

**TOWN OF RYE - PLANNING BOARD  
MEETING**

**Tuesday, December 11, 2018 7:00 p.m.  
Rye Town Hall**

*Planning Board Members Present: Chairman Bill Epperson, J.M. Lord, Steve Carter, Jerry Gittlein, Jeffrey Quinn, Selectmen's Rep Priscilla Jenness.*

*Others Present: Planning Administrator Kimberly Reed*

*Members Absent: Vice-Chair, Pat Losik, Alternate, Katy Sherman and Alternate Nicole Paul.*

**I. Call to order and Pledge of Allegiance**

**II. No alternates sitting**

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

Chairman Epperson made a recommendation that the minutes be taken up at the end of the meeting. Motion by Selectmen Jenness, seconded by JM and all in favor.

Chairman Epperson stated that two (2) applications would not be heard and he asked the board for motions on:

**Motion by JM Lord to continue the 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 to the December 18, 2018 meeting. Second by Steve Carter. All in favor.**

**Motion by JM Lord to continue the 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 the February 12, 2019 meeting. Second by Steve Carter. All in favor.**

**III. Submittal of Application for Determination of Completeness:  
Action Required (Not a public hearing, if deemed complete the application will move to a public hearing below)**

Lot Line Adjustment by Ryan & Jessica Huskey of 30 Forest Green Rd and Jessica L. Huskey Revocable Trust to adjust the common boundary line of 23 Locke Rod, Tax Map 8, Lots 73 and 73-1 to accommodate a pool on lot 73. Property is in the Business, Coastal Overlay District. Case # 25-2018.

**Motion by Bill Epperson to declare the application for Case #25-2018 complete. Seconded by JM Lord. All in favor.**

**IV. Public Hearings on Application:**

Lot Line Adjustment by Ryan & Jessica Huskey of 30 Forest Green Rd and Jessica L. Huskey Revocable Trust to adjust the common boundary line of 23 Locke Rod, Tax Map 8, Lots 73 and 73-1 to accommodate a pool on lot 73. Property is in the Business, Coastal Overlay District. Case # 25-2018.

**Corey Coldwell from TFM/MSC** presenting for the applicant and he hands out colored plans which outlines the adjustments. The Huskey's own two (2) residential lots where one has a new home and the other is vacant. This is the former location of the Rye Beach Motel. The home is complete but the pool and patio are not complete nor built and they would be in the setbacks, so they would like to adjust the boundary to accommodate the pool and patio. This increases tax map 8, lot 73 by 873 sq. ft. This Board approved a boundary adjustment in the past and this adjustment will give them a little more room.

Chair Epperson asks if the setbacks are in the wetlands.

Mr. Coldwell replies it is a good question and that the pool and patio are outside the wetland.

Chair Epperson asks about the permitting.

Member Gittlein asks what the patio will be constructed with.

Ryan responds that it will be constructed with bluestone.

Chair Epperson states he has no issues with the Lot Line Adjustment, as long as it is built and permitted but it is really close to the boundary.

Mr. Coldwell states that they stake out the buffer.

Mr. Epperson asks if they could have a smaller deck but then points out it is beyond their scope.

Mr. Coldwell stated that the building inspector requires an As Built once the project is complete and that will ensure it gets built properly, if not it will have to go to the ZBA for relief.

Chair Epperson responds to Mr. Coldwell that his agency does a thorough job.

Member Quinn asks about the footage and how much is being given up to get the new line.

Mr. Coldwell replies it is at an angle then jots back in and moving back 15 ft.

Chair Epperson asks why not straight across.

Mr. Coldwell stated he wanted a balance.

Member Carter states 15 ft.

Member Quinn points out that 20ft are what is needed and asks if the new boundary compromises the other property.

Mr. Coldwell replies no.

Member Quinn points out that they would be limited by the setbacks.

Mr. Coldwell points stated they looked at the building area and points out to the Board it does not impact the building envelope.

Member Quinn is curious why move the lot line, is it simpler than a variance for 5 ft.

Mr. Coldwell replies yes.

Member Lord states it only impacts the buildable area by a fraction, can't be much.

Member Carter points out where the boundaries are being adjusted cannot be built upon anyway.

Chair Epperson points out that is beyond their scope and states it is a viable lot line adjustment.

OPEN TO PUBLIC

Hearing no public, the public comment portion is closed.

**Motion to accept jurisdiction of the application case # 25-2018 by JM Lord. Second by Jerry Gittlein. All in Favor. Motion passes.**

**Motion by JM Lord to approve the application case # 25-2018. Second by Priscilla Jenness. All in favor. Motion passes.**

**II. Submittal of Application for Determination of Completeness:  
Action Required (Not a public hearing, if deemed complete the application will move to a public hearing below)**

Lot Line Adjustment by James & Jeanne Moser 6 Blueberry Lane Tax Map 11, Lot 42 and Holly Gleason 10 Blueberry Lane, Tax Map 11, Lot 43 for a proposed adjustment with an even exchange of land area. Property is in the Single Residence District. Case # 26-2018.

**Motion by JM Lord to declare the application for Case #26-2018 complete. Seconded by Jeff Quinn. All in favor.**

**III. Public Hearings on Application:**

Lot Line Adjustment by James & Jeanne Moser 6 Blueberry Lane Tax Map 11, Lot 42 and Holly Gleason 10 Blueberry Lane, Tax Map 11, Lot 43 for a proposed adjustment with an even exchange of land area. Property is in the Single Residence District. Case # 26-2018.

**Corey Coldwell from TFM/MS** presenting for the applicant and states both lots are single residences. There is a common boundary and he hands out colored plans. The common boundary in blue and they would like to relocate which is shown in red. Each are 187 sq. ft. equal conveyances, equal exchange.

Chair Epperson points out the houses have been there a long time and asks what precipitated this.

Mr. Coldwell points out the lot line runs at an angle and the Moser's were considering an addition and by tweaking the lot line allows them to have the additional square footage.

Chair Epperson looks at lot 43 and comments what is built on it and asks if it was expanded.

Holly Gleason of 10 Blueberry Lane says it is the original house.

Chair Epperson asks about the shed.

Holly Gleason says the Mosers bought the property and the shed was there before them and the shed is partly on their lot and most likely will move it.

Chair Epperson thanks them for their due diligence.

Mr. Coldwell will set monuments and exchange deeds.

Chair Epperson asks the Board members what they think.

Member Carter asks if the new line is perpendicular to the street.

Mr. Coldwell says closer.

Chair Epperson says these houses were built around the 1950's or 1960's.

Mr. Coldwell says 1950's.

OPEN TO PUBLIC

Hearing no public, the public comment portion is closed.

**Motion by JM Lord to accept jurisdiction of case # 26-2018. Second by Jerry Gittlein. All in favor. Motion passes.**

**Motion by JM Lord to approve the application case #26-2018. Second by Jerry Gittlein. All in favor. Motion passes.**

### **III. Public Hearings on Applications:**

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. Property is in the Single Residence District. Case #19-2018.

**Planning Administrator Reed** explains the history of this application, what has happened since this applicant was before the board a few months ago and the board members were to walk the property. The applicant did receive approval by the ZBA for the 50 ft buffer for building in the residential buffer.

Chair Epperson stated that he and Member Pat Losik went and walked the property shortly after the last meeting.

Member Gittlein stated he also walked the property.

Member Carter asks about the path and if it is still there.

Jim Giampa, property owner says the path is still there but a fence has been put up because the bus used to stop in front of his building letting children out who used it as a cut through and it was not safe.

Ms. Jenness stated it had always been a cut through.

Chair Epperson talks about the relief granted by the Zoning Board.

Member Carter asks about screening.

Jim Giampa states nothing planned at this time, there was concern about the back.

Member Carter asked if they would disconnect other septic system and if it was a stress.

Jim Giampa states now with the new system there will be less stress.

Chair Epperson appreciates their due diligence to do the right thing.

Jim Giampa stated that this was an illegal subdivision and due to that this has been a very long process.

Chair Epperson says now they have the adequate relief, plans in place and wonders if they should make the approval conditional upon NHDES.

**Motion by Bill Epperson to accept the application with the condition that the septic be approved by NHDES. Second by Jerry Gittlein. All in favor. Motion passes.**

#### **IV. Proposed Zoning**

Proposed zoning amendment 2019-09 Re: Driveways

Planning Administrator Reed explains that this ordinance is from last month's discussion on the frontage where driveway is referenced to look into the LDR. Peter Crawford stated it was a zoning ordinance so driveways should be in the RZO. Pat Losik agreed. Therefore, I copied the wording from the LDR, vetted it by the DPW Director and Town Attorney.

**Motion by Jeff Quinn to move the Proposed zoning amendment 2019-04 to a public hearing on January 8, 2019. Second by Jerry Gittlein. All in favor. Motion passes.**

Proposed zoning amendment 2019- 10 Re: IDDE

Planning Administrator Reed explains that this ordinance is a result of the MS4 Permit by the EPA which became effective July 1, 2018 and that Julie LaBranche from the RPC will be at the public hearing on January 8, 2019 to answer questions of the Board and the public.

**Motion by JM Lord to move the proposed zoning amendment 2019-10 for a public hearing on January 8, 2019. Second by Priscilla Jenness. All in favor. Motion passes.**

**V. Escrows**

Chair Epperson reads the list of escrows for payment from Tuck Realty/Goss Subdivision and The Housing Partnership.

**Motion by JM Lord to pay all the invoices. Second by Jerry Gittlein. All in favor. Motion passes.**

**VI. Minutes**

**Motion by Jeff Quinn to accept the September 27, 2018 minutes. Second by Jerry Gittlein, All in favor. Motion passes.**

**Motion by JM Lord to accept the October 9, 2018 minutes as amended, second by Steve Carter. All in favor. Motion passes.**

**Motion by Jerry Gittlein to move the November 13, 2018 minutes to the January 8, 2019 meeting. Second by JM Lord. All in favor. Motion passes.**

**Adjournment**

**Motion by JM Lord to adjourn at 8:15. Seconded by Steve Carter. All in favor.**

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

Respectfully Submitted,

December 5, 2018

RYE PLANNING BOARD  
PROPOSED ZONING ORDINANCE AMENDMENT 2019-09

RE: Driveways

Add the following definition to the Appendix of Definitions: (Note: New language ***emboldened and italicized***. Deleted language ~~struck through~~).

***Driveway: A private way for vehicles which provides entrance, exit, access or approach to or from land in Rye to a public street.***

Explanation

*This amendment goes along with changes to Section 202.14 which refers to the definition of driveways to the Land Development Regulations. By adding the same definition to the zoning ordinance there will be consistency.*

RYE PLANNING BOARD

PROPOSED ZONING ORDINANCE AMENDMENT 2019-10

Re: ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE (IDDE)

Add a new Section 507A as follows:

**SECTION 1. PURPOSE AND INTENT**

The purpose of the Illicit Discharge Detection and Elimination (IDDE) ordinance is to provide for the health, safety, and general welfare of the citizens of Rye through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. The IDDE ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are to:

1. Regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. Prohibit illicit connections and discharges to the MS4.
3. Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

**SECTION 2. DEFINITIONS**

For the purposes of this ordinance, the following terms shall mean:

Authorized Enforcement Agency. Employees or designees of the Board of Selectmen designated to enforce this ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.



Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by Town of Rye and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3. APPLICABILITY**

This ordinance shall apply to all water, pollutants or other substances entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Board of Selectmen.

### **SECTION 4. COMPATIBILITY WITH OTHER REGULATIONS**

The requirements of this ordinance are in addition to the requirements of any other ordinance, rule,

regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

## **SECTION 5. DISCHARGE PROHIBITIONS**

### **5.1. Prohibition of Illegal Discharges.**

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows and if it is determined that the activity is causing an adverse impact:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
2. Discharges or flow from firefighting, and other discharges specified in writing by the Board of Selectmen as being necessary to protect public health and safety.
3. Discharges associated with dye testing, however this activity requires a verbal notification to the Board of Selectmen prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA).

### **5.2. Prohibition of Illicit Connections.**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. The prohibition in #1 expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Board of Selectmen.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Board of Selectmen requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system or other stormwater discharge point be identified. Results of these investigations are to be documented and provided to the Board of Selectmen.

## **SECTION 6. SURFACE WATER PROTECTION**

Every person owning property through which surface waters or a watercourse passes, or such person's lessee, shall keep and maintain that part of the surface waters or watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

## **SECTION 7. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

The Board of Selectmen will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States.

## **SECTION 8. NOTIFICATION OF SPILLS**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Failure to provide notification of a release as provided above is a violation of this ordinance.

## **SECTION 9. VIOLATIONS, ENFORCEMENT, AND PENALTIES**

### **9.1. Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Board of Selectmen is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Board of Selectmen is authorized to seek costs of the abatement as outlined in Section 17.

### **9.2. Warning Notice.**

When the Board of Selectmen finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Board of Selectmen may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending

discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice.

### **9.3. Suspension of MS4 Access due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Board of Selectmen will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board of Selectmen for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Board of Selectmen.

The Town of Rye IDDE Administrative Program Implementation Procedure is available in the Board of Selectmen's Office at Town Hall.