

**RYE PLANNING BOARD  
RULES & REGULATIONS COMMITTEE  
MEETING**

**Tuesday, September 24, 2019  
8:00 a.m. – Rye Town Hall**

*Present: Chair Patricia Losik, Jeffrey Quinn, Nicole Paul, and Planning/Zoning Administrator Kim Reed*

**I. Call to Order**

Chair Losik called the meeting to order at 8:00 a.m.

**II. Review Zoning Amendments proposed and discuss update  
a. Chemical Free Pools**

Chair Losik noted that there was a question that came up in regards to a project at 421 South Road. One of the conditions of the application was that if there were to be a pool it would be chemical free. The Building Inspector has asked for addition thoughts on what constitutes chemical free. She pointed out that the committee has information on work that she had done in March in regards to those conditions of approval that were finalized in January 2018. (She read from her notes of that work, which were in the committee's packets.)

- Chemical Free Pools - Pools that are installed with a natural environment, which cleans the pool, and is basically a constructed wetland that filters the pool water.
- Living Pools – Pools that use a phosphorus filter.

Chair Losik pointed out that the permit application was for a natural swimming pool with this specific kind of phosphorus filter. In the past, there used to be cleaning mechanisms; such as vacuums with lots of hoses involved. With the advancement of robotics, there are now robots that can be purchased for the pools, which can work all the time.

Referring to the “Standard Conditions of Approval for Swimming Pools proposed near Wetlands and Watercourses, Chair Losik noted this is a Rye Conservation Commission standard and has never been incorporated into the zoning. Some of the language includes the old technology.

Mrs. Reed recommended that the committee come up with a definition for the zoning ordinance, so the building inspector has a reference. She noted that it could be a living definition that is linked to something that grows and changes.

Member Quinn asked if this is something that should go into the Land Development Regulations (LDR).

Mrs. Reed commented it could go in both zoning and planning. She suggested that it be in definitions.

Member Quinn spoke about it being included in Article 5.

Member Paul stated if it is included in the definitions, using it somewhere else in the ordinance doesn't really make sense.

Referring to her memorandum from March, Chair Losik stated there were a few resources she used. One was a memo from Danna Truslow, dated January 24, 2019, which addressed private swimming pools and chemical use. She continued that the second one she looked at was the IDDE, the proposed Illicit Discharge Detection Elimination, which is the MS-4 language. That says if there is discharge from a dechlorinated pool, those are exempt from discharge prohibitions to the stormwater drainage system. NHDES exempts dechlorinated swimming pool discharges into a storm sewer system. Chair Losik commented that the Planning Board knew how close 421 South Road was to the protected area. The Planning Board wanted to make sure that the pool discharge wasn't going into the conserved areas. She pointed out the Connecticut Department of Energy and Environment Protection has a general permit for discharge. The Town of Westport, CT has excellent conservation language in their standards for conditions of approval for swimming pools. She suggested that she relook at the language and come back to the committee on October 2<sup>nd</sup> with some suggestions. She commented they probably want to stay away from a lengthy ordinance because the technology seems to be always changing.

**b. Building Inspector's list to include apartments**

Chair Losik stated that Peter Rowell (Building Inspector) pulled together some information regarding apartments and he can meet with the committee on October 2<sup>nd</sup>.

Information the committee should look at for guidance:

- Apartments Approvals Allowed and Why – history nexus which was attached to the email
- RSA 540-A:1,I – minimum standards for renting and leasing
- Amnesty of Illegal Apartments (dated 1/8/2019)
- Ordinance Establishing a Procedure for Legalization of Illegal Apartments (writing by Attorney Donovan)

**c. Height in the coastal overlay district and SFHA**

Mrs. Reed stated that she had a conference call with Jennifer Gilbert, as well as the FEMA Regional Representative. Hampton has a 1' freeboard and nothing can go beyond 3'. Rye has a 2' freeboard. It was suggested to keep it simple with nothing beyond 4'.

Chair Losik read from the email from Jennifer Gilbert addressing Hampton's language.

Member Paul explained that she pulled out what Rye has in 304.4. (She reviewed her draft for the committee.) She noted that she is not a fan of Hampton's Ordinance and wanted to make it simpler. However, Hampton's situation covers variation and Rye's does not. (She continued to read from her suggested draft language.)

The committee agreed that they liked the language.

**Motion by Jeffrey Quinn to accept the language for height and send it the Planning Board.  
Seconded by Nicole Paul. All in favor.**

**d. MD's response on Demo working and/or**

The committee reviewed Attorney Donovan's confidential memo which addressed the request from the Demolition Committee in regards to using "and/or" in their criteria, Section 509. (As discussed with David Choate, DCR Chair.)

Chair Losik suggested drafting a document that addresses the concerns. Member Paul agreed to work on it for the meeting on October 2<sup>nd</sup>.

Member Quinn asked if a specific date could be used in the criteria, instead of "50 years old".

Member Paul commented that the problem with using a date is it would have to constantly be amended as time goes on.

Speaking to Member Quinn, Chair Losik asked if he is getting the concept of what makes something historical.

Member Quinn confirmed. As he understands the procedure, the Building Inspector is supposed to enlist the Demolition Committee when he may have a concern that it meets a historical or architectural interest. It is the Building Inspector who issues the demolition permit. It seems that the Demolition Committee works in an advisory capacity to the Building Inspector. This seems to be putting another layer of control on what someone can do. The arbitrary term that something could be of "historical or architectural interest" is vague and in the "eye of the beholder".

Chair Losik asked if 509.3 B, (revised in March of 2013) used to be 70 years.

Mrs. Reed clarified that it was originally written as 75 years. The Demolition Review Committee asked for it to be changed to 50. Mrs. Reed noted that she will review her past notes for information on why this was done and be prepared for the October 2<sup>nd</sup> meeting. She will also research why and how the DRC was created.

Member Quinn stated he can understand historical features that may go into a distinct building period; however, 50 years old would virtually be 1970. In ten years, it will be 1980. He has some problems with empowering a committee to have control over that because he does not consider it historical. It seems very vague.

Chair Losik stated that she understands the perspective on "historic value". However, the two other criteria are architectural and community value. She is not sure she understands what the definition of "community value" is and how it relates to a structure. She thinks "architectural" may be where there is a moving target of time. She thinks there is a line between architectural and concepts. They can either stand alone or meld. She noted that there seems like are a lot of properties in Rye that would qualify even under the 75 years. There is a significant inventory of those properties. Should it be within the purview of a committee?

**e. Detached ADU's**

The committee will discuss detached ADU's with the Building Inspector at the October 2<sup>nd</sup> meeting.

**f. IDDE's for MS4**

The committee reviewed the draft that was written in December of 2018.

Chair Losik asked if Julie LaBranche (Rockingham Planning Commission) helped with the draft.

Mrs. Reed confirmed. She continued that in November this was before the Planning Board and its purpose was explained. The Board agreed to move it to a public hearing. At the public hearing, one of the Selectmen at that time was concerned with the word "Selectmen" in the draft, so it was waylaid. Mrs. Reed further explained that this is already being done by the DPW Director. The town has to codify it because of the EPA. There is a procedure that the Selectmen will nominate the DPW Director to be in charge of it.

There was some discussion regarding Section 5.2, Prohibition of Illicit Connections, and how the language could be clarified. There was discussion on Section 803.

Member Paul agreed to tweak the wording a bit and bring it back to the committee.

There was discussion on the drainage of swimming pools.

**g. Hardship**

The committee reviewed Attorney Donovan's memo regarding unnecessary hardship. They agreed that the memo should be shared with the ZBA to be used as guidance in considering hardship. It was felt that there is nothing further that needs to be done.

**h. Codification**

Mrs. Reed spoke about the codification of the town ordinances. A company has been hired to do this work for the town and they have made some recommendations for changes. Mrs. Reed will type up some language for a warrant article. This will be addressed on October 2<sup>nd</sup>.

**III. Public**

*No public present.*

- **Next meeting schedule for October 2<sup>nd</sup>, 8:00 a.m.**

**Adjournment**

**Motion by Jeffrey Quinn to adjourn at 9:22 a.m. Seconded by Nicole Paul. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger