

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, March 15, 2022
6:00 p.m. – Rye Public Library**

***Members Present:* Chair Patricia Losik, Vice-Chair JM Lord, Clerk Steve Carter, Jim Finn, Kevin Brandon, Rob Wright and Selectmen's Rep Bill Epperson**

***Present on behalf of the Town:* Planning/Zoning Administrator Kimberly Reed**

1. Call to Order

Chair Losik called the meeting to order at 6:03 p.m. and led the pledge of allegiance.

2. Appointment of Officers

- **Chair**

Motion by Bill Epperson to re-elect Patricia Losik as chair. Seconded by Rob Wright. All in favor.

- **Vice-Chair**

Motion by Bill Epperson to re-elect JM Lord as vice-chair. Seconded by Rob Wright. All in favor.

- **Clerk**

Motion by Bill Epperson to re-elect Steve Carter as clerk. Seconded by Rob Wright. All in favor.

- **Technical Review Committee:**

Motion by Patricia Losik to nominate Jim Finn, Bill MacLeod and JM Lord to the Technical Review Committee. Seconded by Bill Epperson. All in favor.

Motion by Patricia Losik to elect JM Lord as chair of the TRC. Seconded by Jim Finn. All in favor.

- **Rules & Regulations Committee:**

Motion by JM Lord to nominate Patricia Losik, Steve Carter and Nicole Paul to the Rules and Regulations Committee. Seconded by Bill Epperson. All in favor.

Motion by Jim Finn to appoint Steve Carter as chair of the Rules and Regulations Committee. Seconded by Bill Epperson. All in favor.

- **Long Range Planning Committee:**

Motion by Patricia Losik to nominate Rob Wright, Kathryn Garcia and Katy Sherman to the Long Range Planning Committee. Seconded by Bill Epperson. All in favor.

Motion Patricia Losik to elect Rob Wright as chair of the LRP Committee. Seconded by Steve Carter. All in favor.

- **Capital Improvements Plan Committee:**

Motion by Patricia Losik to nominate Kevin Brandon as the planning board representative to the CIP Committee. Seconded by Bill Epperson. All in favor.

Planning Administrator Reed noted that she will write a letter requesting the appointment of Kevin Brandon to the CIP Committee and send it to the Select Board.

- Member Finn agreed to take on the responsibility of watching the meeting time (8:30 p.m. buzzer).

Selectman Epperson pointed out that the Planning Board and the committees have a significant amount of work to do this year. The planning board members do a very good job. Regardless of the committee, all of them are impactful on the Town of Rye. He thanked everyone who has volunteered their time to serve. He looks forward to a significant amount of work to be done this year. He also thanked Planning Administrator Kim Reed for her work with the Town.

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

- a. Amendment to the Surf Club of Rye Condominiums approved by the Planning Board on March 12, 2002 by Peter Fregeau for property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35 to add a shed to unit #2. Property is in the Business/General Residential, Coastal Overlay District and SFHA, Zones AE and VE. **Case #02-2022.**
 - **Request a continuance to the April 12, 2022 meeting.**

Motion by Bill Epperson to continue Case #02-2022, for determination of completeness, to the April 12, 2022 meeting. Seconded by JM Lord. All in favor.

- b. Minor Two Lot Subdivision by Tuck Realty Corporation for property owned by Malcolm E. Smith, III for property located at 0 Lafayette Road, Tax Map 10, Lot 1 to subdivide the parcel into 2 separate lots. Property is in the Commercial District, Aquifer & Wellhead Protection District and Multi-Family Dwelling District. **Case #05-2022.**

Motion by JM Lord to declare the application for 0 Lafayette Road, Tax Map 10, Lot 1, Case #05-2022, as complete and to move it to a public hearing. Seconded by Bill Epperson. All in favor.

- c. Jones & Beach Engineers, Inc for property owned by David Prothro located at 12 Goss Farm Lane, Tax Map 8, Lot 59-2 request to install a fence within the voluntary buffer established per the Conditions of Approval dated May 14, 2019, for the Major Subdivision by Tuck Realty Corp. Case #11-2018. Property is in the Single Residence District. **Case #06-2022.**
 - **Request a continuance to the April 12, 2022 meeting.**

Motion by Rob Wright to continue application for Case #06-2022, for determination of completeness, to the April 12, 2022 meeting. Seconded by JM Lord. All in favor.

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

- A. Driveway application by Stacey Smith for property owned and locate at 51 Central Road, Tax Map 12.2, Lot 36 for relief from Section 5: Paragraph F of the Driveway Regulations. Property is in the Single Residence District. **Case #04-2022.**

Chair Losik noted that the applicant was before the Board last month; however, there were some questions about the driveway. The applicant has provided additional information about the driveway to scale with measurements. She continued there was discussion at last month's meeting as to whether there would be two driveways. There is an existing driveway closer to Central Road and this driveway which would be next to the garage. The impervious percentage received a variance from the ZBA for being just over 16%. There were questions about the plan and change in topography. There were also some drainage concerns.

Member Wright asked if a decision has been made as to whether the existing 35' x 40' driveway will remain. If it is to remain, will there be any changes?

Howard Singer, 51 Central Road, stated that right now it will remain as is. All that they are trying to do is get an entrance into the garage.

Chair Losik asked if the asphalt will stay.

Mr. Singer confirmed.

Chair Losik stated it is her understanding from reading the minutes of the May 21st ZBA meeting that asphalt was contemplated. That is why they voted for the 16.7% allowance for impervious.

The applicants agreed.

Selectman Epperson commented that the increased documentation from the applicants was very helpful.

Vice-Chair Lord asked about the dimensions.

Mr. Singer explained that he blew up the drawing and everything is proportioned. He tried to keep it as close to scale as possible. The dimensions from the road are exact. The 122' from the corner is the measurement.

Vice-Chair Lord pointed out that the existing driveway scaled off is 48' x 42', not 40' versus 35'.

Mr. Singer confirmed.

Vice-Chair Lord asked if the proposed driveway will be used as a parking space.

Mr. Singer replied not really. He explained that they just need to get into the garage. He commented that he's not going to say that they will not park a car there, but the concept is to park in the other spot and use this driveway to get in and out of the garage.

Vice-Chair Lord pointed out that the proposed driveway is less than 23' because there's a right-of-way. There's only 13' for parking. He's concerned they are approving a driveway with only 13' to park in front of the garage.

Mr. Singer commented that one of the approvals from the ZBA was to be able to park in the whole 24'. The ZBA made the notation that they were giving a variance to park on the right-of-way.

