

# **RULES & REGULATION SUB-COMMITTEE MEETING**

**Thursday, May 5, 2022  
4:00 p.m. – Rye Town Hall**

***Present:* Chair Steve Carter, Patricia Losik, Nicole Paul and Planning Administrator Kim Reed**

***Also Present:* Resident Kathy Hodson (observing)**

## **I. Call to Order**

Chair Carter called the meeting to order at 4:03 p.m. and led the pledge of allegiance.

## **II. LDR White Paper Transmittal**

Planning Administrator Reed explained that over the years, there seemed to be a lot of overlay with the Zoning and Land Development Regulations. When the complete rewrite of the Land Development Regulations was done, there were some things that were left out unintentionally. Last year, Patricia Losik asked her to reach out to Michael Donovan and ask for his assistance in reading through the LDR to see what might be missing and where it could be strengthened. Around the same time, Attorney Donovan said that he would be retiring. The Planning and Zoning Department were able to get a contract from Attorney Donovan to just focus on Land Development Regulations. The estimate from Attorney Donovan is covered with last year's funds, so there is money available to do the work.

Administrator Reed noted there are two pieces; LDR Amendment 2022-01 and LDR White Paper Transmittal. She pointed out that the LDR Amendment 2022-01 is the "low hanging fruit". Those are changes such as legislative, typos and errors. She thinks those could be submitted to the Planning Board within the next month or two. Attorney Donovan asked if he should meet with this Committee. She recommended that the Committee review the document and ask Attorney Donovan to meet with them at the next meeting to go over any concerns with the white paper transmittal. Administrator Reed suggested they go through LDR 2022-01 and review Attorney Donovan's corrections and changes.

The Committee agreed. They reviewed and discussed Attorney Donovan's corrections and changes; LDR Amendment 2022-01. Some minor edits and changes were made by the Committee on §202-1.13(a). A minor edit is needed for numbering in §202-1.13(d). An edit for the number of plans required (from 3 to 10) is needed in §202-3.2.C(2)(a) and (b).

Referring to 202-3.3, B, Member Paul stated that the way she reads this is that only what is listed is required. Anything beyond that section seems to be eliminated.

Member Losik stated when the LDR was restructured, the other areas that were changed were stormwater management, landscape design, and other sections. There's no question that Article VI wasn't expanded.

Administrator Reed stated that in looking at the title of the section, it says 'Preliminary and Conceptual Consultations'. In looking at 'Final Approvals' there is a list of other information and permits. Everything else comes back in with the final.

Member Losik commented it was taken out.

Chair Carter pointed out this is just for Design Review.

Member Losik noted that Attorney Donovan consistently pulls out the reference to Article VI. Looking at the beginning of Chapter 202 in the Table Contents, everything in Article VI is listed. Clearly, he's not saying it doesn't apply, but that is the question.

Administrator Reed stated that the old reference to Article VI is that it was the design requirements. When the LDR was rewritten, Article VI became these other standards and the design requirements became Article IV.

Member Losik commented that she was thinking that he was saying it doesn't have to be considered. However, the issue is that it's being taken out in every place and it does have to be considered.

Member Paul stated that she's most concerned in this particular section (202-3.3,B) because it's the design review. It's not the actual application process. Her concern is that it eliminates the obligation to meet the other requirements. She wonders if they should add "in addition to anything else required".

It was agreed to ask Attorney Donovan about this section.

Member Losik stated that there's an opportunity for an applicant, before they start the process, to go for a conceptual review or design review. There's been a fair number of applicants who have gone for a conceptual. She's not sure if anyone has gone for a design review; however, it's available. Some towns have adopted a situation where the applicant must go through design review, so the planning board can really get a handle on it. In 'Design Review', the concept of stormwater management plan is introduced. Her question is whether that is the place it should be. For example, under Major Subdivisions (202-3.4, E), the reference to Article VI is taken out. Also, in 202-3.4-E(2), which relates to Major Subdivisions, Attorney Donovan is saying that the final stormwater management plan shall include all information required by language that is in 'Design Review'. She pointed out that the subdivision may never have gone through design review. It's not a point of whether it's gone through design review or not. It's really a question of whether that's where that language should sit?

Chair Carter summarized that the Committee is questioning whether Article VI, Land Development Standards should remain, so people are addressing it whether they do a design review or a final subdivision application, so they don't encounter it the first time in 202-3.4E.

Referring to page 202.29, Article VI, Member Losik stated that the LDR is saying "all land developments subject to these regulations shall comply with the standards set forth herein". Going to the definitions on page 202.8 the definition of "land development" is a subdivision or site development as defined herein. This article applies to subdivisions or site development. On page 202.9, definition of site development, pulls in building construction, developed changes or expansion non-residential or multi-family. She came away saying that Article VI applies to everything.

Chair Carter agreed. He pointed out that it gives all the standards for streets and everything. They have to have all this stuff in there to have a viable plan.

Member Losik commented that she sees Member Paul's question of whether there was some differentiating intent for design review.

Member Paul noted that to her design review is not as binding. She's less concerned if part of the process is missed or misconstrued that should be included. However, once they get into final subdivision applications, she wants to make sure the person knows that this isn't the only provision that needs to be looked at. They need to go through and look at all the other requirements.

Member Losik commented that it should be clear in the LDRs for the applicant and their team. There is ambiguity in there now.

Member Paul stated that to her it's vague. In going to one chapter, it will force someone to look at all other provisions that might have to be met. She thinks they should do that so applicants know it's not just this list.

The Committee agreed to have Attorney Donovan clarify his reason for removing references to Article VI in 202-3.3,B; 202-3.4,B; 202-3.4, D; 202-2.4.E; 202-3.5,A; and 202-3.5,B(1).

The Committee did not have any issues, or pointed out some minor edits, with 202-3.3,B(5); and 202-3.4,C(1).

Referring to §202-3.4.E(2), Member Losik stated that she doesn't have a problem with the language. She is just asking if that language belongs somewhere else. Should the language of "stormwater management plan" be in 'Design Review'.

Administrator Reed noted that this is another question to Attorney Donovan in regards to his thought process.

Chair Carter commented that it might be able to be moved to 'Engineering Standards'.

Referring to 202-3.4,E(2), Member Losik noted that the language is dealing with the stormwater management plan for major subdivisions. It's not applicable for minor subdivisions. In looking at 'Site Plan Review', the same thing is going on (202:24 and 202:25).

Administrator Reed clarified that the question is whether stormwater should not only be in major by minor subdivision and minor site plan.

Referring to Article 6, Land Development Standards, Member Losik noted that it says land development shall comply with the provisions of the Rye Zoning Ordinance. If that's the case, in looking at RZO 190-5.7B, it says that surface water shall not be increased onto adjacent properties, unless there is an easement to allow that flow. If minor subdivision or minor site plan is being taken out, is that really what should be done?

Chair Carter stated that he thinks the feeling was that on a minor site plan, if they're being asked to do a full-scale stormwater management plan, it can be very expensive and almost prohibitive. It was felt to be overkill for a minor subdivision or minor site plan.

Member Losik commented that she doesn't think they can answer whether it's consistent with Rye Zoning without something. She thinks Rules and Regulations should be looking at what it should be and why.

There was some discussion about adding it to 202.3.5, where the Planning Board has the right to ask for it.

The Committee did not have any issues, or pointed out some minor edits, with 202-3.4E(3); 202-3.4,B(5)(i); 202-4.1,C; 202-4.1,K; 202-6.7,B(3); and 202-7.1,A(1). The Committee questioned why Attorney Donovan is recommending to delete 202-7.1,D(2), Payment Bonds. They agreed this should be another question for Attorney Donovan with a follow up discussion.

There was some discussion about the white page transmittal. It was agreed that it should be reviewed by the engineers of the Planning Board. All agreed to have Administrator Reed send it to them to get their input. It was also agreed that the Committee should review the transmittal and note their thought and concerns. The members will send their changes to Administrator Reed who will organize it for the next Rules and Regulations Meeting.

### **III. Other**

- **Next meeting scheduled for May 17<sup>th</sup>, 4:00 p.m.**

### **Adjournment**

**Motion by Patricia Losik to adjourn at 5:25 p.m. Seconded by Nicole Paul. All in favor.**

Respectfully Submitted, Dyana F. Ledger