

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

**Wednesday, October 30, 2019  
8:00 a.m. – Rye Town Hall**

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

**I. Call to Order**

Chair Losik called the meeting to order at 8:05 a.m.

**II. Continuation of Proposed Zoning Amendments for discussion**

**a. Demo Review**

Chair Losik noted she has made changes to 509 that were discussed at the last meeting. She has also incorporated the changes from Member Paul.

**Review of 509: Demolition Review – (proposed changes)**

**509.2 Demolition: For the purposes of this section, the word “demolition” means the act of pulling down, destroying, dismantling, removing or razing a building or structure or part of a building or structure or commencing the work of total or substantial destruction with the intent of completing the same. It does not include interior demolition which does not alter the appearance of the exterior of the building.**

Member Paul commented that she thought structure was being removed because the word “structure” brought in different things. Rye has a defined term for “structure”, which includes things like stonewalls and fences, etc. She suggested adding the language of “a monument, statue or memorial” after “part of a building”.

The Committee reviewed the City of Portsmouth’s “demolition” definition. It was agreed to strike the language “or commencing the work of total or substantial destruction with the intent of completing the same”. It was also agreed to add “this shall include a monument, statue or memorial”. The group also agreed that Rye’s demolition definition would not be rewritten according to Portsmouth’s in its entirety because of its reference to structure.

There was discussion in regards to whether outbuildings should be included in 509.2.

Chair Losik noted she looked at general references to “outbuilding” in the dictionary and it can pick up sheds. Currently, the definition for building in the ordinance is “any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any

person, animal or property of any kind”. She asked if there should be a different definition. She asked how they would differentiate outbuilding.

Planning Administrator Reed noted there is a definition in the ordinance for “accessory building”, which means “a subordinate building on the same lot, whether attached or unattached to the principal dwelling or principal building thereon”. Instead of it being called an “outbuilding”, they could use the term “accessory building”.

Member Paul agreed this is what should be done.

The Committee agreed to add to the second sentence of the demolition definition;

**“this shall include a monument, statue, memorial or an accessory building less than 500sf of historical or architectural interest”**

#### **Review of 509.3 – (proposed changes)**

**Any demolition within the Town of Rye shall be subject to the requirements of this section where:**

**A. The demolition is:**

- 1. a building or part of a building greater than five hundred (500) square feet of gross floor area;**
- 2. a monument, statue, or memorial; or**
- 3. an accessory building less than five hundred (500) square feet of historical or architectural interest; and**

- B. the building, monument, statue, memorial, or accessory building was constructed more than fifty (50) years before the date of application for a demolition permit.**

The Committee agreed to add to B “or part of the building”.

Chair Losik agreed to make the changes discussed and send a copy of the new draft to Planning Administrator Reed.

The Committee reviewed the remaining parts of 509 and the suggested changes. There was a discussion on 509.7; Criteria and whether the language needed to be changed to be clearer. It was agreed that the language should not be revised at this time.

The Committee agreed the proposed zoning amendment for Section 509 should be sent to the Planning Board for the November 12<sup>th</sup> meeting with the changes as discussed at this meeting.

#### **b. Accessory dwellings continued/amnesty**

Chair Losik noted this was sent to Attorney Donovan for review. He put the parking criteria back into language that is compliant with the zoning (RZO § 500).

Member Paul noted the Committee touched on this with the Building Inspector. They might not be in compliance with the zoning ordinance but there might be actual parking. She asked if they really want to make them come into zoning compliance, or is the intent to make the apartment legal.

Planning Administrator Reed stated Attorney Donovan is the one that is going to defend the Town in court. Her intention is to always go with his opinion. If he says 500, they ought to go with it. “Off street parking required by RZO § 500”. Any deviation would require a variance.

There was discussion on parking.

Referring to Attorney Donovan’s suggestion, Chair Losik stated she understands where he is coming from. This is the process to allow legalization of a dwelling unit that is otherwise not legal. She thinks in that effort they would have to include it with any unit that is on its way to becoming legal use.

Member Paul stated she disagrees when it comes to the parking, given the fact that the house is probably older and what would have been required maybe 80 years ago when it was built. They might not have parking meeting today’s standards. If the goal is to actually make sure the apartment is safe and legal, as long as there is a place to park a car that is adequate, she does not really think they are not in compliance and should be required to get a variance.

Planning Administrator Reed stated Attorney Donovan does say if that is not the intent, change it back to adequate. She continued that Member Paul makes a very good point.

Member Paul stated that someone coming in today to put in an accessory dwelling unit should meet the statutory requirements. However, to try and bring something into compliance today, that may have been there 50 or 80 years, is hard.

Chair Losik stated that her notes show that when the Committee met with the Building Department the words used was “show adequate parking”. She commented if there are ten apartments made legal that all have parking in the front yards, what does the neighborhood start saying.

Planning Administrator Reed pointed out the apartments are already existing and they are parking where they are parking now. It is not going to change.

Member Quinn stated he thinks that “adequate” could be a judgement. His definition of “adequate” could be different from the Building Inspector’s.

After discussion on parking and the word “adequate”, it was the consensus of the Committee to go with **“demonstrate adequate parking”**.

The Committee reviewed the comments from Attorney Donovan in regards to the condition section of the ordinance that states “any two family approved under this provision must have one unit occupied by the owner of the dwelling”. Attorney Donovan questioned the reason for this requirement.

The Committee agreed to remove that requirement from the ordinance. Planning Administrator Reed agreed to make those changes. The Committee agreed to move the proposed amnesty ordinance to the Planning Board meeting on November 12<sup>th</sup>.

#### **c. Height – 304.4**

Planning Administrator Reed noted that she has made the changes to the explanation for the proposed amendment to 304.4. She asked if there were any changes for IDDE, as it has been noticed for a public hearing.

Member Paul noted that she has been working on some minor edits and will forward those to Mrs. Reed.

**d. Open Space in side, rear, front setbacks**

The Committee reviewed language from the City of Concord's ordinance regarding the storage of camping trailers, RV's, boats, etc. on private property. The ordinance allows recreational equipment to be stored outdoors on the premises, except in the front yard or required side yards. No such recreational equipment shall be used for living, sleeping or housekeeping purposes.

Chair Losik asked if they should get the Building Inspector's input on this first.

Member Paul stated she feels the complete opposite.

Chair Losik asked if it should say "except in the front yard" and be silent regarding rear and side, so it would allow side and rear.

There was some discussion on whether this would restrict someone from parking a boat or RV in their driveway, as it is in the front yard most times.

Planning Administrator Reed agreed to bring this back to the Building Inspectors.

**e. Unnecessary Hardship**

Member Paul stated she has gone through the ordinance and the LDR to look at where "hardship" is used. Throughout the LDR, the terminology "unnecessary hardship" is used universally. In the zoning ordinance, there are places that use "hardship" and other places that use "unnecessary hardship". She pointed out that "unnecessary hardship" is a defined term in the RSA and has case law to back it up. She suggested that in the sections where "hardship" is used, the word "unnecessary" is added so it falls within the defined term in the RSA statute. She noted the sections would be 303.5 E, 505.11 and 505.11 A(4).

The Committee agreed to have Planning Administrator Reed draft a proposed amendment to bring to the Planning Board. They also agreed to include a definition in the appendix with a reference to the RSA.

**f. Amendment to Section 304 – Coastal District**

The Committee agreed to discuss this at their next Rules and Regulations Meeting and to pull it from the November 12<sup>th</sup> Planning Board agenda.

**g. Wireless Telecommunications**

Planning Administrator Reed noted the Town has hired a consultant, David Maxim, to work with a Telecommunications Committee. She submitted language that the committee has been working on, which will be coming before the Rules and Regulations Committee and Planning Board when completed for discussion. She will continue to keep the Committee informed and updated on their progress.

**h. Other**

Chair Losik spoke in regards to upcoming new DES rules.

**III. Public**

**No members of the public present.**

- **Next meeting scheduled for Tuesday, November 5<sup>th</sup>, 8:00 a.m.**

**Adjournment**

**Motion by Nicole Paul to adjourn at 9:31 a.m. Seconded by Jeffrey Quinn. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger