM Lord to continue the application by Celco Partnership d/b/a Verizon Wireless for 120 Brackett Road, Case #03-2018, to the August 2020 meeting. Seconded by Steve Carter. Vote: 6-0 (Selectman Epperson not present for vote)

III. Submittal of Applications for Determination of Completeness. Not a public hearing. If complete, public hearing will immediately follow: - Action Required:

- a. Conditional Use Permit by Lambros Tsoumbanikas for property owned and located at 95 Wallis Road, Tax Map 19.4, Lot 1 for an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance. Property is in the General Residence District. Case #01-2020.**
 - *Request to be continued to April 14, 2020*

Motion by Jeffrey Quinn to continue the application of Lambros Tsoumbanikas to the April meeting. Seconded by JM Lord. Vote: 6-0

- b. Minor Site Development Plan by Giorgia Nagle owner of Kook's Café & Beach Shop for property owned by Searose Properties, LLC and located at 1191 Ocean Blvd, Tax Map 17.3, Lot 30 for changes to the café to include indoor seating and to have seasonal food trucks parked outside the café. Property is in the Commercial District. Case #02-2020.**

Motion by Jeffrey Quinn to accept the application by Giorgia Nagle as complete. Seconded by JM Lord. Vote: 6-0

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

A. Minor site Development Plan by Giorgia Nagle owner of Kook's Café & Beach Shop for property owned by Searose Properties, LLC and located at 1191 Ocean Blvd, Tax Map 17.3, Lot 30 for changes to the café to include indoor seating and to have seasonal food truck parked outside the café. Property is in the Commercial District. Case #02-2020.

Giorgia Nagle, applicant, stated that she is asking for permission to introduce food trucks on the property. The site has enough space to allow three to four food trucks and it would be a great addition to the café. She explained the café is currently kitchen area and the beach shop will be turning into indoor seating of twenty-seats.

Chair Losik noted that an ADA compliant bathroom is being proposed for inside, where there is currently a bath and mop closet.

Ms. Nagle confirmed. She explained there are currently two bathrooms in the proposed area which are very small.

Chair Losik pointed out there are two port-a-potties located in the back area. She asked if those would remain.

Ms. Nagle replied yes. There has been one in the past and that will still be maintained.

Member Gittlein asked Ms. Nagle her relationship with the food trucks. He asked if she owned the trucks.

Ms. Nagle explained that for the first year she would just like to see how it goes. The trucks will be sourced out. She is hoping the trucks can work off each other and bring a following of people with them. Maybe down the road, the trucks will rent a spot or pay a small percentage from sales.

Member Gittlein asked if there would be control on how long the trucks would stay.

Ms. Nagle replied that the trucks will be allowed to stay until 8 or 8:30 p.m. at the latest. She noted the café opens at 7 a.m. She thinks the trucks will be opening about 11:00 a.m., around lunch time.

Member Carter asked if there will be a need for additional parking, as a result of an increase in customers.

Ms. Nagle stated that there is a lot of parking and they are fortunate with the amount of parking on their lot. In addition, there is parking on the road for beachgoers. The food trucks would be

catering to the beachgoers. She thinks that between the lot, the area behind this lot, and the road, there is more than enough parking to accommodate the trucks.

Alternate Finn asked why she would want the competition, as she has a café there herself.

Ms. Nagle explained the café is very limited. She is not able to cook full meals. The café is limited to smoothies, ice cream and breakfast sandwiches. She is hoping that by the trucks coming in they will work off each other and be able to offer a variety to the community.

Ms. Nagle reviewed the proposed areas on the plan for the food trucks and also reviewed the location of parallel parking spaces, which could be spaces for the trucks as well.

Chair Losik asked what is located behind this space.

Ms. Nagle replied there is a fence and wetlands.

Member Gittlein asked if it would be year-round or summer.

Ms. Nagle replied summer. Referring to the outside area, Ms. Nagle noted there are more parking spaces than what is shown on the plan that has been submitted to the Board.

Jim Murphy, owner of property, noted there are thirty-one lined spaces on the property.

Member Quinn asked if the process with the food truck vendors has started.

Ms. Nagle explained that she has introduced herself to some vendors but did not want to go too far in case this was not approved.

Member Quinn asked if she has been in contact with the fire and police departments in order to make the change that is being proposed. He asked if there has been any indication from them that they are concerned about the addition of the food trucks and how it would impact lunch time crowds. He can image there would be a lot of foot traffic coming from the beach, in addition to people just driving on site.

Ms. Nagle stated they have not expressed any concerns. She commented that they have not quite gotten there, as she is not sure if there will need to be a new permit for occupancy or if there is a restriction for how many people can be there. However, at this time, there has not been any concern with the food trucks bringing too many people to the site.

Member Quinn stated that the business plan shows there is an intent for this to be a year-round facility. In his mind, that raises a bunch of questions about septic and potential flooding in that area. He asked if there is still an intent to make this year-round.

Ms. Nagle explained the long-term goal is to have the company be fulltime and nonseasonal but not necessarily in that location.

Chair Losik asked if the Police Chief has reviewed the same packet as the Board's.

Ms. Nagle replied he has not. She was waiting until this meeting to move forward.

Chair Losik commented that it could be a condition that he look at the layout. She asked about the fire department's thoughts.

Ms. Nagle commented that she has not gone to them. She would need their approval, as well.

Member Carter stated he would want the police chief to sign off on the parking and traffic plan.

Chair Losik opened to the public.

Colleen Penacho, 1182 Ocean Boulevard, stated that she is concerned about the traffic and parking. There is only parking allowed on the west side of that road and those are taken up by beachgoers in the summer. There is a lot of traffic that goes up and down that road in the summer. She is concerned that the food trucks will cause more people to stop and park where they should not be parking with people crossing the busy road. She reiterated that she is concerned about the traffic and safety.

Chair Losik noted the business has been in operation for the past year. It looks like there is some similarity to what is there now and to what will be there. She asked Ms. Penacho if she has noticed any problems within the last year.

Ms. Penacho replied no. She explained the concern is that the food trucks will be taking up some of the current parking and they will attract more interest so the site will be busier.

Chair Losik clarified that the concern is with the change in the business and possible expansion.

Ms. Penacho confirmed.

John Penacho, 1182 Ocean Boulevard, stated that his concern is safety and the additional people being added to that crosswalk. He also noted that they have problems getting out of their driveway in the summer. The trucks being on that lot are going to create a dangerous situation. He pointed out that The Surf Club is across the street with people going in and out. This is going to draw more traffic and is going to create a more dangerous situation. The police and fire departments really need to look at this and mitigate the situations that may occur. He commented that the food trucks are going to be right across from his driveway. There is only so much parking on that west side and that is the most dangerous side.

Alternate Sherman asked if the proposal is to have three food trucks parallel to Route 1A.

Ms. Nagle reviewed the area on the plan for the food trucks.

Shawna Healy, 1201 Ocean Boulevard, stated that she has no complaints on what has been going on at the property so far. She is just trying to find out information on how this is going to work. She is not sure that multiple food trucks could work at this site. She suggested having a schedule for the trucks to come at different times.

Speaking to Ms. Nagle, Chair Losik suggested that the Board schedule a site walk.

Alternate Finn asked if the concept would work with one food truck.

Ms. Nagle confirmed.

Vice-Chair Lord pointed out that in the packets there was a change in the Certificate of Occupancy that was dated 6/19/19 that says existing available parking spaces are 15 to 20. The site plan shows 27 or 28.

Ms. Nagle explained a line striper has come in to redo the parking lot.

Referring to the 31 parking spots that were noted earlier, Alternate Sherman asked if this is including the tenants' parking spots.

Mr. Murphy confirmed that the number includes every space on the lot. He pointed out that the septic was updated in 2008 for the twenty-five seat restaurant in the original building. It was known as the Surf Haven years ago. The septic was updated at that time for that purpose.

Chair Losik closed the public hearing at 8:31 p.m.

- **Site Walk scheduled for Monday, April 6th, 5:00 p.m.**

Motion by Tim Durkin to continue the application to the April 14th meeting. Seconded by Steve Carter. Vote: 6-0

Ms. Nagle asked about the indoor seating part of the application, as this would be separate from the food truck proposal.

Chair Losik commented that the Board would want to look at the plan in its entirety.

Ms. Nagle stated that if the food trucks do not pass, she is still going to move forward with indoor seating. In her mind, these are two different items.

Vice-Chair Lord asked if the indoor seating is already approved.

Planning/Zoning Administrator Reed explained the building inspector made Ms. Nagle come to the Board for a change of use for the indoor seating.

Vice-Chair Lord asked how it existed in the past without Planning Board approval.

Mrs. Reed explained it was many years ago and since this building inspector has been with the Town, it has only been outdoor seating. When Ms. Nagle filed her application, the building inspector said it had to go to the Planning Board for indoor seating.

Member Quinn stated that it sounds like two different projects to him. He would like the site walk to be more concerned with how the food trucks are going to fit in. He is trying to consider how they can move this along so the applicant does not have to worry about the approval of the whole plan in April.

Chair Losik stated that Mrs. Reed has suggested that these could be split into two and the indoor activity could be conditionally approved for the twenty-five seats with the current parking, subject to review by the fire and police chiefs.

Mrs. Reed noted the site walk will still be held on April 6th and the food truck part of the application will be continued to the April 14th meeting.

Chair Losik reviewed the conditions;

- Operations remain seasonal from May to October;
- The building inspector has to approve the interior seating changes;
- The Police Chief and Fire Chief have to approve the layout; and
- No alcohol allowed outside of liquor licenses approved.

Motion by JM Lord to approve the Minor Site Development Plan of Kook's Café and Beach Shop for property owned by Searose Property, LLC located at 1190 Ocean Boulevard, Tax Map 17.3, Lot 30, for changes to the café to include indoor seating.

Property is in the Commercial District; Case #02-2020, subject to the following conditions;

- 1) The operations remain seasonal from May to October;**
- 2) The building inspector to approve the interior seating changes;**
- 3) No alcohol allowed outside of liquor license approved; and**
- 4) Fire Chief and Police Chief approval of seating and parking plan;**

With a site walk to be scheduled April 6th, 5:00 p.m., to address the seasonal food trucks that will be parked outside the café. Seconded by Steve Carter. Vote: 6-0

- 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 and Aquifer and Wellhead Protection District. Case #15-2029.**

- *Request to be continued to April 14, 2020*

Motion by JM Lord to continue the application for Webster at Rye to the April 14, 2020 meeting. Seconded by Tim Durkin. Vote: 6-0

- C. Conditional Use Permit by Lambros Tsoumbanikas for property owned and located at 95 Wallis Road, Tax Map 19.4, Lot 1 for an Accessory Dwelling Unit per section 506 of the Rye Zoning Ordinance. Property is in the General Residence District. Case #01-2020.**

- *Request to be continued to April 14, 2020*

Motion by JM Lord to continued the application of Lambros Tsoumbanikas to the April 14, 2020 meeting. Seconded by Tim Durkin. Vote: 6-0

V. New Business:

- a. Second Conceptual Consultation by Tuck Realty Corporation for 0 Lafayette Road, Tax Map 10, Lot 1 (former Hector's site) for a 40-unti multi-family townhouse with mixed use commercial and retail.**

Mike Garrepy, Tuck Realty Corp, spoke to the Board about the changes to the conceptual for the property located at the former Hector's site. He noted the forty units have been reconfigured in a different fashion, primarily to accommodate a better internal configuration with the road and to accommodate the onsite septic for the units. Quite a few test pits were done last week. There is very good gravel and a deep water table, so the septic design will be easily accommodated on the site.

Member Quinn asked if there has been any thought to moving the sewer up the road to make it more feasible. He asked how this would impact the development.

Mr. Garrepy replied that he has not fully analyzed that idea to see if it is even possible. At this time, it is anticipated to be onsite septic. He commented that he is not opposed to analyzing it; however, timing could be a factor depending upon when those improvements are coming up the street.

