

**TOWN OF RYE – PLANNING BOARD
MEETING**

Tuesday, April 14, 2020

6:00 p.m. – via ZOOM

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

Others Present for the Town: Planning/Zoning Administrator Kim Reed

Call to Order

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

Statement by Patricia Losik:

As chair of the Rye Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are providing public access to the meeting by telephone, with additional access possibilities by video and other electronic means. We are utilizing Zoom for this electronic meeting. All members of the board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting by clicking on the following website address: www.zoom.com ID #252-085-679 Password: 9BZ6vh

Public notice has been provided to the public for the necessary information for accessing the meeting, including how to access the meeting using Zoom telephonically. Instructions have also been provided on the website of the board at: town.rye.nh.us go to the Planning Board page and click on the agenda for this meeting.

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Roll call attendance:

1. Member Katy Sherman
2. Member Steve Carter
3. Member Jim Finn
4. Member Tim Durkin
5. Selectmen's Rep Bill Epperson with Katherine Epperson
6. Vice-Chair JM Lord

7. Alternate Jeffrey Quinn
 8. Alternate Nicole Paul with Ned Paul, Alexandra Paul and Edward Paul
 9. Chair Patricia Losik
 10. Planning Administrator Kim Reed
 11. Giorgia Nagle, applicant on the agenda
 12. Coleen Penacho with John Penacho, 1182 Ocean Blvd. – members of the public
 13. Doug Beattie, 1126 Ocean Blvd. – member of the public
- (Unless noted above, it was noted by attendees that they were the only one present in the room.)*

I. Business

○ Appointment of Chair, Vice-Chair and Clerk

Motion by Bill Epperson to nominate Steve Carter as clerk. Seconded by Patricia Losik.
Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes;
Bill Epperson – Yes; JM Lord – Yes; Patricia Losik – Yes
Motion passed.

Motion by Bill Epperson to nominate JM Lord as vice-chair. Seconded by Steve Carter.
Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes;
Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes
Motion passed.

Motion by Bill Epperson to nominate Patricia Losik as chair. Seconded by Tim Durkin.
Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes;
Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes
Motion passed.

○ Approval of March 10, 2020 Minutes

The following corrections were noted:

- Page 8, 3rd paragraph should read: **Selectman Epperson asked if it 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.**
- Page 8, 8th paragraph should read: **Chair Losik asked if a carrier could go horizontal.**
- Page 16, 1st paragraph should read: **She explained the café is currently a kitchen area and the beach shop will be turning into indoor seating of twenty-seats.**
- Page 16, under 'New Business' it should read: **Second Conceptual Consultation by Tuck Realty Corporation for 0 Lafayette Road, Tax Map 10, Lot 1 (former Hector's site) for a 40-unit multi-family townhouse with mixed use commercial and retail.**
- Page 4, 1st paragraph, 5th sentence should read: **The work is a collaborative effort.**
- Page 4, 4th paragraph, 4th sentence should read: **Both State and Federal law basically exempts those non-substantial modifications from having to come back before the land use boards.**

- Page 11, 2nd paragraph, under 'Condition 1.a' it should read: **Add a signature block for planning board chair to sign to the Title Sheet and Sheets C3 through C7 and A1.**
- Page 7, 6th paragraph, 2nd sentence should read: **At some point in time, the Town has sacrificed a line of vision here and there in order to have telephones and power.**
- Page 4, under 'conditions', number 4 should read: **The NEPA evaluation required by RZO § 505.4 C(2) shall be satisfactorily completed and evidence of same provided to the planning board.**
- Page 14, last paragraph it should read: ***Request continuance to September 1, 2020.***
- Page 15, under 'b' it should read: **Property is in the Business District.**

Motion by Steve Carter to approve the minutes of March 10th as amended. Seconded by Katy Sherman.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

II. Submittal of Application for determination of completeness: Not a public hearing. If complete, public hearing will immediately follow – 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 existing condominium and construct a new 2-story building. Property is in the Business, Coastal Overlay District and SFHA, Zone AO. Case #03-2020.
 - ***To be continued to the May 12, 2020 meeting.***

Motion by Bill Epperson to continue the application for Sally Sheehan, for determination of completeness and public hearing, to the May 12, 2020 meeting. Seconded by Steve Carter.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

III. 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 a seasonal food truck parked alongside the café. Property is in the Business District. Case #02-2020.

Chair Losik asked the members if they had a chance to review the Planning Administrator's summary from the site walk.

The members confirmed.

Chair Losik noted that Ms. Nagle has submitted additional information, to be coordinated with the application, with regards to some of the questions that came up about the property and her plan. She asked Ms. Nagle to bring the Board up to date.

Giorgia Nagle, applicant, stated that the additional information that was sent to the Planning Administrator was a follow up on business numbers from last summer. That was the first season so she would expect different numbers for this year, specifically for June and October. She had a hard time getting numbers for a food truck because they have no way of predicting for a new location. She explained that she added an additional 20% to her sales to see where that would put the business for next season. In addition, she did some research on generators that most food trucks use and converted the sound to decibels to show how loud they are and what they produce for emissions. She spoke to a few food trucks and they are all capable of switching over to electrical outlets. She would be happy to install an electrical outlet that could accommodate the trucks and completely remove the noise pollution concern all together. She also included the standard listed in the National Park Guidelines, which is a great idea to follow as well.

Chair Losik clarified the standard from NPS was 60db.

Ms. Nagle confirmed.

Hearing no questions from the Board at this time, Chair Losik opened up to the public for comments.

Coleen Penacho, 1182 Ocean Blvd, pointed out that she voiced some concerns during the site walk. She also submitted something by email to the Planning Administrator.

Planning Administrator Kimberly Reed noted that she did not receive the email.

Ms. Penacho stated that she had concerns at the site walk about whether food trucks are permitted in a business district because it is more restrictive than a commercial district. In a commercial district, diners are only permitted by special exception, if there is a showing they are not detrimental or injurious to the neighborhood by the reason of omission of odors, fumes, smoke, noise or any other clause; RZO 190-2.11(B)2(d).

Planning Administrator confirmed that she did receive the email and sent copies to the members.

Mrs. Penacho continued that commercial is less restrictive than business. In a commercial district there cannot be a diner if it is going to be detrimental because of pollution, smoke or noise. If the food trucks could be hooked up to an electrical outlet that would make a big difference because there would not be the noise and fumes. If these were running on generators that cause fumes and noise, the trucks will be right next to Parsons Creek and the marsh, which could be detrimental to those wetlands. She is also not sure if the site itself is in a wetlands buffer. There are restrictions in a wetlands buffer about enlarging, increasing or extending a nonconforming use in a wetlands buffer. In regards to the decibel level, if the truck is running on

electricity, she is not sure how that affects the decibel level. She assumes that if a generator is not running there would not be that same level of noise. The 60-decibel level is considered a low level of noise. This is what newer and more efficient generators run at. As it goes above 60db, it gets noisier. She stated that at the site walk, Ms. Nagle mentioned three food trucks in a space that did not seem like the trucks would fit, as the average trucks is 25ft in length. She also was not clear about the truck that is currently in that spot. Will it be staying in that location or be moved to another spot on the site? She noted that she also has concerns with regards to parking requirements. There is a zoning ordinance that land for a non-residential site needs to meet the minimum number of parking spaces for off street parking. The requirement is one parking space for every two seats for fast-food restaurants. She assumes that the food trucks would be considered a fast-food restaurant. The new use would be 25 indoor seats. There is outdoor seating, which she assumes will remain. There is also a requirement for one parking space for every employee based on a maximum shift. Plus, there is a one-bedroom apartment on the site, which would require parking, as well as residential units in the structure next door.

Referring to the zoning ordinance cited by Mrs. Penacho, Chair Losik asked the rationale for why 'B' applies.

Mrs. Penacho explained there are two reasons why she believes this applies. It says; "any new building structure or land use". In her mind, a food truck is a new use because it is not a restaurant and is more akin to a diner that is only allowed by special exception in the commercial zone. It also says; "any expansion of use of a non-residential site". Adding the indoor seating and food trucks is an expansion of the use of that site.

Chair Losik clarified for the Board that the RZO being referred to is 190:63. She clarified that in regards to 'Off Street Parking and Loading', it talks about parking spaces being of minimum size. Item 'B' relates to the minimum number of parking spaces. *"The number of parking spaces required by the table of minimum off-street parking requirements shall be provide for: any new building, structure or land use; any existing dwelling being enlarged by more than 25%; any existing dwelling or other building in which new dwelling units are built; any conversion of seasonal dwelling units to year-round occupancy; condominium conversions and any expansion or change of use of a non-residential or multi-family building, structure or site."*

Planning Administrator Reed pointed out that this section is formerly Section 500.1 of the 2019 Rye Zoning Ordinance.

In regards to the parking in the front, Mrs. Penacho stated that she understands the parking has been there for years. Ms. Nagle had mentioned that she changed this parking from parallel to perpendicular. Mrs. Penacho stated that she does not think this is compliant with DOT requirements because the vehicles cannot back out on to a State Highway. The vote that was taken on March 10th with regards to the indoor seating, was a vote taken saying that this is in the commercial district where this is a business district. It did not seem like there was consideration regarding the off-street parking required. She had a concern about that vote.

Hearing no further comments from the public, Chair Losik closed the public session at 6:35 p.m. Speaking to Ms. Nagle, Chair Losik stated that it sounds like there would not be an issue with hooking up the food truck through electrical means by having the electrical line laid to the building.

Ms. Nagle confirmed. She explained that after doing some research she has realized that newer generators are quiet. However, if it is a concern at all, she would be happy to install an electrical outlet that would be meant for the food trucks. That would completely omit the noise and emissions because the generator won't be running.

In regards to the food trucks, Chair Losik stated that she saw in the new information that the request is for one truck on the property. She asked if this is correct.

Ms. Nagle confirmed. She continued that she is not sure how they got to the three, four or five food trucks. She would be happy with one truck and see how it goes from there. She does not think there is much room on the property anyways.

Chair Losik asked how often the truck would be on site.

Ms. Nagle explained it would be one different truck rotated out. The schedule would be for an afternoon or evening meal. It is expensive for the trucks to sit and run. It was suggested to have a truck during lunch or early dinner times, instead of having a truck sitting all day. It may be both times, if a truck is okay with sitting through.

Chair Losik asked what the plans are for the truck that is currently on site.

Ms. Nagle stated that it can be moved to a different part of the property but the plan is to definitely have it stay.

Chair Losik asked for thoughts from the Board.

Alternate Quinn stated that he has taken a quick look at the email that was sent by Planning Administrator Reed from Mrs. Penacho and there are two good points. He knows that Ms. Nagle said the food trucks are self-contained but Mrs. Penacho mentioned gray water. He is not sure the trucks contain all their drainage water when they are located on the property. He thinks that bears a passing review. He is also concerned about the perpendicular parking in the front of the property. With the high marsh grass adjacent to the property, having a proper line of sight could be a real concern. He was wondering if angle parking could make a difference so there could be more parking than parallel parking. This is a concern that someone ought to pay attention to, as the application is considered.

Member Finn stated that moving away from numerous trucks to one truck makes this a lot more palatable, given the size of the site and the proximity to the wetlands. Also, moving away from the generator to the electrical connection will help the local people. He thinks the application is

heading in the right direction. He would support one truck but would hesitate to go much beyond that.

