

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, January 9, 2018
7:00 p.m. – Rye Junior High**

***Members Present:* Chairman Bill Epperson, Vice-Chair Patricia Losik, J.M. Lord, Mel Low, Jerry Gittlein, Selectmen's Rep Priscilla Jenness, Alternates Katy Sherman, Nicole Paul and Steve Carter**

***Others Present:* Attorney Michael Donovan and Planning Administrator Kimberly Reed**

I. Call to Order and Pledge of Allegiance

Chairman Epperson called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

II. Designation and appointment of alternates

Chairman Epperson seated Katy Sherman for Jeffrey Quinn.

III. Approval of the December 9, 2017 meeting minutes

Motion by Mel Low to move the approval of the December 9, 2017 to the end of the meeting. Seconded by Priscilla Jenness. All in favor.

**IV. Submittal of Applications for Determination of Completeness
Not a public hearing – Action Required**

- a. Conditional Use Permit Application by Ann & Barbara Bennett for property located at 17 Pine Street, Tax Map 5.2, Lot 56 to construct an Accessory Dwelling Unit above the garage per Section 506 of the Rye Zoning Ordinance. **Property is in the General Residence and Coastal Overlay District. Case #01-2018.**

Motion by J.M. Lord to declare the application by Ann and Barbara Bennett for 17 Pine Street complete. Seconded by Patricia Losik. All in favor.

Note: *Priscilla Jenness and Katy Sherman recused themselves from the following application. Phil Winslow was seated for Priscilla Jenness as the Selectmen's Representative. Steve Carter was seated for Jeffrey Quinn's seat.*

- b. Major Subdivision, Lot Line Adjustment and Conditional Use Permit by Harbor Street Limited Partnership for property owned at 421 South Road and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot subdivision. **Property is in the Single Residence and Aquifer and Wellhead Protection Districts. Case #02-2018.**

Motion by Patricia Losik to declare the application by Harbor Street Limited Partnership for 421 South Road complete. Seconded by J.M. Lord. All in favor.

Note: *Priscilla Jenness and Katy Sherman were reseated. Phil Winslow and Steve Carter were unseated.*

- c. Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A, to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. **Property is in the Single Residence District. Case #03-2018.**
Applicant requested this be moved to the February meeting.

Motion by Jerry Gittlein to move the application by Cellco Partnership for property located at 120 Brackett Road to the February meeting as requested. Seconded by J.M. Lord. All in favor.

V. Public Hearings on Applications:

- a. Major Subdivision, Lot Line Adjustment and Conditional Use Permit by the Housing Partnership for property located at 0 Airfield Drive, Tax Map 10, Lot 15-4, for construction of a residential development consisting of a mixture of multi-family dwellings with a portion being dedicated as Workforce Housing. **Property is in the Commercial Zoning District and the Multi-Family Dwelling District Overlay and Aquifer and Wellhead Protection Districts. Case #07-2018.**
Applicant requested a continuance to the February 13, 2018 meeting.

Motion by Patricia Losik to move the application by The Housing Partnership to the February meeting as requested. Seconded by Katy Sherman. All in favor.

- b. Conditional Use Permit Application by Ann & Barbara Bennett for property located at 17 Pine Street, Tax Map 5.2, Lot 56 to construct an Accessory Dwelling Unit above the garage per Section 506 of the Rye Zoning Ordinance. **Property is in the General Residence and Coastal Overlay District. Case #01-2018.**

Barbara Bennett, applicant, spoke to the Board in regards to the request for an accessory dwelling unit which will be above the garage at 17 Pine Street. She noted that her elderly mother lives in the main house at the property and this will allow her to live at the property to take care of her. An architect drew up the plans that she presented to the Board. She believes it is in compliance and everything has been submitted with the application to the Board. A survey was completed by Jim Verra, Verra Associates, to confirm that the two parking spaces were off the street. She has also reviewed the plan with Lieutenant Jeff DiBartolomeo from the Fire Department. The property is also on town sewer and water is provided by Aquarion. There are no issues with the plumbing for the addition being connected to the main house. The proposal received approvals from the ZBA at their recent meeting. She further noted that the addition of the garage will allow her mother to drive in and enter the house on the main floor without having to climb the stairs at the front of the house.

Motion by Patricia Losik to take jurisdiction over the application for 17 Pine Street. Seconded by J.M. Lord. All in favor.

Chairman Epperson reviewed the accessory apartment requirements. He opened to the public for comments or questions. Hearing none, he closed the public hearing at 7:20 p.m. He noted that this can only be approved by a Conditional Use Permit (CUP) granted by the Planning Board. Section 506.3, A-O, addresses the performance standards for the CUP, which the Board has just reviewed. All of the standards have been met.

Motion by Patricia Losik to grant the Conditional Use Permit based on Section 506.3. Seconded by J.M. Lord. All in favor.

Motion by Patricia Losik to approve the application for Ann and Barbara Bennett as written. Seconded by J.M. Lord. All in favor.

Note: Priscilla Jenness and Katy Sherman recused themselves from the following application. Phil Winslow was seated for Priscilla Jenness as the Selectmen's Representative. Steve Carter was seated for Jeffrey Quinn's seat.

- c. Major Subdivision, Lot Line Adjustment and Conditional Use Permit by Harbor Street Limited Partnership for property owned at 421 South Road and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot subdivision. **Property is in the Single Residence and Aquifer and Wellhead Protection Districts. Case #02-2018.**

Chairman Epperson read a public statement regarding the settlement of the Stoneleigh Preservation Litigation.

Christian Smith, Beal and Associates, representing the applicant, presented to the Board. He stated that they tried to keep the roadway and drainage design as close to the plan that was signed off on by Sebago Technics in the previous iteration. The largest change is the elimination of the through road connection. There will be two 800 linear foot cul-de-sacs both with collection basins. The design of the bio-retention pond is identical to what it was; however, it was brought uphill and further away from the wetlands. The gravel wetland that now resides on lot 4 remains virtually identical to what was originally designed. There were some minor modifications with lot layout and lot configuration. He continued there is a proposed reduced width of the pavement to make it a little more environmentally friendly with less impervious surface. The proposal is for 22ft as opposed to the required 24ft. The other waiver is for the length of the cul-de-sacs because they exceed the 600 linear foot maximum as required by the ordinance. Also, a waiver is requested for detailed topography and soil delineation in the back of the open space. He noted this provides a much better separation between the developed area and the wetland Cedar Forest. There is a reduction in lot count. There is an existing house, as well as 12 other buildable lots. He stated they just received the review from Sebago Technics this afternoon. What they are requesting seems to be a very simple correction. He stated that they are also proposing to remove the island from Woodland Road. Instead of conveying all the stormwater by a long culvert that could create ledge removal issues, it will be collected into catch basins. He noted that the detail that depicts the original layout will be left on the plan, in the event the Board of Selectmen do not approve this. He stated that lot 2 is being gifted in whole to the Conservation Commission along with the rest of the conservation land. The former drainage treatment area has been eliminated and the stormwater will be conveyed out to the gravel wetland.

Chairman Epperson stated that lot 2 is where the large vernal pool is located. The original proposal was to bridge across part of that wetlands to a house lot. Lot 2 has now been eliminated as a buildable lot and is being conveyed to the Conservation Commission. That was a huge part of the proposal. What is being looked at here, is an attempt to move the buildable area back from the wells, back from the wetlands and with a due diligence to protect the White Cedar Forest as much as possible. This has been an excruciating process. The Board felt like they had done as much due diligence as possible. He knows that Mr. Falzone is not really happy with the outcome and neither is the Board; however, that is what negotiations are all about. With that plan presented, he would ask Town Counsel to go over a list of conditions of approval.

Attorney Michael Donovan, representing the town, stated that he received word that on December 29, 2017 the court approved the settlement and ordered that it be carried out. He continued there are two different approvals that are required and have conditions affixed to them. One of the features of the settlement that was mediated was that between November 20th and tonight, he was supposed to work with the attorneys, applicant and the engineer for the applicant to come up with conditions of approval that were acceptable to the applicant that could be recommended to the Board. That process has taken place and everything reviewed tonight is acceptable to the applicant. He noted that the process was ordered by the court as part of the

settlement. The first major approval is that a Conditional Use Permit (CUP) that is required by the Aquifer and Wellhead Protection District must be granted. He reviewed the conditions of approval.

- *Please see attached recommended conditions of Conditional Use Permit Approval.*
- *Please see attached recommended conditions of Major Subdivision Approval.*

Attorney Donovan noted that the following conditions should be added to the Major Subdivision Approval:

33. All Rye Water District requirements are complied with for construction of the water lines.
34. Addition of level spreaders to the plunge pools that flow onto conservation land. Lot 12 enlarged to encompass the bio-retention pond. Vegetative islands in the centers of cul-de-sacs. Access to Rye Conservation Commission land.

Attorney Donovan stated that the conditions are more onerous than anything the Planning Board has imposed in the past but it is a site that requires that. With these conditions and the revisions to the plans, the Planning Board is in a position that this could be conditionally approved with the final revisions of the plan being reviewed by him and the TRC. The Board has done its work in protecting the town and the neighborhood with all these conditions and the revised plan.

Chairman Epperson opened to the public asking for comments from the abutters first.

Shelly Patrick, 410 South Road, stated she has a concern about the drainage on Francis Path being split in two directions going towards South Road. In the past when there have been high rains, the water comes under South Road and floods her cellar. She asked if the intention is to have the drainage go into an existing catch basin.

Mr. Smith explained the existing catch basin is going to be removed. Two catch basins are going to be connected with an overflow outlet pipe. (He pointed out the location on the plan.)

Attorney Donovan commented the water is going to be going out the other side of Woodland Road.

Chairman Epperson noted that the water that is flowing towards the south will be redirected to flow west.

Stephanie Patrick, 388 South Road, stated that two developments in North Hampton caused the brook and the culvert under Woodland Road to back up at the town line. It flooded her lower pasture and back field, which is less than 150ft from her barn. It took her 3.5 years to recuperate her back field and pasture. She wants to make sure this new idea does not flood her backyard.

Shelly Patrick stated that she is concerned about runoff contaminating that area, which feeds her lower pastures where her horses graze.

Chairman Epperson asked if the pastures are on the east side of Woodland Road.

Shelly Patrick confirmed.

Chairman Epperson stated that most of the water is going to go away from Woodland Road and the situation will be better.

Shelly Patrick stated that if it is not going to interfere with her wetlands than that is great. However, it is a huge concern to her.

Member Lord stated that right now there is an existing infiltration basin on South Road that collects all the water that comes off this property and along the north side of South Road. It infiltrates into the ground and slowly moves to the south. This water will end up in the basement. This plan will be removing that so there will not be any infiltration across the street. All the water will be removed and pushed down past the Patrick property. The basements should be a lot dryer because of this.

Speaking to Mr. Smith, Member Gittlein asked for the two catch basins at the intersection to be pointed out on the plan.

Mr. Smith pointed them out. He explained the catch basins are going to be at grade and flush with the ground.

Member Gittlein asked if the road is going to be expanded at that intersection.

Mr. Smith explained they are creating a tighter pavement flare so the bit of pavement apron that crosses the abutter's property will no longer do that. That will need Board of Selectmen approval.

Member Gittlein stated that it was also mentioned that the divider is being done away with. That is a bad deal. Over the years, that has saved a lot of accidents. It is a busy intersection and it was put there for a reason.

Mr. Smith noted that this request came out of mediation.

Speaking to Member Gittlein, Chairman Epperson stated that the applicant was asked to come up with a plan that was functional.

Member Gittlein stated he wants it to be on the record that he is against that.

Attorney Donovan stated that the applicant will do whatever the Board wants with that intersection. It is up to the Planning Board and the Board of Selectmen whether the island stays or goes.

Barrett McDevitt, 427 South Road, commented that South Road is one of the oldest and most historic roads in Rye. It is a busy road and people drive way too fast. This is changing the character of that entire area, which is already busy.

Chairman Epperson stated there was a traffic study that was done that took in to consideration the seasonal flow of traffic. The only thing that the Planning Board can do is look at the studies and take them for what they are.

Stephanie Patrick stated that she would like the Planning Board to consider having another traffic study before deciding what the intersection is going to look like. With the new revisions, there should be a new study, especially during the high times when it is very busy, to prevent someone from having issues.

Chairman Epperson noted that the traffic study is available to the public and was done by professionals. The traffic study was also peer reviewed by the Town's consultant who agreed with it. He continued that in the beginning there was a 22 lot subdivision proposed and now it is substantially less.

Bob Siener, 399 South Road, stated that Francis Path is going to run right along his west boundary. Absolutely, the traffic is terrible in this area and the cars travel fast. He continued that in the settlement agreement it was agreed that the initial application and drawings that were included, for along his border, were accepted. On another approval draft, he sees that he is being asked to accept the conveyance of about .25 acre of land, as a term of condition, to get the additional trees put in as a buffer. He asked why this is a condition of approval.

Attorney Donovan explained that the proposal was that the applicant would put this in within the right-of-way. The applicant would also put it on his property if he took ownership of the .25 acre beyond the right-of-way. The intent is that the applicant will convey that piece of land to the Mr. Siener and put in the trees on the .25 acre, along with the right-of-way. If not, the trees will be planted in the right-of-way only.

Speaking to Mr. Siener, Chairman Epperson stated that they tried to protect everyone as best they could. They tried to make this buffer larger; however, he does not have to take possession of the land.

Referring to lot 11, Mr. Siener asked if the current house is going to stay as it is now.

Mr. Smith confirmed.

There was some discussion and review of the elevations along Mr. Siener's property.

Carol Menard, 495 South Road, read from a prepared statement regarding her concerns with the proposed subdivision.

Speaking to Ms. Menard, Chairman Epperson stated that the original application was peer reviewed by the town's engineers and they did not have any issues. The town's experts said that the applicant's experts were accurate in what they said. Everything they were doing was legitimate and by industry standards.

Peter Crawford, 171 Brackett Road, spoke in regards to his concerns on the settlement process.

Shari Cohen, 399 South Road, spoke in regards to the subdivision approval being in conflict with the master plan.

Doran Morford, 460 South Road, stated that he is an abutter and a seller of a portion of this land. His understanding is this mediation came out of the court system. The applicant and Planning Board agreed to meet and come to a settlement using the rule of law. He continued that from the beginning there have been concerns on how the runoff was going to work. The drainage, wellhead and intersection of Woodland Road have been on the table from the beginning. He believes that everyone on each side has acted in good faith. He trusts that good faith would go forward based on all this information that has been gathered. He knows there is a desire for a continuance. That is not helpful and will be ineffective. All has been done that can be done and this should go forward.

Shelly Patrick stated that Tonis Park was installed in 1967. Mr. Tonis took care of the park for many years. At his passing, she took over the care and it is now being cared for by the Garden Club. In the town newsletter from 1967, the last paragraph from the Selectmen's letter to the town is thanking Mr. Tonis for his work at creating this small island at this intersection and beautifying the town. It stated that the town needs to do everything in its power to keep this as a beautification for the neighborhood.

Hearing no further comments or questions, Chairman Epperson closed to the public at 8:40 p.m.

Member Low stated that there is a need for another well in the Town of Rye. He asked if the town can put a road on the right-of-way to the 58 acres that is being conveyed to the Conservation Commission. He asked if this is just a walking trail.

Attorney Donovan replied that it was agreed that it is a walking trail.

Member Low stated that there is a need for a road because a well cannot be put in with a walking trail. He continued that the Board turned this application down. He thinks it was because of the concerns of the neighbors and the concerns of providing good drinking water for the town. He thinks if the town went to court to fight this, they could lose and end up with the 17 lots and still pay all the legal fees. He thinks as board members they are trying to do their best. He is concerned about the entrance to the 58 acres. The town should be able to use it if it is found that this is a good drawing area for a well.

Attorney Donovan stated that there is access provided through Francis Path. It is a 30ft wide access way that could be a road. This would be up to the Conservation Commission.

Member Low stated that there will not be any development on the back two lots. In his mind, that protects the water supply. The Planning Board has done its job.

Alternate Carter stated that he had a concern about where the drainage was going from Francis Path over South Road. Sebago Technic also sites this with a solution. He would like to make sure that solution works. It is not clear on the plans where it is going. He would also like to hear from the engineer about the retention pond on lot 4. Who owns the maintenance of that pond?

Attorney Donovan explained that four experts were involved in studying the drainage at Woodland Road. Three of those experts got together earlier today; J.M. Lord, Dennis McCarthy and Christian Smith. The three of them now believe that what is described by Mr. Smith is going to work. He is sure that Sebago Technics will go along with it once they have a chance to have it more completely explained to them. With respect to who owns the drainage facilities, the plans are going to have notes on them and the documents will say that they are owned by the homeowner's association. Where they are on a private lot, the lot owner will have to give the homeowner's association an easement. The homeowner's association is responsible for the maintenance, repair and replacement of any of the facilities, including the facilities inside the cul-de-sacs. They are responsible for having a maintenance plan, which will be reviewed by Sebago. The facilities will be inspected by a professional engineer once per year to make sure they are functioning correctly and being maintained. All these requirements will be built in to the conditions and homeowner's association documents.

Mr. Smith stated that it is his understanding that they have been compelled by the Conservation Commission to slightly alter lot 12 so it captures the entirety of the bio-retention pond because they do not want drainage features in their open space.

Attorney Donovan commented that the way the condition is set up the association is responsible. If the town has to go in to maintain it, they can go after both the association and the lot owner for its costs.

Referring to Ms. Menard's comments, Member Lord stated that she talked about a logging road behind the barn that was filled in. The plans call for that to be taken out and restored now. Looking at the buffers from lot 1, taking out lot 2 and lot 3, there is probably a good 200ft buffer between Ms. Menard's property and this development. He would like to think those issues have been pretty well vetted and looked at. He continued that he remembers that this goes up hill from where the drainage is to their property. The water really has to go down into the conservation area to get out. To Member Low's point, everyone has worked hard to eliminate four lots. It gives a bigger buffer to the wetlands. It also gives a bigger buffer to any proposed new well that might go in. He thinks splitting the drainage on Francis Path is good. There is more protection to Cedar Swamp. The new plan reduces the road width, reduces the infrastructure and reduces the rock hammering. When the drainage goes down to the intersection

of Woodland and South, there is an existing infiltration basin. It has always serviced a low area there and all the water was always going down to that area. Eliminating the infiltration basins and putting in catch basins, to pick up all the flow that is coming down now and transport it past the property to get it out of the area, will help. Traffic is an issue and it has become worse over the years. More traffic is coming for a lot of reasons, not just for this development. He commented that everyone has worked hard to come to a good compromise.

Vice-Chair Losik stated that this originally came in with 22 lots. There are 4 parcels and it could've been 18. Where it is right now, is 13 less 4, which is half. This was a difficult process. She continued that development is going to continue and the town is going to grow. Property development is balancing the rights afforded to property owners versus balancing the rights of townspeople. This is not a perfect result. There are no winners here. These are the best solutions. She stated the Board always puts the consideration of environmental issues in the forefront. There were big issues with the water; subsurface and surface. The Board was particularly concerned about the bedrock and said no blasting from the beginning because they were concerned about changing and having impacts to lineaments, which possibly could have impacted the bedrock wells. There was a lot of hard work on the surface drainage; looking at the topography of the area and coming up with the best results. This started out as a proposal with a little over 45 acres developed. The proposal is under 26 acres now. With the 45 acres, it took more than 62,000sf of drainage facilities. That is 1375sf per lot acre. The proposal is down to 40,000sf; the bio-retention and the gravel wetland. That is just over 1500sf an acre. This is actually better for what is basically half of the development. She reiterated that this has been a lot of work. Is everyone going to be satisfied? No. Was this the best result? Was mediation the best process to bring this to a conclusion? Yes. She stated the members of the board are always looking at the Zoning Ordinance, Land Development Regulations, the RSAs and the master plan. She noted that South Road has a problem with drainage. There is sheet flow from the properties on the north side of South Road, which goes across to the neighbors on the south side of South Road. Some of these drainage solutions being proposed will actually be an improvement. The water is going to flow naturally to another big watershed, which flows to the Little River watershed. She commented that in this process there are no winners. It is finding the best solution possible.

Chairman Epperson stated he was probably the most vocal about being against this application from day one. His concern was with the wells, the wetland and the Atlantic White Cedar Forest. He continued that he thought they would have enough ammunition from the town's experts and the Rye Water District to legitimately postpone or eliminate this application in its entirety; however, that did not happen. The town's experts, in conjunction with the applicant's experts, said the 17 lot application was viable and doable. This board disagreed with them in its entirety and voted against it. He knew at some point in time this was going to come back because this went to Superior Court. The implications were that if the town lost that particular lawsuit the developer could get a builder's remedy and could have gone back to the 22 lot subdivision, which would have been a disaster. The meditation took an entire day to find a way to make this as least impactful as possible. He continued the financial arrangements are significantly less than what was asked for originally. To Vice-Chair Losik's point, there are people in this town

that own property. They have a right to develop it if they want to, if it complies with the master plan, the Land Use Regulations and the zoning. Rye is going to grow. There are pieces of property in Rye that are going to be developed. The question is how does the town want it developed. That is why the members were elected to the Planning Board; to try to get the very best deal for the Town of Rye. That is what he thinks they did. He noted that he will never apologize for trying to protect the Town of Rye, on the other hand, he is not going to put the residents at risk of spending hundreds of thousands of dollars on a lawsuit and having something that is not satisfactory to the Board or the town.

Selectmen's Representative Winslow stated that he saw the major issue in this application to be water, water and water. The Board focused the town's consultants on looking at the water issues; drainage issues, water quality issues and protection of Cedar Swamp. He thinks the Board has done a reasonably good job of that. He thinks they may want to take a look at the intersection of Woodland and South Road where the small garden is located. It was mentioned that this is still up for decision about whether to maintain that garden. He noted that he was a part of a number of discussions and mediations. He thinks they have found the best solution.

Motion by Patricia Losik to take jurisdiction. Seconded by J.M. Lord. All in favor.

Chairman Epperson stated there are four waivers being requested. Each one needs to be looked at individually and either approved and denied.

Attorney Donovan stated the requirements for granting a waiver are that *strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

- Cul-de-sac length - requesting 800ft and 840ft where 600ft is the limitation

Attorney Donovan explained that one of the rationales for doing this is because the original 600ft evolved a long time ago when the frontages in the SR District were 150ft. It was intended that this would provide for a double loaded street of 600ft, having four lots on each side and two lots around the loop of a cul-de-sac. Several years ago, the town changed the frontage requirement to 200ft. The Board discussed a couple of years ago, with the Sea Glass application, that the cul-de-sac length limitation really ought to be expanded to 800ft because that was consistent with the idea of there being 10 lots. The Board never proceeded to change the Land Development Regulations but granted Sea Glass a waiver to the 600ft. He commented that the waiver is consistent with the waiver criteria.

Motion by Phil Winslow to grant a waiver for the length of the cul-de-sacs to be 800ft and 840ft, where 600ft is the limitation. Strict conformity would pose an unnecessary hardship and waiver would not be contrary to the spirit and intent of the regulations because specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the wavier will properly carry out the spirit and intent of the regulations. Seconded by J.M. Lord. All in favor.

- Width of the pavement from 24ft to 22ft

Motion by Steve Carter to grant a waiver for a pavement width of 22 feet, where 24 feet is required because strict conformity would pose an unnecessary hardship and the waiver would not be contrary to the spirit and intent of the regulations. Seconded by Mel Low. All in favor.

- Waiver to 603.3A – To allow a 3400sf designated leachfield area on lot 9.

Motion by J.M. Lord to grant a waiver to 603.3A for a DLA on Lot 9 of 3400sf, where 4000sf is required because strict conformity would pose an unnecessary hardship and waiver would not be contrary to the spirit and intent of the regulations. Seconded by Patricia Losik. All in favor.

- Waiver to 403.1E – Topography Survey

Motion by Phil Winslow to grant a waiver to 403.1E because strict conformity would pose an unnecessary hardship and waiver would not be contrary to the spirit and intent of the regulations. Seconded by Mel Low. All in favor.

- **Conditional Use Permit**

Criteria:

1. Proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility to (inaudible) potential pollutants.

Motion by J.M. Lord that requirement #1 has been met. Seconded by Mel Low. All in favor.

2. Adequate safeguards will be in place to prevent accidental spillage of substance or materials which may be harmful to the groundwater from reaching the aquifer.

Motion by J.M. Lord that requirement #2 has been met. Seconded by Patricia Losik. All in favor.

3. The proposal us will discharge no waste water on site other than that which is typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxins or hazardous waste, as herein defined.

Motion by J.M. Lord that requirement #3 has been met. Seconded by Jerry Gittlein. All in favor.

4. The proposed use will not cause a significant reduction in the long term volume of water contained in the aquifer or the storage capacity of the aquifer.

Motion by J.M. Lord that requirement #4 has been met. Seconded by Patricia Losik. All in favor.

5. Proposed use complies with all other applications of sections of this section.

Motion by Phil Winslow that requirement #5 has been met. Seconded by J.M. Lord. All in favor.

Motion by Bill Epperson to grant the Conditional Use Permit subject to the conditions of approval as outlined and reviewed by Attorney Donovan at the January 9th meeting. Seconded by J.M. Lord. All in favor.

Attorney Donovan stated that it would be helpful if the Board puts on the record how they feel about Tonis Park.

Chairman Epperson stated that he does not see a need to remove the island. It has been there for a long time. There is a way to make the intersection safer without destroying something that has meaning to a lot of people.

Member Low agreed.

Member Gittlein commented that he would leave the island. It creates safety.

Member Losik commented that to Shelly Patrick's point, it adds to the rural character. It has been a part of South Road for many years.

Motion by Phil Winslow to have the island remain. Seconded by Jerry Gittlein.

Member Low stated that if the island is going to remain, it should be redesigned such that it is not such a safety problem as it is today. The throats of the island should be narrowed down because it is not a great safety design.

Selectmen's Representative Winslow requested to amend his motion on the floor.

Motion by Phil Winslow to maintain an island in that location that maximizes safety. Seconded by J.M. Lord. All in favor. (passed)

Motion by Bill Epperson to conditionally approve the Major Subdivision subject to conditions reviewed at the January 9th meeting by Attorney Donovan and final changes in plans being reviewed by town counsel and the Technical Review Committee for compliance with representations made at the January 9th meeting. Seconded by Mel Low. All in favor.

Mr. Smith pointed out on the plan the sliver of land that is being conveyed to the abutting property owner, which will require a lot line adjustment. He noted that Mr. Falzone has an agreement with the abutting property owner regarding this piece.

Motion by J.M. Lord to approve the lot line adjustment as per the application. Seconded by Patricia Losik. All in favor.

The meeting recessed at 9:15 p.m.

Chairman Epperson reconvened the meeting at 9:25 p.m.

Note: *Priscilla Jenness was reseated as the Selectmen's Representative and Katy Sherman was reseated for Jeffrey Quinn's seat. Phil Winslow and Steve Carter were unseated.*

Motion by J.M. Lord to take the conceptual consultation out of posted agenda order. Seconded by Mel Low. All in favor.

- Conceptual Consultation Application by Jones & Beach Engineer, Inc. and Tuck Realty Corporation for property owned by Joseph Goss and located at 0 Ocean Boulevard, Tax Map 8, Lots 58 & 59, for a subdivision. **Case #04-2018**

Joseph Coronati, Jones and Beach Engineers, stated that the property has frontage on three roads; Ocean Boulevard, Harbor Road and Locke Road. The property is owned by the Goss Family and is about 16.5 acres. The upland part of the property is located off Harbor Road. There is about 6.5 acres of uplands. (He pointed out the area of uplands on the plan for the Board.) He continued that the proposal is for a subdivision with five lots. Each of the lots meet the contiguous uplands requirements, the total lot size requirements, and is basically a standard conventional subdivision. One of the plans shows that four of the lots would be accessed from the proposed cul-de-sac. The fifth lot would be accessed from Locke Road. All the lots have at least 200ft of frontage because the parcel has frontage on three streets. The main parcel is Lot 59 with Lot 58 abutting. Together, they provided about 1700ft of frontage. He noted that they have presented two different layouts for the proposal. They are looking for feedback from the Board as to which way they would see this going forward. The difference would be a short cul-de-sac or a common drive. It would be the same number of lots. They would all meet the requirements for lot size, uplands and frontage.

Chairman Epperson asked if work has been done for septic systems.

Mr. Coronati explained that test pits have been done around the site for the soils. Suitable sites have been found for septic on all the lots.

There was some discussion on the depth to bedrock.

Attorney Donovan stated that ordinance 202.14 states that access to a lot has to be over its own frontage. He thinks this would eliminate one of these plans, unless it went to the Board of Adjustment for a variance for that provision. He noted that there may be a question whether lot 5, in the first plan, complies with this section. There is a small amount of frontage on Locke Road but does 202.14 mean the frontage that qualifies the lot or the situation that is here?

Attorney Tim Phoenix, representing the applicant, stated that the definition of frontage in the ordinance is “all that continuous side of a lot or tract of land abutting on one side of the street, or proposed street, measured along the street line”. The small 54ft area is frontage. He pointed out that there was a lot in the Hoefle Subdivision that had the same issue. The compliant frontage was along Garland Road and the access frontage was on Marjorie Way.

Attorney Donovan commented the Board had mixed opinions on that. This Board may have a different opinion.

Attorney Phoenix pointed out that there is nothing in the ordinance that says the access has to be over the frontage that provides the compliance.

Chairman Epperson commented that he feels Plan 1 is more viable than Plan 2.

In regards to septic systems, Mr. Coronati stated there is quite a distance from any wetlands. Any septic is going to be at least 75ft to 100ft from any wetlands. There is more than 30,000sf of contiguous upland for a house, drive and septic, which is more than adequate.

Chairman Epperson stated that the Board would probably lean towards pre-treatment systems. He noted that this is a conceptual and the Board is not obligated to listen to abutters but he will allow anyone to address this.

Anne Decker, 271 Harbor Road, stated that she sent a letter from 62 neighbors and abutters who feel that five lots is excessive for that particular property.

Dr. Tom Sherman, 296 Harbor Road, stated this is a wildlife refuge. He noted that there was a flood just this week on the marsh side of the road and it was closed at Locke Road. There are some huge environmental impacts. This is massive in terms of the wildlife impacts.

Mary White, Locke Road, stated that the proposal is using the marsh for a boundary line for a lot. The sea level rise needs to be considered. This might not be appropriate in ten or twenty years. The town needs to think long term.

Phil Winslow, 100 Harbor Road, stated that for three years he sat on the Coastal Risks and Hazards Commission. The Commission put together a proposal for the N.H. Senate that states very specifically that they highly discourage any further development in a flood zone area, or adjacent to the flood zone or to be flood zone area. He commented that a portion of this is in a flood zone. He continued that the recent new chapter in the master plan, Coastal Hazards and

Climate Adaptation, also discourages any type of development in a flood zone. He thinks five lots in this area is torturous.

Conceptual consultation ended.

- d. Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A, to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. **Property is in the Single Residence District. Case #03-2018. Applicant requested this be moved to the February meeting.**

VI. Public Hearings on Proposed Zoning Changes

- Proposed Building Code Amendment No. 2018-02: deletes the town's pool requirements from the building code.

Chairman Epperson read the proposed building code amendment and opened for discussion.

Attorney Donovan explained the Building Inspector's reasons for the proposed amendment.

Motion by Priscilla Jenness to move Proposed Building Code Amendment 2018-02 to the warrant. Seconded by Mel Low. All in favor.

- Proposed Amendment to the building code 2018-01 modification RE: housekeeping septic's in buffer

No issues noted.

Motion by Patricia Losik to move Proposed Zoning Amendment 2018-01 to the warrant. Seconded by Priscilla Jenness. All in favor.

- Proposed Amendment to the Land Development regulations 2018-01 RE: housing buffer

Motion by J.M. Lord to adopt Land Development Proposed Amendment 2018-01. Seconded by Jerry Gittlein. All in favor.

- Proposed Amendment to the Floodplain 2018-01 RE: Freeboard

Chairman Epperson read the proposed amendment to the Floodplain.

There was some discussion on what is considered the lowest floor.

Motion by Patricia Losik to move Proposed Amendment 2018-01 to the warrant. Seconded by J.M. Lord. All in favor.

- Proposed Zoning Amendment No. 2018-03 RE: changes to the Aquifer and Wellhead Protection District.

Vice-Chair Losik spoke in regards to the proposed zoning amendment to the Aquifer and Wellhead Protection District.

Members of the Board noted editorial changes to the draft.

Motion by Mel Low to move Proposed Zoning Amendment 2018-03 to the warrant with the editorial changes as discussed. Seconded by Priscilla Jenness. All in favor.

VII. New Business

Conceptual Consultation Application by Jones & Beach Engineer, Inc. and Tuck Realty Corporation for property owned by Joseph Goss and located at 0 Ocean Boulevard, Tax Map 8, Lots 58 & 59, for a subdivision.
Case #04-2018

(Please see minutes above.)

• Approval of Minutes of December 12, 2017

The following corrections were noted:

- Page 2, under Item a, last sentence should read: **Properties are located in the Single Residence District.**
- Page 3, 7th paragraph from bottom should read: **Chairman Epperson noted that Attorney Donovan's concern was in regard to there being sufficient area on Lot 48 for the 4,000sf DLA requirement.**
- Page 7, 4th paragraph should read: **Peter Crawford, 171 Brackett Road, expressed his concerns on the wording on page 3-19, 4th bullet.**

Motion by Patricia Losik to accept the minutes of December 12, 2017 as amended. Seconded by Priscilla Jenness. All in favor.

VIII. Subcommittee Reports

- None

IX. Pay Escrows

- None

X. Communication/other

- **Planning Board Work Session to be held on Tuesday, January 23rd, for the Airfield Drive proposal.**

Adjournment

Motion by Patricia Losik to adjourn at 10:20 p.m. Seconded by Jerry Gittlein. All in favor.

Respectfully Submitted,
Dyana F. Ledger

RYE PLANNING BOARD

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

Notice of Decision

Applicant: The Housing Partnership

Owner: Rickert Inv Real Estate LLC

Property: 0 Airfield Drive, Tax Map 10, Lot 15-4
Commercial District

Case: Case #07-2017

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by the Housing Partnership for Property located 0 Airfield Drive, Tax Map 10, Lot 15-4 for construction of a residential development consisting of a mixture of multi-family dwellings with a portion being dedicated as Workforce Housing. Property is in the Commercial Zoning District and the Multi-Family Dwelling District Overlay and the Aquifer and Wellhead Protection District.

Date of Decision: Tuesday, January 9, 2018

Decision:

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Conditionally Approved
<input type="checkbox"/>	Denied
<input checked="" type="checkbox"/>	Continued

The Planning Board unanimously voted to continue this application to the February 2018 meeting. There will be a work session on January 23, 2018.

1/11/18
Date


William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Ann & Barbara Bennett

Property: 17 Pine Street, Tax Map 5.2, Lot 56
General Residence and Coastal Overlay District

Case: Case #01-2018

Application: Conditional Use Permit Application by Ann & Barbara Bennett for property located at 17 Pine Street, Tax Map 5.2, Lot 56 to construct an Accessory Dwelling Unit above the garage per Section 506 of the Rye Zoning Ordinance. Property is in the General Residence and Coastal Overlay District. Case #01-2018.

Date of Decision: Tuesday, January 9, 2018

Decision: X Approved
 — Conditionally Approved
 — Denied

1/11/18
Date



William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Harbor Street Limited Partnership

Property: 421 South Road and properties located at
Tax Map 4, Lots 25, 27, 31 & 32
Single Residence and Aquifer and Wellhead Protection Districts

Case: Case #02-2018

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by
Harbor Street Limited Partnership for property owned at 421 South Road
and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot
subdivision. **Property is in the Single Residence and Aquifer and
Wellhead Protection Districts. Case #02-2018.**

Date of Decision: Tuesday, January 9, 2018

Decision: ☐ Approved
☒ Conditionally Approved
☐ Denied

The Board voted to accept Jurisdiction over the application.
The Board voted to approve the Conditional Use Permit with conditions
The Board voted to approve the Major Subdivision with Conditions
The Board voted to approve the Lot Line Adjustment.

See the Attached Conditions:

1. **CONDITIONAL USE PERMIT APPROVAL**
2. **MAJOR SUBDIVISION APPROVAL**

1/11/18
Date


William Epperson, Chairman
Rye Planning Board

CONDITIONS OF APPROVAL

MAJOR SUBDIVISION APPROVAL

1. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the subdivision.
2. The Drainage Study and Drainage Plans and Road Plans shall be reviewed and approved by the planning board engineers who shall certify to the planning board that all requirements of the *Land Development Regulations* have been met.
3. The plans submitted on December 15, 2017 shall be revised as follows:
 - a. The bio-retention pond; its access easement; and the RCP connecting it to the cul-de-sac shall be located on Lot 12.
 - b. The paper street located between Lots 5 and 6 shall be extended to provide access to the open space. The applicant shall relocate the driveway serving Lot 6 onto Lot 6 and adjust the boundaries of Lots 5 and 6 as necessary to accommodate this change. Lot development plans for each lot to be revised accordingly.
 - c. The center of the Stoneleigh Way cul-de-sac shall be part of Lot 5. The center of the Francis Path cul-de-sac shall be part of Lot 11.
 - d. Detail drawings should be added depicting a typical drip edge, rain barrel and rain garden.
 - e. The "Post Development Drainage Information" note on the lot development plans should be revised to reflect the wording of No. 15, *infra*. Wording of this note to be approved by town counsel.
 - f. There shall be a 100 ft. "No Disturb Buffer" on Lot 1 around the vernal pool and a 75 ft. "No Disturb Buffer" on Lot 3 around wetlands, as depicted on the respective Lot Development Plans. This "No Disturb Buffer" should also be depicted on Sheets 5 and 6 of 23. Within the "No Disturb Buffer" no impervious surfaces are permitted, nor is any activity that would result in soil compaction. No live trees or shrubs of any size shall be cut, nor shall there be any disturbance of the natural plant community or disturbance of leaf litter. Deposit of lawn clippings, leaf litter, brush and similar materials is prohibited.

No motor vehicles, snowmobiles, three or four wheelers or similar motorized equipment is permitted. This restriction shall be included in the deeds conveying Lots 1 and 3 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA. Where this restriction is more restrictive than the requirements of the Rye Zoning Ordinance Wetlands Buffer, this restriction shall govern.

- g. There shall be a 100 ft. "Atlantic White Cedar Buffer" on Lots 4 and 5 as depicted on Sheet 5 of 23. This buffer should also be depicted on Sheet 6 of 23 and on the respective Lot Development plans. Within the "Atlantic White Cedar Buffer" No live trees or shrubs of any size shall be cut, nor shall there be any disturbance of the natural plant community or disturbance of leaf litter. Deposit of lawn clippings, leaf litter, brush and similar materials is prohibited. No motor vehicles, snowmobiles, three or four wheelers or similar motorized equipment is permitted. This restriction shall be included in the deeds conveying Lots 4 and 5 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA. Where this restriction is more restrictive than the requirements of the Rye Zoning Ordinance Wetlands Buffer, this restriction shall govern.
- h. There shall be a 50 ft. "No Cut Buffer" along the easterly boundaries of Lots 12 and 13 and along the westerly boundary of Lot 1. The "No Cut Buffer" should be depicted on Sheets 5, 6 and 7 of 23 and on the respective Lot Development Plans. Within the "No Cut Buffer" cutting of live trees greater than 4½ inches in diameter measured at a height of 4½ feet above ground level is prohibited. This restriction shall be included in the deeds conveying Lots 1, 12 and 13 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA.
- i. The evergreen buffer proposal previously offered to Mr. Siener shall be shown on the plans and shall be established as portrayed in the August 17, 2017 application package, provided that Mr. Siener agrees to accept conveyance from the applicant of the ±0.24 acres outside of the 50 ft. right-of-way. If Mr. Siener does not agree to the conveyance, there shall be no disturbance of existing trees beyond the area depicted to be filled for ditch construction on the cross-section drawings, Stations 0+00 to 4+00. If Mr. Siener agrees to the conveyance, a Lot Line Adjustment Application must be submitted and approved, but this may happen after the planning board chair signs the major subdivision plat.
- j. The gravel wetland pond; the bio-retention pond; drainage lines lying within the access easements to said ponds; drainage facilities located in the center of cul-de-sacs; and the

- 36" RCP and plunge pool draining Lot 6 shall be owned, maintained, repaired and replaced (if required) by the HOA. Notes indicating this should be added to the plan.
- k. The plunge pool handling the drainage from Lot 6 shall be relocated so as to not be on the open space tract.
 - l. The plunge pool handling the drainage from Lot 6 and the plunge pool for the bio-retention pond shall have level spreaders.
 - m. The drainage at the intersection of South Road and Francis Path shall be revised as agreed at the January 9, 2018 meeting. 2 catch basins shall be installed and connected, with a pipe outlet and rip rap to the ditch on the on the west side of Woodland Road.
 - n. Tonis Park Island to be retained.
 - o. Within the center of the cul-de-sacs vegetative islands shall be created with rip rap aprons and outlet headwalls.
 - p. Lot 1 Development Plan shall be revised so that the cut line aligns with the telephone pole and the 50 ft. "No Cut Buffer" is portrayed.
 - q. Street names shall be submitted to the building department and approved by the building inspector.
- 4. The revised plans shall be submitted to the town counsel and to the planning board's Technical Review Committee for administrative review of the above changes.
 - 5. A single homeowner's association (HOA) shall be created for the subdivision. Town counsel shall review and approve the *Declaration of Covenants, Conditions and Restrictions* and any other legal instruments required to form the HOA. These shall be recorded with the subdivision plan.
 - 6. An easement deed for the drainage facilities in favor of the Homeowner's Association shall be reviewed and approved by town counsel and recorded with the subdivision plan. The easement shall: (1) require the applicant/HOA to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the applicant or HOA fails to maintain or

repair the facilities, the town, after notice, shall have the right, but not the obligation, to do so. In such case the HOA and the owner of the lot on which the facility is located shall be jointly and severally responsible for reimbursing the town for its expenses. If the town has to commence a legal action to obtain payment, the town shall be entitled to its costs and reasonable attorney's fees.

7. The following additional easements are required. Easement deeds shall be reviewed and approved by town counsel and recorded with the subdivision plan.
 - a. Slope easement granted to town along road sections where the top of the back slope of the ditch lies outside the 50 ft. ROW.
 - b. Sight easements granted to town at intersections with South Rd.
 - c. Flowage easement granted to town allowing road drainage to flow across Lots 4 and 12 in order to be conveyed to the drainage ponds.
8. The above easements should be depicted or noted on the Doucet Easement Plan, which shall be recorded with the subdivision plan.
9. Applicant shall submit a Stormwater Management/BMP Operation and Maintenance Plan for review and approval by the planning board engineer. The HOA shall be responsible for compliance with this plan. Said responsibility to be set forth in the *Declaration of Covenants, Condition and Restrictions*.
10. Surety in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all subdivision improvements, including but not limited to roadway, drainage and improvements to the intersection of Woodland Road.
11. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and Consultant Truslow (for review of conditions).
12. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of subdivision improvements. Amount to be determined by planning board engineer.

13. DES Subdivision and AoT permits shall be obtained.
14. Planning board chair may sign the Subdivision Plan when foregoing conditions Nos. 2-13 have been satisfied.
15. Lot development shall conform to Lot Development Plans submitted to the planning board. Building inspector to be responsible for compliance with this condition.
 - a. Impervious surface not to exceed the area stated in the Post Development Drainage Calculation Table on each Lot Development Plan.
 - b. House, driveway and septic system to be located generally as depicted on the Lot Development Plan.
 - c. Drainage flows to be in same direction as indicated on Lot Development Plan.
 - d. If the building inspector determines that the proposed layout of the house, driveway and septic system or the grading is markedly different than the approved Lot Development Plan, he may request submittal of a new Drainage and Grading Plan per Section 508 of the RZO. The planning board engineer shall review this (at building permit applicant's expense) to determine if the off-lot drainage flow is consistent with the assumptions of the approved subdivision drainage study and does not exceed that depicted on the approved Lot Development Plan.
16. The 57.55 acres of open space shall be conveyed to the Rye Conservation Commission in accordance with the terms of the Settlement Stipulation filed with the Rockingham County Superior Court. The deed shall reserve easements for flowage from the plunge pool draining Lot 6 and from the bio-retention pond.
17. Lot 2 shall be donated to the Rye Conservation Commission in accordance with the terms of the Settlement Stipulation filed with the Rockingham County Superior Court.
18. There shall be no blasting for infrastructure construction or for house construction/lot development. All deeds and the HOA documents shall include this prohibition. The language of the prohibition shall be approved by town counsel.
19. The "No Disturb Buffer", the "Atlantic White Cedar Buffer" and the "No Cut Buffer" shall be marked with metal stakes having a metal emblem acceptable to the Rye Conservation

Commission and spaced not greater than 50 ft. apart. These emblems shall be in place prior to any cutting on a lot.

20. All requirements of the Rye Water District shall be met.
21. "Monumentation shall be installed as required by the *Land Development Regulations*. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector for the subdivision prior to Occupancy Permits being issued for any of the homes within the subdivision. The grading of lots shall not disturb installed monumentation. If lot development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
22. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of clearing work for roadway construction.
23. As-built plans for roadway and drainage shall be submitted to the planning board (3 sets).
24. Per Section 303.7 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT APPROVAL

1. A single homeowner's association (HOA) shall be created for the subdivision.
2. SeptiTech Septic Systems with an activated denitrification system shall be installed on each lot.
3. Maintain a 4 feet separation distance from the bottom of the leach field to the seasonal high water table.
4. Prior to the establishment of a Homeowner's Association (HOA) the applicant shall designate a qualified entity to conduct inspections and maintenance of all SeptiTech systems in the subdivision. After the establishment of a HOA the HOA shall be responsible for designating the qualified entity. Each lot owner shall have an inspection and maintenance agreement in place with the entity designated by the applicant or the successor HOA for the life of the system.
5. For each system, inspections and maintenance monitoring should be conducted at 6 months from the date of DES operational approval and annually thereafter. As part of this, the effluent tank should be sampled for nitrate-nitrogen (nitrate-N) and Total Kjeldahl Nitrogen (TKN) at each inspection.
6. Effluent levels shall contain less than 15 mg/L nitrate-N. A 15 mg/L or greater concentration of nitrate-N will trigger confirmation sampling and may require septic system maintenance, repair or replacement if issues are not resolved.
7. The subdivision shall be designated a "no salt area", with signage placed along the proposed street (to be depicted on the plans) identifying it as a "no salt area".
8. Nitrogen based fertilizers are prohibited.
9. Irrigation systems will be designed to conserve water use through proper design and programming and will be installed according to industry best management practices.

10. All roofed structures shall have a properly sized drip edge infiltration trench in all locations where eaves drain directly to the ground. Where gutters and down spouts are installed they shall drain to rain barrels, properly designed rain gardens or similar collection devices.
11. Prior to the establishment of the Homeowner's Association (HOA) the applicant shall retain a Designated Oversight Manager (DOM) who shall have the following responsibilities:
 - a. Effectively communicating to lot owners the requirements for the installation, maintenance, monitoring, sampling, and reporting associated with the SeptiTech systems.
 - b. Collecting and keeping on file the required inspection and maintenance agreements for each lot. The DOM shall certify to the planning board and building inspector in January of each year that all required agreements are in place.
 - c. Collecting and keeping on file the required inspection reports and providing them within 15 days of receipt to the building inspector, the planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
 - d. Reviewing the inspection reports. If a report indicates that the standard of No. 6 herein has not been met, the DOM shall notify the homeowner to have the system inspected again and a confirmatory sample collected.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, any deficiencies that were identified and the corrective action taken.
 - f. Distribute annually to lot owners a Fact Sheet to address other environmental Best Management Practices that apply to the subdivision such as the proper use of lawn and garden chemicals, best management practices for domestic irrigation systems, prohibited deicing substances, proper disposal of lawn clippings and plant debris, stormwater management and the protection of wetlands and buffer zones.
 - g. Conduct annual inspections to ensure that required buffer zone sign emblems remain in place and that there are no violations within the buffer zones. Notify the HOA, the

planning board and building inspector of any observed violations. Provide an annual report to the planning board and the conservation commission of the results of the inspections in January of each year.

12. The applicant shall provide the name of the DOM and contact information to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. Upon the establishment of a HOA the responsibility of retaining an oversight manager shall transfer to the HOA. The DOM and any changes of the DOM shall be approved by the planning board's Technical Review Committee.
13. Prior to or concurrently with the recording of a subdivision plat, the applicant shall record a *Declaration of Covenants, Conditions and Restrictions* which shall run with the land and which shall apply to all lots. The Declaration shall be reviewed and approved by town counsel and shall include provisions allowing the HOA and the town to enforce. The restrictions and requirements shall include:
 - a. No use of salt on the lots.
 - b. No use of nitrogen based fertilizers.
 - c. Swimming pools must be chemical free.
 - d. Replacement septic systems shall be SeptiTech systems or other approved denitrifying systems.
 - e. No garbage disposals.
 - f. Requirements for drip edges and/or rain barrels/rain gardens or similar collection devices.
 - g. No home occupations that involve the storage or use of regulated substances as defined by 40 D.F.R. 302.
 - h. Double walled oil storage tanks required.

- i. Restrictions applicable to “No Disturb Buffers”, “Atlantic White Cedar Buffers”, and “No-Cut Buffers”.

14. The responsibilities of the HOA shall include:

- a. Assuring that the required inspection and maintenance agreements for the SeptiTech systems are in place.
- b. Assuring that the required inspections of SeptiTech Systems have been done.
- c. Assuring that any required maintenance, repair or replacement of SeptiTech systems has been done.
- d. Monitoring the use of snow removal substances and fertilizers in the subdivision.
- e. Maintenance, repair and replacement (if required) of all drainage facilities owned by the HOA.
- f. Assuring that there are no violations of buffer restrictions.

15. The HOA shall certify annually in January of each year to the planning board (with copies to the building inspector and planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board) that:

- a. All required SeptiTech inspection and maintenance agreements are in place.
- b. All required septic system inspections have been conducted and the reports provided to all required parties.
- c. Any required maintenance, repair or replacement of SeptTech systems has been completed or will be completed by a time certain.
- d. Nitrogen based fertilizers are not being used in the subdivision.
- e. Salt is not being used in the subdivision.
- f. There are no garbage disposals in the subdivision.
- g. Any swimming pools in the subdivision are chemical free.

- h. All drainage basins have been inspected by a qualified professional engineer and maintained in accordance with these conditions and are functioning properly.
 - i. All individual drainage systems are in place and operational.
 - j. There are no violations of buffer restrictions.
- 16. The requirements of Condition No. 11 allow the HOA to assign the responsibilities set forth in Conditions Nos. 14 and 15 to a Designated Oversight Manager (DOM). Notwithstanding this, the HOA has the ultimate responsibility for complying with Conditions Nos. 14 and 15.
- 17. Four monitoring wells will be maintained for future monitoring use including downgradient wells MW-2, MW-3 and MW-4 and an upgradient well selected by the applicant. The remaining monitoring wells will be properly abandoned according to NHDES requirements and the abandonment report submitted to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
- 18. Remaining wells will be monitored by the DOM two times per year for water level, field parameters, nitrate-N and TKN, starting in 2018. Results will be submitted within one month of sampling to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. This monitoring will be continued for five years, and then reviewed by the planning board to determine if additional sampling is required.
- 19. In December following the issuance of the first building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic systems and the annual certification of the HOA and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage facilities. When the escrow is depleted the HOA shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the lots in the subdivision.
- 20. All Conditions of Major Subdivision Approval are incorporated herein by reference.

RYE PLANNING BOARD

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

WAIVERS Notice of Decision

Applicant: Harbor Street Limited Partnership

Property: 421 South Road and properties located at
Tax Map 4, Lots 25, 27, 31 & 32
Single Residence and Aquifer and Wellhead Protection Districts

Case: Case #02-2018

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by
Harbor Street Limited Partnership for property owned at 421 South Road
and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot
subdivision. **Property is in the Single Residence and Aquifer and
Wellhead Protection Districts. Case #02-2018.**

Date of Decision: Tuesday, January 9, 2018

Decision: X Approved

Motion by JM Lord on the waiver request from Section 603.3A for the Designated Leachfield Area for Lot 9 to be 3400 sf where 4000 sf is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by Pat Losik. All in favor.

Motion by Phil Winslow to accept the waiver request from Section 602.2 A. 7 to accept the road length of Stoneleigh Way to be 840' and Frances Path to be 800' where 600' is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by JM Lord. All in favor.

Motion by Steve Carter to accept the waiver request from Section 602.2. A7. a for the road width to be 22 f.t where 24 ft. is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by JM Lord. All in favor.

Motion by Phil Winslow to accept the waiver request from Section 403.1E to waive the topographic and soils plan for the entire lot because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by Mel Low. All in favor.

1/11/18
Date


William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Cellco Partnership d/b/a Verizon Wireless

Owner: Dolores F. Lintz

Property: 120 Brackett Road, Tax Map 22, Lot 95-A
Single Residence District

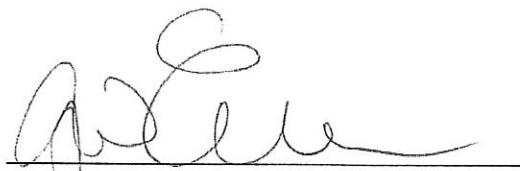
Case: Case #03-2018

Application: Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. Property is in the Single Residence District. Case #03-2018.

Date of Decision: Tuesday, January 9, 2018

Decision: ☐ Approved
☐ Conditionally Approved
☐ Denied
☒ Continued to the February Meeting

1/11/18
Date


William Epperson, Chairman
Rye Planning Board