Attorney Phoenix stated that he represents a large property owner in the area between the Portsmouth City Line and Washington Road. There is a group of landowners that have gotten together to try to bring the Portsmouth sewer line up to Washington Road. Any extension requires the approval of both the Town of Rye, at town meeting, and the City of Portsmouth. Right now, because of issues relating to the cost, the town warrant approved the extension as long as there is no cost to Rye or the City of Portsmouth. It has to be paid for either by private landowners and/or state or federal funds. He continued that when this went on the ballot last year, there was discussion about whether to have this be extended up to the North Hampton town line. It was determined at that time, that it was premature to do that so the decision was to get it half way. He noted the project is at least a year away, if it is going to happen at all. It is optimistic, at best, to think this project is going to be on town sewer.

Referring to the conceptual, Mr. Garrepy stated the design for the townhouses are similar to the Falzone project on Washington Road. He is using the same architect for this project. The architect will take a lot of what he learned from the Falzone project and incorporate it into this design.

There was some discussion on the parking for the project.

Chair Losik stated that with regards to 1244 Washington Road, there was a lot of discussion about mass. Referring to Mr. Garrepy's plan, she stated it is feeling quite nonresidential.

Mr. Garrepy stated that ordinance allows for eight units in a building and this is well below that with six. He can look at reconfiguring that.

Pointing to one of the buildings on the plan, Mrs. Reed noted it does not meet the zoning regulations, as it cannot be only two units in a building.

Mr. Garrepy confirmed he will review the ordinance and rework the plan. He noted that he wanted to discuss the workforce housing requirements with the Board. He knows that eight units have to be provided for workforce out of the forty units. It is anticipated that they will be dispersed amongst the various buildings with the outside of the units being the same as the others. He would really like to know what the requirements for the workforce housing units will be. The record is unclear for the Falzone Project in that it says the units have to be of "similar quality" to the market units. He is trying to figure out what that means, as the ordinance is silent on the workforce housing requirements.

Chair Losik asked Mr. Garrepy if he had the opportunity to watch the November 12th Planning Board streamlined video.

Mr. Garrepy stated that he read the minutes of all the meetings.

Chair Losik noted that he should look at the video between 4:26 and 4:48. She continued that Mr. Falzone's attorney raised the fact that the Town's zoning is silent in terms of how the

workforce housing units are advocated. Fortunately, Attorney Donovan was present at that meeting and there was dialogue about his perception of the origins and what Rye's Zoning Ordinance means, in terms of those allocations. The attorney for Joe Falzone said that he reviewed the legislative history on the statute and the RZO and there was no mention of ratios. With that particular development, under the septic proposal, there were three different plans that evolved; a three bedroom unit, a straight two-bedroom and a two-bedroom plus bonus. There were allocations suggested that were not exactly in the ratio of the overall percentages. She continued that Attorney Donovan pointed to the fact that the concept behind the zoning was that nobody can build multi-family housing in Rye, unless they include workforce housing. The concept is that because it is the only opportunity for multi-family housing the intent is proportional. She pointed out that the zoning does not say it is proportional; however, the intent is that those units would be proportional.

Mr. Garrepy asked what is meant by "proportional".

Chair Losik explained that if half of the units are three bedrooms, then half of the workforce housing units would be three bedrooms. She pointed out that the Planning Board members range. There are members who come up with a different read. It means something a little different to everyone. How it was solved at 1244 Washington was by looking at economics. There is dialogue in that case about the cost and how it can become a factor to encourage entry for that workforce housing family. It may make sense to have forty percent of the three bedroom units because maybe it means there is one more unit that becomes a better entry point. She noted that there were numbers shared, as part of that engagement, which helped convince the Board that it was the right decision. The Housing Partnership Project is absolutely proportional. With the 1244 Washington Road Project, it is not absolutely proportional.

Mr. Garrepy noted that the notice of decision for the Washington Road project said the workforce housing units had to be of the same quality. For him, that is vague and he would like to understand what that means. If they all have to be of the same finishes, it does not work for workforce housing.

Vice-Chair Lord asked if the architect would have insight into that, as he is the same architect. He asked if the architect came away from that project not knowing the answer to that question.

Mr. Garrepy replied that the architect did not know the answer to that question because he did not attend all the meetings.

Chair Losik suggested to Mr. Garrepy that he watch the streaming. The discussion and the conclusion would be informative.

Mr. Garrepy asked if the workforce housing units can be smaller.

Chair Losik replied there was a greater allocation to the two-bedrooms, which did end up being disproportionate than either the three-bedrooms or two-bedrooms with a bonus room. There was a difference of 600sf difference between the units. It meant a number of \$60,000 less.

Mr. Garrepy stated that if his team is able to take a 2,000sf townhouse and make thirty-two of those the market units and eight units would be 1,800sf for the workforce housing units, it may work. In that case, there would be a smaller unit and it would be able to be built at a lesser price enabling the unit to be sold as a workforce housing unit. He pointed out that the number of bedrooms and the outside of the units would all be the same. It would be a slightly smaller home with slightly less finishes.

Chair Losik stated that the units should be comparable.

Mr. Garrepy stated that in looking at a single-family or condominium development, there is typically a listing sheet that lists the specifications for the build and there would be allowances with an option to pay for upgrades. If someone wants cherry cabinets, hardwood floors, and everything custom built, they are going to pay a lot more money for that product than the workforce housing person who may be next door.

Vice-Chair Lord asked if he is saying that all units will start at the same base level and those that are not workforce housing would have the ability to upgrade if they wanted to.

Mr. Garrepy replied that is one approach that could be taken.

Vice-Chair Lord commented that a two-bedroom may be a bit smaller than a three-bedroom but the base is all the same.

Mr. Garrepy agreed. He noted that if it is a workforce housing unit that had a package with a ceiling pricing. There may be some room for making different choices for workforce housing units.

Vice-Chair Lord stated that he thought this was discussed for the Falzone Project. They could make the unit really nice but basically the base was the same.

Chair Losik stated that with The Housing Partnership and 1244 Washington, the Board did not contemplate the base being different. On the 1244 project, the problem was solved by the number of bedrooms, which related to square footage. With the septic plan on 1244, the allocation of the workforce housing units is one three-bedroom, one two-bedroom with bonus room, and two two-bedrooms with the same square footage of the regular priced units of the same number of bedrooms.

Member Durkin asked Mr. Garrepy if he has spoken to the people at Evolve.

Mr. Garrepy replied that he has not spoken to any of the abutters yet.

It was pointed out that a representative from Evolve was present at the first conceptual and had some concerns with the development.

Mr. Garrepy finished his discussion with the Board.

b. Chemical Free Pools

Chair Losik stated that there is a home on Signature Drive that has approval for a natural swimming pool, which is a total chemical free pool. The Planning Board has had a lot of discussion about chemical free pools and natural swimming pools, which basically use man-made wetlands to process the water and keep it clean. The developer of this subdivision found another company that says they are selling pools that are chemical free. Danna Truslow has reviewed the information and sent a letter to the Board with regards to her findings. The pools use copper ions to control the algae levels. CO-2 may need to be added to adjust the PH and calcium chloride may be added annually to adjust for the calcium hardness. Additionally, homeowners may use other chemicals or maintenance as treatment problems arise. Ms. Truslow's summary is that eco-smart technology appears to use minimal chemical additions to manage pool water but it is not chemical free. The largest potential threat is the impact of untreated pool water containing elevated levels of copper and related organic compounds generated by the treatment process that could then infiltrate to groundwater and/or enter the nearby surface water and wetlands. Chemicals from pool filters backwash, if disposed of on the grounds of the property, could impact soil and water quality. Discharge of the pool water to the ground during maintenance in winterizing could also impact water quality. Ms. Truslow said that if this was adopted, it would be subject to an expensive testing and monitoring process.

Chair Losik explained to the Board that they are being asked to say whether this type of pool would be acceptable for the 421 South Road development (Signature & Autumn Drive).

Member Quinn stated the he would be opposed.

Alternate Sherman stated she would be opposed also.

Alternate Finn commented that he would need a lot more information.

