

**TOWN OF RYE – PLANNING BOARD  
MEETING**

**Tuesday, August 15, 2023 – 6:00 p.m.  
Rye Public Library**

***Members Present:*** Bill MacLeod, Rob Wright, Selectmen's Rep. Bill Epperson, Chair  
Patricia Losik, Vice-Chair JM Lord, Kathryn Garcia, Steven Borne

***Also Present on Behalf of the Town:*** Planning/Zoning Administrator Kim Reed, Maddie  
Dilonno (RPC)

**I. Call to Order**

Chair Losik called the meeting to order at 6:00 PM and invited Bill MacLeod to be seated for Steve Carter and Steven Borne to be seated for Kevin Brandon; both agreed.

**II. Determination of Completeness:**

**A. Major Site Development Plan and Condominium Conversion by 665-667 Wallis Road, LLC for property located at 665-667 Wallis Road, Tax Map 16, Lot 21 for construction of a new driveway, new septic system and new second floor with stairway to be added to existing building to create a three-unit condominium. Property is in the Commercial District, Single Residence District, Aquifer & Wellhead Protection District and Berry's Brook Watershed. Case #12-2023.**

Chair Losik explained that the board has not taken jurisdiction over the application, they're just determining completeness.

Member MacLeod explained that he would withhold comment as he didn't attend the site visit.

Member Wright commented that it's not clear that all peer review is completed and that he would like to hear from the engineer.

Selectmen's Rep. Epperson stated that a lot of progress has been made, especially with peer reviews, but he would like to hear what the engineer has to say.

Vice-Chair Lord stated that he's reviewed the application and thinks it's complete.

**Motion by JM Lord to determine the application complete and move it to a public hearing.  
Seconded by Bill Epperson.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**B. Driveway application by Eric Eno for property located at 717 Washington Road, Tax Map 11, Lot 56 from Section 5: Paragraph. O for two driveways on one lot and Section 5: Paragraph B for a driveway within the 10' side property line. Property in the Single Residence District. Case #15- 2023.**

**Motion by JM Lord to determine the application complete and move it to a public hearing. Seconded by Rob Wright.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**C. Minor Non-residential Site Development Plan by Common Roots Café owner Robin Wehbe for property located at 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Unit D for seasonal outdoor seating. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #16-2023**

**Motion by JM Lord to determine the application complete and move it to a public hearing. Seconded by Kathryn Garcia.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**D. Major Non-Residential Site Development and Condominium Amendment by Robin Wehbe for property located 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Units A & B to raze the existing structures that are currently being used as a yoga business and build two residential units. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #17-2023**

Member Wright explained that while the application isn't yet complete, there are a lot of open questions and it might behoove the board to take that up.

Member Borne agreed and stated that he didn't entirely understand the application.

Vice-Chair Lord agreed with the Rockingham Planning Commission that the application is incomplete and would make a motion not to move it to a public hearing, but would like to get some information from the applicant so the board is more aware of what's happening.

Chair Losik explained that the application was reviewed by **Maddie Dilonno** of the Rockingham Planning Commission (RPC) to determine that it meets the criteria and contains all the information needed by the board, which is spelled out in the LDRs. Ms. Dilonno outlined that information in her memo dated 8/3/23.

Chair Losik invited **Robin Wehbe** to speak to the application and asked him if he had a copy of Ms. Dilonno's letter, which he confirmed.

Chair Losik explained if the board doesn't accept the application as complete, they can't discuss the merits, facts, or arguments associated with it. She explained that Ms. Dilonno had outlined the items not available or submitted as they aligned with 3.1 and 3.5 of the LDRs. Chair Losik explained that she prepared a similar list that corresponds with various components of the regulations. Speaking to Mr. Wehbe, she explained that the board wouldn't be able to discuss the waivers until they receive a completed package of information.

In response to Vice-Chair Lord's question regarding the floodplain, Ms. Dilonno explained that depending on how the building is razed, it might open additional zoning and LDR questions that they're not sure about.

Mr. Wehbe explained that in order to proceed with the application he needs guidance from the Planning Board; he's looking to convert the property from commercial to residential and is unfamiliar with the process. Regarding FEMA rights, he can't name construction costs until he gets engineering work and the other items that the board has requested, which may require a waiver. He's spoken with a handful of engineers and stated that he's happy to share the feedback and give an overview of the project.

Chair Losik welcomed an overview and stated that Mr. Wehbe could flesh out his arguments for the waivers a little more in-depth as he goes on.

Mr. Wehbe explained that the property faces a daily threat from rising sea levels and he's looking to protect the asset. He presented this application to the board in 2017 when he first considered the plan. The idea is to keep the square footage, look, and feel of the building the same but put it up so there's safer parking and water flow underneath. He's hoping if the property is lifted, they can put in pervious pavements on the edge of the property, reducing flood risk and insurance costs. He expressed that this is the best use of the property.

Mr. Wehbe addressed concerns regarding additional traffic, explaining that the current yoga studio hosts two classes per day with 6-8 students per class. He estimated that 12-16 vehicles come through per day and that the condo would have far fewer vehicles coming and going. He suggested that the residential use would alleviate congestion in the area.

Regarding concerns from abutters, Mr. Wehbe explained the project would be a capital injection back into the building and property, which currently has crumbling pavement and sidewalks and cannot thrive as is. He explained that he's hoping to convert units A and B into residences and he's hoping for guidance from the Planning Board prior to construction. He explained that when he has costs for the whole project he can meet with the building inspector to determine whether it's 51% of the assessed value. He explained that the current assessed value is two million, and

he doesn't anticipate a one million-dollar construction project and it wouldn't trigger the FEMA clause, but he has contingency plans in that event.

Chair Losik explained that abutters would have an opportunity to speak in the public hearing portion of the parking application, but would not have the opportunity tonight.

Vice-Chair Lord expressed his concern that it's not really a project until the board knows that it's less than 50%.

Chair Losik, speaking to Ms. Dilonno, asked if it is structure and land in determination. Ms. Dilonno explained that it's just the structure.

Mr. Wehbe explained his understanding that if it were to trigger that clause it may be feasible to separate the structures by 3 feet and there are ways to navigate the FEMA regulations.

Member Wright asked Mr. Wehbe if his contention would be to make the structures discontinuous so they are not subject to FEMA regulations.

Mr. Wehbe confirmed, explaining that the new building would be 100% to flood code. He explained that if they were to keep the buildings together, they would keep Units C and D to code for flood, but it's more costly and causes more disruption. Mr. Wehbe explained that he doesn't own Unit C.

Selectmen's Rep. Epperson asked about Mr. Wehbe's relationship with the owner of Unit C.

Mr. Wehbe explained that Unit C owner, Jamie, is the president of the condo association, a great guy, and neighbor, and that he knows him well. In response to Selectmen's Rep. Epperson's question, he explained that the owner of Unit C has no objections and that condo owners are excited about this project as it shifts the burden of condo fees onto the new units and they're taking on a big expense for the new roofing on the building and structural issues in Unit D. He explained that the building needs capital.

Member MacLeod asked Mr. Wehbe if he owns three of the six units, which he confirmed.

Member MacLeod asked how the regulations trigger Mr. Wehbe to have to make all units conform if he doesn't own all units.

Ms. Dilonno explained that whether the rest of the structure has to be in compliance depends on whether the additions proposed are greater than 50% of the assessed value of the entire structure.

Chair Losik asked Ms. Dilonno if she had the information from Jennifer Gilbert, which she confirmed.

Member Garcia asked for clarification of whether the entire building has to come into compliance.

Ms. Dilonno responded no, only if the proposed additions constitute a substantial improvement greater than 50% of the assessed value, which we don't yet know the answer to.

Member MacLeod asked if there is anything in NFIP that addresses condos. He expressed that there has to be something that handles condos.

Ms. Dilonno explained that she would have to defer to the state floodplain manager for that question as she did get this information from her.

Chair Losik and Member MacLeod discussed the proposed lateral addition and FEMA regulations.

Ms. Dilonno asked if the town has a building preparation requirement.

Planning/Zoning Administrator Reed explained that this was a site approved for a condo association in 2007. At the time it was just one condo, she explained she would have to look into whether it's multiple units, one lot, or part of one condo association.

Chair Losik asked Ms. Dilonno if she could explore that, which she agreed to.

Member MacLeod made the observation that, regarding elevation certificates, it's common that if any portion of the structure is in the floodplain, the whole structure is in the floodplain. He suggested Mr. Wehbe might look a little further into elevating the two units as they may not exempt him from having to have flood insurance.

Vice-Chair Lord agreed, that if any part of the building is in the floodplain, the whole thing is considered to be.

Mr. Wehbe explained that they'll have insurance regardless.

Chair Losik explained that a recent drainage study on the area to the property's north has information regarding what DOT is going to do. She shared this information as well as granite mapping with Mr. Wehbe and Planning/Zoning Administrator Reed.

Chair Losik explained that Ms. Dilonno's work has information cited for site plans and major site development requirements, which goes through applicable components. She noted that Mr. Wehbe is considering waivers for erosion/sediment control, landscaping, plant maintenance, complete streets, and lighting. She explained that those will have to be fleshed out as the board doesn't know until Mr. Wehbe starts designing what it will include for lights. She suggested he look at the LDRs for dark sky recommendations. Referring to a project concept dated 9/2017 and a revised parking area, Chair Losik suggested Mr. Wehbe check parking spaces per 5.0 of the zoning ordinance. Chair Losik confirmed with Planning/Zoning Administrator Reed that the last zoning variance on parking was in January 2007.

**Motion by JM Lord that the application is not complete and the board not move it to a public hearing, but continue the project subject to conditions. Seconded by Bill MacLeod.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

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

**A. Major Site Development Plan and Condominium Conversion by 665-667 Wallis Road, LLC for property located at 665-667 Wallis Road, Tax Map 16, Lot 21 for construction of a new driveway, new septic system and new second floor with stairway to be added to existing building to create a three-unit condominium. Property is in the Commercial District, Single Residence District, Aquifer & Wellhead Protection District and Berry's Brook Watershed. Case #12-2023.**

Chair Losik explained that the applicant hosted the board for a site walk and explained that they've received information from Steve Harding, Town Engineer; Dana Truslow, Town Hydrologist; and Emily DeFranco, Environmental Engineer on the septic review. She explained that the board doesn't have legal review from town counsel, Attorney Eric Maher.

**Attorney Tim Phoenix** of Hoefle, Phoenix, Gormley & Roberts spoke to the board on behalf of the applicants, two of whom, **Jenn and John Madden** were present as well as **Mike Megna**, partner, **Alex Ross**, who completed the technical work, **Gary Spaulding** from Advanced Onsite Solutions to address the septic design, and **Mark Jacobs**, a wetland scientist. Attorney Phoenix explained that the board has a memo and all exhibits dated 8/8/2023 outlining the history of the property and what the applicant is seeking moving forward. He summarized factors for consideration, noting that the hope is to get final approval.

Attorney Phoenix explained that Dana Truslow's letter stated that the property is in the Wellhead Protection Zone, but they're in the Aquifer. He explained that it's ultimately a minor project near Berry's Brook, the school, and other homes. Their efforts to improve the situation greatly

demonstrate the negligible effect that one unit will cause. The overall project consists of two existing units and a shared septic tank that is old and not functioning properly. They will add one unit and a state-of-the-art septic system. Attorney Phoenix noted that the commercial zone permits overall coverage of up to 75%, the aquifer/wellhead protection district permits 25%, and the applicant has voluntarily complied with residential requirements of coverage, under 15%. He explained that the overall coverage will be reduced from 19.5% to 14.7%, and a total of 25% reduction in impervious coverage. He explained that under the ordinance, regulations recognize residential uses and septic systems of less than 2500 gallons per day don't apply. He also noted that the property is not subject to a stormwater plan, but Mr. Ross has provided one. Currently, the property has hard pavement, which will change to porous pavement. He explained that the project is supported by the positions of Sebago Technics, Emily Defranco, and Dana Truslow.

Attorney Phoenix explained that he doesn't see the need for a rain garden because of the AOS system and a reduction in coverage. He also noted Sebago's preference for porous pavement as opposed to permeable pavers, which would require deeper engineered materials. He stated his concerns regarding the cost if ledge is found. He asked the board not to require porous pavement or to allow excavations to determine if it's reasonable or feasible to do porous pavement.

Chair Losik, referring to Ms. Truslow's mapping estimate of ledge ducts, noted that there's not a lot of space in front for a driveway. She asked if this was the concern, which Mr. Ross confirmed.

Member Wright asked Attorney Phoenix if he was contesting that the property is in the Wellhead District.

Chair Losik clarified that it's in the Aquifer District.

Member Borne, referring to the top of page 3, asked for clarification regarding the "substantial benefits".

Attorney Phoenix stated his opinion that 25% pervious surface reduction is substantial and less than what the zone allows, 75% impervious coverage.

Chair Losik noted that the applicant erred to the conservative side and would have triggered a CUP if the impervious coverage were greater than 15%. She pointed out that they're under 15%, which is respectful of the resource.

Member Borne asked about the required maintenance of the septic system and what constitutes an "ancient" system.

Mr. Ross explained that the building was constructed in 1965, and the septic was installed in the same era. Septic systems are typically designed for 20 years of use.

Member Borne, referred to page four, noting, “septic inspection results can be provided to the town” and asked whether it should be stated that they “will be provided”.

Chair Losik explained that the board is not drafting conditions yet, but should be written “shall”.

Attorney Phoenix explained the idea was that they can, and it’s the board’s decision as to whether they shall.

Member Borne asked about the master plan’s aim to keep the town “semi-rural” and whether the board has a leg to stand on if it doesn’t fit the semi-rural feel.

Member Garcia noted that the project stays within the same footprint.

Chair Losik explained that it’s within the realm of the neighborhood and considered Chapter 5a, which deals with housing initiatives.

Member Borne posed questions regarding the AOS maintenance.

Chair Losik referred Member Borne to Exhibit C, corresponding with the applicant’s presentation.

The board discussed the inclusion of septic systems in assessment, installation, operating issues, reporting, and risks to the town. Planning/Zoning Administrator Reed explained the town’s reporting processes.

Attorney Phoenix explained that pumping requirements help monitor systems and observed that it’s important to have systems in place to know what’s going on. He noted that systems that aren’t subject to this aren’t being monitored and this is a step in the right direction. He added that condo documents provide an opportunity for review and reporting requirements and usually the owner and association are responsible. Also, standard maintenance contracts require review every 10 years.

Gary Spaulding of Advanced Onsite Solutions explained that the company has been working in the town since 1999 and they have 182 systems approved in Rye. He offered to answer questions regarding maintenance. He explained that some projects require maintenance every two years, and some projects require annual maintenance.



Mr. Spaulding explained that every year they send notice in the spring to whoever is on file needing maintenance to call and schedule an inspection. In 2008 the town of Rye requested a report of anyone who has a system that is not in compliance with maintenance. At year's end, they send a report to the town naming systems not in compliance. He explained that compliance is now up to 95% and usually up to 100% at year's end with inspections. He explained that out of all towns, Rye is the top town as far as following up.

Mr. Spaulding explained that their systems are not on Margery Way.

In response to Mr. Borne's stated concerns, Mr. Spaulding explained that they've certified another company out of Pelham to do certifications for them. They have created a system and trained other people so the system could be maintained if they ever went out of business. He noted that they have a strong record and are the oldest company in NH and have only changed hands once. He added that the town's experts agree that an AOS system is appropriate for this site, which is encouraging.

Member MacLeod asked what is entailed in an annual inspection.

Mr. Spaulding explained that they look at the primary tank, the sludge level in the settling tank, and the pump chamber. They also check the alarm, and CFMs going into the system, and create a report that is sent to the owners. He explained that many companies won't do maintenance on a system until they get that report. He explained that the small compressor runs 24/7, which increases the life of the compressor. If it does go down, there are two compressors for redundancy.

Selectmen's Rep. Epperson asked if a compressor were to fail, would the second compressor work for a period of time in the case of a power outage.

Mr. Spaulding confirmed and explained that it could be without power for one week.

Member Wright asked if the power compressor comes from the home.

Mr. Spaulding confirmed and explained that as this is a condo, it would come from whatever central power they have for the overall site.

Selectmen's Rep. Epperson asked if there were a failure if there would be an alarm.

Mr. Spaulding responded yes, if the effluent pump malfunctions there is an alarm system on a separate circuit.

Member MacLeod asked what the cost of an annual inspection would be for this site.

Mr. Spaulding explained that it costs \$300 for an annual inspection, report, and recommendations.

Member MacLeod pointed out there would be no incentive not to do that.

Member Wright commented that it would be a maintenance cost of the HOA. He asked if that included any pumping of the system. Mr. Spaulding explained that it does not include pumping.

Member Wright asked if the effluent is going from tank A to B to C.

Mr. Spaulding explained that the tanks closer to the house are solid family tanks that collect into the main line. Each unit has its own tank, which is a benefit.

Member Wright asked if the yearly inspection is of the settling tank, pump chamber, and ancillary activities.

Mr. Spaulding explained that they also check sludge levels and the clean solution system for cloudy effluent and address any issues.

Selectmen's Rep. Epperson asked Mr. Spaulding if recommends not having a garbage disposal.

Mr. Spaulding confirmed and added that he also wouldn't recommend water treatment systems.

Chair Losik asked for the bottom elevation for the pump chamber and the settling tank.

Mr. Spaulding responded that it's 6' below.

Mr. Ross explained that they may need ledge removal there.

Mr. Spaulding explained that they won't do ledge tanks as they need a minimum of 48-50" of height in the tank in order to get oxygen to absorb. He clarified that if ledge is an issue they'll have to remove ledge.

Chair Losik asked if they'd need to rock hammer. Mr. Spaulding responded that they would for the tank and chamber.

Mr. Spaulding explained that the state code requires you to put in twice the capacity.

Member Wright asked if ledge removal is required, and if it's cheaper to hammer, does the board have the ability to direct what method is used.

Chair Losik explained that in the Aquifer you could blast, but you have to go through the CUP process as there is no blasting in the Aquifer.

Mr. Ross explained that they anticipate some ledge removal.

Chair Losik asked Mr. Ross if he could include the bottom elevations on the tanks/profile. Mr. Ross agreed.

Chair Losik commented that considering the resource issues in Rye there's not an abundance of perfect conditions for a septic system.

Member Borne asked Mr. Spaulding what typically is replaced in an AOS system over a 30-year period.

Mr. Spaulding explained that typically only a compressor needs replacing; media is only replaced if something is poured down the drain that shouldn't be.

Member Wright, noting that the applicant expressed a desire to move quickly, asked if this would be a complicated process considering there's a lot that the board doesn't know and will only know once site work begins.

Chair Losik explained that the board would need to ask their questions tonight as they will have another meeting next month to hear from town counsel.

Member Wright expressed his concern regarding ledge; if it's encountered, it will need to be removed to put in the correct tank.

Chair Losik explained that's why the board asks for more ledge probes and information.

Vice-Chair Lord asked Mr. Ross if he'd heard from the Director of Public Works yet and whether there has been flooding or drainage issues at the property.

Mr. Ross stated that he sent Jason Rucker a plan set, but didn't send Sebago a report. He explained to Mr. Rucker that the site drains toward Wallis Road. They went over the drainage outlet with the stone area and Mr. Rucker stated that's the preferred way to do it.

Chair Losik discussed item seven of Steve Harding's report requesting the rain garden and the need for the DPW Director to weigh in on the town's drainage system.

Mr. Ross explained that Dana Truslow recommended a rain garden and Steve Harding preferred that over a stone outlet structure. Mr. Ross explained that his concern with changing the stone outlet to a rain garden gets back to ledge. A rain garden requires considerable depth, is quite costly, and may be considered to be a structure by the town. He stated if it's considered a structure, it wouldn't work for drainage. In their conversation, Steve Harding explained that a rain garden is not crucial, it's just another method; all will function fine, it's just the preferred method if they can reasonably install it.

Chair Losik stated that Mr. Ross needs to speak with Director Rucker about the status of the catch basins.

Ms. Ross stated that he's spoken with Mr. Rucker and he likes what's proposed. He stated that currently all drainage flows to that catch basin and the rate should decrease.

Chair Losik noted that it should decrease, but they don't have pre and post calcs.

