

**TOWN OF RYE – PLANNING BOARD  
MEETING**

**Tuesday, September 15, 2020  
6:00 p.m. – via ZOOM**

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

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

**I. Call to Order**

Chair Losik called the meeting to order via Zoom teleconferencing at 6:00 p.m.

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](https://www.zoom.com) ID #836-2827-4192 Password: 234567

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](http://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. Alternate Jeffrey Quinn

5. Selectmen's Rep Bill Epperson
6. Vice-Chair JM Lord
7. Chair Patricia Losik

*(It was noted by members that they were the only ones present in the room.)*

Chair Losik seated Jeffrey Quinn for Tim Durkin.

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

- a. **Minor subdivision by the Town of Rye for property owned and located at 575 Washington Road, Tax Map 12, Lot 43**, to subdivide the 1.96-acre parcel into two lots each 0.2 acres in size and remnant lot of 1.56 acres. This replaces the previous application which was withdrawn. The proposal is shown on a plan titled "Minor Subdivision, Tax Map 12, Lot 43, 575 Washington Rd, Rye, NH, Plan A" revision date of August 27, 2020 by James Verra and Associates, Inc. **Property is in the Business District, and the Historic District. Case #04-2020.**  
*Request a continuance to the October meeting.*

**Motion by Jeffrey Quinn to continue the application by the Town of Rye for 575 Washington Road to the October meeting. Seconded by JM Lord.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Jeffrey Quinn – Yes; Bill Epperson – Recused; JM Lord – Yes; Patricia Losik – Yes**

**Motion passed.**

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

- A. **Minor subdivision by the Town of Rye for property owned and located at 575 Washington Road, Tax Map 12, Lot 43**, to subdivide the 1.96-acre parcel into two lots each 0.2 acres in size and remnant lot of 1.56 acres. This replaces the previous application which was withdrawn. The proposal is shown on a plan titled "Minor Subdivision, Tax Map 12, Lot 43, 575 Washington Rd, Rye, NH, Plan A" revision date of August 27, 2020 by James Verra and Associates, Inc. **Property is in the Business District, and the Historic District. Case #04-2020.**  
*Request a continuance to the October meeting.*

- Continued please see motion above.

- 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 #15-2019.  
*Request a continuance to the October meeting.*

**Motion by Bill Epperson to continue the application for Webster at Rye at 795 Washington Road to the October meeting. Seconded by JM Lord.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn; Jeffrey Quinn – Yes;**

**Bill Epperson – Yes; JM Lord – Yes; Patricia Losik – Yes**

**Motion passed.**

- C. Minor 3-lot subdivision by Jak Nadeau Revocable Trust for property owned and located at 711 Long John Road, Tax Map 16, Lot 136, to subdivide the existing lot into three single family residential lots with access via a 50'-wide right of way. Property is in the Single Residence District. Case #07-2020.**

*Request a continuance to the October meeting.*

**Motion by JM Lord to continue the application by Jak Nadeau Revocable Trust for 711 Long John Road to the October meeting. Seconded by Jeffrey Quinn.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Jeffrey Quinn – Yes; Bill Epperson – Yes; JM Lord – Yes; Patricia Losik – Yes**

**Motion passed.**

#### **IV. New Business**

- **Reschedule the October meeting**

Planning Administrator Kim Reed noted that the next Planning Board meeting is scheduled for October 13<sup>th</sup>, which is the Tuesday after Columbus Day Weekend. The select board also has a meeting scheduled for the same night. She asked the Board if they would like to reconsider the date of its October meeting, as there may be a conflict with the livestreaming and Selectmen's Rep Bill Epperson would not be available. She suggested the following Tuesday evening for a meeting.

The Board agreed to hold the October meeting on Tuesday the 20<sup>th</sup> at 6:00 p.m.

**Motion by Patricia Losik to reschedule the October Planning Board Meeting to Tuesday, October 20<sup>th</sup>, 6:00 p.m. Seconded by JM Lord.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Bill Epperson – Yes; Jeffrey Quinn – Yes; JM Lord – Yes; Patricia Losik – Yes**

**Motion passed**

- **William MacLeod request to be an Alternate**

Chair Losik introduced William MacLeod and asked him if he would like to speak in regards to his interest in becoming an alternate member on the Board.

Mr. MacLeod stated that he owned a surveying and engineering firm in Massachusetts starting in 1974. He sold the firm in 2017 and retired in 2019. He noted that he has lived in Rye since 1982, but has never been to a Planning Board meeting for work in town. Most of his work has involved towns in Massachusetts, with some bordering towns in New Hampshire. Now that he is retired, he feels it is time to give back to the Town. He continued that he is a registered land surveyor and a registered professional engineer with a degree in civil engineering. He has designed numerous subdivisions, condominium and commercial projects over the past 45 years. He is extremely familiar with the rules and regulations, planning boards and subdivision control law for Massachusetts. He will need to get up to speed on the current regulations for Rye, as well as State subdivision control law. His background in engineering and experience in the field of surveying and engineering may be a help to the Board and to the Town.

The Board spoke with Mr. MacLeod about his past experience and challenges with projects he has worked on over the years. After discussion in introductions, they welcomed Mr. MacLeod to the Board and look forward to working with him.

**Motion by Jeffrey Quinn to welcome William MacLeod as a new alternate member of the Planning Board. Seconded by Steve Carter.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Bill Epperson – Yes; JM Lord – Yes; Jeffrey Quinn – Yes; Patricia Losik – Yes**

**Motion passed.**

- **Planning Board Work Session**

**Dennis McCarthy, Public Works Director**, spoke to the Board regarding the Illicit Discharge Detection and Elimination (IDDE) Ordinance, which was passed last year. He noted that the Town has a National Pollutant Discharge Elimination System Permit (NPDES) that covers the town's drainage system. It is a six (6) year permit with quite a few steps that must be done each year of the permit. Mr. McCarthy stated that a majority of his time during the week is spent on working on the requirements to be sure the Town is kept in compliance. A number of cities and larger towns have actually implemented positions specifically to working on the yearly requirements. In many instances, they have implemented drainage system utilities to pay for the costs brought on by this ordinance and permit. For Rye, the costs have not been overly substantial, but it does require engineers to be on staff, and GIS and site survey work. He pointed out that the Environmental Protection Agency (EPA) refers to the drainage system as the Municipal Separate Storm Sewer System (MS-4). Anytime the word MS-4 is mentioned, this is referring to the stormwater system of the Town; catch basins, drains, pipes, and culverts (all covered under this permit system). The IDDE component is one of the steps that is required by that permit. The Town does not have any say over it and has very little say over the language. What was passed last year, was the actual authority for the Town to enact the IDDE portion of the yearly permit. Because Rye is a small town and does not have a lot of sewer, there has been only one illicit discharge over the past eleven years, which has been taken care of. An illicit discharge is an area where a sewer line or a septic system has leaked into the town's storm drainage system. That polluted water is entering the drains and has to be separated out. He explained that to qualify as part of the MS-4 system, it has to be going into a catch basin or into a pipe line that is connected to multiple catch basins. If it enters an open stream, it is on the edge of the qualifications for the permit. Under the MS-4 permit, the areas that are being concentrated on are the pipe systems. He noted that the IDDE component was required to be in place by 2021. The Town put it into place last year. He pointed out there are several other things that have to be put into place, as the permit moves along.

Referring to discharge that enters an open stream, Chair Losik commented that it was said that eventually it would be found. She asked if there is a process for finding it.

Mr. McCarthy explained that where the Town is in the permit process now is looking at different impacted areas and areas that are closed; meaning they flow within the pipes and catch basins. Eventually, as those are gone through and eliminated as high impact areas, the more open areas will be addressed. He pointed out that a lot of chemical testing is coming up next year, which has not been happening much yet. One of the problems being that the testing is very expensive and it has to be limited to where it is absolutely necessary.

Referring to the drainage water within the pipe system, Member Quinn asked if there is a distinct point of discharge or multi-points of discharge.

Director McCarthy replied multi-points. These are called the outfalls and that is the area that they key-in on. The outfalls are prioritized and identified. The majority of them are mapped and they keep finding more and more. A plan has been developed that is on the Town's assessing data base, which shows a lot of the catch basins and pipes. The Public Works Department keeps track and inspects those outlets. There are probably about 40 to 45 outlets.

Member Quinn asked what would be found.

Director McCarthy commented a pipe would be found. Right now, if it's dry weather, most of them are discharging into a dry stream bed. This is what should be seen because it means there is no seepage from a septic system or from a house sump pump. With the ones that are flowing, a physical exam is done to see if there is anything that would identify it as being contaminated with septic. At this time, none have raised a concern, but there are still more that need to be done. If they are flowing water, they will have to be chemically tested by next year.

Member Quinn asked how open water would be approached; specifically, Parsons Creek but also throughout the Town.

Director McCarthy explained that when an area is identified as being contaminated, they move to the next structure upstream to test again. If that is shown as being contaminated, they keep moving up and testing, until an area is found that it could potentially be coming from.

Member Quinn commented that he can see why towns would have a full-time position.

Director McCarthy stated that he thinks Rye will be okay with a hardworking public works director and consultants. He continued that luckily, there is a coalition of all the seacoast towns that meets once per month; more recently via Zoom. The bigger cities, such as Dover, Portsmouth and Rochester, are really doing the heavy lifting because they have sewage treatment plants and a lot of sewerage. The cities have been really good to work with on helping Rye with smaller issues.

Member Carter asked Mr. McCarthy if his jurisdiction includes the Rye Beach District.

Director McCarthy replied yes; however, he has limited responsibilities in the two beach districts. Both districts have their own street lights. One of the districts is responsible for its sidewalks. One does more with trees. He works with the districts as closely as they want.

Bill MacLeod asked if there is a town-wide as-built plan for the drainage system.

Director McCarthy noted that is being developed and is on the Town Assessor's site. There are a number of overlays; the water system, stormwater system, drainage and subareas. The assessor's mapping is the Geographical Information System (GIS) and this is layered on top of that.

Chair Losik asked how complete the assets are on the GIS layers.

Director McCarthy replied it is about 75% complete; however, it is very rudimentary. More information is needed relative to pipe size, pipe material and age. More data base information is needed; however, the Town now knows where most of it is located.

Planning Administrator Reed asked how the Planning Board can help, as they are looking at the future of Rye and considering zoning and building code changes.

Director McCarthy replied that the Planning Board has been helpful with the IDDE. This year, the Board did some work on the Construction Erosion and Sedimentation Standards. The contractors are now being held responsible, even for a building lot for construction of a home. As long as, the Planning Board is willing to provide help and support when asked, this will help. As far as the planning process, the Board has been doing everything it's supposed to be doing. He would just keep recommending to plant more trees and have more open drainage.

Member Finn asked if a master plan has ever been done of the sewage system in Rye.

Director McCarthy replied that he believes one was done a long time ago. However, the way the Town is broken up, with a couple of areas that are impacted and some that aren't, it is really not a centralized system. Rye has never done a huge study of the whole town. They have only really looked at individual areas.

Member Quinn asked if sewer should be focused on for the future to help protect the integrity of the marshes, waterways and general quality of the water. He asked if this would be something that would require the Town to invest the effort into a master plan of sorts.

Director McCarthy replied that this is an environmental issue. He noted that the Town has spent significant money studying the Parsons Creek area. High bacteria counts have been chased all over that area, without a solid answer. Many times, that is exactly what would lead someone to believe a sewer system is needed, because it is not one problem area. It's the fact that the whole area is developed on small lots and high porosity. The septic systems are draining into the ground very quickly and many times showing up in the ocean or Parsons Creek. He continued that a sewer system is certainly an expensive proposition and should many times be the last alternative. The best things that can be done are already being done; such as, the pump-out ordinance, watching how the systems are being built and inspections of the systems. More and more high-performing systems are being installed, so it may get better over time. However, the Town needs to keep an eye on whether they are reaching that "tipping" point.

Chair Losik asked Selectman Epperson if he has any thoughts to share, given the work that was done in regards to Route 1.

Selectman Epperson explained that Route 1 is a totally different animal. He is trying to initiate a Tax Increment Financing (TIF) District in that area. There are 60 units approved for the end of Washington Road already and there could be as many as 200 more along the Route 1 corridor in the next five years. Obviously, that area is not going to support that kind of septic, plus there is the Coakley Landfill and Berry's Brook to worry about. A TIF is a good alternative for that particular area. He explained that the taxes would be frozen under a TIF. As a development goes forward and a bond is taken out to finance the project, when the assessment of the property goes up, the difference between the freeze and the increase assessment would go to pay off the bond. When the bond is paid off, the property is taxed at whatever the

tax rate is at that time. This eliminates the tax rate from going up, while the bond is being paid off. He noted that he tried to initiate this last year, but COVID came along so it was abandoned at that time.

The Board thanked Director McCarthy for his work and update to the Board.

Chair Losik noted that Jeff Quinn, Nicole Paul and Kim Reed serve on the Rules and Regulations Committee, along with herself. The work is started in July every year. There are some big areas that have to be tackled with regards to wetlands. There are some smaller areas that can be tackled. There are areas such as, solar, specifically in relation to the Historic District. This was considered last year. In January, it was determined that it was the right mode to table solar and consider where it should be in the future; whether it should be regulated through an ordinance. Planning Administrator Reed suggested that the Planning Board have an open discussion and to come up with some ideas, to be followed up with a visioning session sometime in the spring. She continued that there are some consistent problem areas, as seen through ZBA. Planning Administrator Reed provides a summary each year of the applications and decisions, sorted by the zoning articles and the sections. In 2019, almost 40% of the variances were around the buffers and wetlands. In 2018, about 25% of the cases were wetland and buffers. The wetlands and associated buffers are a big issue. She asked Planning Administrator Reed to talk about some of the other areas with ZBA.

Planning Administrator Reed explained that most of the relief that is coming before the ZBA is for setbacks; side, front and rear. With that, there is push on the impervious coverage, not only for the lot, but also for the dwelling. There are tiny lots in the General Residence District, which requires 44,000sf versus 66,000sf for the Single Residence District. The lots are part of the old subdivisions and have anywhere from 7,000sf to 15,000sf that were developed for cabins at the beach. Homeowners are replacing these cabins with really big homes and pushing the envelope in all directions. In Rye, all the good land has been developed. The Planning Board is now seeing difficult land being developed. On the Zoning Board side, the smaller homes are being sold and the impervious coverage is being expanded on the lot. She continued that the Rules and Regulations Committee has tried to look at the impervious coverages and how there could be changes. Some small changes have been made. She reiterated that the setbacks continue to be the variances that are coming before the ZBA, in addition to encroaching on the wetlands.

Chair Losik opened discussion to the Board in regards to zoning and the LDR's. She asked the Board's thoughts on things that might be a viable topic for a visioning session.

#### **Highlights:**

- **More clarity on density. (S. Carter)**  
It is not always clear to the developer, as to what would be acceptable.
- **More clarity on height. (S. Carter)**  
Height is an issue when people redevelop properties and they have to meet FEMA requirements. In the future, there may be a lot more homes that will need to be 35ft to 40ft. All along the seacoast, the height is going to come in to play, as sea-levels rise and developers target certain properties. The Board needs to consider how to address this.

Planning Administrator Reed noted that there is a 2ft requirement in the Town's floodplain ordinance. In the Special Flood Hazard Area where the 2ft freeboard is needed, the homeowner/developer is given that option. In the Coastal Overlay District, the height is 28ft but they are given up to 30ft. Anything over 30ft needs a variance; however, it has to be proven that the 2ft is to meet the Rye Floodplain Ordinance.

She continued that if the property is in the Special Flood Hazard Area but not in the Coastal Overlay District, the maximum height would be 35ft but they could go up to 37ft without needing a variance, in order to put in the freeboard.

Planning Administrator Reed stated that last year, the committee looked at the hardship criteria. One of the State of New Hampshire Laws is that hardship has to be proven by the applicant. She reached out to Attorney Donovan and asked for an explanation of hardship. Attorney Donovan very clearly wrote out the criteria for hardship. The Rules and Regs Committee came up with the language, which went to the full Planning Board and then to the people of Rye for support. She commented that the Zoning Board members are now questioning hardship on some of the applications. This is the first time since she has started working with the ZBA that she has heard some of the members question the hardship.

Member Carter stated that one of the things that was frustrating about the Goss Farm is that they met all the requirements and setbacks. However, the Board was not really comfortable with how many houses were going in that development. It came down to the wire and the Board just said "no" so they came back with a lesser plan. In looking at the Falzone plan for Washington Road, he thinks it is too crowded on the site but they met all the setbacks.

Chair Losik asked Member Carter if he is talking about Workforce Housing and the definition.

Referring to the Falzone project, Member Carter commented that it seems like a lot of buildings on that property, particularly without a sewer system.

- **Multi-family 4.2 should be looked at. (S. Carter)**  
The project proposed for the 'Hector's' site is going to involve 60 units. There will be a lot of buildings on those 10-acres. Is that what the Town wants?
- **Look at requirements for uses permitted by special exception within the various districts. (K. Sherman)**  
There are a lot of regulations on golf courses and in-home businesses. However, there are not a lot of regulations for hospitals, nursing facilities, assisted-living facilities and religious or educational institutions, which are all under one section. First, those need to be individual. There should also be more detailed regulations on what is allowed in the Single Residence. The City of Portsmouth allows five beds or less in the Single Residence. If it is six beds or more, it has to be in the commercial district.

Speaking to Member Sherman, Chair Losik asked if her concern is that these things should not be special exceptions or should the special exceptions be looked at to decide whether they are fine or should be redefined?

Member Sherman commented redefined in a way like Portsmouth. Is there a hospital or nursing facility that the Board would absolutely not give a special exception to in the Single Residence District? Can the home next to hers be made into a nursing care facility, if they get the special exception? With all the development that is already going on, does the Town want to have more strict, detailed regulations?

Chair Losik commented that it is a good point that it may be time to look at it. There may also be others in the other zoning districts. It is not necessarily a nursing facility that the Board should focus on. It could be a greenhouse. She pointed out that for a number of years, there were many greenhouses that



were in business in Rye. That is something that could be looked at to be sure it still belongs and has a place in town.

Member Carter stated he thinks Member Sherman is also saying that they are being given a “blank check” because there are no restrictions listed in which they have to live under for the special exception. Whereas, a business special exception has requirements that have to be met.

Vice-Chair Lord commented that he agrees this is too general. He thinks it would be wise to break these down and decide what should be put in place for regulations that would apply to each one.

Referring to the Aquifer and Wellhead District, Chair Losik noted there are permitted uses by special exception, but there is guidance for that use. That may be what Member Sherman is saying. While there is guidance for a business that starts up in someone’s garage, the Town is not necessarily codifying the same guidance for special uses.

Member Quinn stated that he thinks they should be friendly in the regulations to encourage more commercial ventures, as it is good philosophically for the overall health of the Town to have people involved in enterprises to help the growth and economy of the community. He does not want to see it be in a position where it is just being made more difficult. In looking around the Town, he sees all the enterprises gradually trickling away. He would hope the zoning would take that into consideration.

Chair Losik stated that if one of these assets sat in the Aquifer and Wellhead District, it would require a conditional use permit. Requirements are listed for the conditional use permit. So, if the nursing facility or greenhouse sits within the Aquifer and Wellhead District, the next step is taken for the conditional use permit. If it sits outside the Aquifer and Wellhead District, there are no specific requirements; however, there are specific requirements for business use of a residence.

- **Designated Leach Area (DLA) may need more clarity for developers. (K. Sherman)**

Member Carter noted that the 4,000sf is defined and then the developer admits they are never going to use it. It is required and he thinks it is a good idea for them to show they have enough space. However, it does not seem like it is a real thing to people.

Planning Administrator Reed stated this was discussed a lot with Julie LaBranche. This has to be left in because it is part of New Hampshire Law for septic systems. Both Julie LaBranche and Attorney Donovan confirmed this language has to be left in by law.

- **Commercial use of public land for profit. (K. Sherman)**

*It was noted that the Planning Board does not have jurisdiction over this issue.*

Referring to the DLA, Chair Losik stated that it sounds like everyone is in favor of leaving the language in. What the Board is told most times by the developers, is that if the leachfield fails, they are going to replace it in the same place. She does not think that Rye has not required the 4k. It provides a cushion and an opportunity if something should happen.

Bill MacLeod stated he is curious to how defining the designated leach area is a purview of the Planning Board, where NH DES has regulations that determine the size of the septic system. He asked if the regulations require 4,000sf per unit or on each lot.

Planning Administrator Reed replied it is per lot. It is also a State requirement.

Mr. MacLeod commented that the 4,000sf provides a cushion. If that is the State requirement, it should not be waived.

Member Sherman noted that she does not think it should be waived. She is trying to figure out how it can be made clearer for the developers.

In regards to the 4k, Vice-Chair Lord stated it has been a useful tool in helping to define the layout of the lot. It's a State rule and it's great that it is required.

Member Carter agreed it has been very useful to have the 4,000sf. At times it has been hard to rationalize why it is being required because it can sometimes be done in 500sf. However, it is useful to know there is that much land because it keeps things from becoming too crowded.

Referring to 202-6.7.C(1), Planning Administrator Reed read; "Designated leachfield area must be left as open space and it cannot be used for siting any incompatible purposes; including, but not limited to, a driveway or structure". She suggested working on this wording (paragraph) to help make it clearer for the builders and developers.

Chair Losik stated that she thinks the Board likes this, but the question is whether it needs additional language and support.

- **Guidelines for encroachment into the woodlands. (J. Finn)**  
Should there be ratios for woodlands that should remain intact?

Chair Losik stated that she pulled a section from Durham's Ordinance, which would sit in Rye's LDR, about what needs to be done for development between the wooded and non-wooded/natural areas.

- **Low density on lots. (J. Finn)**
- **Cell towers and other areas in town where they should be allowed. (B. Epperson)**

Selectman Epperson noted that there is a Cell Tower Committee. He suggested having the chair of the committee come to the visioning session to talk about the areas and town owned land that might be available for a cell tower.

- **Parsons Creek water quality. (B. Epperson)**
- **Beach Access and encroachment into those areas. (B. Epperson)**
- **Buffers (JM Lord)**
- **More open space for multi-family (JM Lord)**

With regard to buffers, Vice-Chair Lord stated he is not sure how to put more "bite" into what is being done; however, everyone takes a lot of liberty in what they are doing when it comes to buffers. In regards to multi-family housing and the end of Washington Road, he stated they live in a whole different world today. Route 1 is a commercial area. Based from what he has been hearing, there is going to be a lot of commercial space that is open but there is not going to be a lot of commercial development going on, which really pushes all of Route 1 into multi-family housing. He thinks that all of the property along Route 1, based on the land that is there, is basically going to be clear cut open places with big multi-unit

developments. Is that what the Town really wants to see? Do they want to try to pair this back somehow, so there is a little more open space in and amongst the buildings?

- **Grading and filling that is minimized to fit the environment with the least possible distribution of the land. Protection of natural features. (JM Lord)**

There should be more “teeth” to this in the LDR to start to define minimized grading and minimized fill. The Board should define the vision for these ordinances so people do not try to push the limits.

Selectman Epperson asked if they should talk about a forestry component into the development of land.

Vice-Chair Lord commented that he does not see why not.

Referring to Durham, Chair Losik stated they are really getting in front of it because they’re identifying, as part of the process, the plant community groupings or the forest types first. They specifically look at what would be taken versus trees that will be protected during clearing operations and construction. They also flag historic trees or trees of special interest. A reforestation plan is also included. She noted that the 421 South Road and Starfish Development had buffers that were cut to a greater degree than what was originally anticipated. The ordinance right now does not really get at the identification of those areas in a good format. She read from 202-6.3 which covers landscaping.

Chair Losik stated that she has been thinking about buffers a lot. She read from the zoning 190:08; buffer adjacent to residential district. She commented that she would like to see that language boosted a bit. She pointed out that there is also language in some ordinances which are basically protective of rights-of-way, utility areas and some of these areas of concern. Which gets to Selectman Epperson’s point that someone plants a few shrubs and trees and all of a sudden somebody’s access is curtailed. She thinks this is an area that some language could be slipped in to zoning.

Member Quinn stated he agrees with Selectman Epperson regarding cell towers. The Town has invested some time and expense in identifying some areas in town which would be conducive to satisfying the end goal, which is to allow for cell coverage throughout the Town for the purposes of safety and communication. Once those areas had been identified, there was all this pushback on not including them in the Town’s designated areas. With lack of definition, applications like Brackett Road are popping up with more time needed to be invested in that from the Board. He commented that cell towers are one of the primary things he feels the Town needs to focus on as they plan for the future. He continued that the other thing is the sewer. The reason for that is because of the concern for the health of the water and how the Town’s density contributes to that. Whether this is town-wide or is identified for particular places, is something that needs to be considered.

Member Quinn continued that he is particularly concerned that when applications are given approval, it seems like there really isn’t someone carrying the goals of the conditions that the Planning Board lays out. He thinks this is a problem that could be solved by requiring someone to follow up on the conditions that are set by the Board. He continued that last year the committee considered solar panels in the Historic District and there was considerable pushback. He noted that he thought it was an issue because of the discriminatory limitations that are put on homeowners within that district, which effects their decision making on how they want to handle the energy requirements in their home. It seems there are an awful lot of people who can weigh-in on how people chose to provide for their needs on their property. He thinks that Rules and Regulations deferred solar to a future discussion, but it is an issue that is laying out

there. He continued there are some issues regarding definitions that need some work. The committee also had a discussion with regard to stonewall versus retaining wall and how that is treated at the various boards. He thinks this area needs some clarity.

Regarding solar panels in the Historic District, Selectman Epperson noted that people can have the panels in the district but cannot have them in the front where they can be seen. People who buy those homes absolutely know what the regulations are. However, he agrees that alternative energy should be addressed.

Member Quinn commented that he is saying that if solar panels are allowed in town, that is a particular area that a homeowner should have some control over.

Selectman Epperson stated the control is when the person buys the house. The Historic District has rules and regulations that homeowners need to abide by or they don't buy in the district.

Chair Losik stated she thinks they should speak in the spring about where to go with solar. It seems that an opportunity is being missed as a town. The Town does not have a solar ordinance and it may be needed. There is a N.H. OSI on NH.gov with a model solar ordinance that was drafted in 2018. She pointed out that there are a lot of really important considerations. It is not just for historic districts, although part of the draft covers historic districts. She thinks a separate ordinance is needed. She commented that the Town has not dealt with solar. She would like to have a discussion about solar and a possible solar ordinance next spring, along with seeking Julie LaBranche's guidance.

Selectman Epperson suggested looking at creating a Solar Panel District for solar panel arrays; for example, the old Rye dump property east of the Coakley Landfill which is undevelopable.

Chair Losik stated this is a great point. The Board should be looking at locations, as to where they should be and where the best locations would be. She thinks they should consider even having a tiny ordinance addressing solar.

Member Quinn noted that at the last Rules and Regs meeting, there was some discussion on the way people calculate the allowable permeable surfaces. People are using their entire lot, even though the entire lot is not buildable. If they are only going to be allowed to use the buildable portion, there should be some incentive; such as, a tax benefit granted for the unbuildable area of the property that can't be used to calculate those requirements.

Selectman Epperson stated the last time this was tried, he was the chair of the Planning Board and he was not winning any popularity contest that night. What was happening is that people at the beach were taking their entire lot, some of which was on the beach and is unbuildable, and calling it a portion of their lot in order to build enormous houses. He commented he still thinks this is wrong.

Chair Losik noted that Hampton has done some creative things with their wetland ordinance. How they were getting at the calculations is they were backing out the very poorly drained or hydric A soils, so they could not be counted in the minimum lot size. The poorly drained or hydric B soils were being taken as a percentage. This is a creative way of looking at density and how much of the lot can really be used. She commented these are all things that can be looked at with respect to the wetlands. With regard to the tax purpose issue, this was in respect to Hampton. In their Wetlands Conservation Overlay District, when land is included in that district, it will be appraised for tax purposes at its full true value based on its

market value as undevelopable land, required to remain an open space or value for current tax purposes, such as current use. When different demands are made on assets that sit on a lot, taxation becomes a question, as to what is the fair value. In regards to the wetlands ordinance, Rye does not include the shoreland in the ordinance. That is something that could change, depending upon the new DES rules. However, right now, the Town does not include the surface waters subject to the ebb and flow of the tide, so the Town relies on the States ordinance, which is 483:B Shoreland Protection Act, to oversee those assets. She continued that DES has expanded their wetlands rules from 4 pages to 40. All of that guidance went into effect last December. Municipalities are now addressing this and asking for case studies to see how they are able to work through these requirements. In connection with the work by DES, they have developed the Wetlands Permit Planning Tool (WPPT), which is a great tool. The tool brings in the 100-ft buffers, protected species under the Natural Heritage Bureau, bogs, floodplains, prime wetlands, tidal waters and undeveloped tidal buffer zone. It is really a tool of information. It shows everything that DES has approved and shows things that have not been approved. This tool, along with the new guidance, is about to make many changes as to how people gain their permits when applying through DES. She commented this is a big "nut to crack". She thinks they need Julie LaBranche and someone who can respond technically to the wetlands issue when the Board has its visioning session in the spring.

Planning Administrator Reed confirmed that she has a summary of items the Board would like to address based on the discussion at this meeting.

## **V. Old Business**

### **• 421 South Road**

Vice-Chair Lord reported that new plans have been received from Christian Smith, Beals and Associates, with comments from Steve Harding, Sebago Technics, for both the drainage between Lots 11 and 12, and for the access drive on Lot 4. He thinks a site walk should be scheduled for Lot 4 to be sure everyone is comfortable with how it is proceeding. With regard to the buffer areas that were cut, there is work being done on a plan but there is no answer to that yet.

Planning Administrator Reed will work on scheduling a site walk.

Vice-Chair Lord stated that he thinks there is some confusion with the Rye Conservation Commission as to what they are really looking for in terms of access to the back land and where they are going to take it from. They were assuming they were going to be able to park on the roadway leading down to the detention area and that is all private property. He thinks this is something that should be worked out and the lot owner on Lot 6 to gain access.

Planning Administrator Reed stated this is beyond the scope of what this Board can do. There are plans that are recorded and there are now property owners. This is not for the Planning Board to solve.

Vice-Chair Lord replied that he thinks Christian Smith and Joe Falzone were willing to talk about some sort of access on Autumn Lane. There does need to be some access there. It is easy to get people together to talk about it and they were willing to do something. He does not think it is the Board's job to solve. Certainly, there may have been some confusion at the Planning Board level because something might have been done differently if they knew where RCC really wanted to have access.

Speaking to Planning Administrator Reed, Chair Losik asked if she thinks there is nothing that can be done at this point.

Planning Administrator Reed replied that she does not think so, nor does Attorney Donovan. She suggested leaving it in the hands of Christian Smith and Joe Falzone to work with the Conservation Commission.

Chair Losik suggested that they talk about it when they go out on the next site walk, so it can be in the record that it is in the hands of Christian Smith and Joe Falzone. During that discussion, the Board can go over with them the things they are thinking about.

Vice-Chair Lord also suggested sending that to the Conservation Commission so they get the Board's understanding of where things lie.

Chair Losik commented that if Christian and Joe agree there are possibilities, their door is for Conservation to pursue.

- **Minutes of August 11, 2020**

The following corrections were noted:

- Page 3, seconded to last paragraph should read: **Chair Losik asked Attorney Donovan if he would like to speak.**
- Page 3, "inhouse" should be **"in house"**.
- Page 7, last paragraph, first sentence should read: **Attorney Phoenix replied that he is not comfortable with any of it, as it is an anomaly.**
- Page 8, 3<sup>rd</sup> paragraph, last sentence should read: **She wanted to make sure she is understood because she wants to make sure the abutters understand.**

**Motion by JM Lord to approve the minutes of August 11, 2020 as amended. Seconded by Bill Epperson.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Bill Epperson – Yes;**

**JM Lord – Yes; Jeffrey Quinn – Yes; Patricia Losik – Yes**

**Motion passed**

## **VI. Escrows**

**Motion by JM Lord to approve the payments for the following escrows;**

- **JAK Nadeau 711 Long John Road project  
RCCD for \$665.00 and Attorney Donovan for \$2,065.00;**
- **Falzone Subdivision at 421 South Road  
Sebago Technics for \$3,332.88, \$331.75 and \$442.00;**
- **Goss Construction Monitoring  
Sebago Technics for \$141.00;**
- **Webster at Rye  
Comprehensive Environmental for \$1125.00, Truslow Consulting \$357.00 and Attorney Donovan \$455.00.**

**Seconded by Bill Epperson.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Bill Epperson – Yes; JM Lord – Yes; Jeffrey Quinn – Yes; Patricia Losik – Yes**  
**Motion passed**

**Adjournment**

**Motion by JM Lord to adjourn at 8:55 p.m. Seconded by Steve Carter.**  
**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Bill Epperson – Yes; JM Lord – Yes; Jeffrey Quinn – Yes; Patricia 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:** The Parsonage, The Town of Rye

**Property:** 575 Washington Road and 8 Olde Parish road, Tax Map 12, Lot 43  
and Tax Map 12, Lot 43  
Property is in the Commercial, Business and Historic District

**Case:** Case #04-2020

**Application:** Minor 2 Lot Subdivision Plan by the Town of Rye for property owned and located at 575 Washington Road and 8 Olde Parish road, Tax Map 12, Lot 43. The proposed adjustment will create a 0.4 acre +/- parcel around structures identified at 575 Washington Road and another lot 1.56 acres +/- . The proposal is shown on a plan entitled "Subdivision of Land, Tax Map 12 Lot 43, 575 Washington Rd, Rye, NH, Plan A" revision date of May 27, 2020, by James Verra and Associates, Inc. Property in the Commercial, Business, Aquifer and Wellhead and Historic District.  
Case #04-2020

**Date of Decision:** Tuesday September 15, 2020

**Decision:**   X   Continued

**The Board voted to continue the application to the October 20, 2020 meeting.**

9/16/2020  
Date

Patricia Losik  
Patricia Losik, Chairman  
Rye Planning Board



# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Jak Nadeau Revocable Trust, Jay and Karen Nadeau Trustees

**Property:** 711 Long John Road, Tax Map 16, Lot 136  
Property is in the Single Residence District

**Case:** Case #07-2020

**Application:** Minor 3-lot subdivision by Jak Nadeau Revocable Trust for property owned and located at 711 Long John Road, Tax Map 16, Lot 136 to subdivide the existing lot into three single family residential lots with access via a 50'-wide right of way. Property is in the Single Residence District. Case #07-2020

**Date of Decision:** Tuesday September 15, 2020

**Decision:** The Board voted to continue the application to the October 20, 2020 meeting.

9/16/2020  
Date

Patricia Losik for  
Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

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

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

**Case:** Case #15-2019

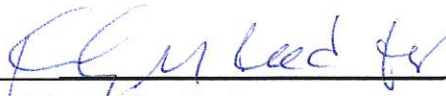
**Application:** Major Site Development Plan by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, Tax Map 11, Lots 52 & 6 for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage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

**Date of Decision:** Tuesday September 15, 2020

**Decision:**   X   Continued

**The Board voted to continue the application to the October 20, 2020 meeting.**

9/16/2020  
**Date**

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