

**RYE PLANNING BOARD
RULES AND REGULATIONS COMMITTEE
Wednesday, October 14, 2020, 10:00 a.m.
Via ZOOM**

Present: *Patricia Losik, Jeffrey Quinn, Nicole Paul and Kim Reed*

I. Call to Order

Chair Losik called the meeting to order at 10:00 a.m.

II. Agenda

a. Update stonewalls v. retaining walls

Chair Losik thanked Member Paul for the information she sent in regards to retaining walls. Chair Losik noted that she also took a look at the general code and its presence is significant. She also looked at Hampton, New Castle, North Hampton, Hampton Falls and Portsmouth. Some of those towns are less about the list and more about the language; the relationship between the structure and the ground and the definition of grade. Rye has a definition of grade that applies to structure other than buildings. She thinks this will benefit from a little more review.

Member Paul agreed.

Member Quinn stated that he tends to think that less is more. He has looked at a number of these definitions and got into a laundry list of various examples. Something is always going to be missed or something will come up that is not delineated and will raise a question. He noted that he generally likes what Hampton has.

Chair Losik read; *“A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below surface of land or water, excluding a boundary wall or fence.”* She asked Member Paul what she thinks about that definition.

Member Paul replied that she thinks they just have to see how it would affect how the Town’s statue is currently drafted.

Chair Losik pointed out there are 171 examples of where fence, structure, or wall exists in the code. She agrees with Member Paul that they should be taking a look at those areas. She would also include grade because that might relate back to which ones would be included and which won’t be.

Chair Losik suggested that they all look at the examples and if they have any thoughts, send those to Member Paul, so she can work on a draft at the next meeting.

Member Paul commented she is not sure she will have a draft; however, she can put together the areas of the statute or ordinance that needs focus to determine what the goal is with the change.

Planning Administrator Reed agreed there needs to be more discussion before an ordinance can be drafted.

b. Parking size

Planning Administrator Reed is still working on a draft.

c. Pervious and impervious

The Commission reviewed Chair Losik's suggested language for pervious. Chair Losik noted this would be added into the definitions (pervious coverage or pervious), which is §190-11.1.

Pervious coverage or pervious

Any surface, whether natural, man-made, or modified, that can effectively absorb or infiltrate water including, but not limited to, vegetative surface, such as woodlands, planted beds, and lawns, and those pavements specifically designed and maintained to effectively absorb and infiltrate water. (N.H. RSA 483-B:4, Shoreland Water Quality Protection Act.)

Explanation:

Add the definition of pervious coverage or pervious which is consistent with N.H. RSA 483-B:4, Shoreland Water Quality Protection Act.

Chair Losik noted if this is done, they will have the definition for pervious which supports discussions on impervious, to a certain degree, for the RZO. Right now, there is a definition in the LDR, which she thinks is too brief. The LDR definition under 202-1.1(3) defines impervious cover as *"any modified surface that cannot effectively absorb or infiltrate water from which water runs off"*. She proposed that they use the same definition in the LDR. She proposed modifying the existing definition for "impervious cover" to be the same that is already in RZO and add the above language for pervious.

Planning Administrator Reed noted that she spoke with Soil Scientist Mike Cuomo who agreed to look at Rye's Zoning and Land Development Regs, in terms of soils and wetlands, and make recommendations on places where he may see some inconsistencies. He will be drafting a scope of work and budget for his work.

Chair Losik commented that based on what Kim just said, they may want to hold off on the LDR piece for right now. She asked if they should change the language in the RZO at this time or just table this until Mr. Cuomo does his review?

Planning Administrator Reed suggested that they table it for now. However, she is going to draft a proposed zoning amendment and send it to Mr. Cuomo for his thoughts.

Chair Losik pointed out that Building Code Chapter 35 follows the RZO definitions.

Member Paul stated that as far as she can tell, the term “pervious” is only used once in the whole code.

Chair Losik replied it is only used once in the LDR. It is not even in the RZO. She continued that why she feels strongly about this is because the word “pervious” is being used in conditions more and more. Also, the pervious discussion comes up when the coverage percentages are being defined, relative to changes on lots. It is also impactful when coverage is being determined. What they are seeing right now, is language that comes up, even in small applications, “well I’ll just solve this with pervious”. What does “just solving it with pervious” mean? What she takes out of the RSA and what they see a lot is “the pavements must be specifically designed and maintained”. Sometimes questions come up from applicants who ask if they can just put down pavers. That might work but it might not achieve pervious. What is the definition of pervious? She agrees that the language does not even appear in the zoning. She asked Member Paul if she thinks this is an overreach.

Member Paul replied that she was just wondering what the intent was of putting in a definition of a word that is not really used in the ordinance at all. By putting it in, she thinks it will be useful as a tool for the different boards, especially if they are educated that it is there. However, she thinks ultimately it is going to end up triggering other changes.

Planning Administrator Reed suggested this might be a good question for Mr. Cuomo. She suggested sending him the language to review.

Member Quinn asked if the zoning and the LDR need to have their own separate definitions.

Planning Administrator Reed replied that the way it is written it does. The Planning Board ultimately looks at the LDR. The ZBA looks at the zoning ordinance. Its good to have the definition in the different books because that is where the boards are looking for their explanations.

Member Quinn stated that it seems that they ought to be duplicated and reflect the same language.

Chair Losik stated that in certain cases, they see some terms in the LDR that are not seen in zoning, and certainly the other way as well. She asked Member Quinn if he is thinking there should be on set of definitions.

Member Quinn commented it would avoid having a different definition in one place, or the other, that someone could highlight and make an issue over.

Chair Losik stated this is a great question. She asked Planning Administrator Reed if she could ask the person the Town works with at General Code to see if other communities have gone in this direction with one master set of definitions.

Planning Administrator Reed agreed.

Member Quinn stated he foresees a section termed definitions and maps, which are common reference points for all boards.

Chair Losik asked Kim to also ask General Code about the maps.

Member Paul stated that in looking at structures, fences and walls, the defined term “structure” is different in various codes. If this were to be done, it would definitely have an effect. There may be universal terms that could have one definition across all the different sections, but there are going to be certain terms which can’t. She thinks they would have to do the same as they are doing for pervious. If they want them to be the same across the board, it would have to be pulled into each individual section.

Member Quinn stated that in thinking about scouring the regulations as a resident and trying to figure out what the requirements are, he would hate to miss something because a different kind of wording is used in a different section. He is in favor of the Town generally agreeing on terms that are understood throughout the different processes. However, there may be very good reasons to not do that.

Chair Losik commented they might not be mutually inclusive. In looking at zoning and LDR, there are areas where there are some minor inconsistencies between definitions, which may be in the Town’s best interest to correct. There are other specialized definitions that existing in LDR because of the assets its dealing with; for example, a word like “loop”.

Planning Administrator Reed pointed out that those terms are specific to planning. For instance, the Planning Board looks at “loop” because they are creating subdivisions and creating roads. Zoning does not create subdivisions or roads; therefore, “loop” would not need to be in the zoning ordinance.

Chair Losik stated it would still be an interesting question for General Code. Do most municipalities follow what Rye has with each respective area having its own definitions, unless otherwise referenced? She continued that when they went through codification there was a lot of work done to make the document more cohesive and streamlined. She is not sure they have gone through that with the definitions. There might be some work needed in definitions.

Planning Administrator Reed pointed out that Mr. Cuomo will be focusing on soils and wetlands. However, this might be a good RPC or internship job going forward.

Chair Losik suggested having Attorney Donovan weigh-in on whether this should be cleaned up.

Motion by Nicole Paul to adopt the proposed language for pervious. Seconded by Jeffrey Quinn.

Roll Call: Jeffrey Quinn – Yes; Nicole Paul – Yes; Patricia Losik – Yes

Motion passed

d. Other

The Commission reviewed the list of proposed zoning amendments that are on the agenda for the Planning Board meeting on November 20th.

Zoning Amendments:

- **2021-01** – Amendment to 190-3.3(5) Historic District – adding “monuments, statues or memorial”
- **2021-02** – Amendment to 190-5.9C Demolition Review – adding “excluding the Historic District”
- **2021-03** – Demolition Review abutter mailings
- **2021-04** – On hold
- **2021-05 & 2021-06** – Rezoning places that are no longer commercial or business but are now residences (Hemingways, Rye Beach Motel & The Breakers)
- **2021-07** – On hold

LDR:

- **2021-01** - FEMA

Building Code:

- **2021-01** - FEMA

➤ **Approval of Minutes** – September 30th

Motion by Jeffrey Quinn to approve the minutes of September 30, 2020. Seconded by Patricia Losik. All in favor.

➤ **Next Meeting scheduled for Wednesday, November 4th, 10:00 a.m.**

Adjournment

Motion by Jeffrey Quinn to adjourn at 10:45 a.m. Seconded by Patricia Losik. All in favor.

Respectfully Submitted,
Dyana F. Ledger