Member Carter noted that right now it would be no, but he would need a lot more information.

Vice-Chair Lord commented chemicals are chemicals. He would say no.

Member Gittlein stated he is against allowing the pool.

Member Durkin noted he is opposed.

Chair Losik stated that she is against it because the members who were on the Board with that development are very familiar with the characteristics of that site; shallow to bedrock and the concern of the Atlantic White Cedar area. Also, it is not known, because the testing was not done and this was brought up in the USGS Report, how the bedrock wells are fed. When she sees something that says there are still chemicals and copper, it is not really appealing. She pointed out that there is an alternative, which has been approved. It is a natural swimming pool and there is already one house that has this.

VI. Other Business

a. Approval of February 11, 2020 meeting minutes

- It should be noted on page 1 that **Katy Sherman was seated for Tim Durkin.**
- Page 2, 1st paragraph, last sentence should read: **She recommended the applications be updated and the Board work towards having it available electronically.**
- Page 10, 4th paragraph should read: **Alternate Sherman asked if they would always be hooked up to electricity with the waste tanks being emptied out after each tenant.**
- Page 12, 5th paragraph should read: **Alternate Finn asked if the motel will be open year-round.**

**Motion by Jeffrey Quinn to approve the minutes of February 11, 2020 as amended.
Seconded by Steve Carter. All in favor.**

b. Pay Escrows

- ❖ **CEI - \$375.00 – Samonas, 1215 Ocean Blvd**
- ❖ **Donovan - \$534.36 – Verizon Wireless, 68 Port Way**
- ❖ **Danna Truslow – \$412.50 – Webster at Rye**
- ❖ **Danna Truslow - \$715.00 – Stoneleigh Subdivision**
- ❖ **Sebago Technics - \$442.00 – Stoneleigh Subdivision**
- ❖ **Sebago Technics - \$955.24 – 243 Central Road**

Motion by JM Lord to pay the escrows listed. Seconded by Jerry Gittlein. All in favor.

Adjournment

Motion by Jerry Gittlein to adjourn at 9:35 p.m. Seconded by JM Lord. All in favor.

****All corresponding documents and files may be viewed 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: Lambros Tsoumbanikas

Property: 95 Wallis Road, Tax Map 19.4, Lot 1
Property is in the General Residence District

Case: Case #01-2020


Application: Conditional Use Permit by Lambros Tsoumbanikas for property owned and located at 95 Wallis Road, Tax Map 19.4, Lot 1 for an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance. Property is in the General Residence District. Case #01-2020

Date of Decision: Tuesday March 10, 2020

Decision: ☐ Approve
☒ Continue
☐ Deny

The Board voted to continue the application to the April 14, 2020 meeting.

3-10-2020
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, March 10, 2020

Decision:

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Conditionally Approved
<input type="checkbox"/>	Denied
<input checked="" type="checkbox"/>	Continued to the August 11, 2020 meeting.

3-10-2020
Date



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 February 11, 2020

Decision: _____ **Approved**
_____ **Deny**
_____ **x** **Continued**

The Board voted to continue the application to the April 14, 2020 meeting.

3-10-2020

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: The Town of Rye

Property: 68 Port Way, Tax Map 23, Lot 1
Single Residence District

Case: Case #20-2019

Application: Special Use Permit and Major Site Development Application by Cellco Partnership d/b/a Verizon Wireless, with AT&T for property owned by the Town of Rye and located at 68 Port Way, Tax Map 23, Lot 1 to install a wireless telecommunications facility in the form of a 126' monopole at the property, which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box at a centerline 121' and nine (9) panel antennas, fifteen (15) remote radio heads, six (6) surge arrestors at a centerline of 109' and ground based equipment to be housed within 50'x50' fenced enclosure. Property is in the Single Residence District. Case #20-2019.


Date of Decision: Tuesday, March 10, 2020

Decision: **The Board voted 7-0-0 to approve the Special Use Permit.**

The Board voted 7-0-0 to approve the Major Site Development Application.