Reading from the ZBA Notice of Decision, Chair Losik pointed out that it says "2.3.C(3) for a garage 24' from the Meadow Lane front boundary". There's also testimony that Meadow Lane is a 40' right-of-way at 22' wide. The first 9' has been depicted on the drawing. She doesn't think this was considered in the ZBA ruling.

Member Wright asked if they should be concerned that they will be parking on the right-of-way without having explicit permission to do so.

Vice-Chair Lord explained that his concern is that they are approving a driveway entrance into a garage with only 13' in depth onto the property. They can't really park there by the LDR, unless they have a variance to park in the right-of-way.

Member Brandon noted that at the last meeting, when the diagram was being discussed, one of the things that was brought up was a flare on the driveway.

Mr. Singer replied that there's no flare.

Chair Losik pointed out that in Section E of the LDR, under standard R, it says that "all driveways shall have a finished surface of either concrete, bituminous asphalt, or modular paving units within the town right-of-way". The driveway ordinance does conceptualize that there will be something other than gravel or sand or wetlands to connect the driveway to the right-of-way.

Member Carter asked if the ZBA gave a variance to have part of the car in the 10' right-of-way.

Mr. Singer replied this is what he understood. The ZBA had brought it up and quoted from regulations saying there could be parking. The ZBA added a couple of variances beyond what was applied for because of that.

Vice-Chair Lord stated that this is a single-family home. Generally, there would be garage space with a car behind. If it's a two-car garage, there would be spaces for four cars. Taking that same approach here, there would be parking for nine vehicles because of the two driveways on a single-family residential lot. He wonders if they are setting a bad precedent. Maybe they should go with the garage and the variance behind it for parking, if a variance will allow it, but actually remove the other existing parking spaces. He thinks they are heading down a poor road of setting a precedent for having two driveways and having endless parking spaces for a single residential property.

Stacy Smith, 51 Central Road, stated that the location is the only place they can put the garage, due to the narrowness of the lot when it was carved out in the fifties. Meadow Lane took a good portion. The garage cannot be moved anywhere else on the property and they need to get into the garage. The location is far enough away from the house that there's no way to pull up to the front of the house. There needs to be parking in front of the house.

Vice-Chair Lord pointed out there will be a path between the driveway and the garage to the house. Anyone coming would be able to use that path.

Ms. Smith commented that if there is no pad there, people will be parking behind the garage.

Vice-Chair Lord agreed. He noted that with other developments, there are only a certain amount of parking spaces. He commented that for a single-residential home, two driveway and nine parking spaces seems extreme.

Mr. Singer stated that right now, he can back the car up and unload the car. If it's taken out, it's going to become grass. There will be no way to move anything in or out of the house without going over the lawn.

Chair Losik read from the ZBA minutes of May 5, 2021 regarding 51 Central Road:

Member Piela commented the existing parking is problematic, but it is an existing nonconforming spot.

Vice-Chair Crapo stated that he thinks it triggered it with the building inspector because they are expanding and putting up a structure. Therefore, the ordinance says compliant parking must be demonstrated. The parking they are asking for in the garage is not compliant because of the 40' setback.

Chair Weathersby commented it is new parking in the front setback, so they will need relief.

Chair Losik pointed out that they received this relief, under 190-5.3.C for parking in the front yard setback. She also pointed out that the ZBA granted a variance for the dwelling coverage not to exceed 16.7%. The minutes are strewn with reference to the difference between 15% and 16.7%, as specifically that the 16.7% would give them the ability to keep the very large parking area on the Meadow Lane side (referenced at 32' deep and 30' wide). There was a comment from the applicant that the driveway would be cut back if the coverage was too much.

Mr. Singer agreed.

Member Carter asked why the garage was not pushed back 10' more.

Mr. Singer explained that the garage house is the part that sticks out closest to the garage. The garage would be right in front of the back windows and the view would be lost. There are also large pine trees in that area and they would have to be taken down.

Member Carter suggested that they think about cutting the existing parking in half, so it's a 20' x 25' pad. It seems to be a lot of parking.

Mr. Singer asked if there is anything in the ordinance that says there can't be ten parking spaces on a property.

Chair Losik replied not in the zoning. In the Land Development Regulations, in general, only one driveway access is allowed per lot. The Board considers that the Town wants to maintain "semi-rural", as it seems it's still going to be a factor when the next master plan rewrite is done. She continued that most properties have a single driveway access. This doesn't mean there is only one curb cut because a lot of driveways are loops. It is not usual in a residential setting to have two driveways.

Mr. Singer noted that when they have had people visit there have been problems with parking on the road, especially in the winter. With the large parking area, the guests can park off the road. It's an advantage to have the area to park in, so people don't have to park on the road.

Member Wright asked if three bays are proposed for the garage.

Mr. Singer confirmed.

Member Wright noted there could be three across, three behind and four across, if it's two deep. He asked if they would be willing to give up the right to park on the right-of-way with the new driveway in exchange for not having to rip out the existing parking.

Chair Losik pointed out the variance to 190-5.3.C says that they have parking in the front yard setback. The front yard setback is 20'.

Planning Administrator Reed stated that she has been at both the ZBA and the Planning Board meetings. She understands the points from Vice-Chair Lord and Member Carter. Her concern is that before the board is the actual driveway cut. They've been given the variances for the impervious. They have also been given the variance for parking in the front yard setback. What is before the Board is the length of the driveway and the curb cut. The driveway is well over 100' from Central Road. This is not a subdivision and they've received the variances from the ZBA. She questions the avenue the Board is going.

Chair Losik stated that just because the driveway regulations sit in the LDR, doesn't mean it's LDR. It's the driveway regulation for anything associated. It was found at last month's meeting that there were several standards that needed to be looked at that were not previously addressed by the ZBA; such as, driveway constructed within 100' of an intersecting road. Also, there was no work in regards to drainage. Her perception of the discussion in February was that the Board felt there were pieces that were not addressed through the list of variances. She is trying to get the Board to stay within the scope of what the Zoning Board did and make sure the Board is comfortable with the driveway regulations.

Speaking to the applicant, Member Finn asked if there would be any consideration to having a two-bay garage versus the three bays. It could be kept away from the existing carriage house and pushed back a bit without blocking the rear windows.

Mr. Singer pointed out that there is an 80' pine that would have to be taken out. If it's pushed back away from the house, the pine tree will have to be removed.

Member Finn asked about the garage being a two-bay garage.

Mr. Singer replied that's not what they are trying to do.

Member Finn replied that he understands, but it might be less huge.

Planning Administrator Reed pointed out that they received a variance for the garage.

Member Wright stated that it seems clear that the ZBA has given them the right to park on this, not only on both parking areas, but also the entire length of the lot. Taking it back to what is proposed seems reasonable, given what the ZBA has done.

Chair Losik noted that the Board needs to rely on the variances that have already been granted. Her concern from last month was to address the areas that were open. These are areas the ZBA

wouldn't have reason to address; however, the Planning Board should look at them. She believes they have.

Selectmen's Rep Epperson asked if the "heartburn" is the 40' dimension of the existing car parking.

Vice-Chair Lord stated that this is a semi-rural area. In looking at this, there are at least twelve or fourteen parking spaces that are allowed on this property. He does not think that fits with a semi-rural character. In looking at the Land Development Regulations, anything with more than two driveways requires planning board approval. They received ZBA approval for the driveway and garage, and are now coming back to the Planning Board for final approval. The final approval could eliminate the second driveway.

Vice-Chair Lord read from the LDR "property owner requesting more than one driveway shall require planning board approval." He pointed out that this is what they are doing. It doesn't mean the Board has to allow it. He thinks the Board has an option of what they want to give.

Referring to the LDR, Chair Losik noted that she thinks there's tension given what the Zoning Board has allowed.

Vice-Chair Lord stated that he is just looking at what ZBA allowed them to do. They allowed them to put the second driveway in, to be able to park on it, with a garage in that location, with the added impervious needed for the proposal. Now it comes to the Planning Board. They are looking for two driveways with two parking spaces and they have to get approval from the Planning Board. He asked if there needs to be a 40' x 35' parking area. If the idea is to have access to the home, it could be cut back so there's maybe a 16' wide access point.

Chair Losik stated that at the Zoning Board meeting of May 5, 2021, there is no question about the connection of the existing parking and the 16.7%. Referring to the ZBA minutes, she pointed out there was a point that the driveway is probably going to be cut down to 20' wide.

Mr. Singer explained that they may do that. Once the drive is in, there will be a whole landscaping plan, which may change the existing parking. In his mind, the existing driveway is grandfathered. It's been there for forty years. He pointed out that all they are asking for is access to the garage. If the access to the garage is not approved, there will be a problem, as they will not be able to access the garage without driving over the lawn.

Referring to the existing parking, Chair Losik commented that it sounds like at least some portion of this parking area is integral for access.

Mr. Singer replied they are not planning on taking the whole thing out. They could take it down some, but that will be looked at with the landscape designer. He doesn't want to say the driveway will be taken down now and have the Planning Board come back and say it wasn't done. He doesn't know exactly what's going to be done or when.

Member Carter pointed out that the request is for a second driveway. The Planning Board can say that there can only be one driveway. The Board is saying there can be a second driveway, but part of the conditions of approval could be that the existing driveway has to be smaller.

Ms. Smith stated that their desire is to cut down the existing parking, but they are just trying to get the garage in right now.

Member Wright stated that he keeps thinking through the approvals that have been made. There's a very specific approval regarding impervious area. It appears that the applicant could park the entire length of the lot in the right-of-way without any approval from the Planning Board. He pointed out that the ZBA referenced the grandfathered status of the existing parking. The Planning Board's jurisdiction is to focus solely on the curb cut. The applicant has met the setback from the edge of the intersection. They appear to be within all the other constrained conditions that the ZBA applied. He doesn't see how the Board can say "no" to the driveway when they got a variance to put it in. He's not sure he agrees with the assessment that the Board can stipulate that the existing driveway needs to come out.

Vice-Chair Lord stated that the ZBA gave them the ability to put it in. They are before the Planning Board to get the approval to put it in.

Member Wright asked what the Planning Board's jurisdiction is to say the existing must be ripped up.

Vice-Chair Lord stated that the LDR says they can approve one driveway. The Board can allow the other one to stay, but put limitations on it. He wouldn't mind a second driveway in this case but maybe allow 16' wide versus 40' wide. That will allow for two cars and plenty of area to access the cars. He commented it's an overkill of impervious area in a semi-rural area. He thinks the Board has the ability to limit that.

Chair Losik stated that to Vice-Chair Lord's point, this is a single residence. There are no great examples of properties in Rye, other than commercial, that have that kind of runway along its frontage for parking/driveway. The standard driveway is a 14' wide driveway without a variance to flare to 20'. The existing parking is 40' wide. The other one is 36' wide. There's a width of 76' for parking. The proposed driveway is 35' deep. It's substantial. She continued that the Board must decide whether to approve the driveway. It seems that everyone agrees that the driveway can't be change dimensionally. However, is the Board agreeing to more than one driveway? She also heard some interest in whether there could be some reduction of the existing car parking.

Chair Losik opened to the public for comments. Hearing no comments, she closed the public hearing at 6:55 p.m.

Speaking to the Board, Chair Losik reiterated that the Board's choices are to either approve as proposed, which would mean two driveways as dimensionally reflected on the plan, or make a proposal to modify.

Member Finn stated that if they want the garage that's fine, but the existing parking should be reduced to a maximum of 20'.

Member Carter agreed.

Vice-Chair Lord agreed. He would like to see 16' versus 20'. After the review of the ZBA minutes, it seems there was a lot of conversation about believing the existing driveway was going to be reduced in order to get this done.

Selectmen's Rep Epperson stated that his suggestion would be for a commitment to cut the existing parking back to 20' with the approval of the garage and existing driveway.

Mr. Singer pointed out that their intention is to redesign it. He doesn't want to be stuck at a number because after the landscape architect design, it might have to come back to the Planning Board. He continued that he thought they were coming before the Board to talk about the new driveway because the old driveway is grandfathered. His feeling is it's about whether the Board is going to approve the curb cut as is because everything else is grandfathered. He feels the Board may be going beyond. He doesn't want to be restricted to an arbitrary number. If the Board wants to put in the motion that there is a plan to redesign and it will be made smaller, he does not have a problem with that.

Member Wright stated that it seems like there are two concerns. One is the potential for lots of parking. However, as the applicant has noted, if they had a long and narrow driveway, lots of cars could be put in a single file, versus a short and wide driveway. If the concern is semi-rural character with the appearance of a small parking lot on Central Road, that's one thing. If it's a coverage issue, that has been taken out of the Planning Board's hands. He continued that the Board could say "no" to the curb cut, but they have a legitimate application for a garage that otherwise complies with setbacks, to which there is no access. He thinks this puts the Board in a bad spot.

Chair Losik stated that she's not sure the concern is the number of parking spots. She doesn't think the Board can even be concerned about the number of parking spots because the reality is that the ZBA has given them all the parking they want in the front setback.

Member Wright replied if the issue is not the number of cars and it's not coverage, he doesn't see what other matter the Board can consider in not approving this, other than the fact that they can approve or disapprove a second curb cut. Applying those sorts of restrictions, which would otherwise not be considered, seems too much to him.

Chair Losik pointed out that the undercurrent was the semi-rural.

Member Carter noted that they can approve the 30' in front of the garage with a condition of approval that the existing driveway become a compliant driveway. That would mean 20' at the street and 14' wide. The 20' is not arbitrary. It comes right out of the LDR.

Member Brandon stated that at the last meeting, there was discussion about a number of these issues. Semi-rural character was clearly enforced at the last meeting. The Board did not talk about cutting back the existing driveway. This is a new topic with no new information. His sentiments lie with what Member Wright has said about what the Board is being asked to decide upon. There was a fulsome meeting last time. The reduction of the existing driveway was not brought up. What was brought up is the distance from Central Road, the exact location of the curb cut, making sure the dimensions meet the 16.7% and drainage.

There was some discussion with the applicant about how the existing driveway can be cut back. Board members shared their thoughts by referring to the plans in front of them.

Member Wright stated the he hears from the Board's perspective that they want to maintain the notion of compliance with existing regs. If the Board was to make a condition of approval to be a cut back of existing pavement to 20' to the point of the setback, it gives enough room to park a number of cars pointing north and south. It sounds like the Board is trying to preserve the stance that can be defended by allowing a second cut but the first one become compliant, by removing half the existing driveway to give a 20' curb cut at the street, only to the end of the right-of-way. He thinks this would be a reasonable compromise.

Motion by JM Lord to approve the driveway application by Stacy Smith for property owned and located 51 Central Road, Tax Map 12.2, Lot 36 for relief from Section 5: Paragraph F of the Driveway Regulations with the condition that the existing driveway shall be cut back to a driveway entrance that meets Rye Regulations to have a maximum finished width of 14' at the property line and flare to a maximum finished width of 20' at the road surface and to be in compliance with Section R of Section 5.E.

Seconded by Jim Finn.

Roll Call: Rob Wright – yes; Kevin Brandon – abstain; Bill Epperson – yes;

Pat Losik – yes; Steve Losik – yes; JM Lord – yes; Jim Finn – yes

Vote: 6-0-1

Member Brandon noted that his inclination to abstain or oppose is because the Board is proposing something that doesn't work for them. The Board is subscribing something that the applicants haven't had a chance to consider. The Board has now changed its objection to the asphalt to wanting a conforming driveway. He pointed out that different concerns have been expressed and they've just changed in the last five minutes.

Chair Losik stated that what she understood from discussion is that the asphalt was never in question because of the ZBA's variance for the 16.7%. As chair, she felt that was clear to the Board.

- B. Amendment to the Surf Club of Rye Condominiums approved by the Planning Board on March 12, 2002 by Peter Fregeau for property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35 to add a shed to unit #2. Property is in the Business/General Residential Coastal Overlay District and SFHA, Zones AE and VE. Case #02-2022.**
 - Request a continuance to the April 12, 2022 meeting.**

Motion by Bill Epperson to continue the public hearing for Case #02-2022 to the April 12, 2022 meeting. Seconded by JM Lord. All in favor.

C. Major Subdivision for a Condominium Conversion for property owned and located by Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce Trustees for property located at 251-279 Pioneer Road, Tax Map 24, Lot 117 to convert 8 dwelling units in 4 duplex structures into 8 condominium units. Property is in the Single Residence District. **Case #13-2021.**

- **Request a continuant to the May 10, 2022 meeting.**

Motion by Bill Epperson to continue the public hearing for Case #13-2021 to the May 10, 2022 meeting. Seconded by Steve Carter. All in favor.

D. Minor Two Lot Subdivision by Tuck Realty Corporation for property owned by Malcolm E. Smith, III for property owned at 0 Lafayette Road, Tax Map 10, Lot 1 to subdivide the parcel into 2 separate lots. Property is in the Commercial District, Aquifer & Wellhead Protection District and Multi-Family Dwelling District. **Case #05-2022.**

Note: Attorney Michael Donovan joined the meeting by phone for this application. Mike Garrepy from Tuck Realty, Attorney Kevin Baum, Eric Gardner from Benchmark and Mike Garvey were present for the application.

Chair Losik asked Attorney Donovan to summarize his February 23rd memorandum.

Attorney Donovan stated that to his knowledge they have had no response to any of the points made in the memo from any of the three parties involved. His understanding, from a conversation with Attorney Phoenix, is this is being proposed because Tuck wants to move forward with the multi-family development and Benchmark is not in a position to move forward with the closing according the lot line adjustment. What's being proposed is to subdivided the existing lot owned by Malcolm Smith into two lots. One would be the lot originally planned for the multi-family development. The other would be just a vacant lot at this point and Tuck would buy that lot from Malcolm Smith. At the appropriate time, when Benchmark is ready to proceed with the closing, Tuck would sell to Benchmark and the plans that have already been approved by the Planning Board in January would move forward. Attorney Donovan continued that the concern he has with this arrangement is that it raises the possibility that Benchmark may not go forward at all with their proposal, which leaves the emergency second access in limbo. He pointed out that this was dealt with in the conditions of approval #32 through #34 for the Tuck Project: ***In the event that Benchmark does not purchase that portion of current Map 10, Lot 1 as shown on the plans, the owner shall return to the Planning Board for approval of a second means of emergency access.***

Attorney Donovan continued that one point of view is that the condition takes care of the concern. He noted that the Planning Board cannot condition the approval of this subdivision on that lot in the middle being owned by any particular person. If the subdivision is approved, Mr. Smith can sell the lot to anyone. There could be a situation where Tuck has built out the units

because the condition relative to the easement only applies to occupancy permits after twenty have been built. They could build all thirty units and come back to the Board with a problem of the emergency access and twenty unoccupied units waiting for an occupancy permit. He noted it was not conditioned upon building permits being issued. It was conditioned upon occupancy permits.

Attorney Donovan stated that his recommendation is that the Board ask the three parties to address it at this time and have Tuck prepare a conceptual plan for the emergency access in the event that Benchmark does not proceed. The approval of the subdivision should be conditioned upon getting that easement and it should be held in escrow in the event that Benchmark doesn't go forward. If Benchmark goes forward, there would be no problem down the road. He noted that he suggested to Attorney Phoenix that all parties be at the meeting this evening and that they provide the Board with written agreements laying this all out. Obviously, this is a significant change from what was contemplated when they got the lot line adjustment many months ago.

Chair Losik stated that she understands the condition related to the emergency access and the easement. She asked about the condition of approval relating to the fire suppression line and the escrow of \$15,000.

Mike Garrepy, Tuck Realty, stated that if Benchmark never buys the property nor move forward with the project, there wouldn't be any conditions to be satisfied, so they wouldn't be providing any money. He pointed out that both projects were conditioned that they provide \$15,000 each.

Attorney Donovan stated that the Tuck project is going to be getting its primary water source from the line coming across by Dow Lane. The water line extension down Route 1 was a desirable goal, but it was also recognized that it's a good possibility it may never happen. If Benchmark doesn't go through, he thinks the condition is basically moot. The multi-family project would be served as the plan shows from the water line coming across from Dow Lane.

Attorney Kevin Baum stated that his understanding was that the Aquarion line was a backup for additional fire suppression. It wasn't needed to serve property. If Benchmark doesn't go forward and that half of the development is taken out, it would reduce the need, but there would still be the \$15,000 from Tuck, as that condition would go forward. In this case, there is also the easement area for where the facility would go. If nothing ever goes forward, there is less need overall for this backup. He commented this is really a matter of timing, although the Board has to address all the issues. Anything else that might go in would probably have a similar condition of approval.

Mr. Garrepy explained that in May 2021, he came to the Board to do a lot line adjustment plan. It took the 9.3-acre lot, Map 10, Lot 1, and essentially divided it. This created a 4.33-acre piece that was labeled to be transferred to Tax Map 10, Lot 3, with the remainder being 5.05-acres. This is what is currently approved. He noted it is not a recorded plan, but has been approved by the Planning Board. (Mr. Garrepy presented the subdivision plan being proposed.) He noted that it's the same acreage and lot configuration. It satisfies the requirements of both approved site plans. There is no change at all. It allows more flexibility of transfer of ownership. He

pointed out that there are interconnecting legal agreements to purchase the property. Tuck has a purchase and sale agreement to purchase the entire Smith property. There is also a contract to sell the thirty condominium units on the proposed Tax Map 10, Lot 1. Those conditions of approval will be satisfied sooner than the Benchmark conditions. Benchmark has a more complicated building permit process, which will take several more months. Tuck needs to close with Mr. Smith sooner than Benchmark will be ready to close. It's really a timing issue. If this is approved, Tuck will be able to retain Tax Map 10, Lot 1-1. When Benchmark is ready to acquire, it will just be merged. He reiterated that nothing is changing. The conditions of approval are attached to the two site plans and are perfectly fine. As far as the emergency access, once the project gets to certificate of occupancy 21, the emergency access still has to be provided and that is shown on the plan. The only change is the transferability. With lot line adjustment, all parties would have to close at the same time, at the same table.

Member Finn asked what would happen with regard to the emergency access if it was determined to sell to another party.

Mr. Garrepy explained that in the unlikely situation that were to happen, they could provide an emergency access along the common line (Tax Map 10, Lot 1) from the rear of the property down the lot line with a 30' easement. This could be put on the final plan as a temporary access easement that would be released upon transfer to Benchmark.

Member Wright asked if there is anything on proposed Tax Map 10, Lot 1-1 that would conflict with the conditions of approval for Tax Map 10, Lot 1, if no development or something different were to happen.

Mr. Garrepy pointed out that any requirements for monitoring on the condominium side of the property would still be required.

Member Wright asked if the requirements of both properties would move to Tuck as temporary owner during the construction period and then revert to the new owner of 1-1, including the easement of the road. There needs to be assurances that the access road will be in place. The proposal is to provide a 30' easement along the property line. He asked if there is anything else that would change the conditions of approval. He asked if Tuck would be willing to be held to the entirety of the conditions of approval for the entirety of both lots.

Mr. Garrepy explained the conditions of the two site plans are completely separate for each parcel. Benchmark had some monitoring well testing that had to happen, as a result of building out the project. If the Benchmark addition doesn't get built, there's no monitoring requirement. The same thing would be held true for the Tuck side. There isn't anything interconnected aside from the emergency connection, which is being addressed through the easement.

Chair Losik commented the Board would like the monitoring wells noted on both lots.

Mr. Garrepy replied that if the subdivision is approved, the lot line adjustment approval would be vacated. The subdivision plan would become the plan set for both applications. Right now, the

plans set for both applications show the lot line adjustment plan. Whatever needs to be added to the plans can be put on for sure.

Member Wright asked if a timeframe should be put on the easement.

Mr. Garrepy noted that they haven't submitted the easements (temporary emergency access easement) to the Planning Administrator for review yet. There's a notion of connecting a temporary emergency access easement. It's intended to expire once the emergency connection is in.

Member Wright asked if the temporary access easement would connect to the existing road on the Benchmark property, across the top of the property.

Mr. Garrepy confirmed. In the event that Benchmark never buys the property, the access would go down the lot line. He noted that a temporary access easement would be shown on the plan that would expire when it was no longer needed.

Attorney Baum explained the expiration would be triggered by the recording of the Benchmark site plan. At that point, they would own the property and the project would be moving forward. What would still be in place is the temporary easement that was part of the original conditions of approval, which connects to the existing Benchmark driveway. However, it can't be done that way until Benchmark owns the lot.

Chair Losik asked what material would be used for the temporary easement. Would it be asphalt?

Mr. Garrepy replied that he is not sure. His intent was to speak with the Fire Chief about his requirements for an access road. It would be at least 16' wide with all season access. He noted that there will be an easement plan shown on the subdivision plan that would only be the temporary easement. The two site plans will also show the easement plan, which will show the permanent easement and temporary easement.

Member Wright pointed out that Attorney Donovan proposed that the easement deed, down the length of the lot, be held in escrow by the Town and only be recorded if Benchmark does not proceed. His thought with time bound is how long do they let the clock tick, until it's determined that Benchmark is really not going to proceed? If Tuck is the owner of both parcels, it's moot except for the point that after the 20th certificate of occupancy, the emergency access will need to be put in.

Mr. Garrepy stated that he thinks the easement needs to be recorded along with the subdivision plan, so it's in place in case the lot ever transfers to a third party. It would be extinguished upon the closing with Benchmark.

Attorney Donovan stated that one concern with the easement running down the boundary is it puts the emergency drive about 100' north of the drive into the multi-family complex. He would have to think about whether the LDR in regards to separation of driveways would play into that.

The second issue is what DOT is going to say about this. The board members who sat through the Samonas application on Ocean Boulevard will remember the difficulty it took to get DOT to approve an emergency access drive on Ocean Boulevard. A condition addressing DOT approval has to be wrapped into this as well. The emergency drive is going to need DOT approval.

Mr. Garrepy noted that the proposed driveway for the condominiums and the access drive would be about 150' to 160' apart, so that would satisfy the LDR. There's already a curb cut on that parcel. There are actually three curb cuts. He doesn't sense there will be an issue.

Attorney Donovan asked if he has a problem with conditioning the subdivision approval on getting a DOT permit for the emergency drive.

Mr. Garrepy replied he does not have a problem with that.

Attorney Baum stated that his only concern is timing, given how long DOT has taken. He would want to feel it is absolutely necessary in order to do that. The point of this exercise is to alleviate the timing pressures. If subdivision plan can't be recorded until there is DOT approval and that is not received in a timely manner, it might end up in the position they are in now. In looking at condition #33, it was a compromise. There was a similar development up the road that had twenty units and wasn't required to have an emergency access. Airfield Drive had forty units and an emergency access was required. Where this development is in the middle, there was a compromise to have the emergency access but it would not be triggered until the certificate of occupancy for the 21st unit. There's the final backstop of being limited to twenty units. They might be built but they won't be occupied. Certainly, that is a pretty big motivator for the owner to get those approved so the CO's can be issued to get the units sold. He doesn't want to go through this exercise and get stuck at DOT for approval for an access that isn't intended to be built.

Attorney Donovan stated that his concern is that if there are twenty units without occupancy permits, those units are going to be allowed to be occupied if the second emergency access doesn't work out. No court is going to let an investor build those additional twenty units and not have them occupied because of this. He's concerned that if DOT doesn't give the permit, it would be back to square one and there would be no resolution. Referring to the temporary 20' wide easement into the existing Benchmark property, Attorney Donovan asked why this could not be the fallback position if the middle lot is never purchased by Benchmark. There would still be emergency access between the two properties. The Fire Chief was as concerned about Benchmark having access as he was about the multi-family development. In this case, the emergency access would be over Benchmark's existing driveway and would connect across the back end of the middle lot. This would eliminate the need for DOT approval.

Mr. Garrepy stated that in the unlikely scenario that Benchmark doesn't purchase proposed Lot 1-1, he's not sure if they would want to grant an easement to connect to their property.

Attorney Donovan pointed out that Tuck is also granting them an easement. The Fire Chief's letter was more focused on wanting a second access for Benchmark versus the condominium project.

Mr. Garrepy commented this was assuming that Benchmark's facility was expanding significantly.

Eric Gardner, representing Benchmark, stated that there will be easements in place; the temporary easement and permanent easement for emergency access. If Benchmark does not move forward, there will be no easement through the Benchmark property. He noted they are not in a position to grant that because they will not have closed on the property. This is why Mr. Garrepy is offering to grant the easement out to Route 1.

Mr. Garrepy pointed out that there are already two curb cuts on the existing parcel on Route 1.

Vice-Chair Lord asked if the easement could be connected to the existing curb cut.

Chair Losik commented the southerly one could be used.

Referring to the southerly curb cut on the plan, Mr. Garrepy pointed out that it's a fairly wide curb cut. It's more than a 20' flare.

Vice-Chair Lord clarified that the easement would then go across to that curb cut.

Mr. Garrepy replied they can certainly do a 30' wide easement along the frontage as well. That way whatever needs to be built will be tied in.

Chair Losik commented that this would eliminate the worry about DOT. Chair Losik explained to Attorney Donovan that the easement would come down the lot line and would go across on the west side of Route 1. It would open up the two current egress accesses.

Attorney Donovan commented that this would certainly eliminate the problem with DOT.

Attorney Baum agreed this makes sense.

Member Wright asked if there will be an easement on the frontage to the back 30' along the proposed line with a second easement along the frontage. He asked where the second easement would end.

Mr. Garrepy explained it would terminate at the property line, but would allow access to the two existing curb cuts.

Member Wright clarified the second curb cut would be utilized to get to the street.

Mr. Garrepy confirmed.

Chair Losik asked if there are any agreements the Board has not seen.

Mr. Garrepy noted there are several different legal agreements between the parties.

Chair Losik asked if any of them impact these plans.

Mr. Garrepy replied no. The agreements amongst the parties, help facilitate these plans being advanced to construction.

Attorney Donovan stated that he understands what Mr. Garrepy is proposing. It does address the situation. He would also agree that the easement ought to be shown on the subdivision plan which is recorded. If Benchmark doesn't go forward, Tuck would be owning this piece in the short term. However, someone will come in with a development proposal for the middle lot, which is about 300' wide at the front portion. He thinks a plan for development for the middle lot would readjust the whole emergency access situation. He wouldn't see a problem with this evolving. He doesn't see a problem with the emergency access if Benchmark doesn't go forward, as long as it proceeds in the manner as being discussed.

Attorney Donovan suggested that the Board continue the application to next month and have Mr. Garrepy present a revised subdivision plan showing the easement. The Board could also have a draft of the easement language to act on.

Member Finn noted this is quite straight forward.

Mr. Garrepy noted it would be subject to Attorney Donovan's review. He would like to not have to come back.

Chair Losik opened to the public for comments. Hearing no comments, she closed to the public at 8:17 p.m.

Vice-Chair Lord stated that it could be conditioned upon Tuck preparing a conceptual plan showing a 30' wide easement along the south and easterly property lines for the emergency access in the event that Benchmark doesn't proceed. Approval of the subdivision would be conditioned upon the granting of the easement of Lot 1-1 for emergency access as depicted on the conceptual plan. The easement deed would be held in escrow by the Town. The conceptual plan shall show the location of the groundwater monitoring wells, as well as the subdivision plan. There should be review by Attorney Donovan.

Attorney Donovan stated that he agrees with Mr. Garrepy that it is probably better to show the 30' wide easement on the subdivision plan and label it as such, so that it gets recorded at that time rather than be held in escrow. The wording could be that it is extinguished upon the purchase by Benchmark. He continued that the wording is complicated enough that his preference would be that the Board take one more look at this before giving final approval.

Mr. Garrepy pointed out that he won't be in town for next month's meeting. He would like to be present at the meeting. He commented that having the language of the easement reviewed by Attorney Donovan makes a lot of sense. It's really just a condition of approval for the subdivision that a 30' wide easement is added on the subdivision plan before it's recorded. He suggested that the don't add all the monitoring wells to the plan because some exist today and some are proposed.

Planning Administrator Reed suggested having a special meeting for the end of the month. This will give time for Attorney Donovan to work with Attorney Baum on language for the easement. This will also give time for Mr. Garrepy to get the plans revised. She pointed out that this is above and beyond the work that was done for the approved project. An additional escrow is needed for Attorney Donovan's time to do this work.

Mr. Garrepy agreed that was reasonable.

It was agreed to schedule a special meeting for Tuesday, March 29th at 10:00 a.m. at the Town Hall.

Motion by JM Lord to continue the application by Tuck Realty Corporation to the March 29, 2022 special meeting. Seconded by Bill Epperson. All in favor.

- E. Jones & Beach Engineers, Inc for property owned by David Prothro located at 12 Goss Farm Lane, Tax Map 8, Lot 59-2 request to install a fence within the voluntary buffer established per the Conditions of Approval dated May 14, 2019, for the Major Subdivision by Tuck Realty Corp. Case #11-2018. Property is in the Single Residence District. **Case #06-2022.**

- **Request a continuance to the April 12, 2022 meeting.**

Motion by Steve Carter to continue the public hearing for Case #06-2022 to the April 12, 2022 meeting. Seconded by JM Lord. All in favor.

5. New Business:

a. Natural Resource Inventory (NRI) by RCC

Chair McFarland stated that she has asked Suzanne McFarland to give an overview. She noted that the NRI integrates with the Master Plan, specifically Chapter 7. The NRI is also useful to zoning and planning changes, and evaluation thereof. There is discussion in the NRI about prime wetlands. She pointed out that Rye does not have prime wetlands but it's an avenue that could be taken. That's a designation process and would require a town vote. She also pointed out there's a lot of new mapping that's available. She has asked Mrs. McFarland to tell the Board what maps should be used and where they will be available.

Suzanne McFarland, Rye Conservation Commission Chair, explained that the NRI is a working document. As the science comes in, it needs to be incorporated into the document. It will be available electronically. There will be new maps and new information often. She noted that when she first started studying climate change, people were always speaking about the year 2100. It then dropped to 2070 and 2050. Now it's 2030 when talking about some of the issues. It clearly shows that in 2014, the acidification of the ocean was already at the predicted levels for 2030. She pointed out that things and information are changing rapidly as they learn more. That is why this is a working document. Mrs. McFarland stated that the Planning Board's role is to prioritize and take proactive steps to ensure the long-term viability of the Town's resources including water quality, recreation and wildlife habitat.

Referring to the diagram on page 11 of the NRI, Mrs. McFarland noted that it lists some things that need to be done, which is to educate, update the Master Plan and develop amendments to existing zoning ordinances. In regards to who uses the NRI, she would like to add that the Public Works Department uses it also, as they are a major player in roads, culverts and infrastructure. The Conservation Commission will use the NRI a lot and have already been using it.

Mrs. McFarland continued noted that Rye is 8,580 acres with 8 miles of coastline, which is the longest coastline of any town. There's 2,563 acres of mapped fresh and saltwater wetlands, which is about a third of Rye. A quarter of Rye is within the floodplain. Rye is dealing with a lot of water. She stated that the RCC feels the Planning Board should key into learning the prioritized habitat blocks as determined by the State. Rye has six of the highest habitat and ecologically intact areas, which are shown on Map 9. These six priority blocks cover 3,484 acres, which is 41% of Rye's total area.

Mrs. McFarland noted that the description of vernal pools is on page 18. Rye does not have an inventory and it's done as needed. For instance, Rye Water District (RWD) is looking for a new well. On the Brown Lane Farm, RCC has just hired Rockingham County Conservation District (RCCD) to map the vernal pools and the wetlands buffer around them, so RWD can proceed with a geophysical study for water resources. In reading FB Environmental's recommendations, it's noted that it's too expensive to go through Rye and map all the vernal pools. There's a citizen scientist program that should be considered. New Hampshire's Fish and Game has a report on identifying and documenting vernal pools. FB Environmental wrote that the wetlands including vernal pools are mapped by the applicant's scientist. Rye has already experienced some issues with applicants.

Mrs. McFarland noted that the description for "prime wetlands" is on page 19. Now knowing the large acreage of wetlands that Rye has, and due to the variety and location, RCC is thinking that the wetlands should be treated all the same. However, Rye needs to stand firm on the buffers. Right now, Rye has the 75' freshwater and 100' saltwater. As noted in the NRI, it's working for the Town. The one piece that is not working and should be considered is the 75' of wetland of one contiguous acre or larger. FB Environmental and RCC has questioned the science of picking one acre and how it was picked. FB Environmental is suggesting that the Town gets rid of this. In looking at the buffers to the wetlands, a lot of them go from one to another and are contiguous. In standing on a lot, a person would not be able to tell. It would have to be scientifically determined if it's contiguous or not.

Chair Losik stated that in 2015, the proposal was to go to 3,000s.f., which got enormous pushback. She noted that Rules and Regulations and the Planning Board can put a lot of stuff out, but it doesn't mean it's going to get through. What FB Environmental is suggesting is to make no size distinctions. She asked Mrs. McFarland her sense.

Mrs. McFarland replied education, education, education. She thinks the Town has come a long way since 2015. It should be approached with mapping and education about protecting their investment. RCC is finding the people are receptive. Also, the Zoning Board has changed in the fact that they know what the recommendations are going to be. Most times, people have already

agreed with the RCC recommendations, so they know what to expect at the ZBA. It's a process of showing people.

Member Wright asked if RCC is specifically looking at new development or existing uses.

Mrs. McFarland replied that they are looking at everything. There's already saltmarsh migration. The water is here and is going to keep coming. It's important to protect what the Town has.

In regards to the appropriate level of growth, Member Wright stated that from his perspective, growth and resource protection are probably frequently in conflict.

Mrs. McFarland noted that they aren't going to stop growth. It has to be managed. She continued that the Planning Board should read all the threats and recommendations, starting on page 32, which is all about protecting water and geological resources. She noted that page 43 lists the 'Prioritized Habitat blocks' and it's important to know the six prioritized habitat blocks, as designated by the State. Threats to the scenic resource, page 56, includes habitat degradation and fragmentation from increased development, which comes from the impact of the roads, culverts, drainage, flooding and overuse. Page 60, lists nine points regarding developed lands and consideration for further development. It starts off with keeping up resiliency and installing green infrastructure. It's a very important section to review. On page 62, it addresses threats to public, conserved and recreational land with recommendations. One of the major things that towns and cities don't realize is it's important to avoid large lot zoning, as it fragments the land more. A good example is Sea Glass Lane with cluster housing and an 11-acre easement around the homes with access to the 70-acres to the Rand Forest. If conservation easements can be put around developments, so it's legal and binding with the can and cannot do's, it's actually protecting the Town more than having larger lots.

Mrs. McFarland noted that consideration should be given to increasing building setbacks from 75' to 100'. The saltmarsh and freshwater marshes are moving. She suggested that the Planning Board read the section addressing the traditional neighborhood design and low impact development. She pointed out that page 64 says "amend the existing wetland regulations, eliminate the non-tidal wetland size requirement and formally adopt and apply Best Management Practices and Best Development Practices."

