

**TOWN OF RYE – PLANNING BOARD  
MEETING**

**Tuesday, January 16, 2024 – 6:00 p.m.**

**Rye Town Hall**

***Members Present:*** Rob Wright, Selectmen’s Rep. Bill Epperson, Vice-Chair JM Lord, Steve Carter, Steven Borne, Kathryn Garcia, Bill MacLeod, Chair Patricia Losik (via Zoom)

***Also Present on behalf of the Town:*** Planning/Zoning Administrator Kim Reed, Maddie Dilonno

**I. Call to Order**

Board members were introduced and Alternate Bill MacLeod was seated for Member Kevin Brandon.

**II. Public Hearing on Proposed Amendments**

**A. LDR 2024-01: Add Section 202-5.5 RE: Hearings on HOA per House Bill 42**

The board discussed changes to LDR 2024-01. Acting-Chair Lord opened to the public at 6:02 PM. Hearing no comment, the public session was closed.

**Motion by Bill Epperson to accept 202-5.5 as amended. Seconded by Pat Losik.**

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

**B. RZO 2024-03: Amend 190-3.3.A Historic District Definition (Request to be withdrawn)**

**C. RZO 2024-04: Amend 190-5.7 Stormwater Management**

The board discussed changes to RZO 2024-04.

Selectmen’s Rep. Epperson noted that section B, regarding drainage onto adjacent properties, doesn’t spell out that you shouldn’t drain your basement onto adjacent properties. The board discussed the correct procedures.

Acting-Chair Lord opened to the public at 6:08 PM. Hearing no comment, the public session was closed.

**Motion by Steve Carter to move proposed RZO 2024-04 to the warrant. Seconded by Rob Wright.**

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

**D. RZO 2024-06: Amend 190-5.9 Demo Review**

The board discussed changes to RZO 2024-06.

The board discussed the language that was changed from “shall be invited” to “is expected” as well as the Demolition Review Committee’s Rules of Procedure.

Acting-Chair Lord opened to the public at 6:13 PM. Hearing no comment, the public session was closed.

**Motion by Pat Losik to move proposed RZO 2024-06 to the warrant. Seconded by Bill Epperson.**

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

**E. RZO 2024-07: Amend 190-2.1 Zoning Map**

The board discussed changes to RZO 2024-07.

Member Carter and Planning/Zoning Administrator Reed discussed the withdrawal of the expansion of the Historic District and the CAI Tech revisions to the map that weren’t previously on the warrant.

Chair Losik offered a friendly amendment to add a period after 2023.

Acting-Chair Lord opened to the public at 6:16 PM. Hearing no comment, the public session was closed.

**Motion by Steve Carter to move proposed RZO 2024-07 to the warrant. Seconded by Bill Epperson.**

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

**F. RZO 2024-08: Amend 190-3.1.H (1) (a) & (b) mean high watermark.**

The board discussed changes to RZO 2024-08.

Acting-Chair Lord opened to the public at 6:18 PM. Hearing no comment, the public session was closed.

**Motion by Pat Losik to move proposed RZO 2024-08 to the warrant. Seconded by Kathryn Garcia.**

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

**G. FPO 2024-01: Amend 60-6 Substantial Improvement/Substantial Damage.**

The board discussed changes to FPO 2024-01. Planning/Zoning Administrator Reed explained that she's been working with FEMA, the Building Inspector, the Rules and Regs Committee, and Jennifer Gilbert on this amendment. She stated that they would like to place a five-year time period for the 50% rule in the Special Flood Hazard Zone by FEMA rate maps.

Acting-Chair Lord opened to the public at 6:20 PM. Hearing no comment, the public session was closed.

**Motion by Pat Losik to move proposed FPO 2024-01 to the warrant. Seconded by Steve Carter.**

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

**III. Public Hearing on Applications**

**A. 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.**

**Robin Wehbe** presented the application, provided updates, and addressed issues regarding safe entry and exit in the parking lot based on feedback from the Technical Review Committee, RPC, and Sebago. Regarding the parking lot, Mr. Wehbe presented a diagram, shared feedback from NHDOT, and elaborated on a request for raised islands, which was suggested by the state. He discussed the islands, barrier, and curb cut at the crosswalk and detailed Sebago's concerns about the pedestrian ramp being too close to vehicles.

The board reviewed Sebago's letter.

Selectmen's Rep. Epperson noted Chief Walsh's concern about vehicles backing out onto Gray Ct.

Responding to Chair Losik, Mr. Wehbe explained that the ramp currently accesses Units A, B, and C; this project would limit that access only to Unit C.

Acting-Chair Lord noted Sebago's comment that the last space isn't viable.

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**Henry Boyd** of Millennium Engineering explained their concerns with backing up and safety issues with the ramp. He stated that a 24' aisle was afforded, but they'd discussed pulling the ramp farther away and putting a bollard on top.

Responding to Member Wright's question about the pitch of the ramp, **Shannon Alther** of TMS Architects stated that the design could potentially work on a curbed ramp.

The board discussed the 50% rule, compliance with FEMA, the ADA ramp, and the prohibition of parallel parking along 1A southbound.

Acting-Chair Lord asked if the state wants curb to eliminate the parking that's happening there currently. Mr. Boyd stated no and explained when there's a change of use the state likes to regulate it to prevent safety issues.

Acting-Chair Lord observed that people in Gray Court could cut through the parking lot, and pedestrians could stand behind the curb while walking down the property. He observed that it's providing protection rather than keeping it open.

Mr. Wehbe stated that they already have pedestrian access, most are walking to the beach access, and parallel spots provide a place for emergency vehicles.

The board discussed parking in the state right of way.

Member Wright asked when 1A needs to be resurfaced and painted in the future, what guides are provided for the people doing the painting. Mr. Boyd explained that the Chief Highway Engineer would be charged with resurfacing and painting, and Mr. Wehbe's plan would be memorialized with the stated as a record of how it should be painted. He noted that the state requires an as-built plan.

Mr. Wehbe stated that the parking lot is their marking and it's not done by the state.

Acting-Chair Lord asked for an update on communication with DOT.

Mr. Wehbe stated that he's submitted a revised plan and asked that the island portion be struck and he hasn't heard back.

Selectmen's Rep. Epperson asked if the state right of way goes through the middle of the curbing. Mr. Boyd clarified that the edge of the state right of way is the heavy, old line. The entirety of the island and striping are within the state's right of way.

Member Carter asked for clarification of what would go between the current curbing and the seats in front of the building.

Mr. Boyd stated that nothing is proposed for that location except for the striping that's shown. The striping represents an area to stay out of, there is no parking there.

The board discussed the safety of the curb. Selectmen's Rep. Epperson stated that curbing is a better solution, despite losing two spaces.

Acting-Chair Lord asked for the methodology of the planting area. Mr. Boyd stated that there's no proposed curbing, noting the challenge of the flat site. He explained the plan to have a hard pavement edge with a landscaped area. Mr. Alther added that there would be a metal edge and plants no higher than 3'.

Acting-Chair Lord expressed his concern with a planting area flush with the pavement as there's nothing to contain the mulch. Mr. Alther suggested raising the metal edging, which Acting-Chair Lord noted may be a tripping hazard.

Acting-Chair Lord discussed the design of the planting area with Mr. Alther and Mr. Boyd. Additional curbing with raised pitches were considered to resolve potential issues with water flow.

Member MacLeod observed that a few things that were discussed with the TRC didn't occur on the plan: the slab on the building was never added to the site plan; the missing contour of 10'; the existing drainage was not on the plans. Acting-Chair Lord noted that they need curb and pavement grades. Member MacLeod asked for the slab elevations. Mr. Alther stated that they're 11.1 and 10.9

Mr. Boyd stated that he has all the calculations noted, they're just not referred to as slab grades. He explained that at the concrete apron of slab, the grade departs vertically from the highest point of 11 to 10.7.

Member MacLeod stated that the elevations are needed on the plan. Acting-Chair Lord asked for the finished floor elevation of the slab. Mr. Alther stated 11.1 and 10.9. Acting-Chair Lord stated that those should be included in the plans.

Member MacLeod asked if the state requested the crossline space for handicapped parking at the crosswalk. He observed that it's inviting pedestrian traffic into the parking lot and could be a safety issue. He suggested moving the space up to resolve the issue with the ramp and the gap in curbing. Mr. Boyd agreed and noted that there's an existing utility pole and fire hydrant.

Member MacLeod asked if they ever got utilities in the adjacent streets. Mr. Alther stated that there's a catch basin on Gray Court. Member MacLeod and Mr. Boyd discussed utilities, sewer, and water.

Acting-Chair Lord discussed the existing site conditions noting that the TRC said to remove seating as it's irrelevant to condo development on both the existing and proposed plan. He also asked to extend the parking lines on Powers Ave. so they become standard length.

Acting-Chair Lord noted that the applicant is going before the ZBA for other items, not for parking, which has already been granted. He stated that parking lines should be extended as parking is an issue at this site and it's best to get the parking spaces up to code.

The board discussed the painting and striping of the parking lot.

Acting-Chair Lord summarized that striping should be added, seating should be removed, the proposed site redevelopment plan should be labeled, and all plans printed to scale.

Mr. Boyd noted that they would all say the same thing for recording purposes.

Member MacLeod discussed the cross-hatching in the corner, which should go to the end of the parking lot. He explained the purpose of the striping is to keep people from parking at the corner and it's not going to impede anyone from driving over it.

Mr. Wehbe expressed his concerns about cross-hatching and neighbor complaints.

Acting-Chair Lord stated that the board is trying to make the site meet regulations.

The board discussed the extension of parking spaces, cross-hatching, safety, and the perception of neighbors.

Mr. Boyd discussed the granted parking variance, striping, and his concerns.

Vice-Chair Lord expressed that he doesn't disagree with Mr. Boyd, but they need to make standard spaces striped out and there's room on the property to do it. He suggested a discussion with Public Works and expressed if the board has the opportunity to bring parking space sizes into regulation then they should.

Chair Losik, referring to the ZBA's 2007 granted variance and NOD, noted that it was recognized that the spaces were less than the required dimensions of 10x18.

Acting-Chair Lord observed that a lot has changed in 16 years, there's more traffic, and anything to make it safer should be done.

Member Wright asked if it's in the board's remit to change a granted variance. Planning/Zoning Administrator Reed explained that a variance runs with the land and cannot be changed by the Planning Board.

Acting-Chair Lord wondered why the board is making the applicant take spaces out of the DOT right of way. Chair Losik clarified that it's not their land, it's state land.

Mr. Boyd stated that he could make it work and expressed that the applicant doesn't want to further encroach.

Acting-Chair Lord asked for more detail on the planter bed. Mr. Alther explained they'll be the same with curbing. Acting-Chair Lord requested the depth of the concrete on the curbed island detail and for the plan to be signed and stamped by an engineer. Chair Losik added that the second plan needs a survey stamp on pages one and two.

Chair Losik asked if there would be a stop line on the access and egress of Gray Court.

Mr. Wehbe and Mr. Boyd discussed the stop line and agreed that they could add a parking line.

Acting-Chair Lord stated that an engineer stamp is needed on the first sheet of the existing conditions plan, that seating detail should be removed, and it needs to be printed out. Mr. Boyd asked if they should also remove hours of operation, which was confirmed.

Acting-Chair Lord asked for comments from Sebago, RPC, and the Fire Department.

Planning/Zoning Administrator Reed explained that she'd emailed all and the only one to respond was the police chief. She explained that she'd already sent a follow-up email and agreed to send another. She also emailed Jason Rucker asking for the status of Powers Ave.

Member Borne discussed condo docs and his concerns regarding pervious pavers and their record of maintenance. Selectmen's Rep. Epperson suggested Member Borne submit his notes to the town attorney. Chair Losik explained that pervious paver maintenance is usually addressed with language in conditions of approval.

Chair Losik asked the board whether they'd like to address the requested waivers at this meeting. The board determined they'd wait and do them all at once.

Vice-Chair Lord opened to the public at 7:21 PM

**Cindy Mailloux**, 2197 Ocean Boulevard, explained that she came to the meeting in December with her concerns regarding Common Roots' parking. She asked if there would be no parking in the front.

Acting-Chair Lord stated there would be no parking in front of the store as it's going to be curbed or striped out.

Ms. Mailloux stated that she spoke with DOT who said for any change of use the applicant had to apply for a permit.

The board clarified that there is no parking along Route One or in front of the store and that parking is not provided by Mr. Wehbe or the store. Acting-Chair Lord stated that parking for emergency use only is how it's intended.

Acting-Chair Lord closed to the public at 7:24 PM.

Chair Losik, referring to a note from Steve Harding, asked the board whether they believe the application meets the Complete Street Standards, noting that they should tell the applicant if more is needed.

Ms. Dilonno clarified the requirements for the Complete Street Standard.

Member MacLeod asked if the board were to determine that the applicant has done the best they can for this site and has made improvements to complete street standards if they would not need a waiver. This was confirmed.

Planning/Zoning Administrator Reed clarified that the board was referring to Sebago's Letter dated 1/13/24 regarding the fourth waiver.

**Motion by Pat Losik to determine that no waiver is needed for Complete Streets. Seconded by Bill Epperson.**

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

Chair Losik referred to a document from a February 2007 Planning Board record. She suggested the applicant use that, in combination with a 1/15/13 document written by the applicant, to fashion a use intensity statement.

Mr. Wehbe stated that he provided a use intensity statement.

Chair Losik clarified that the applicant provided a document called "Use Intensity Statement" but it's a site impact analysis. She suggested Mr. Wehbe note that they're in compliance with height for the RZO. She noted that a report must be prepared and certified by an environmental engineer. She suggested Ms. Dilonno might help the applicant get around not needing a site impact analysis.

Ms. Dilonno recommended the board keep the waiver and when the board takes up that waiver, specifically notes that they're waiving the requirement that a site impact analysis be prepared by a licensed environmental engineer. Regarding parking spaces, a variance is not needed as it's becoming more conforming.



Mr. Wehbe asked the board if the application is complete and whether they've given all notes on this project.

Acting-Chair Lord wondered if Mr. Wehbe would like to make changes and come back for another TRC meeting. Chair Losik stated that the meeting wouldn't be long, but plans would change regarding parking and DOT information would come back.

Member Wright noted that condo declarations have to cycle through the town attorney and that's a condition of approval.

Planning/Zoning Administrator Reed noted that the applicant is on the February ZBA agenda for variances.

Mr. Wehbe summarized that they have a list of things to correct on the plans, will schedule a TRC meeting two weeks out, will attend the ZBA meeting in February, and will finish up at the Planning Board meeting on February 20th.

Ms. Dilonno agreed that she would work with Planning/Zoning Administrator Reed and Attorney Maher to begin drafting conditions.

**Motion by Pat Losik to continue the application for 2203 Ocean Boulevard to February 20, 2024. Seconded by Bill Epperson.**

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

#### **IV. Other Business**

##### **A. Master Plan Public Forum set for February 15, 2023 at the Rye Jr. High 6:30-8:00 pm**

Member Wright discussed the upcoming public input session at RJH and described the previous week's discussion with Resilience regarding engagement.

Member Garcia shared that the format for the public forum was discussed and a lot of work was done on existing conditions.

Planning/Zoning Administrator Reed shared that the existing conditions are not yet on the website but they would like to have it done before the public session and will post it ASAP. She explained that the consultants from Resilience would run the forum so that Planning Board members could also participate as residents.

Member Borne posed questions regarding the January 9th meeting and expressed concerns regarding the length of existing conditions.

Member Wright explained that each of the existing conditions has been condensed into bulleted key findings at the end of each section.

The board discussed the aims of the public forum.

## **B. TRC Update**

Planning/Zoning Administrator Reed shared that the TRC discussed how best to utilize department heads and would continue to work on it.

## **V. Communication**

### **A. Discuss the changes to the RPC contract**

**Motion by Pat Losik to amend the contract that began July 1, 2023 by \$4,500 as outlined in the email by Jenn Rowden to pursue a reformatting of the TRC. Seconded by Bill Epperson.**

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

## **VI. Minutes and Escrows**

### **A. December meeting minutes**

**Motion by Bill Epperson to continue the review of the December meeting minutes to February 20, 2024. Seconded by Pat Losik.**

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

**Motion by Bill Epperson to adjourn at 7:56 PM. Seconded by Rob Wright. 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 January 16, 2024

**Decision:** **The Board unanimously voted to continue the application to the February 20, 2024 meeting.**

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Date

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J.M Lord, Acting Chair

Rye Planning Board