Mr. Ross explained that's one of the requested waivers.

Chair Losik discussed the importance of detailed maintenance of pervious pavers and asphalt in order for it to remain pervious.

Mr. Ross discussed the parcel and the location of the wellhead protection district further down the road. He explained that Berrys Brook cuts through the rear of the parcel, but our parcel elevations show which way the water is traveling, which is not towards Berry's Brook.

The board discussed rain gardens and whether or not they are considered a structure and would require a variance.

Chair Losik explained that the board won't have an answer on the rain garden tonight and would like to hear from Steve Harding and for Mr. Ross to have a conversation with the DPW director about the use of drains. Chair Losik asked Mr. Ross if he has an overlay of drains mapped on the town's GIS. She gave a copy to Mr. Ross.

Mr. Ross explained that Dana Truslow suggested that a rain garden be used at the points of underdrain discharge in order to further treat any nutrients in groundwater. He explained that while rain gardens have their place; if their purpose here is to treat nutrients, that means they're getting something from the septic system. He stated that they're happy to remove the

underdrains, as requested, but they don't feel that a rain garden would be treating anything in that location.

Member MacLeod stated that he doesn't think they need a rain garden as they're putting in pervious pavement. He explained that a rain garden is used when you need to treat effluent and treatment is already taking place here.

Chair Losik asked Member MacLeod if he read Dana Truslow's concern about the flow.

Member MacLeod responded that he did read that, but the applicant is reducing impervious coverage on the site by adding pervious pavement and they're not creating any more runoff on the site.

Mr. Ross explained that they've received a lot of emails from reviewers and most of their items were minor. The only two items in all the reviews that they would like to skip with our design are the raingarden and the option between pervious asphalt or pervious pavers. He explained they did ledge probes around the existing pavement which ranges from 24" to 72". He explained they're trying to avoid a scenario where they find excessive ledge that's not feasible to remove.

Chair Losik pointed out that they have to design to the site and there are constraints. She suggested that Emily Defranco and Dana Truslow join the meeting next month and read aloud from both Ms. Truslow and Ms. Defranco's letters. She noted that both have concerns and they don't want to make a decision until they have a chance to weigh in.

Mr. Ross stated that they recommended removing the underdrains closest to the leach field and they suggested a rain garden.

Chair Losik stated that she wants to understand from them how strong their concern is regarding untreated or partially treated effluent.

Member Wright clarified that the concern is regarding water bypassing the leach field.

Chair Losik discussed her other questions about the plans. She asked that the wooded area is depicted in the plans. She also asked the applicants to show all boundaries on the site plan and stormwater management plan. She noted that if there is no rain garden, the concrete retaining wall would stay.

Mr. Ross explained that the concrete retaining wall is more like a curb, years ago it was a parking barrier.

Chair Losik asked about the roof on the second-floor overhang and whether the area beneath it is not pervious.

Mr. Ross clarified that they're treating that as impervious.

Chair Losik asked if the woods are going to be no-cut or protected buffers.

Mr. Ross stated that they would consider it.

Chair Losik stated that it would make a difference as there is a residential area to the north and it would be better for water quality and take up. She suggested no-cut wooded buffers except for dead, diseased, or dying trees, which could be removed. She asked if the trees in the front yard and the tree behind the garage would stay.

Mr. Ross explained that the tree behind the garage would go, but he would have to consider whether the trees stay.

Chair Losik asked where the fuel storage and waste disposal would be.

Ms. Madden responded that the fuel tanks and mechanicals would be in the crawlspace and the trash would be in the garage.

Selectmen's Rep. Epperson asked Mr. Ross if there are any water issues in the basement in this house, whether there are french drains, and whether there is a sump pump.

Mr. Ross explained that there's no sign of water issues, that he's not sure about french drains, and there is a sump pump but it hasn't seen much use.

In response to Chair Losik's question, Mr. Ross explained that they'd have to do a ledge probe every five feet to explore ledge, which is why they're requesting the option of another surface.

Chair Losik asked Mr. Ross if he would accept a condition of no blasting, Mr. Ross agreed.

Chair Losik asked if Mr. Ross would be fine with the fertilizer reference from the LDRs in Appendix F.

Mr. Ross responded yes, and that gets back to the rain garden. He explained that he's used rain gardens where there is a long, grass slope leading to a wetland buffer.

Chair Losik asked if an irrigation system is installed, will they comply with section 202 of the LDR, Appendix G. She explained that this property is on Rye Water and Rye Water has the same requirements now regarding state-of-the-art and controlled systems.

Member MacLeod asked if there's evidence to show that the mapping of the watershed is incorrect if there is an appeal or amendment process.

Member Wright commented that the map appears to be inconsistent with Ms. Truslow's topo map.

Mr. Ross stated that everything on this site does not flow to Berry's Brook, it flows to Wallis Road.

Chair Losik explained that it's not consequential because they would only have setbacks if it were 100' from the wetland in Berry's Brook watershed and they are not. The mapping of Berry's Brook comes from March 2003 and it's on our overlay.

Member MacLeod noted that the board doesn't have full topographic maps of the town and asked if they're not in the watershed, is there a method to correct an error if the 2003 map is wrong.

Chair Losik explained if you use GIS or Coastal Mapper you'll get this map.

Member MacLeod commented that it doesn't mean it's correct; it's showing a general area, but the board is looking specifically.

Chair Losik explained that this property is 100% in the aquifer.

Chair Losik opened to the public at 7:50 PM.

Attorney Phoenix explained that Marc Jacobs is present but will pass on his presentation tonight.

Chair Losik stated that the board doesn't have any questions about wetlands on the site, but appreciates his work.

**Jennifer Madden** of 620 Central Road, one of the applicants, asked if the tree would negate the need for a rain garden.

Chair Losik explained if the rain garden is needed and goes in the corner, it would be difficult to keep both trees.

Ms. Madden wondered if it's possible that the tree is taking in more than a rain garden would.

Mr. Ross asked if a rain garden is a structure.

Chair Losik explained that's a question for Attorney Maher.

Planning/Zoning Administrator Reed explained that it depends on the base and materials used.

Chair Losik closed the public hearing at 7:52 PM

**Motion by Rob Wright to continue the application to the September 19, 2023 meeting.  
Seconded by JM Lord.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**B. Driveway application by Eric Eno for property located at 717 Washington Road, Tax Map 11, Lot 56 from Section 5: Paragraph. O for two driveways on one lot and Section 5: Paragraph B for a driveway within the 10' side property line. Property in the Single Residence District. Case #15- 2023.**

**Eric Eno** for Eno General Contracting presented the application to the board, explaining that he's doing work on a renovation for 717 Washington Road. When they started work they found out from a neighbor that the garage is 4', 4" on the neighbor's property. The neighbor wanted this situated while work was being done on the property. Mr. Eno explained that they attempted to take that on by dragging the garage back onto the property and building a new garage. He explained that when they moved the garage and driveway they had a 20' setback for the garage and a 10' setback for the driveway; the driveway is currently 2' over the line. They planned to move the garage and driveway 5' over. He explained that his two requests are to have permission to move the driveway to keep it within the 10' setback and apply for a second driveway as there are two driveways on the property. He also described the swale and drainage issues on the property, which he's addressed with the DPW director.

Chair Losik, noting that it's a semi-circular driveway, asked if this is an offshoot and whether it shares the same 14'-wide egress.

Mr. Eno confirmed and explained that they'll make it 20' or whatever it needs to be.

Chair Losik asked if the driveway will be 8' from the abutters line, which Mr. Eno confirmed. He also confirmed that this aligns with the proposed new garage.



Member MacLeod commented that the plan says the garage would be 4' off the lot line.

Mr. Eno explained that it should say 5', but they'll leave it at 4'. He explained that the driveway is coming in a little at the edges.

Member Wright asked Mr. Eno if he could point to where the hydroflow problem is located.

Mr. Eno pointed to the location of the drainage issue on the plan. He explained that he spoke with the DPW director about a manhole, but they can't do that within the property boundary of the town. Instead, they'll put a swale on the whole side.

Member Wright asked how much of a factor swale and water flow are in Mr. Eno's decision to relocate things.

Mr. Eno explained that it was a huge factor because they had to get a driveway in and have enough room for running water along the left-hand side.

Member MacLeod asked about the direction of water flow, which Mr. Eno discussed.

Member Wright asked Mr. Eno if he sought a lot line adjustment, would there still be problems with hydrology.

Mr. Eno wasn't sure and asked how easy it would be to do a lot line adjustment.

Planning/Zoning Administrator Reed discussed the process of obtaining lot line adjustment.

Member Wright asked why there is a request for a second driveway if there are already two on the property.

The board discussed the existing driveways.

Member Garcia asked Mr. Eno to show the board where the swale was, which he pointed to on the plan. The board discussed the difference between a swale and a rain garden.

Selectmen's Rep. Epperson asked if the existing driveway is paved. Mr. Eno confirmed and explained that they removed an existing telephone pole.

Member Garcia asked if the new driveway changes the frontage.

Mr. Eno responded no and explained that the left-hand side would stay where it is.

Chair Losik explained that the maximum at the road is 20' and it can't exceed that without a waiver.

Mr. Eno confirmed that it will not exceed 20'.

Chair Losik opened to the public; hearing no comments the public session was closed at 8:05 PM.

Chair Losik explained that the board has two waivers, one from section 5-O requesting more than one driveway per lot. The second is section 5-B, no driveway shall be constructed within 10' of an abutting property line said distance measured from the nearest abutting sideline to the nearest roadway sideline; they're requesting 8'.

**Motion by JM Lord to approve a waiver to Appendix E, Driveway Regulations, Section 5-O for two driveways on one lot. Seconded by Steven Borne.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**Motion by JM Lord to approve a waiver to Section 5-B for a driveway within 10' of the side boundary line. Seconded by Bill Epperson.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**C. Minor Non-residential Site Development Plan by Common Roots Café owner Robin Webhe for property located at 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Unit D for seasonal outdoor seating. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #16- 2023**

**D. Major Non-Residential Site Development and Condominium Amendment by Robin Webhe for property located 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Units A & B to raze the existing structures that are currently being used as a yoga business and build two residential units. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #17-2023**

Chair Losik explained that the board already discussed a memo from Maddie Dillon from 8/3/23. She explained the applicant is proposing 6 tables with 4 chairs to be placed on a sidewalk near an existing takeout window. She asked the applicant to explain more about the seating area.

Mr. Webhe explained that he's aiming to capture the spirit of what happened during Covid with outdoor seating, creating a nice amenity for customers. He explained that he's seen the number

of customers increase between 4-5 fold over the last several years, yet he has not seen a disproportionate impact on parking, traffic, noise complaints, or traffic incidents.

Mr. Wehbe proposed seasonal seating between April 15 and October 15 with no additional external lights or speakers, and seating between 7AM-4PM. He noted that the kitchen closes at 3PM, 2PM during the off-season. He explained that he also spoke with Chiefs Walsh and Cotreau.

Chair Losik stated that the board has the Department Head Review Sheet from the Chief of Police, which said Mr. Wehbe spoke with Chief Cotreau.

Mr. Wehbe confirmed that Chiefs Cotreau and Walsh discussed the location and in doing so Chief Cotreau stated that the piece of parking curb is between 6-7", which is higher than the chalk used to keep fire trucks from rolling down hills. He also noted that it's parallel parking, which reduces risk. Chief Cotreau's main concern was having adequate space to walk around safely; Mr. Wehbe provided a photo to show that there was adequate space. He explained that there is no table service, and they don't pour alcohol on premises; he envisions using the space for takeout and quick food.

Vice-Chair Lord asked for the width of the blue side. Mr. Wehbe stated it's 7-8'.

Chair Losik asked if it was approximately 20' long, which Mr. Wehbe confirmed.

Chair Losik asked for the length of the front of the store. Mr. Wehbe stated 34.6'.

Member Wright asked how the business is categorized by the state.

Mr. Wehbe described it as a cafe with a grocery.

Member Wright noted that parking requirements differ between restaurants and fast-food establishments. He explained that the argument was previously made before Mr. Wehbe's ownership that there was a waiver granted as there was no adequate parking there. He explained that if parking is the issue, the Planning Board can't waive the regulation.

Chair Losik explained that seating determines parking and explained that retail regulations with the additional restaurant component would allow for one space per three seats plus one space per employee plus one space per two bartools.

The board discussed Units A, B, and C and their impacts on parking requirements.

Chair Losik discussed zoning and parking, noting that the Carriage House agreed to balance their parking and they had to get a variance from the Zoning Board.

Mr. Wehbe stated that he's paying overhead for beachfront property but is not able to serve the beach. He stated there are hundreds of cars parking on 1A and hundreds of people on the beach, but he can only serve 24 of them. He explained that people aren't driving to the location to eat and his customers eat quickly; it's different than a restaurant.

Chair Losik explained that the Planning Board can't offer those seats. She stated that Mr. Wehbe needs a variance the same as the Carriage House case in April - June 2022.

Member MacLeod commented that Mr. Wehbe is making good arguments but to the wrong board.

Mr. Wehbe stated that he will happily seek relief from the ZBA, but has other questions about the application aside from parking.

Vice Chair Lord stated that plans were recorded in 2007 and the ZBA decision said that 16 spaces were given, 12 within the front yard. He noted that the site plan says 10 spaces in the front and that the parallel spots aren't even on the property.

Mr. Wehbe stated that those three spots are on the property.

Vice-Chair Lord stated that he thinks 10 are in front, not 12; it was a mistake on the part of the ZBA.

The board discussed parking and determined if there is an increase in seating, it's a ZBA issue.

Vice-Chair Lord clarified that the board can't allow parking spaces on state property.

Chair Losik stated that there's such a threshold issue with parking that she would rather see Mr. Wehbe go through the ZBA first rather than try to build something here that may need to accommodate a decision that the board can't foresee.

Mr. Wehbe commented that at least he could move forward and wouldn't come back before the Planning Board.

Member MacLeod stated that he understands Mr. Wehbe's arguments for why he doesn't need additional parking. He explained that he read the letters from abutters and drove the road to see

what it was like. He stated that their concern is likely with the amplified traffic in having more seats. He commented that he doesn't think traffic would be amplified by this business.

Member Borne asked if there are spaces for bikes.

Mr. Wehbe explained that he has a concrete pad and people lean bikes against the fence. He explained he would like to place a bike stand beneath the road sign.

Member MacLeod commented that he saw a lot of foot traffic from people coming from the beach access.

Chair Losik asked if he'd be in favor of moving forward with crafting a condition.

Member MacLeod asked if the board could do it on a trial basis to be sure there aren't traffic impacts.

Mr. Wehbe stated that the Carriage House has it through October 2024 and since he's close to the end of the season, he would ask for something similar.

Chair Losik asked if Mr. Wehbe saw that the Carriage House received a variance. He confirmed.

Member Wright echoed Member MacLeod's sentiments that Mr. Wehbe is making good arguments to the wrong people. He wondered what would happen if Mr. Wehbe didn't get the seats.

Mr. Wehbe explained that they would continue to struggle with traffic in the building, he suggested this would be a safer place to offer seating opportunities for people.

Chair Losik asked if Mr. Wehbe didn't get parking, would he still put tables outside by taking four away from inside to put outside.

Mr. Wehbe explained he only has four seats inside. He explained he only operates with 20 seats; he has 4-5 stools in front, and never more than 22 seated in the building, though 24 is the maximum.

Selectmen's Rep. Epperson explained the board has wrestled with parking at the beach since covid. He noted that this situation is the best he's seen because it's parallel parking. He commented that he's never seen parallel spots full because people are walking in from the beach. He's in favor of taking a look and seeing how it works.

Chair Losik asked about Chief Walsh's thoughts on a raised barrier.

Mr. Wehbe described nearby barriers at other businesses, noting that none of them look as high as what he's proposed.

Chair Losik asked if Chief Walsh recommended a type of barrier.

Mr. Wehbe stated that he didn't, and that this is a higher hurdle for beach seating compared with others. He explained Chief Walsh didn't want to make the final call; he wrote it in his notes but didn't want to be the person to sign off on it. The Chief suggested painting a yellow stripe and creating a natural barrier. Mr. Wehbe stated he would do that if it satisfies the board but he doesn't think it's necessary. He stated that police and fire are on board if everyone else is.

Vice-Chair Lord commented that a lot has changed since 2007 and traffic has increased immensely for everybody. He wondered if these parking spaces should remain as they are in the public right of way and if they weren't there Mr. Wehbe could maximize the space.

Member Wright agreed that if Mr. Wehbe's proposal won't increase the parking demand, if parking spaces were removed he could create a safer space with no impact.

Mr. Wehbe explained people use the parking spaces for quick in and out trips for coffee.

Vice-Chair Lord stated Mr. Wehbe should go to the ZBA first but he would like to do a site walk before the board makes a decision so they know what the impacts will be.

Mr. Wehbe stated that he would like to close this matter and would like to use the seats for the last weeks in August.

Member MacLeod explained he couldn't use the seats without going before the ZBA.

Member Garcia commented that the parallel parking in front is easier and safer than other parking.

Member Borne stated that he was fine with it and he never sees those spaces full.

Chair Losik stated that a site walk would be good, but it won't change the decision that Mr. Wehbe must go to the ZBA. She asked Mr. Wehbe if he intends to use the Millennium 2022 plans, which he confirmed.

Chair Losik and Mr. Wehbe discussed the revisions he'd need to make to the plans and determined that he would update the plans with parking, tables, measurements, and a place to sign.

Chair Losik discussed the requested waiver on the stormwater management plan.

Mr. Wehbe explained there's no existing change to pavements and he's not sure how the plan would impact stormwater management.

Chair Losik clarified that the board is interested in crafting a conditional approval based on the ZBA granting the variance for parking.

The board agreed.

Chair Losik noted that the board has heard from several abutters including Julie Zoitus of 11 Powers Ave., Timothy Shea of 2206 Ocean Boulevard, Tom and Devin Farrelly of 18 Gray Court, Brenda and Frank McDermott of 30 F Street, and Mike and Sue Jones of 24 F Street.

Chair Losik opened to the public at 8:45 PM.

**Frank McDermott** of 30 F Street stated that he submitted a letter to the board. He explained that he and his wife have lived in Rye for years and his property has been in the family for decades. He has attended meetings for this property in 2007 and 2013 and expressed his concerns regarding parking, outdoor seating, and their unfavorable effect on nearby neighbors' quality of life.

**Peter Shea** of 2206 Ocean Boulevard explained that his brother submitted a letter to the board. He expressed his concern regarding noise created by outdoor seating early in the morning.

**Mike Blanchard** of 5 Gray Court, a direct abutter, expressed his concern regarding the dumpster. He explained that Mr. Wehbe has addressed the garbage and has arranged pickup twice weekly, but on Sundays, the garbage is overflowing. He explained that additional seating would increase the amount of garbage.

**Tom Farrelly** of 18 Gray Court distributed a picture to the board and stated that on weekends the parking lot is not empty. He explained that people frequently buy coffee to validate their parking while they unload at the beach. He explained that the parking makes it difficult to see traffic coming from the north on Gray Court. He expressed his concern regarding biker and runner safety. Noting that Mr. Wehbe's business is an amenity to the area, he expressed his worry that the application that was withdrawn speaks to the intent of maximizing the value of the

investment rather than the homes of the people who live there. He reiterated the issue of people frequently taking advantage of the parking spaces to access the E Street beach access. He concluded that he didn't want to see a general store turned into a restaurant at the end of his street.

**John Murphy** of 28 Gray Court explained that he'd like the board to do a site walk. He explained that he's had trouble taking a left at the end of Gray Court because of the parking spaces near Ocean Boulevard. He explained that the whole area needs to be studied because of the congestion.

**Cindy Mailloux** of 2197 Ocean Boulevard, the direct abutter on Powers Ave., explained that a lot of people will park in her driveway, to the point where she's put cones in her driveway. She also expressed that people park in the lot and stay to unload at the beach. She also pointed out the deliveries block Powers Ave. completely in the mornings, to the point where it blocks her driveway. She noted that deliveries would likely increase with more seating. She also echoed the issue of visibility when turning onto the street. She also pointed out that one of the proposed places for a table sticks out into the road; she pointed to the location on the site plan.

**Devin Farrelly** of 18 Gray Court explained that Powers Ave. has had a problem for a long time but now Gray Court benches get hit by cars. She explained that the parking lot is so nonconforming that there's not enough room. She described the parking lot issues with unloading and excess traffic on Gray Court. She stated that people cruise looking for parking, it's reaching a tipping point and is a dangerous situation.

**Carol McNeil** of 44 Gray Court stated that it's more of a problem on the weekends, especially between June to the end of summer. She asked if it was possible to restrict seating to weekdays. She explained that on weekends with the yoga studio in session, the parking lot is full.

Chair Losik closed to the public at 9:05 PM

Chair Losik explained that the Planning Board can't address the parking so there's no point in discussing that. She summarized that noise is an issue, trash is possibly an issue, and it's a highly congested area, not necessarily solely because of the parking lot.

Mr. Wehbe explained that he's seen trash go down significantly, but the parking issues also translate to trash. He explained that people around the neighborhood throw trash in the dumpsters. He's spoken with abutters and doesn't think the trash issue is related to his business, but a policing issue. He proposed a solution if he's able to do the development with Units A and B, he will put fencing around the dumpster. In regards to noise, very few people arrive at 7 AM, and he's never had a noise complaint.



Chair Losik asked about deliveries.

Mr. Wehbe stated that delivery struggles on Powers Ave. are not his problem. He stated that he's doing the best he can with cones showing up all of a sudden.

Vice-Chair Lord asked if the cones were in the right of way or on their property.

Mr. Wehbe stated he doesn't know where the property line is, but they're on the edge of the street.

Chair Losik explained that some of the cones are used for water hazards and high water on Gray Ave.

Mr. Wehbe clarified that's their way of preventing people from parking in the handicapped spot and going to the beach. He's discussed adding cameras to identify people who are using the dumpsters and parking illegally.

Chair Losik and Mr. Wehbe agreed that he could control the trash a bit better. Mr. Wehbe stated that he'll start enforcing parking by contracting with a company out of North Hampton.

Chair Losik asked how often deliveries are made.

Mr. Wehbe stated that deliveries typically come in the morning between 7-10 AM, sometimes later.

Selectmen's Rep. Epperson suggested Mr. Wehbe change garbage containers to something with a locking mechanism.

Mr. Wehbe stated that they're locked already and they'll get a camera on it. He explained that a lot of the garbage is not their stuff and agreed that it needs to be managed better.

Chair Losik explained that the board has received good information from abutters and the topic of parking is out of the Planning Board's jurisdiction. She suggested the board do a site walk and stated this application needs to go for a zoning variance.

Member Borne asked if Jason Rucker could attend the site walk.

Planning/Zoning Administrator Reed explained she will send the invite to all Department Heads.

Member Wright asked if the board goes for a site walk where they should park. :)

**Motion by JM Lord to do a site walk at 2 PM on August 24, 2023. Seconded by Bill MacLeod.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**Motion by JM Lord to continue the application to the September 19, 2023 meeting. Seconded by Rob Wright.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

Chair Losik invited all abutters to join the site walk.

#### **IV. New:**

**A. Request in reduction of LOC for Joseph Falzone 421 South Rd project.**

**B. Request in reduction of LOC for 1244 Washington Road.**

Chair Losik reviewed the language for a performance guarantee over a two-year period. She explained that the South Road approval was September 13, 2022. She read from the LDRs that guarantee and maintenance surety shall be in an amount equal to 25% of the original guarantee and they will guarantee the repair of any street utility or drainage improvement necessary within a period of three years following the release of the performance surety.

She explained that, regarding South Road, performance surety was released in September 2022 and still exists as a guarantee and maintenance surety at 25% for three more years. She explained that she doesn't think the board can do anything with the 25% until 2025.

The board discussed LDR language with Mr. Falzone.

Chair Losik noted that Haverhill reduced it - \$86,500 stays for three years. She stated that the face amount of the revocable letter of credit shall be automatically reduced to \$86,500 and that stays for 3 years. The revocable letter of credit is reduced and shall expire three years from the date the Planning Board certifies if the improvements were completed and approved as noted in the Planning Board approval dated 9/10/19, which was approved in August 2022.

Planning/Zoning Administrator Reed stated that the board has contracts with their banks; that's what the board should be going off of.

Mr. Falzone clarified that it extends out to three years, he's asking the Planning Board for the time frame to be one year.

Planning/Zoning Administrator Reed stated that Ms. Dilonno agrees it's the town's LDR not the bank's. She clarified that they're asking whether the board is willing to waive or reduce it.

Mr. Falzone stated that there is no liability to the town as the improvements are private. He stated that it shouldn't have been bonded to begin with, but to hold \$86,500 interest-free for 3 years after completion is excessive.

Chair Losik stated that this seems to be a question for Steve Harding as to whether there is risk. She stated that the board isn't qualified to say whether the town can keep that in place for three more years.

Mr. Falzone suggested a question for the town's counsel: Does the state law allow for that to be in the town's regulations? He stated his understanding that the bond needs to be removed or partially released in accordance with the completion.

Chair Losik stated the town is fresh from going through this with a fine-tooth comb with town counsel.

Vice-Chair Lord stated the board has always reduced it to the amount where it was necessary, but we're now down to the last 25%.

Mr. Falzone stated that he's asking for that to be reduced as there's no way \$192,000 of damage is going to occur. He offered to have his attorney submit a legal brief to back up his argument. He stated that the law is clear: it shall be released to the extent that the work is complete.

The board discussed language in the town's LDRs as compared with state law.

Planning/Zoning Administrator Reed stated that she will follow up with Steve Harding and if they can come to a resolution, she will put it back on the agenda next month for discussion and potential release.

## **V. Old Business:**

### **A. NHHOP Needs Assessment Survey and Phase II**

Chair Losik explained that the housing survey is done and reports will be available soon. Public input is available on the town website's landing page and is being developed to follow the housing, master plan, and build-out analysis work.

Chair Losik explained that phase two is pending funding and the board expects to hear back by the end of September after the Governor's Counsel meets to decide how it's to be administered.

Chair Losik explained that Jen Roudin has offered to write a grant for phase three to be reviewed at the September 19th meeting. Phase two is a regulatory audit, phase three is to help write any changes.

Planning/Zoning Administrator Reed requested that the board get the word out about the 9/27/23 meeting at the Rye Junior High.

Chair Losik explained that phase three is considered approval-pending funding and expected to be approved by the end of September with work starting in October.

## **B. Master Plan and Build Out updates**

Member Wright explained that build-out analysis has begun its first phase with GIS mapping. He explained that Resilience, FP Environmental, and RPC are working together working as a consortium. While mapping hasn't been finalized, they anticipate having that as a part of the master plan and have identified parcels that are potentially developable under current zoning.

## **VI. Minutes and Escrows**

### **A. July meeting minutes**

The board agreed to review the July minutes at the September meeting.

### **B. Escrows for June-July**

**Motion by JM Lord to pay the following escrows:**

- For 665-667 Wallis in the amount of \$348.25 to Donohoe, Tucker, and Ciandella
- For 711 Long John in the amount of \$175.00 to Donohoe, Tucker, and Ciandella
- For 711 Long John in the amount of \$2,255.96 to Sebago
- For 15 Sagamore in the amount of \$320.00 to Donohoe, Tucker, and Ciandella
- For 15 Sagamore in the amount of \$378.29 to Sebago.
- For Thompson's Way in the amount of \$911.57 to Sebago.
- For Airfield Drive in the amount of \$153.29 to Sebago.
- For Airfield Drive in the amount of \$802.37 to Sebago.

**Motion by JM Lord to return the following escrow amounts:**

- To Ed Patenaude in the amount of \$1,000 for 1244 Washington Road
- To Jay Nadeau in the amount of \$2223.37
- To Hector's two-lot subdivision in the amount of \$100.53
- To 850 Washington Road in the amount of \$2,240.00

**Seconded by Bill Epperson.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

**VII. Communication:**

**Motion by JM Lord to elect Katie Sherman as an alternate member of the Planning Board with her term to expire March 2025. Seconded by JM Lord.**

**Vote: 7-0-0** (B. MacLeod, R. Wright, B. Epperson, P. Losik, J. Lord, K. Garcia, S. Borne)

Planning/Zoning Administrator Reed stated that Jim Finn has been out on a medical leave of absence.

**Motion by Rob Wright to adjourn at 9:47 PM. Seconded by Kathryn Garcia. All in favor.**

Respectfully Submitted,  
Emilie Durgin

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Robin Wehbe

**Addresses:** 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Units A and B

**Request:** Major Non-Residential Site Development and Condominium Amendment by Robin Wehbe for property located 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Units A & B to raze the existing structures that are currently being used as a yoga business and build two residential units. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #17-2023

**Date of Decision:** Tuesday August 15, 2023

**Decision:** **The Board voted to not take jurisdiction of the application due to incompleteness; the following information is required**

1. Site plans per LDR §202-3.1 Engineering Standards
2. Major site development requirements per LDR 202-3.5B(a)-(l):
  - a. Stormwater Management Plan (LDR 202-3.3B(6), 202-6.9, and Article IX)
  - b. Erosion and sediment control plan (LDR 202-6.8 and Article VIII)
  - c. Landscaping planting plan per §202-11.4
  - d. Plant maintenance plan per §202-11.5 A
  - e. Complete street elements per §202-6.2B(8)(d)
  - f. Determination if the development or any portion of the subject parcel is located within projected high-risk flood areas per Rye's Tides to Storm Vulnerability Assessment Maps (RPC, 2015) by depicting the extent of the three sea-level rise projections (1.7 feet, 4.0 feet, and 6.3 feet) per §202-6.9(C)(1)-(6)
  - g. Lighting plan per Article IX
  - h. Final building elevation drawings from all applicable directions of all new buildings, including surface treatment. The proposed height of Units A and B after elevation shall be reflected; the maximum building height within the Coastal Area District in 28' (RZO §190-3.4D) from existing grade, unless required to be elevated in accordance with Rye Floodplain Ordinance, in which case the maximum building height is 30' (RZO §190-3.4D) from existing grade
  - i. Use intensity statement describing the proposed use of the site in sufficient detail to allow the Board to evaluate the intensity of the proposed use
  - j. Site impact analysis prepared by an environmental engineer that describes the impact of the proposed land development in accordance with requirements of §202-3.4E(7)
  - k. Condominium documents. Such documents shall be reviewed by Town Counsel.
  - l. Drafts of any easements, deeds and/or covenants proposed for conveyance to the town and of any covenants or homeowners' association bylaws or other legal documents to be incorporated in units to be sold. Such documents shall be reviewed by Town Counsel.
3. Per a "Project Concept" dated 9/20/17 submitted with the Application checklist, a revised parking area is depicted. The Applicant shall demonstrate the number and size of parking spaces which shall adhere to RZO §190-5.0.
4. Proposed development is in a Special Flood Hazard Area and requires a permit from Rye's Floodplain Administrator per §60-7 of Rye's Floodplain Management Ordinance. A determination whether units C and D must be elevated is dependent upon the whether the proposed project to elevate units A and B is deemed to be a substantial improvement. It is recommended the Applicant obtain this determination by the Floodplain Administrator.

8/17/23  
Date

  
Patricia Losik, Chairman  
Rye Planning Board

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

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# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Robin Wehbe  
Common Roots Café

**Addresses:** 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Unit D

**Request:** Minor Non-residential Site Development Plan by Common Roots Café owner Robin Wehbe for property located at 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Unit D for seasonal outdoor seating. Property is in the Business District, Coastal Overlay District and SFHA Zone AO (2). Case #16-2023

**Date of Decision:** Tuesday August 15, 2023

**Decision:** The Board voted to continue the application to a Site Walk on Thursday, August 24, 2023 at 2pm at the site and then continue the application to the September 19, 2023 meeting date.

8/18/23  
Date

  
Patricia Losik, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** 665-667 Wallis Road, LLC

**Addresses:** 665-667 Wallis Road, Tax Map 16, Lot 21  
Property is in the Commercial District, Single Residence District,  
Aquifer & Wellhead Protection District and Berry's Brook  
Watershed

**Request:** Major Site Development Plan and Condominium Conversion by  
665-667 Wallis Road, LLC for property located at 665-667 Wallis  
Road, Tax Map 16, Lot 21 for construction of a new driveway,  
new septic system and new second floor with stairway to be added  
to existing building to create a three-unit condominium. Property  
is in the Commercial District, Single Residence District, Aquifer &  
Wellhead Protection District and Berry's Brook Watershed. Case  
#12-2023

**Date of Decision:** Tuesday August 15, 2023

**Decision:** The Board voted accept the application as complete and to  
continue the application to the September 19 2023, meeting  
pending further review from peer reviewers.

8/17/2023  
Date

  
Patricia Losik, Chairman  
Rye Planning Board



# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Bob & Denise Reddy  
Eric Eno of Eno's General Construction


**Addresses:** 717 Washington Road, Tax Map 11, Lot 56

**Request:** Driveway application by Eric Eno for property located at 717 Washington Road, Tax Map 11, Lot 56 from Section 5: Paragraph. O for two driveways on one lot and Section 5: Paragraph B for a driveway within the 10' side property line. Property in the Single Residence District. Case #15-2023.

**Date of Decision:** Tuesday August 15, 2023

**Decision:** The Board voted to grant a waiver to Appendix E, Driveway Regulations, Section 5-O for two driveways on one lot and to grant the waiver to Section 5-B for a driveway within 10' of the side boundary line.

8/17/23  
Date

  
Patricia Losik, Chairman  
Rye Planning Board