The SUP and Major Site Development are contingent upon the following conditions:

3-10-2020
Date



Patricia Losik, Chairman
Rye Planning Board

CONDITIONS OF APPROVAL
VERIZON CELL TOWER AT 68 PORT WAY
MAJOR LAND DEVELOPMENT & S.U.P. APPROVALS

1. The plans shall be revised as follows:
 - a. Add a signature block for planning board chair to sign to the Title Sheet and Sheets C3 through C7 and A1. Two sets each of the full plan set are to be submitted for signature.
 - b. Add the following notes to Sht. C-6 re: generators:
 - 1) The generators shall be fueled by propane. Diesel fuel is prohibited.
 - 2) All generators on the site shall be programmed to run concurrently during the following period: Wednesdays at noon.
 - 3) All generators on the site shall be enclosed in sound attenuating enclosures.
 - c. Remove note about expandable tower that is in bottom note box on Sht. A-1.
 - d. Add note to Sht. A-1 that monopole will be color of brown up to height of 50 ft.
2. The planning board engineer should certify that all of his concerns have been satisfactorily addressed.
3. A Collocation Agreement similar to that at Tab 14 of the 11/22/2019 submittal shall be reviewed and approved by town counsel and signed by Verizon and the planning board chair.
4. The NEPA evaluation required by RZO § 505.4, C(2) shall be satisfactorily completed and evidence of same provided to the planning board.
5. The special exception and variances required from the ZBA shall be obtained. Any conditions of approval imposed by the ZBA are incorporated herein by reference.
6. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and the other consultants of the board.
7. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
8. Planning board chair may sign plans when foregoing conditions Nos. 1-7 are met.
9. A Certification of Major Site Development Review Approval shall be recorded by the board.
10. The grading of the gravel drive where it turns westerly towards the compound shall allow for continued travel north on the woods road by other parties who may have access rights over the old woods road. (See note on Sht. C-2).

11. After the compound has been constructed Verizon shall retain a forester acceptable to the planning board who shall identify which trees, if any, should be removed because they pose the threat of falling on the compound. The stumps and root systems of trees which are removed shall not be removed.
12. The application for a building permit for the tower shall include the certification of a professional engineer that the tower and supporting infrastructure are capable of supporting the antennae arrays depicted on Sht. A-1 and that the requirements of RZO §'s 505.5, A2 – A5 are met. The building inspector may require the applicant to post an escrow for peer review of the tower and supporting infrastructure design.
13. The corners of the leased area shall be surveyed and monumented with iron pins not less than five-eighth (5/8) inch in diameter and 36 inches long, set 24 inches in the ground.
14. The construction of the compound area should introduce no restrictive liners or layers which would restrict functionality of infiltration of the compound area.
15. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the tower compound.
16. As-built plans for all site improvements shall be submitted to the planning board (3 sets).
17. Per Section 303.7 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

RYE PLANNING BOARD

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

Notice of Decision

Applicant/Owner: Giorgia Nagle, owner Kook's Café & Beach Shop
Jim Murphy aka Searose Properties, LLC owner of property

Property: 1191 Ocean Blvd, Tax Map 17.3, Lot 30
Property is in the commercial district

Case: Case #02-2020

Application: Minor Site Development Plan by Giorgia Nagle owner of Kook's Café & Beach Shop for property owned by Searose Properties, LLC and located at 1191 Ocean Blvd, Tax Map 17.3, Lot 30 for changes to the café to include indoor seating and to have seasonal food trucks parked outside the café. Property is in the Commercial District. Case #02-2020.

Date of Decision: Tuesday March 10, 2020

Decision: x Approve

The Board voted 6-0-0 to approve the indoor seating and change of use upon the following conditions.

The Board voted to hold a site walk on Monday, April 6, 2020 at 5pm to view the site for the use of food trucks and continue the application pertaining only to food trucks to the April 14, 2020 meeting.

- 1. The operations remain seasonal May to October;**
- 2. The Building Inspector approval of the interior seating changes;**
- 3. No alcohol allowed outside if a liquor license is approved; and**
- 4. The Police and Fire Chiefs approval of indoor seating and parking plan.**

3-10-2020

Date



Patricia Losik- Chairman
Rye Planning Board