In regards to the proximity to wetlands, Chair Losik asked what his particular concerns are.

Member Finn replied that it was not so much concerns as such. It was more in terms of the confinement of the site, which would be rather crowded with numerous trucks.

Member Carter stated that he has concerns about the parking. In looking at the Surf Haven picture from 1960 or so and the parking now, there was no parking like that back then. The parking was nose in and they were facing each other. He has a concern that those spaces were added. He is also concerned about the wetlands. He asked if they have looked at how much of this is in the wetland buffer. He wonders if they are going down a bad road if this is approved. He does not know where the buffer is on that property. He noted that usually the buffer is delineated for the Board so they can see what is going on. He continued that running the electricity to the truck and getting the fumes and noise from the generator out, makes this a lot more palatable. He would be in favor of one truck but he does have concerns with the wetlands and the parking.

Vice-Chair Lord stated that when he looks at what was submitted with the number of chairs, tables and barstools, in looking at the ordinance, it is only requiring 11 parking spaces. In looking at the site plan that was submitted and not including the parking along the front, there are 39 spaces. If the spaces on the front were turned and parallel, there would be 41 spaces on the site, which is more than adequate. If there is going to be one truck sitting on the asphalt that is there, he questions the impact on the wetland. There is probably going to be a lower impact with a truck sitting there for a number of hours versus a number of cars coming and going all the time. He is fine with the generator noise, as long as it is 60db or under. He likes the idea of the electrical plug-in. Other than that, he does not have any concerns.

Chair Losik commented that when they were at the site walk, there was an area that was pervious that had grass and stone. She thought this was the area for the truck. She asked Ms. Nagle to give some clarification on the location of the truck.

Ms. Nagle explained that originally, she had the idea to place it on the grass and shell area to preserve the spaces for cars. She is open to moving it to anywhere on the lot. Some of the details on the site plan are a little vague because this is such a new concept.

Vice-Chair Lord stated that when the Board was on site, the parking spaces along the wetland were head in. He would leave it exactly as it is. If there is going to be one truck, he would ask that the truck be at the last space back where it is paved, prior to the grass area that was suggested.

Referring to Vice-Chair Lord's location suggestion, Ms. Nagle stated this would be a great location because it is still next to the grass area but is on the pavement. This would be the best alternative.

Member Durkin stated he is okay with the application with the changes that were made of one truck and the alternative to the generator. He is not overly concerned about potential impact to the wetlands because he does not know what impact it may have. He reiterated that he likes the changes and would support the application.

Alternate Paul stated that Mrs. Penacho said that this falls into the commercial exclusion of diners. She disagrees. She thinks this fits into the business district's permitted use of a food establishment. She would support the application. This will not cause any more foot traffic than normal. She commented that it is normally a busy area.

Member Sherman stated she would approve the one truck. She likes the changes, as the generator was a concern. Her only other concern would be the wetlands but it sounds like the other members are okay with it being on the asphalt. She asked what the concerns were from the Police Chief.

Speaking to Planning Administrator Reed, Chair Losik asked if she has information from the Fire Chief or Police Chief.

Planning Administrator Reed replied that the only thing she has from Police Chief Walsh is his concern about multiple trucks. She thinks that if it is going to be one truck this would alleviate his concerns.

Chair Losik commented that at the site walk it was mentioned that the Board wanted the Fire Chief to look at the access and egress on the north side where the truck/s would be. The Board wanted to be sure there was safe access for a fire truck.

Member Sherman stated she would approve this with Chief Walsh reviewing the plan and being comfortable with the parking. She noted that Ms. Nagle had mentioned the trucks are totally self-contained. She does not understand where the gray water would be coming from.

Chair Losik asked Ms. Nagle to comment on the gray water.

Ms. Nagle stated she is not sure why that would be a concern. The trucks that would be allowed are self-contained and are completely responsible for the removal of waste. These trucks are familiar with sites where they have to remove all of their waste. It would not be an issue.

Chair Losik clarified that they have a depository for the gray water and would not be dumping any water.

Ms. Nagle confirmed.

Chair Losik pointed out that Ms. Nagle's statement says the trucks are self-contained and remove their trash and waste products. If this were to be approved, she would look at this as something that might be a condition. She noted that both the Fire Chief and Police Chief should sign off on the parking plan, the number of spaces and perpendicular parking, and the general traffic plan to make sure it accommodates the safety requirements. With respect to the concern that there is no designation of the buffer on the plan and the modified use, she is not sure if they would want Conservation to weigh-in on the plan.

Selectmen's Rep Epperson pointed out this has been a restaurant for over 60 years in one iteration or another. As far as the generator is concerned, there could be four generators run there and it would not overcome the sound of the traffic. In regards to the parking, he believes the owner of the property had opined the parking went before the ZBA and was approved. The only comment he has is about the boulders in the front. If they want to move those a foot or two, it would give people a better opportunity to back out, as opposed to what it is now. He does not want to see the Board overcomplicating this application. The application is very simple. Ms. Nagle wants one truck. The truck is going to be there for a period of time. He continued there are people who don't want to see anything at all, but that's not the way to approach this. He is in favor of the application.

Chair Losik stated that she spent some time looking over the records for the site. In looking at the property tax records back to the early 80's, one thing that is significant to the property is that there has always been this parking. In its current use, this land as restaurant use, and the business code is specifically called out as such, is valued at over a half million dollars and that does not even reflect the building that is used as a restaurant. The parking is a big piece of the property and is a big asset to any business that would be there now or in the future, just as it has historically. It would be a disservice to somehow try to eliminate that use. She pointed out that it is clear in the records the parking is used for restaurant use. As a Board, they would not be heading in the right channel if they wanted to somehow make that change. To Mrs. Penacho's point about the fact that it was labelled as commercial, Administrator Reed made the point at the site walk that this was an oversight and this happens. There have been other times applications have been before the Board and they end up being labelled not where they are. Clearly, there are the definitions and Alternate Paul mentioned the rights in the business use. In the business use, the restaurant utilization is pretty broad. The differential with commercial is that commercial doesn't have residential dwellings. There is language of commercial use on the tax records that goes way back. She does not think there is any question, nor any question on the zoning map, that this is in the business district, therefore, the laws and the opportunities afforded that representation are to be observed. She knows there were some concerns about this being a "diner". However, she does not see this as a "diner". She sees it as a food truck. Speaking to Planning Administrator Reed, she asked if there are any concerns about the wetland buffer.

Planning Administrator Reed stated that she thinks one food truck, on the asphalt, is going to be far less impactful than from what could occur there. There is also the 50ft buffer from the marsh. She reiterated that one food truck is going to be less of an impact than multiple cars parking there

and coming and going. She pointed out that the buffer was not delineated so the property could be further from the wetland.

Chair Losik commented it is at least 50ft, in looking at the old tax records. It even looks like the north side of the restaurant is greater than 50ft.

Vice-Chair Lord pointed out that this is an existing business and an existing parking lot. No one is asking to change that or expand it in any way. He is having a difficult time understanding what the impacts, further than what is there today, would be on the wetlands or even on the wetland buffer.

Selectmen's Rep Epperson agreed.

Member Durkin also agreed.

Member Carter commented that he is fine with it.

Member Finn agreed.

Member Sherman agreed.

Alternate Paul commented that she does not see how having a truck in the parking lot is any worse than having a car in the parking lot.

Chair Losik stated that she sees some conditions that are possible. There was some discussion at the site walk that this is intended to be a seasonal operation.

Ms. Nagle confirmed. The time period will be from May 1st to October 1st. The business hours are from 7:00a.m to 7:00p.m.

Speaking to Ms. Nagle, Chair Losik stated that with respect to the prior conditioned approval, one of the criteria was no alcohol outside if a liquor license is approved. There was a mention of going for a liquor license for inside.

Ms. Nagle replied that she has spoken with the liquor inspector, he stated it should not be a problem if there is a designated fenced in area. She has not applied for a liquor license quite yet. She is holding off on indoor seating, so that part of the building cannot be open anyways.

Chair Losik commented that she heard from the Board that electric was preferred. However, she also heard from the Board that if the generator was sufficiently quiet it would be fine. She asked the Board if they are firm on having electric or would consider a generator with 60db or under and PS guidelines.

Member Sherman stated she would approve either.

Member Carter replied that he would approve electric.

Member Finn stated he would approve either.

Member Durkin stated electric is more practical and eliminates one issue that could create concerns among the neighbors.

Selectmen's Rep. Epperson stated he is in favor of either. He would prefer electric, but would not exclude a generator because the traffic is significantly louder than 60db.

Vice-Chair Lord stated he would prefer electric but would go with a generator at 60db or less as well.

Alternate Quinn commented that his preference is electrical. It takes one issue off the table. However, if the generator is sufficiently quiet, he is fine with that as well.

Alternate Paul commented she is fine with either.

Chair Losik stated she would be fine with either, as long as it is 60db or under. She continued there are two waivers from 405.2D and 403.2D, which are now 202-3.54 and 202-3.1A. These are the waivers from filling the requirements for a full site plan. Ms. Nagle presented in her application a request for these waivers, as she is not the property owner. These were the specific circumstances relative to her application. Ms. Nagle is repurposing the Beach Hut, which is now KOOK's. There is a small hand plan, in lieu of the required stamp plan. Chair Losik stated she does not have an issue with this request. She would say that the unnecessary hardship in complying with a full set of site plans could be taken up by the Board in that this use is supported by the applicant's detailed sketch plan in lieu of the required stamped plan.

The Board had no concerns with the waivers.

Motion by Bill Epperson to approve waivers for LDR 202-3.54 and LDR 202-3.1A, regarding site plan and subdivision plans, as strict conformity would propose an unnecessary hardship and waiver would not be contrary to the spirit and intent of the regulations because the use is supported by the applicant's detailed sketch plan in lieu of the required stamped plan. Seconded by Jim Finn.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

Chair Losik summarized some potential conditions for the application.

- 1) Operations are seasonal from May to October
- 2) Business hours from 7:00a.m. to 7p.m.
- 3) No objection from Police and Fire with regards to the parking and traffic plans.
- 4) No alcohol outside if liquor license is approved. (*modified below*)

Referring to #4, Chair Losik stated that it sounds like this has changed since the Board's last vote. When the change in the seating was approved in March, this was condition #3.

Ms. Nagle stated that she would have to ask to revisit this because there is not going to be indoor seating at this time.

Chair Losik clarified that the liquor inspector said this might be approved, as long as it is in a fenced in area.

Ms. Nagle confirmed. It would either be the area right in the front of the restaurant or tucked off to the side.

Chair Losik suggested the condition; per approval of liquor license consistent with Liquor Commission guidelines.

Ms. Nagle pointed out that she is only applying for a liquor license for beer and wine.

Chair Losik continued with conditions

- 5) One food truck
- 6) Electrical or generator at 60db or less
- 7) All trash and waste products generated in connection with food truck will be removed daily

Motion by Tim Durkin to approve the Minor Site Development Plan by Giorgia Nagle for KOOK's café located at 1191 Ocean Boulevard with the following conditions:

- The operations remain seasonal May to October;
- Hours of operation will be 7am -7pm;
- The Police Chief and Fire Chief will review for safety the parking plan and traffic flow;
- If a liquor licenses is approved, the recommendations of the Liquor Commissioners will be followed;
- Food truck activity is limited to no more than 1 truck per day;
- Such food truck shall be parked on the asphalt in the last "head in" lined space on the north side of the restaurant;
- The food truck will be powered by a generator with a rating of 60db or less, or a direct electrical supply provided by the applicant; and
- Food truck must be self-contained and remove all trash and waste products daily.

Seconded by Katy Sherman.

Roll Call: Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

- 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 and the Aquifer and Wellhead Protection District. Case #15-2019.

- *To be continued to the May 12, 2020 meeting.*

Motion by Bill Epperson to continue the Major Site Development Plan for Webster at Rye to the May 12, 2020 meeting. Seconded by Jim Finn.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

- 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 existing condominium and construct a new 2-story building. Property is in the Business, Coastal Overlay District and SFHA, Zone AO. Case #03-2020.

- *To be continued to the May 12, 2020 meeting.*
(Please see motion above.)

IV. New Business

- a. Request by Joe Falzone to release the Letter of Credit for the Brackett Road Subdivision.**

Chair Losik noted that the Brackett Road site was approved on December 12, 2017. (She read from the Haverhill Bank letter of May 2015.) She commented that technically the letter of credit will expire in three years, which would be December 12, 2020. Speaking to Planning Administrator Reed, she clarified that there are no issues with the function of the improvements on the Brackett Road property.

Planning Administrator Reed replied that is correct. She continued that it is correct that this will expire three years from the certification of completion; however, the Board can vote to release it if they feel there are no other issues. She noted that she has not heard anything about the Brackett Road site. The site is fully developed and she has not heard of any problems.

Chair Losik commented it is a matter of a decision from the Board on whether they wait to December or make the decision now.

Selectmen's Rep Epperson stated he is not opposed to releasing it but he wants to make sure the conditions have all been approved. He asked if they could send the Building Inspector to the site to verify the conditions are the way they are supposed to be.

The Board agreed and will revisit this at next month's meeting. Planning Administrator Reed will follow up with Dennis McCarthy and Chuck Marsden to have them look at the conditions.

V. Pay Escrows

- Danna Truslow - \$1,347.50 – Webster

Motion by Bill Epperson to pay Danna Truslow in the amount of \$1,347.50. Seconded by Steve Carter.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

Adjournment

Motion by Steve Carter to adjourn at 7:26 p.m. Seconded by Tim Durkin.

Roll Call: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patrick Losik – Yes

Motion passed.

Respectfully Submitted,
Dyana F. Ledger

RYE PLANNING BOARD

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

Notice of Decision

Applicant/Owner: Georgia 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 Georgia 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 a seasonal food truck parked outside the café. Property is in the Business District. Case #02-2020.

Date of Decision: Tuesday April 14, 2020

Decision: x Conditional of Approval

The Board unanimously approved the request for waivers and the waiver language requested from Sections 202-3.5(4) and 202-3.1A of the Rye Town Code was supported due to: Strict conformity would pose an unnecessary hardship, and waiver would not be contrary to the spirit and intent of the regulations because this use is supported by the Applicant's detailed sketched plan in lieu of the required stamped plan.

The Board voted to approve the application with the following conditions:

- *The operations remain seasonal May to October;*
- *Hours of operation will be 7am - 7pm;*
- *The Police Chief and Fire Chief will review, for safety, the parking plan and traffic flow;*
- *If a liquor licenses is approved, the recommendation(s) of the Liquor Commissioners will be followed;*
- *Food truck activity is limited to no more than 1 truck per day;*
- *Such food truck shall be parked on the asphalt in the last "head in" lined space on the north side of the restaurant;*
- *The food truck will be powered by a generator with a rating of 60db or less, or a direct electrical supply provided by the applicant; and*
- *Food truck must be self-contained and remove all trash and waste products daily.*

Date 4-15-2020


Patricia Losik- Chairman
Rye Planning Board

❖ *Planning Board Approvals do not include building permits; please check with the Building Inspector's office before any and all construction.*

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