

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

**Thursday, November 5, 2019  
8:00 a.m. – Rye Town Hall**

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

**I. Call to Order**

Chair Losik called the meeting to order at 8:07 a.m.

**II. Approval of Minutes**

- **October 2, 2019**
- **October 15, 2019**
- **October 24, 2019**

**Motion by Jeffrey Quinn to approve the minutes of October 2<sup>nd</sup>, October 15<sup>th</sup> and October 24<sup>th</sup> as presented. Seconded by Patricia Losik. Vote: 2-0 (*Nicole Paul not present for vote*)**

**III. Continuation of Proposed Zoning Amendments for Discussion**

**a. Height – 304.4**

Planning Administrator Reed presented Attorney Donovan's draft Proposed Zoning Amendment 2020-03; Special Use Permits for new dwellings and substantial renovations in the Coastal Area District.

Member Quinn stated he feels this is appropriate to move forward. There are concerns about whether this will hold up in court but this is emphasizing to the ZBA that exceeding 28ft needs a very high bar.

Chair Losik pointed out it will now be 30ft. She continued that she has no problem with the amendment; however, she questioned whether this will change the variance process.

Planning Administrator Reed explained this is for any new building or substantial renovation. If it is a tear down and rebuild, it will no longer go to the ZBA. It will go before the Planning Board. She pointed out that most of those plans are still not conforming and will still have to go to the ZBA for other relief. She recommended moving this forward for discussion before the full Planning Board, as Attorney Donovan will be present at that meeting.

**Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-03 to the Planning Board meeting on November 12<sup>th</sup>. Seconded by Patricia Losik. All in favor.**

**b. RV's, campers and recreation items in setbacks**

Chair Losik noted this was discussed briefly at the meeting on October 30<sup>th</sup>. She had passed around a concept with simple language from Concord's zoning ordinance dealing with the storage of recreational equipment, which basically exempts front and side yards. The Committee felt this concept to go back to the Building Inspector for him to review. She commented the timeframe is getting tight to move this along.

Planning Administrator Reed noted that the Committee was not quite comfortable with this. She suggested that this be looked at further. There might be unintended consequences of saying what can be in the front, side and rear yards that the Committee has not yet had a chance to review. She recommending putting this off to 2021, in order to get more information from other towns and the building inspectors.

The Committee agreed.

**c. Amendment to 303.5A – Requested by HDC/Demolition Review Committee**

Planning Administrator Reed noted that David Choate, DRC Chair, made a request to add the word “negative” in 303.5A.

***“If the proposed construction will not have any visible impact on the exterior of the building or structure, it shall be deemed of no interest.”***

The request was to add the word “negative” before the word visible.

Member Quinn stated this becomes ambiguous.

Planning Administrator Reed and Patricia Losik agreed. Attorney Donovan also agreed when asked by Mrs. Reed.

**Motion by Jeffrey Quinn to not honor the request of HDC to change Section 303.5A with the inclusion of the adjective “negative”. Seconded by Patricia Losik. All in favor.**

**d. Amendment to 303.5 G(4) – solar panels in the Historic District**

Mrs. Reed explained she is putting this forward for consideration, as there may be a future proposal for solar panels on the Safety Building which is in the Historic District. The solar panels cannot be “visible for adjacent public streets and adjoin properties”. This makes anything solar very difficult.

Chair Losik commented she does not read it as saying if it is visible it cannot be done. She reads that it is a factor.

Mrs. Reed stated it has been construed as very black and white. If it is visible, it is not going to be accepted.

Chair Losik asked if the suggestion is to remove item 4 from the ordinance.

Mrs. Reed confirmed.

Member Quinn and Chair Losik were in favor of removing it from the ordinance.

**Motion by Jeffrey Quinn to request that Planning Administrator Reed draft a proposed zoning amendment for Section 303.5 G(4) to remove “visibility from adjoining public streets and adjacent properties”. Seconded by Patricia Losik. All in favor.**

**e. Section 505 – Wireless Telecommunications**

Planning Administrator Reed noted that she met with the chair of the Telecommunications Infrastructure Committee. The Town has hired David Maxim from Isotrope Inc., to look at the Town’s zoning ordinance. A draft has been submitted to the Rules and Regulations Committee covering some thoughts on the ordinance. A copy has also been submitted to Attorney Donovan. She continued that the Public Safety Building is being considered, as a possible location for an antennae. She would like to see if that area can be one of the zones. The Telecommunications Committee is also looking at recreation land in back of the little league/soccer fields. There were four other places on conservation land that the Town is looking at. The Telecommunications Committee has maps showing the areas of cell service deficiencies in Rye, so their work is very strategic.

The Committee reviewed the ordinance and discussed possible changes and edits to clean up the ordinance. The Telecommunications Committee will be making their recommendations to the select board at the November 18<sup>th</sup> Selectmen’s meeting. Any proposed zoning amendments will go the Planning Board for discussion in December with a possible public hearing in January. The proposed amendment does not have to go to the Rules and Regulations Committee before going to the full Planning Board.

**f. Amendment to 702.3**

Chair Losik noted that House Bill 136 changed RSA 676:7 to require the public hearing on a ZBA application to be held within 45 days of receipt of the application, rather than 30. Attorney Donovan suggested that the Board consider amending 702.3, which requires the hearing to be held within 21 days. This would amend it to meet the statutory requirements of 45 days of receipt.

**Motion by Jeffrey Quinn to comply with the recommendation to make the change. Seconded by Patricia Losik. All in favor.**

**g. Unnecessary Hardship**

Planning Administrator Reed stated she had drafted a proposed zoning amendment, based on suggestions by Member Paul. She forwarded the proposal to Attorney Donovan for his review and he has sent back his thoughts on the amendment.

The Committee reviewed Attorney Donovan’s memo, which stated that it is absolutely not necessary to change the definition.

Member Quinn suggested that they go forward with adding the definition for clarity purposes. He continued that they need to make sure the word “unnecessary” is used consistently throughout.

Planning Administrator Reed pointed out that it seems to conflict with “not unduly burdened”, which would be less stringent of a test than “unnecessary hardship”. She thinks the amendment would be okay under

Sections 303.5 E and 303.5 H. She suggested not moving forward with Sections 505.11 or 505.11 A(4). She asked if they should add it to definitions.

Chair Losik commented that she agrees with Member Quinn. She likes the idea of adding it to definitions. She finds in meetings when they are dealing with the issue of waivers, it is not unusual to have people needing to refocus on the definition of “unnecessary hardship”. She continued that the Committee seems to be comfortable with 303.5 E and 303.5 H. Because there is so much work being done to the Wireless Telecommunications Ordinance, she would like to leave that language relative to 505, until the ordinance comes back before the Planning Board through the work of the Telecommunications Committee.

**Motion by Jeffrey Quinn to move the proposed zoning amendment regarding “unnecessary hardship” for I, II, and IV to the Planning Board for discussion. Seconded by Patricia Losik. All in favor.**

#### **h. Section 301 – Wetlands Conservation District**

Chair Losik stated she has been looking at the DES changes. She read from 301.4 B; Purpose and reviewed her suggested amendments to take out “conservation” and include ‘Wetlands Best Management Practice Techniques for Avoidance and Minimization’. She suggested amending the Wetlands definition to add “Best Management Practices”.

Mrs. Reed will make those changes.

**Motion by Jeffrey Quinn to amend Section 301 and move it forward to the Planning Board. Seconded by Patricia Losik. All in favor.**

#### **IV. Other Business**

The Committee did a final quick review of the Proposed Amendments that are being sent to the full Planning Board on November 12<sup>th</sup>.

- **A public hearing on the Proposed Amendments for 2020 will be held on Tuesday, December 3<sup>rd</sup>, 6:00 p.m., at the Town Hall.**

#### **Adjournment**

**Motion by Jeffrey Quinn to adjourn at 9:15 a.m. Seconded by Patricia Losik. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger