

TOWN OF RYE - PLANNING BOARD

MEETING

Tuesday, November 13, 2018, 7:00 p.m.

Rye Town Hall

Planning Board Members Present: Chairman Bill Epperson, Vice-Chair Patricia Losik, J.M. Lord, Steve Carter, Alternates Nicole Paul and Katy Sherman.

Others Present: Attorney Michael Donovan and Planning Administrator Kimberly Reed

Members Absent: Jeffrey Quinn, Jerry Gittlein and Selectmen's Rep Priscilla Jenness.

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

Katy Sherman was seated for Jerry Gittlein and Nicole Paul was seated for Jeffrey Quinn.

III. Submittal of Applications for Determination of Completeness:

Action Required (Not a public hearing, if deemed complete the application will move to a public hearing below)

- a. Conditional Use Permit Application for Karl & Andrea Swanson for property located at 320 Brackett Road, Tax Map 19, Lot 137, for an existing detached cottage to be an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance.
Property is in the Single Residence District. Case #22-2018.

Motion by J.M. Lord to declare the application for Case #22-2018 complete. Seconded by Patricia Losik. All in favor.

- b. Minor Three Lot Subdivision by Brian Roper, Trustee of the Lee H. Roper Family Trust of 71 Irish Setter Lane, Guilford, NH, for property owned and located at 85 Brackett Road, Tax Map 22, Lot 67. **Property is in the Single Residence. Case #24-2018.**

Motion by J.M. Lord to declare the application for Case #24-2018 complete. Seconded by Patricia Losik. All in favor.

Motion by Patricia Losik to move the Conditional Use Permit application for Karl and Andrea Swanson, Item C, to Item A, and Item D, for the Minor Subdivision for Brian Roper, Trustee for the Roper Family Trust, to Item B. Seconded by J.M. Lord.

The applicants agreed to the agenda change.

Board Vote: All in favor.

IV. Public Hearings on Applications:

- a. Conditional Use Permit Application for Karl & Andrea Swanson for property located at 320 Brackett Road, Tax Map 19, Lot 137, for an existing detached cottage to be an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance.
Property is in the Single Residence District. Case #22-2018.

Attorney Tim Phoenix, representing the applicants, presented to the Board. He explained that the Swanson purchased the property in 2003. At that time, it contained two structures; the main house in which the owners live and a cottage. The cottage was built in 1930 and that was the original structure on the lot. When the Miles bought the property, they received permission to build the main house. At that time, the cottage was to be converted to storage. Shortly after that, the owner received permission from then building inspector, Bill Jenness, to have people live in the cottage. It was not a rental. The cottage was used for relatives and the like. When the Swansons purchased the property, they had people who helped care for their children live in the cottage. Their children grew up and that was no longer needed so there have been other people living in the cottage. It was discovered more recently, that the cottage didn't comply with the requirements of the building department. The Swansons applied for lawful permission to use the cottage as an Accessory Dwelling Unit (ADU). The problem is that the Rye ADU Ordinance only permits ADU's in attached dwellings, which is unlike many communities and a lot of what is going on in Rye. There are a number of permitted, and not permitted, dwellings in carriage houses, garages, etc. He continued that they went before the Zoning Board and received a variance for the requirement that it be in an attached unit. The variances were granted, no one appealed and time went by. They are lawful variances so the unit does not have to be attached.

Attorney Phoenix stated the public purpose of the ordinance, identified in 506.1, is "a public need for affordable housing for singles, couples, single parents, elderly and new households. There are many underutilized opportunities to meet this need. The income by this use can also assist in affordability to allow people to age in place". Although this is not an attached unit, this has been used for many years as a dwelling unit and now has the variances to allow it to be used as a dwelling unit in a detached dwelling. The Rye Master Plan also notes that the town has a number of in-house apartments and multi-family dwellings, as well as, multiple dwellings on a single-family lot. The performance requirement is listed under 506.3:

- (A) Minimum of 600sf. – The cottage is 620sf. It has a separate cooking area, sink, bathroom and two bedrooms.
- (B) Three person limit – The owners will observe this requirement.
- (C) Two additional parking spaces – There are two parking spaces by the street and two by the house.
- (D) Must look like a single family dwelling on the lot – A variance has been received for this requirement.
- (E) The main house has to comply with the minimum ground floor square footage – The existing home complies.
- (F) Property owners must reside on the premises – This requirement is satisfied.
- (G) Septic system – A new system has been designed by Susan Faretra and approved by NH DES.
- (H) Town Water – confirmed by Rye Water District.
- (I) Sewer permission – Property is on a septic.
- (J-K) One ADU per single family dwelling – This complies.
- (L) The ADU cannot be rented for a term less than three months – This complies.
- (M-N) Interior door – Cannot comply because it is not attached.
- (O-P) No ADU in duplexes or townhouses – This is neither.

Attorney Phoenix noted that they comply with all the requirements of the ADU. If this is granted, it will allow the property to be used as it has been used for the better part of 30 or 40 years.

Chairman Epperson stated that his issue is the waivers that were created. The drawback is there is not a septic on the property that is functioning at the moment. It is approved but has not been installed.

Attorney Phoenix explained that there is a functioning septic system currently. A new septic has been approved. The State has given an extensive period of time to put in the new septic system.

Vice-Chair Losik noted that because the property is in the Parsons Creek Watershed, the building inspector is encouraging that the septic system be installed. She asked if there is a time frame for the new system.

Attorney Phoenix replied that the Swansons are willing to put in the system. They would like some time to have it put in. The owner would be okay with six months to put the system in.

Planning Administrator Reed asked if the house is for sale.

Attorney Phoenix confirmed.

Chairman Epperson asked what will happen if the house sells within the next thirty days. He asked if the new owner is going to comply with living on the property.

Attorney Phoenix stated that the Board can put reasonable conditions on an approval. There can be a condition that says the septic will be installed within six months by whomever is the owner, or it cannot be used as a dwelling unit. Any owner is going to have to comply with the requirements.

Karl Swanson, Applicant, noted that it is disclosed in the listing that there is an issue with the cottage. Everyone who has looked at the house has been given the list of rules that go along with the ADU.

Attorney Donovan commented there is also a recertification requirement that helps track this over time.

Mr. Swanson noted that the people who live in the cottage have been there for eight years. They have no interest in moving and would like to stay. This is a couple who would not have the ability to live in Rye if they did not have this opportunity.

Referring to the septic, Vice-Chair Losik asked if there was one qualifying test pit for the DLA.

Susan Faretra, Faretra Septic Design, explained there was one test pit at the new leachfield. There was also one in front of the cottage.

Vice-Chair Losik commented that she saw one test pit in the DLA and one outside the DLA.

Mrs. Faretra stated that her understanding is that two test pits about 50ft apart are needed.

Vice-Chair Losik explained the Town of Rye leachfield requires test pits located within the DLA, a minimum of two, to reliably indicate the nature of the receiving soils. She pointed out that there are wetlands and it is in the watershed. She asked if there are two in the area.

Mrs. Faretra replied no. If there were, they would be almost top of each other because the leachfield is only 20ft long.

Attorney Donovan stated that the DLA requirement only relates to creating new lots in subdivisions so it is not applicable.

Chairman Epperson asked who will be responsible for the costs of putting the septic in within six months if the property sells in three months.

Attorney Phoenix replied that this would be between the buyers and the Swansons.

Chairman Epperson asked the approximate cost.

Mrs. Faretra replied that the cost will be approximately \$25,000.

Chairman Epperson asked if it is possible to have money put in escrow to make sure the new septic is installed.

Attorney Donovan stated that the conditions and approvals are going to have to apply to the new owner. It will be between the Swansons and the buyer to figure out. Someone will have to pay for it within six months.

Mr. Swanson pointed out that it has been disclosed in the listing for the property that the septic approvals are in place; however, the buyer has to install the system. The listing price reflects that stipulation.

Alternate Sherman stated that when she reviewed this proposal, she noted the wetlands on the design. It should be conditioned upon them putting in the new septic system.

Member Lord agreed. The septic system has to go in and they should have a certain amount of time to get it completed. He commented that this is an existing property and has been around for a long time. This is trying to correct the issues and make it the best situation as possible.

Alternate Paul stated she is fine with the proposal.

Member Carter stated he is fine, as long as they install the new septic system within a certain time frame.

Vice-Chair Losik agreed. She would also like all the performance standards presented with the application to continue to be met. She noted that the Rules and Regulations Committee will look at the requirement for ADU's to be attached during the next round of changes.

Member Lord pointed out that if the house sells in March, the new owner may have a hard time finding an installer for the septic within the conditioned timeframe.

Attorney Phoenix stated this is a good point. Whoever buys the property will have to come back and request an extension.

Chairman Epperson opened to the public for comments. Hearing none, he closed the public hearing at 7:28 p.m.

The Board discussed conditions of approval.

- No further expansion of the ADU;
- Satisfaction of all performance standards as presented with the application; and
- Current septic needs to be replaced with a new system within six (6) months.

Motion by Patricia Losik to take jurisdiction over Case #22-2018. Seconded by J.M. Lord. All in favor.

Motion by Patricia Losik to accept the Conditional Use Permit application for Karl and Andrea Swanson for property located at 320 Brackett Road, Tax Map 19, Lot 137, for an existing detached cottage to be an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance; property is in the Single Residence District; Case #22-2018; subject to the following conditions;

- (1) A septic system as currently designed and approved by NH DES will be installed within six (6) months from the approved date of acceptance;**
- (2) No other accessory dwelling unit will be allowed on this lot per Section 506.3 (K);**
- (3) No expansion of the current accessory dwelling unit; and**
- (4) All the performance standards presented on November 13, 2018 will be satisfied.**

Seconded by J.M. Lord. All in favor.

Motion by Patricia Losik to continue the application of Carey and Giampa Realty Trust to the December meeting. Seconded by Patricia Losik. All in favor.

- b. Minor Three Lot Subdivision by Brian Roper, Trustee of the Lee H. Roper Family Trust of 71 Irish Setter Lane, Guilford, NH, for property owned and located at 85 Brackett Road, Tax Map 22, Lot 67. Property is in the Single Residence District. Case #24-2018.**

Paul Dobberstein, Ambit Engineering, presented to the Board. He noted that the property was owned for many years by Mr. and Mrs. Roper. They have since passed away leaving Brian Roper as the sole trustee of the trust. The proposal is to create a three lot subdivision. He pointed out that the plan shows the front portion of the property. The property extends quite a distance back parallel to Brackett Road. The odd configuration goes back to the mid 1800's when the property was divided between two siblings down a cart path. He continued that there is an existing house on proposed Lot 1. There are man-made wetlands on Lot 2. There is a small wetland in the back of Lot 3. (He pointed out the location of the lots on the plan before the Board. He also pointed out the existing leachfield, which is functioning and is probably a pre-1990 system.) He noted that the house is not occupied. There are no plans to do anything with the house at this time. Three waivers have been requested. The waivers all pertain to surveying and HISS mapping of the entire parcel. The wetlands do not have a buffer to structures required due to their size. There would only be a buffer requirement for septic. There is a large amount of buildable area for dwelling and driveway. All the lots meet the minimum lot size and frontage requirements. With the exception of the three waivers, the lots are conforming. There are a couple of additional permits that will be required. There is a portion along Brackett Road that is owned by the State so DOT driveway permits will be needed. Also, State subdivision approval will be needed from DES.

There was review of test pits 7 and 8 on Lot 3.

Mr. Dobberstein explained that there were better test pits in other portions of the property, as far as soil goes; however, they were not compliant with the Land Development Regulations (LDR), as they were too close to exposed bedrock. (He pointed out the area on the plan where the exposed ledge is located.)

Vice-Chair Losik commented that it would be helpful to see the soil mapping on a C-2 overlay with color.

Mr. Dobberstein agreed.

Vice-Chair Losik noted that the proposed driveway for Lot 2 is going up through the middle of the envelope. She asked if it is possible to move the driveway to the right away from the drainage ditch. Mr. Dobberstein explained that the driveway is not "set in stone". They also have to go to DOT.

Planning Administrator Reed stated that the area is sensitive. There has been a lot of discussion about MS-4 and the LDR. As developments come through, the Board should require stormwater management plans with all subdivisions.

Speaking to Mr. Dobberstein, Chairman Epperson asked if there is a reason more drainage plans were not done.

Mr. Dobberstein replied that a drainage analysis is a costly item. If the Board wants it, they can have that done.

Member Carter asked the size of the lots.

Mr. Dobberstein noted that Lot 1 is approximately 22.5 acres. Lot 2 is just over 2.4 acres and Lot 3 is 1.8 acres.

Chairman Epperson stated that he thinks a stormwater drainage analysis is needed.

The Board continued to review the plans.

Member Lord noted that there appears to be a ridge of ledge and wetlands. There could be an outcropping of ledge within 75ft of the DLA. There is no information on the wetlands or ledge.

Vice-Chair Losik commented that some of that can be looked at on the Geographical Information System (GIS). The GIS will show the soils and outcroppings. Speaking to Mr. Dobberstein, she asked if there is a structure on the abutter's property, Map 22, Lot 68.

Mr. Dobberstein pointed out the area of the structure on the plan.

The Board reviewed the locations of other homes abutting the parcel.

Chairman Epperson asked if the 4k area on Lot 2 could be moved down.

Mr. Dobberstein replied that he does not believe so. It is really just that area that would conform to the 75ft to wetlands.

There was some discussion on conducting a site walk to review the ledge and getting the abutter's permission to view it on their side of the property. The Board also discussed the need for a stormwater drainage analysis, especially for Lots 2 and 3.

Vice-Chair Losik asked if there will be any rock hammering depending upon the location of the house.

Mr. Dobberstein stated that would be left to whoever bought the property.

Vice-Chair Losik stated that the Board would like to have a sense of where the houses would go. If it is thought that rock hammering will happen, there could be some conditions set as to when that could happen.

Mr. Dobberstein agreed.

Member Paul stated that she was under the impression that there were three brothers and each one was getting a parcel.

Mr. Dobberstein confirmed. The three parcels will be sold to divide up the estate.

Referring to Sheet C-2, Member Lord stated that it seems the driveway and the right to pass is in question.

Mr. Dobberstein explained there are two surveys on this property. One is of the Roper property and the other is the subdivision of the adjacent property. In the 1800's, the owner divided the parcel between his two sons with the cart path being the dividing line. There is a plan of the Roper property from 1975, included in the packets, which shows the old path and that is the line that was used. The subdivision plan shows a different line but it was 20 years subsequent. He felt that the earlier plan represented the original location of the cart path better. Of course, now it is all gone. The evidence is no longer available.

Alternate Paul commented there will be an encroachment issue when it sells.

Mr. Dobberstein replied it is possible. Mr. Roper would not have an issue with granting an easement to the neighbor to clear anything up. He noted that in the past, the property extended across Brackett Road as well. When those two properties were sold, it was also the cart path that was the dividing line. Those deeds were very explicit that there was a right to pass and re-pass over the cart path. The deeds for these two parcels are not explicit about that, although, one could argue that there is still the right to use the cart path if the middle is going to be the dividing line.

Chairman Epperson stated that next round the Board will need the stormwater study. The ledge issue has to be resolved. A couple of Board members should go out and take a look.

It was agreed that Mr. Dobberstein will speak with the abutter to obtain permission to take a look at the ledge from his side of the property. Board members who wish to visit the site will schedule a date for the site walk.

Motion by J.M. Lord to accept jurisdiction over Case #24-2018. Seconded by Patricia Losik. All in favor.

Chairman Epperson opened to the public for comments.

Peter Crawford, 171 Brackett Road, stated that the Conservation Commission has not looked at this. He thought the ZBA and Planning Board were requiring applications to go to RCC beforehand.

Vice-Chair Losik stated that a comment from RCC was that they couldn't comment because the project has not gone before the commission. No one has requested a site walk with RCC. If the Planning Board visits the property, it might be a good idea for Conservation to be notified so they can join the site walk.

Mr. Dobberstein asked why Conservation would have jurisdiction over this review.

Chairman Epperson explained that the Planning Board listens to what the Conservation Commission has to say on applications. The Board asks them to weigh-in on virtually any application before the Board. The Commission has the power to give suggestions to make the project better.

Vice-Chair Losik commented that these are not large wetlands and limitations come in to play with just the septic. However, there are wetlands and it is a very sensitive area. It would not be a bad idea to have them review the project.

Motion by J.M. Lord to conduct a site walk at 85 Brackett Road on Thursday, November 29th, 3:00 p.m. Seconded by Steve Carter. All in favor.

Chairman Epperson called for further comments from the public. Hearing none, he closed the public hearing at 8:08 p.m.

Motion by J.M. Lord to continue the application to the December 11th Planning Board meeting. Seconded by Patricia Losik. All in favor.

- c. Major Subdivision by Tuck Realty Corporation for property owned by Joseph Goss and located at 0 Ocean Blvd., Tax Map 8, Lots 58 & 59, for a 5-lot subdivision.
Property is in the Single Residence District. Case #11-2018.

Mike Garrepy, Tuck Realty Corp., spoke to the Board. He noted that at the previous meeting, there were a couple of things the Planning Board wanted addressed. One was the LDR for proposed Lot 59-3, which has been modified and is now compliant. The Board wanted clarification on the amount of fill, which is 700 cubic yards. There were also some questions about the drainage for the road. The raingardens have been modified with some underdrains and liners that address the issue. Sebago has looked at that as well and made a recommendation on the type of liner to use in the ponds. The Board also asked the landscape architect for some photos of what the raingardens would look like, which were submitted to the Board. The last item was looking at Attorney Donovan's potential alternative plan. Before that is discussed, he would like to note that they are feeling pretty confident that they have addressed all the Board's concerns with respect to the submitted plan. Sebago's and Public Work's comments have all been addressed. He is ready for the Board to take action on the plan. He would like to discuss the alternative plan proposed by Attorney Donovan. He noted that he received conflicting information about the road design from DPW before tonight's meeting. He noted that if the road is not going to be supported by Public Works, it might not be worth discussing (alternative plan). He reiterated that he is ready to move his plan to the approval stage of the process. He noted that his plan was submitted in November of 2017 so they are a good year into the plan and discussion. He respectfully requests that the Board take some action this evening on the plan, if that is appropriate.

Chairman Epperson asked if they are still looking at the waivers.

Mr. Garrepy stated they have three waiver requests, which is a reduction from the original submittal. The waiver requests are for the road width, which is required to be 24ft and 20ft around the cul-de-sac is proposed for one-way travel. There is a reduction in the radius of the cul-de-sac itself. There is also a waiver request for the slope. There are comments from Sebago and DPW in support of the waivers with the changes that have been made in the design as the plan has progressed.

Chairman Epperson asked if it could reasonably be expected to get five lots if the waivers were not approved.

Mr. Garrepy confirmed. This was demonstrated in the initial application to the Board. It met all the requirements. He noted that they listened to the Conservation Commission, Planning Board and the neighbors' comments to advance a better plan and that is why the waivers are being requested.

Attorney Donovan noted that the DLA's were not compliant with the original plan. The present plan has different DLA's. It was said that the lots are compliant but he wonders if that is really the case since the DLA's are different.

Mr. Garrepy replied that they never asked for waivers to the DLA's.

Attorney Donovan stated that the DLA's are now in different locations as a result of the additional test pits. If the loop actually enlarges by 8ft., (4ft for inside radius and 4ft for reduced pavement width), will the lots still comply because the DLA will be reduced?

Mr. Garrepy stated that this is a question he is not sure they can answer. He continued that this was asked before and the answer was it could still be built compliant without waivers; however, the building envelope on Lot 59-2 would likely be a little smaller. It would still be buildable and have a compliant DLA. The footprint of the house might be a little smaller.

Chairman Epperson asked if they have a building schematic for where they believe the house will go.

Mr. Garrepy confirmed (Sheet C-5). He continued they may have to adjust the leachfield area and the size of the house. The reason the waivers were asked for is to meet the goals and objectives that had been discussed with the Planning Board and Conservation Commission.

Chairman Epperson stated that his first thought was that this property does not support five lots comfortably. The original plan was creating an environment, not building in the environment, with all the fill that was coming in. At last month's meeting, there was some discussion about whether this could be modified to be four lots or viable lots without the waivers. It would certainly be a lot easier to design if it was less dense.

Mr. Garrepy stated that the plans meet all the town's regulations, except for the waivers being requested to make it a better plan. The plan more than meets the lot requirements; uplands, lot size and frontage. There are good building envelopes for all the homes. He does not know how it doesn't work. The opinion might be that it is too dense but according to the ordinance it is not.

Member Lord commented that he would question whether these are "good" building envelopes. Looking at Lots 59-2 and 59-3, it shows the houses right up against the wetland buffer. It is very obvious that to build the backside of these houses, the contractor will be working in the wetland buffer. Showing the envelope and constructability are very different issues. The issue he is seeing is that those two lots are "squeezed" in.

Vice-Chair Losik noted that Building Inspector Rowell raised this issue in his recent communication. His concern was that as the houses are going to be elevated, it is going to be very difficult to keep the fill from going into the wetland buffer. She continued that the DLA's are pushed right up against the wetlands buffer. In order to protect the buffer, maybe the house should be against the buffer with the DLA's in the front so it is further away from these precious resources.

Mr. Garrepy noted that from the beginning of this process, they have pledged to do pre-treatment systems, which are not required by the regulations.

Vice-Chair Losik stated they are talking about septic systems which are going to be inundated whether or not there is pre-treatment, given the storm surges and weather. There is a reason why Dr. Rossen brought up the replacement requirement of these systems in 30 years, maybe less.

Mr. Garrepy stated they are outside all the buffers. The buffers are there for a reason. They are respecting all of the buffers. Are these going to be the final homes? No. Attorney Donovan's suggested condition is appropriate that if something changes significantly in the building design it comes back through the process. He noted that it has to meet all the building codes and will be inspected by the town's building department. He noted that they are committed to any condition of approval that is felt to be appropriate to protect the resource. He pointed out that they have also volunteered deed restrictions on all the sensitive areas as well. He thinks they have gone above and beyond what is required by the regulations with the plan proposal. He stated they would consider doing the alternative with five lots; however, he does not want to go down that path if they are going to be going through this process for another six months.

Attorney Donovan commented that it was said that this plan meets all the requirements of the LDR. He asked about 606.1, standards for preservation of natural features in the environment; "The developer will take suitable steps as required by the Planning Board to preserve and protect the natural existing features". There is also a requirement in Section 606.5, when land developments are adjacent to historic places, (Goss Farm in this case), the Planning Board should require certain setbacks. He continued that the advantage of the alternative plan he proposed, which involves the reduction of one lot, is that it does open up more of the meadow to non-development.

Mr. Garrepy stated this was brought up in the past. It is important to note that everything can't be preserved and protected. There are a lot of natural and historic features on this property that are trying to be balanced. For instance, there are a lot of stone walls. Those are being proposed to remain on site as they exist, except for modifications for the cutting of driveways and road. There are a lot of significant trees on the property, which are being proposed to be maintained; along the stone walls, the tidal marsh, abutting properties and field. He noted that they are fine with a meadow management plan as part of the conditions of approval. He pointed out that the meadow is only there because the Goss Family mowed and maintained it every year. The other natural features that are more permanent are the ones that they are protecting to a greater degree.

Chairman Epperson commented that the reduction of one lot is obviously a financial consideration.

Mr. Garrepy replied yes.

Chairman Epperson stated that in looking at what is happening in Rye and the cost of lots, he thinks reducing the proposal by one lot could be done.

Attorney Tim Phoenix, representing Tuck Realty, stated that it can be done but with respect, they don't think it has to be done. The proposal meets the regulations. It also effects the Goss Family financially. He does not see any regulation that is not met. They don't need any variances. No one has said what the existing features are that are not being protected. He is assuming it is the meadow. However, the meadow is only there because Mr. Goss mows it. It would not be there if he didn't. He continued that he is not sure he understands the comment about historic resources. He does not see how these houses, at this distance, affects the Goss Farm at all.

Attorney Donovan read from the regulations:

When land developments are adjacent to historic places, the Planning Board shall require setbacks or other land development limitations necessary to preserve the historic resource.

Mr. Garrepy stated that he asked Joe and Patrick (from Jones and Beach Engineering) to put together a plan that met all the town's requirements. He wants to go with the number of lots that works with the regulations and ordinances. He commented that he tries to follow the rules. He is not prepared to walk out without five. They are not present to talk about reducing it to four.

Attorney Phoenix asked if the Board is interested in exploring the alternative plan in response to Attorney Donovan's suggested plan. He noted that it is a little different than Attorney Donovan's because his was less one lot. The primary negative to the plan is the hammerhead. Dennis McCarthy (Public Works Director) did not like the half hammerhead. There are ways around it. It could be filled in with a circle or loop.

Mr. Garrepy reviewed the alternative plan for the Board.

Attorney Donovan commented that the advantage of his proposal is that it opens up the view of the meadow.

Mr. Garrepy stated that the plan could be modified even further, while maintaining the five lots, by moving a house away from the tidal marsh to preserve more of the meadow. If they are going to go down this road, they want to come back in December or January with a Board that supports it so they can be ready for spring.

Chairman Epperson noted that the Planning Board's charter is to work with applicants towards a solution within the bounds of the town's regulations. However, Attorney Donovan's proposal is a viable plan. It is a sensitive piece of property. There are wetland issues, flooding and marsh issues. He asked the thoughts of the Board.

Alternate Paul stated that she struggles between balancing the owner's right to build and meeting the town's requirements, with the fact that there is a ton of marshland and that area floods. Is this just creating a potential mess? She reiterated that she is really struggling because of the property's location and wetlands. If it didn't have those issues, it would be less of an issue for development.

Chairman Epperson asked if she would support four or five lots.

Alternate Paul stated that she would prefer four lots. She noted that she does not love the design of the road on the second plan; however, it moves the houses further away from the wetlands.

Member Carter stated that he has preferred four lots all along. He likes Attorney Donovan's plan and pulling the houses back. There may be a problem with pulling the house on the end back because it is running up against the 100ft wetland buffer. This configuration is less intrusive on the land and space. It is preferable because more of the meadow can be preserved.

Vice-Chair Losik stated that she prefers four lots for a lot of different reasons. With the five lots, it is going to be hard to construct on the lot just because they are so close to the buffers. She sees what has been done with the assets on each lot. The assets are wedged into the space and do not fit artfully. It is not a fit with the requirements of the LDR, the standards of the natural features in the environment. The drainage study counts on the asset of the wetlands to get used for more drainage. In relation to 606.1, she sees an adverse position being taken in protecting the water bodies and wetlands. She does not think a

great plan has been constructed when considering the resource. It is not a plan that gives the abutters or the Planning Board comfort. She continued that she would love to see the four lot design because the DLA's will be pulled back away from the sensitive areas. Everything that is done is right on the edge of the buffers.

Attorney Phoenix noted that the rules say this is allowed.

Vice-Chair Losik stated she is not objecting to the rules. She is objecting to the statements; "We've kept the stone walls. We've kept these attributes but we are not really keeping all the attributes that are possible." When this is developed, the drainage is continuing to use the wetlands and marsh as a repository for this development.

Mr. Garrepy replied yes, after it is treated.

Joe Coronati, Jones and Beach, noted that the water has to go back into the wetlands. The natural water course is to the wetlands.

Vice-Chair Losik commented that reducing from five to four is reducing by 20%. It is reducing the impact to a valuable natural resource.

Alternate Sherman stated that this is not protecting and preserving the natural environment. That regulation is not being followed with the plan with five homes. One of her concerns is the leachfields being backed up to the buffers. She would support four lots more than five. Flooding and sea-level rise are also concerning with putting five homes on this delicate property.

Mr. Garrepy stated that they are proposing pre-treatment systems. A very small portion of the 4,000sf is going to be utilized for the leachfields. They are not "pushing the boundaries". They are not going right up against the buffers. He commented they are protecting and preserving the streams and tidal marsh.

Vice-Chair Losik pointed out that Dr. Rossen laid out the argument that more of it is going to be used as these systems change. Rye is more stringent than the State standards, particularly in these resources.

Mr. Garrepy noted that there will be a point in time when the systems will need to be replaced. There are ample areas to relocate in-kind or somewhere else in that 4,000sf area. New technologies are being advanced all the time in septic systems. There may be something even better in the future that would be able to withstand storm surge. He commented that they have done their best to address the possible future. These houses and lots will be marketable because they are not worried about sea-level rise in this location. The study proved out that the development's elevations are reasonable and safe. The homes will still be above the predicted sea-level rise in 80 years.

Member Lord stated that he has to agree with the developer. He laid this out for five lots. The waivers are because of a hardship. The hardship is because of the way the lots are laid out. It can easily be laid out with a much less impactful subdivision on this property but it would probably wouldn't be five house lots. It would've been four; however, they are here for five. He thinks the way it is laid out is not really buildable. The houses are "crammed" in. It doesn't pass the "straight-face test".

Attorney Donovan stated the question keeps coming back to 606.1; "The developer shall take suitable steps as required by the Planning Board". The suitable step may be the four lots similar to what he sketched out. He thinks 606.1 gives the Board the authority to do that if they think it is necessary. Referring to 606.2, he stated they need to take a closer look at the impact of storm surge data and whether or not it complies.

Attorney Phoenix stated that he would ask that the Board to clarify how they do not meet 606.1 and specify the natural features they feel are being violated. He would ask the same for 606.2. What he has heard is; "Yes, you meet it but we want you to make it better". That is not fair to a developer who meets the requirements. He asked the Board if they are interested in the shorter cul-de-sac plan. He noted that they are willing to exam this and come back with something next month to address the comments of the Board.

Chairman Epperson stated that he would like the applicant to consider what the Board really wants, which is four lots. The property is sensitive with the wetlands and environment. It is a special piece of property.

Mr. Garrepy stated that they are not interested in considering four lots. If redesigning it, with a reconfigured road with five lots, is not something the Board would entertain then he would ask the Board to take action tonight. He reiterated that they have spent a lot of time, over a year, working with the Board, Conservation Commission and Public Works.

Chairman Epperson opened to the public for comments.

Tom Sherman, 296 Harbor Road, stated he has a number of concerns about the property but he also respects the right of an owner to develop. This is a special property and has a certain amount of impact downstream. He pointed out that this will flood. It already floods and it all moves down into the harbor. It was said that 700 cubic yards of fill is being brought in. Fill is not approved, not tested and no one knows where it comes from. He would ask the Board to make sure the fill is tested for dioxane and PFAS. He pointed out that at the last meeting there was discussion about a 3D design and he has not seen it.

Chairman Epperson commented this was asked for a couple of months ago.

Mr. Garrepy stated that they presented superimposed renderings taken from different vantage points. This is part of the file.

Pat Spaulding, 441 Brackett Road, asked if the people who live here are going to be able to get insurance as this is on a floodplain. She asked how the houses are not vulnerable to the tides and the proximity to the wetlands. She does not think this area is secure. It is her understanding that Rye has the potential for growing new marshes if there is not much development close to them. It is important to let the marshes have its way. Building stops the natural flow of things. The development is not going to serve the town in any way.

Anne Decker, Harbor Road, commented that when she was talking about 3D, she was thinking about a 3D model. She would like to see the elevations of the homes. The renderings really weren't very good at showing that. She would like to know who is going to be building the homes and what they would look like on the hills and in the valleys. (She submitted photos of the marsh taken from her backyard recently.) She commented that she would be content with three homes on Harbor Road and one on Locke.

Peter Crawford, 171 Brackett Road, commented that he agrees with the Board and public. He would add that it looks like there may be a violation of 602.1 A (2) and (3), "lot shape shall not be grossly irregular". The lot on Locke Road is grossly irregular. In order to get that lot, a bunch of wetlands had to be incorporated to get the frontage on Ocean Boulevard. It also violates, "lot lines shall not be gerrymandered to obtain required frontage, yard space or lot area". Those would be additional reasons to deny this.

Mr. Garrepy noted that this section applies to lots that are being created that are less than 3 acres in size. That section is not applicable to that lot.

Bev Giblin, 120 Locke Road, stated that most of the abutters would like to see two houses here maybe or three at the most. The abutters all feel very strongly that way but could live with four. She would appeal to the applicant to consider going to four just in the interest of being a good neighbor. She understands it is a profit and loss situation; however, there comes a point when greed takes on and enough is enough. She is concerned about the “Stonewall Jackson Stance” of it being five. She asks that four be considered.

Michael Meyers, Locke Road, noted that the triangle of Locke Road, Harbor Road, and Ocean Boulevard has five houses right now. Doubling that seems to be far too much in a sensitive area.

Mary Ellen Fennessey, 294 Harbor Road, noted that the changing tide is here. Global warming is here. The tide has risen. The Coastal Risk and Hazards Report suggests that wetlands not be developed. She asked if there is any way the Board can stipulate the square footage of the houses. She asked if there can be more discussion about the homes being put on slabs.

Karen Finnigan, 160 South Road, asked if this is over if everyone agrees on four homes tonight.

Chairman Epperson explained that in the unlikely event the developer agrees to four lots, they would have to redesign it. They would come back before the Board and the hurdles would be significantly easier to overcome. Right now, the developer has a position and the Board has a position. The Board has to act on that.

Joseph Goss, property owner, stated the town has rules and regulations for everybody to follow. Mr. Garrepy has followed those rules and regulations. This Board is setting rules and regulations beyond what has been voted on by the town. He does not think they have that authority. They have to go by the rules of this town. The job of this Board is to see that those rules are met. The Board is asking to exceed the rules, which they have no authority to do.

Planning Administrator Reed noted for the record that there were a lot of emails that were received over the last 72 hours. She put together a list and there are copies of the emails available. The emails will become part of the record.

Chairman Epperson called for a recess to consult with counsel at 9:25 p.m.

Motion by J.M. Lord to recess for consultation with counsel. Seconded by Patricia Losik. All in favor.

Chairman Epperson reconvened the meeting at 9:43 p.m. and asked for further comments from the public. Hearing none, he closed the public hearing. He asked Attorney Phoenix to speak to the waiver requests.

Attorney Donovan noted that the Board would like to hear about the hardships with regard to each waiver.

Attorney Phoenix referred to Sebago’s letter of November 6th and noted that the Board’s hired expert has supported each of the waiver requests. He also referred to his letter of September 28th where he exchanged correspondence with Attorney Donovan about the nature of the test to get waivers granted. Attorney Donovan was of the opinion that the test for hardship to variances applies. He commented that he respectfully disagrees. The Zoning Board requirement has three prongs for hardship;

- Special conditions of the property that distinguish it from other properties in the area;

- Whether there is a fair and substantial relationship between the public purposes of the ordinance (not a regulation) and its application in this instance; and
- Whether the proposed use is reasonable.

The hardship test under the variance requirements is based on something to do with the land. Whereas, LDR 900 says; "The Planning Board may waive any requirement of these regulations for which waiver is not specifically provided in such cases where, in the opinion of at least four members present and voting, strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations". He continued that the original proposal met all the regulations. There were comments on the site walks. Comments from the Board members and Conservation Commission that changes could be made which would require less fill, less pavement and be an overall better project and also, at lesser expense. The expense alone is a hardship to the applicant. It is less of a hardship if less money is spent. It is a better project environmentally. It is a better project all around. This meets the unnecessary hardship to the applicant for all three of the waivers, which are quite minor. He commented that he has not heard any board member say that they disagree that the waivers make a better project.

Attorney Phoenix stated that even if the hardship that Attorney Donovan thinks applies was considered, (the variance test), they are satisfied.

- Special conditions of the property distinguish it from other properties in the area. He noted that there is the topography, the upland, and the location of where the new road will be located. The construction of the new road without the waivers will require it to be significantly elevated with significant retaining walls, additional fill, more pavement and increased cost. That clearly creates special conditions.
- Is there a fair and substantial relationship between the public purposes of the regulations and the specific application of that provision to this property? The road location and pavement width for the purpose of travel safety, uniformity of roads within the town, runoff, reasonable care, maintenance and aesthetics are all met with a road with less fill, lesser grade, narrower pavement width and less pavement width around the loop. There is no fair and substantial relationship between the purposes of those regulations for those requirements and the application here.
- The proposed use is a reasonable one. The subdivision is permitted whether it is four lots or five. The subdivision is a residential use in a residential zone. That is reasonable.
- The waivers are not contrary to the spirit and intent of the ordinance. Section 104 of the LDR is intended to promote the health, safety, general welfare and prosperity in a manner consistent with the authority granted to planning and zoning enabled by the State of New Hampshire. Each of these waivers requested were generated from comments by board members, Conservation Commission members and members of the public on the site walk. Everyone agrees, especially the board's review engineer, that the waivers make a better project both environmentally, financially and aesthetically. Granting the waivers would in no way be contrary to the spirit and intent of the ordinance.

He continued that he does not know it was necessary to go into all that detail. His experience is that planning board's generally look at whether it makes sense. Is this a reasonable request? He thinks without question the waiver requests are reasonable.

The Board reviewed the waivers being requested:

- 602.2 A-7b – Dead-end streets.
- 602.2 B-2 – Grade
- 602.2 B-1b – 3 to 1 side slopes where 4 to 1 is required.

Attorney Phoenix noted that these are outlined in Jones and Beach's November 1st letter and Sebago's November 6th letter.

Referring to 602.2 A-7b, Dead-end Streets, Chairman Epperson noted that this is regarding the teardrop loop. The vote has to be to either grant the waiver or deny the waiver based on the fact that the Board does not think there is a hardship here. (He read from Section 602.2 A-7b, regarding Dead-end Streets.) Inside radius of the teardrop shall be a minimum of 40ft. Pavement width minimum shall be 24ft. The applicant is requesting a waiver to reduce the inside radius to 36ft and to provide a one-way 20ft wide roadway cul-de-sac. He stated that his recommendation would be to deny this particular waiver.

Member Lord agreed. In looking at Sebago Technic's response, they said they would support it but it is based upon the final decision of the Public Works, Fire Chief and Planning Board. He thinks they are looking at this from an engineering standpoint and perhaps not so much a bigger picture of how this affects the entire parcel and the impact it has. It is not so much a hardship on the land, as much as it is on the layout that was given to the Board. He would be inclined to deny this as well.

Alternate Paul concurred with Member Lord.

Motion by J.M. Lord to deny the waiver for Section 602.2 A-7b, Dead-end Streets. Seconded by Patricia Losik. All in favor.

Mr. Garrepy stated that he did not hear in the motion the reason for the denial of the waiver.

Chairman Epperson replied that the Board does not think there is a hardship.

Attorney Phoenix asked the reason they think there is no hardship.

Chairman Epperson stated that Attorney Donovan will draft a notice of decision with the specifics.

Attorney Donovan noted that it will be drafted for approval at the next meeting.

Attorney Phoenix stated that they are owed an explanation from the Planning Board as to why it does not meet the tests, not from Attorney Donovan.

Mr. Garrepy stated that if there is a denial tonight that impacts the application negatively, he would like to know why this evening.

Attorney Phoenix explained that typically under Robert's Rules, there is a motion and a second. The motion explains the basis of the motion, the second chimes in and then others if they have anything to say. To just say it is denied, leaves no ability to address it.

Attorney Donovan stated that the notice of decision, which the Board will review at the next meeting, will lay out the rationale and there will be a thorough discussion at that point. It is going to be drafted for the Board's review next month. This is not a final decision tonight.

Attorney Phoenix reiterated that it is only fair that the Planning Board say why they are denying the variance, not their legal counsel.

Mr. Garrepy noted that they have not talked about the statutory time clock. This is well past the sixty-five (65) day time clock. Tonight, is the night that he would like to know the reasons for the denial, not a month from now.

Attorney Donovan stated that his recommendation is that the Board continue this until next month and make a decision then.

Attorney Phoenix asked on what basis. There is usually a reason for continuing.

Attorney Donovan pointed out that a better explanation is wanted from the applicant.

Attorney Phoenix stated that he is amazed that he is hearing this. The Board is saying “no”, with very little discussion, and then they want to wait a month to give the reasons for saying “no”. If the reasons for saying “no” aren’t known today, then there is no right to say “no”.

Chairman Epperson stated that there was already deliberation from the Board about this application. This can be made a whole lot easier by acquiescing to four lots. He thinks they could come down to an agreement pretty quickly. However, the applicant is steadfast on five lots. The Board does not think it’s the best use of the property and that is the way it works. This has been done before. The Board has denied an application and had a NOD written up, discussed with the Board and given to the applicant with the chips falling where they may. The last time something went to mediation and it came out with what was felt was an equitable solution to a very difficult situation.

Attorney Phoenix commented this is his only chance to create a record. He asked if the Board is denying the waiver request because they won’t acquiesce to four lots.

Attorney Donovan stated that his recommendation is to stop this discussion right now and continue to next month.

Attorney Phoenix respectfully requested the reasons it is being continued to next month.

Attorney Donovan replied so the Board can deliberate on the waiver requests.

Mr. Garrepy stated the last time the meeting was continued was because the Board wanted their engineer and Public Works Director present. They are not here tonight. The meeting is going to be continued to yet another month, not even knowing if next month there will be some kind of result. He noted that it is frustrating because they have been trying to work with the Board and the town. The sixty-five day clock has long since expired. He would like to know the reasons for the Board’s decision tonight.

Vice-Chair Losik proposed that they continue this to next month. A Planning Board Member just spoke to his reasons why the waiver did not meet the hardship and it wasn’t satisfactory. The Board clearly as a group needs time. Next month, this can be continued. She thinks that his opinion (Member Lord’s) was somewhat disrespected and that is not where they should go.

Motion by Patricia Losik to continue to next month. Seconded by Nicole Paul. All in favor.

Attorney Donovan noted that the public hearing is closed. The chair has closed the public hearing. The Board will deliberate next month and the public hearing is closed.

- d. Minor Site Development Plan for Carey & Giampa Realty Trust for property owned and located at 655 Wallis Road, Tax Map 16, Lot 22, for expansion of commercial space per LDR Section 201.2 due to installation of a new septic system where trees will be cut and parking plans changed. **Property is in the Single Residence District. Case #19-2018.**
Continued to the December meeting.

V. New Business

- Conceptual Consultation by Anna Scognamiglio for Christina Scognamiglio Trust for property owned and located at 170 Brackett Road, Tax Map 22, Lot 102, for a two-lot subdivision.
Property is in the Single Residence District. Case #24-2018.

John Chagnon, Ambit Engineering, presented the conceptual for a property located on Brackett Road. Currently, the parcel is 3.65 acres. The proposal is to divide it into two lots. Lot B will be 66,000sf and Lot A 93,000sf. He noted that there is a drainage ditch that runs through the property. There is conservation land to the southeast. Mr. Peter Crawford is the abutter right across the street. There is also an old lane that services the property in the back. He continued there is some issue with septic system placement with regard to the town's 4k requirement. The packets contain a subdivision plan showing the 4k area as being 10ft from the property line, where it should be 20ft. He continued that Attorney Phoenix applied for relief from the Zoning Board to deal with those issues but the building inspector said to come to the Planning Board first. He noted that they are looking for input from the Planning Board.

Attorney Donovan stated this is the same proposal that went to court in 1995 and was denied. He noted that he and Attorney Phoenix exchanged extensive emails about this back in March. The plan that Attorney Phoenix provide back in March was the exact plan that needed waivers from the Planning Board in 1994. Those waivers were denied. He believes it was waivers for the 24" to seasonal highwater table for the DLA because the lot had been filled to create the 24". The Planning Board denied the waivers and it went to court. The court sustained the Planning Board's decision. This raises several questions. He would recommend that the Board never take jurisdiction over it because it is the same plan that was denied. The same waivers are being requested that were denied in 1994 and sustained by the court.

Mr. Chagnon explained that this was brought before the Planning Board twice in 1993. The Board granted the waiver to seasonal highwater table but not for less than 4,000sf for the leaching area. It was then appealed and sent back to the Board, at which time the Board denied both waivers. He noted this was a long time ago. That was in 1993/1995 and 20 years has passed. The soil now takes on the properties. In that amount of time, the water table has reestablished itself. He stated that they knew this issue was going to come up. They talked to the State about how much time has to pass for the soil to become natural again so it can be tested again to determine the water table. They feel like this deserves a fresh look.

Chairman Epperson asked if there are new test pits.

Mr. Chagnon confirmed.

Referring to the statement that it "takes on the properties", Vice-Chair Losik asked if he means it takes on the characteristics.

Mr. Chagnon explained if there was a low water table and the top soil was scraped off with gravel being put down to make the surface raised to be 24", it does not allow for the fact that over time that water table might rise up into soil that was placed there. A 20 year period allows for those natural fluctuations.

Attorney Phoenix stated that DES's opinion is that enough time has passed to essentially consider that it was always there.

Attorney Donovan noted that this is a preliminary consultation and nothing is binding.

Attorney Phoenix asked his reasoning.

Attorney Donovan explained that this case was decided and won by the court. What good is a court decision if someone can come around and do it again because maybe there isn't someone who would remember it?

Attorney Phoenix stated the rationale is that a lot of time has passed and things have changed. The land has changed. The position of DES has changed.

Attorney Donovan stated the rationale is a legal one. The principal of the finality when an application has been decided, unless there is a significant change of circumstances.

Attorney Phoenix commented this is what they are saying has happened.

Chairman Epperson asked how significant changes are demonstrated.

Mr. Chagnon explained the demonstration is the passage of time. There are plenty of places where the land has been farmed and the topography smoothed out. At some point, it becomes natural land. The State is saying that over 20 years time, the soil is going to take on the properties and someone will be able to tell where the seasonal highwater table is in the soil. The other thing that has changed a lot in 20 years is the septic technology. The case in the past talked about a leachfield, which was state-of-the-art at the time, somewhere in the area of 720sf. Now, state-of-the-art is 100sf. That system will meet all the setbacks. It will also meet the 2ft.

The Board reviewed the conceptual. There was discussion on variances that may be needed.

Chairman Epperson stated that he read the minutes from 1993/1995. There were pretty compelling reasons why this was denied. He commented that he is not interested in going forward with this proposal.

Alternate Paul stated that she would want some kind of evidence that the Board can go forward. She agrees with Attorney Donovan that this has been heard and decided. There has to be something presented that is compelling so the Board can say it can be heard. Right now, she feels they can't.

Member Carter agreed.

Vice-Chair Losik agreed.

Attorney Donovan commented the Board may want a peer review of the soils.

Alternate Sherman stated she agrees with Alternate Paul and Attorney Donovan. Even if the soils have changed, is there room with all the setbacks? It would have to be the soils and the setbacks.

Member Lord stated it was probably a poor lot then and is still a poor lot today, in looking at the DLA and the setbacks. He would not take jurisdiction over it. The decision was made and they should stand by it.

Chairman Epperson stated that unless some compelling evidence can be presented that this is different than what it was in the 90's, the Board will pass.

Attorney Phoenix stated this is what they needed to hear. It was not worth spending a lot of time and money on this before getting comments from the Board.

- Voluntary lot merger for 9 Cable Road, Tax Map 84, Lots 76-1 and 76-2.

Motion by Patricia Losik to approve the voluntary lot merger for 9 Cable Road, Tax Map 84, Lots 76-1 and 76-2. Seconded by J.M. Lord. All in favor.

VI. Subcommittees

- **Long Range Planning**

Member Carter noted that the Long Range Planning Committee has met a couple of times and will be meeting again on November 15th. Julie LaBranche, RPC, is looking at suggestions from the Committee and will be working towards updating the regulations.

- **Rules and Regs**

Vice-Chair Losik noted there are several items in the Planning Board's packets for discussion and a vote to hopefully move them to a public hearing in December.

The Board reviewed the proposed amendments:

- **2019-02: Frontage**
- **2019-03: Access to lots**
- **2019-04: Yard requirements for a corner lot**
- **2019-06: Modifies the language "main" to "principal"**
- **2019-07: Coverage calculations to be consistent**
- **2019-08: Generators**
The Board agreed to table proposed amendment 2019-08 until the Rules and Regs Committee meets again to work on it some more.
- Two proposals (**Petition #1 and Petition #2**) from the Selectmen to amend Rye's Zoning Ordinance, **Section 505.3**, to include two parcels in the Wireless Telecommunications Overlay District; 0 Port Way, Tax Map 23, Lot 1, and the Condon Parcel, Tax Map 23, Lot 2. Verizon has indicated that each of these parcels are technically a feasible alternative to the proposal at 120 Brackett Road.

The Board agreed to hold a special meeting on December 4th to hold a public hearing on the proposed zoning amendments.

Motion by Steve Carter to move proposed amendments 2019-02, 2019-03, 2019-04, 2019-06, 2019-07 and the two amendments regarding the Wireless Telecommunications Overlay District, to a public hearing on December 4, 2018. Seconded by Nicole Paul. All in favor.

VII. Pay Escrows

Motion by J.M. Lord to pay the following escrows; (1) Attorney Donovan for the Verizon Wireless Application, 120 Brackett Road, in the amount of \$3200.00; (2) Attorney Donovan for the Tuck Realty/Goss Property Application in the amount of \$672.26; (3) Sebago Technics in the amount of \$1,153.00; (4) Sebago in the amount of \$1,432.13; (5) Attorney Donovan for The Housing Partnership in the amount of \$344.75; and (6) Sebago Technics for construction monitoring for 420 South Road in the amount of \$2,853.29. Seconded by Steve Carter. All in favor.

VIII. Other Business

Chairman Epperson noted that the Selectmen are issuing a letter of support for the charette that is going to be done by Plan New Hampshire. The Planning Board is also being asked for their support. His recommendation is that anyone who would like to support the charette should sign the Selectmen's letter of support as a co-sponsor. The alternative is for the Planning Board to prepare a letter of support to be sent along with the Selectmen's letter. He will let the members know when the Selectmen's letter is ready and whoever would like to sign may do so.

IX. Approval of Minutes

- **September 27, 2018**
- **October 9, 2018**

Minutes tabled to the next meeting.

X. Communication

- **None**

Adjournment

Motion by Bill Epperson to adjourn at 11:01 p.m. Seconded by Patricia Losik. All in favor.

**All corresponding files and documents may be viewed in the Building Department, Rye Town Hall.*

Respectfully Submitted,
Dyana F. Ledger

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Richard Beauchesne & Patricia Ann Healy
46 Mountain Rd, Camden, ME

Owner: Richard Beauchesne & Patricia Ann Healy

Property: 9 Cable Road, Tax Map 8.4, Lots 76-1 and 76-2
Single Residence District

Application: Voluntary Lot Merger 9 Cable Road Tax Map 84, Lots 76-1 and 76-2

Date of Decision: Tuesday November 13, 2018

Decision: x Approved
 Conditionally Approved
 Continued

11/15/18
Date



William Epperson, Chairman
Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant/Owner: Brian Roper, Trustee of the Lee H. Roper Family Trust
Of 71 Irish Setter Lane, Guilford NH

Property: 85 Brackett Road Tax Map 22, Lot 67
Single Residence

Case: Case #24-2018

Application: Minor Three Lot Subdivision by Brian Roper, Trustee of the Lee H. Roper Family Trust of 71 Irish Setter Lane, Guilford, NH for property owned and located at 85 Brackett Road, Tax Map 22, Lot 67. Property in in the Single Residence District. Case #24-2018

Date of Decision: Tuesday November 13, 2018

Decision: _____ Approved
_____ Conditionally Approved
_____ Denied
_____ X Continued

Motion by JM Lord to take Jurisdiction, seconded by Pat Losik and all in favor to take Jurisdiction over the application.

Motion by JM Lord, seconded by Steve Carter to hold a site walk on Thursday, November 29, 2018 at 3pm, all in favor.

Motion by JM Lord to continue this application to the December 11, 2018 meeting, seconded by Pat Losik, all in favor.

11/15/18
Date



William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant/Owner: Karl & Andrea Swanson

Property: 320 Brackett Road Tax Map 19, Lot 137
Single Residence

Case: Case #22-2018

Application: Conditional Use Permit Application for Karl & Andrea Swanson for property located at 320 Brackett Road Tax Map 19, Lot 137 for an existing detached cottage to be an Accessory Dwelling Unit per Section 506 of the Rye Zoning Ordinance. Property is in the Single Residence District. Case #22-2018.

Date of Decision: Tuesday November 13, 2018

Decision:

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

Motion by Pat Losik, seconded by JM Lord to take Jurisdiction over the application, the board voted unanimously to take jurisdiction.

Motion by Pat Losik to conditionally approve the application, seconded by JM Lord and unanimously approved with the following conditions:

- 1. The new septic system is to be installed within 6 months of this approval;*
- 2. There be no other Accessory Dwelling Units on this property;*
- 3. There be no further expansion of the ADU; and*
- 4. The performance standards of the ADU per Rye Zoning Ordinance be adhered to.*

11/15/18
Date



William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Tuck Realty Corporation

Owner: Joseph Goss

Property: 0 Ocean Blvd, Tax Map 8 Lots 58 & 59
Single Residence District

Case: Case #11-2018

Application: **Major Subdivision** by Tuck Realty Corporation for property owned by Robert Goss and located at 0 Ocean Blvd, Tax Map 8 Lots 58 & 59 for a 5-lot subdivision. **Property is in the Single Residence District. Case #11-2018**


Date of Decision: Tuesday November 13, 2018

Decision: ☐ Approved
☐ Conditionally Approved
☒ Continued

The Board voted to close the public hearing and to continue the application to the December 11, 2018 meeting for deliberation.

11/15/18

Date



William Epperson, Chairman
Planning Board

RYE PLANNING BOARD

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

Notice of Decision

Applicant/Owner: Carey & Giampa Realty Trust

Property: 655 Wallis Road, Tax Map 16, lot 22
Business District and Aquifer Overlay

Case: Case #19-2018

Application: Minor Site Development Plan for Carey & Giampa Realty Trust owned and located at 655 Wallis Road, Tax Map 16, lot 22 for expansion of commercial space per LDR Section 201.2 due to installation of a new septic system where trees will be cut and parking plans changed.

Date of Decision: Tuesday November 13, 2018

Decision:

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

The Board voted to continue the application to the December 11, 2018 meeting.

11/15/18
Date



William Epperson, Chairman
Rye Planning Board