Mrs. McFarland highly recommended the use of the maps on the N.H. Coastal Viewer. She suggested that the Board use the following maps in the NRI: Map 2 freshwater and saltwater boundaries; Map 3 contamination sources; Map 4 FEMA; Map 6 sea level rise and migration; Map 9 Prioritized Habitat blocks; and Map 14 conserved land.

The Conservation Commission applauds the Planning Board for their continued reading with regard to the science of resiliency/adaptation. They would like the Board to consider regulations for putting homes on pilings/piers. RCC would also like consideration given to discontinuing drains straight into the ocean. RCC would like to see a solution for permeable driveways and walkways. Native plantings should be required for all projects and irrigation systems should be stopped for new developments. Public education is also needed in regards to pesticides and fertilizers.

b. LDR Amendment 2022-01

Not addressed

c. LDR White Paper Transmittal

Not addressed

6. Old Business:

a. LRP Recommendations for the Master Plan

Planning Administrator Reed explained that the Long Range Planning Committee needs a vote from the Planning Board to move forward towards a complete rewrite of the Master Plan. The Planning Board has to give the charge to the Long Range Planning Committee to work towards that goal.

A memo outlining the Timeline for the Master Plan, which encapsulates what LRP is proposing, was submitted to the Board for review. They also reviewed the recommendations made by LRP.

Motion by Patricia Losik to accept the timeline of the Master Plan, the path forward for the Master Plan and the report of the Master Plan Vision Framework as concluded by the Long Range Planning Committee in February 2022. A new committee has been established and will move forward under the chair of Rob Wright.

Seconded by JM Lord. All in favor.

7. Other Business

a. Approval of Minutes: 2-8-2022

Tabled

b. Escrows

Motion by JM Lord to pay the following escrows:

- 1. Stoneleigh Subdivision;**
 - Danna Truslow \$360.00
- 2. Hector's site;**
 - Attorney Donovan \$413.70
 - Sebago Technics \$245.00
 - Danna Truslow \$540.00
- 3. Benchmark site;**
 - Attorney Donovan \$118.20
 - Sebago Technics \$245.00
 - Sebago Technics \$294.75
 - Danna Truslow \$900.00
 - Danna Truslow \$780.00
- 4. Washington Road;**
 - Danna Truslow \$240.00

- 5. **Rye Airfield The Housing Partnership**
 - **Danna Truslow \$240.00**
- 6. **Webster at Rye**
 - **Danna Truslow \$240.00**

Seconded by Bill Epperson. All in favor.

- c. **General Code Updates**
Not addressed

- d. **A Path to Resilience rye_story_book_finaly3.pdf**

Adjournment

Motion by JM Lord to adjourn at 9:15 p.m. Seconded by Jim Finn. All in favor.

Respectfully Submitted,
Dyana F. Ledger

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Peter Fregeau

Property:

1196 Ocean Blvd, Tax Map 17.3, Lot 35 unit #2
Property is in the Business/General Residence District and the Coastal Overlay District and SFHA, Zones AE and VE.

Application case:

Case #02-2022

Application:

Amendment to the Surf Club of Rye Condominiums approved by the Planning Board on March 12, 2002 by Peter Fregeau for property located at 1196 Ocean Blvd, Tax Map 17.3, Lot 35 to add a shed to unit #2. Property is in the Business/General Residential, Coastal Overlay District and SFHA, Zones AE and VE. Case #02-2022.


Date of decision:

March 15, 2022

Decision:

The Board voted to continue the application to the April 12, 2022 meeting and requests the applicant fill out a waiver form for each waiver requested.

3/17/2022
Date


Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant: Jones & Beach Engineers, Inc

Owners: David Prothro

Property: 12 Goss Farm Lane, Tax Map 8, Lot 59-2
Property is in the Single Residence District.


Application case: Case #06-2022

Application: Jones & Beach Engineers, Inc for property owned by David Prothro located at 12 Goss Farm Lane, Tax Map 8, Lot 59-2 request to install a fence within the voluntary buffer established per the Conditions of Approval dated May 14, 2019, for the Major Subdivision by Tuck Realty Corp. Case#11-2018. Property is in the Single Residence District. Case #06-2022

Date of decision: March 15, 2022

Decision: The Board voted to continue the application to the April 12, 2022 meeting.

3/17/2022
Date


Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce, Trustees

Property: 251-279 Pioneer Road, Tax Map 24, Lot 117
Property is in the Single Residence District.

Application case: Case #13-2021

Application: Major Subdivision for a Condominium Conversion for property owned by Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce, Trustees for property located at 251-279 Pioneer Road, Tax Map 24, Lot 117 to convert 8 dwelling units in 4 duplex structures into 8 condominium units. Property is in the Single Residence District.

Date of decision: March 15, 2022

Decision: The Board voted unanimously to continue the application to the May 10, 2022 Planning Board meeting.

3/17/2022
Date

Patricia Losik for
Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Stacey Smith

Property:

51 Central Road, Tax Map 12.2, Lot 36
Property is in the Single Residence District

Application case:

Case #04-2022

Application:

Driveway application by Stacey Smith for property owned and located at 51 Central Road, Tax Map 12.2, Lot 36 for relief from Section 5: Paragraph F of the Driveway Regulations. **Property is in the Single Residence District. Case #04-2022**


Date of decision:

March 15, 2022

Decision:

The Board voted 6-0-1, one abstaining, to grant the request for a second driveway cut as submitted with the condition that the existing driveway be cut back to meet the requirements of Section 5-E: Paragraph F of the Driveway Regulations to provide a driveway with a maximum finished width of 14' at the property line and flare to a maximum finished width of 20' at the road, from the property line at the edge of the existing drive car parking area of approximately 40' by 35'. The changes to the existing drive may occur after the garage is built, the new drive is installed, and the homeowners have a landscape plan.

3/17/2022
Date


Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant: Tuck Realty and Jones & Beach, Engineers, Inc.

Owners: Malcom E. Smith III, of Hampton NH, Tax Map 10, Lot, and Lot 2

Property: 0 Lafayette Road, Tax Map 10, Lots 1
Property is in the Commercial District, Aquifer and Wellhead Overlay District and the Multi-family Overlay District.

Application case: Case #05-2022

Application: Minor Two Lot Subdivision by Tuck Realty Corporation for property owned by Malcolm E. Smith, III for property located at 0 Lafayette Road, Tax Map 10, Lot 1 to subdivide the parcel into 2 separate lots. Property is in the Commercial District, Aquifer & Wellhead Protection District and Multi-family Dwelling District. Case #05-2022.

Date of decision: March 15, 2022

Decision: The Board voted unanimously accept the application as complete and to move the public hearing to a special meeting on Tuesday, March 29, 2022 at 10:00AM to finish the conditions and plans.

3/17/2022
Date

Patricia Losik for
Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.