

RULES & REGULATION SUB-COMMITTEE MEETING

**Wednesday, November 14, 2023
12:00 pm (Noon) – Rye Town Hall**

***Present:* Chair Steve Carter, Patricia Losik (viz Zoom), Katy Sherman, Steven Born (ad-hoc member, via zoom) Planning Administrator Kim Reed, Land Use Assistant Kara Campbell.**

Chair Carter opens meeting and pledge of allegiance.

Kaitlyn Coffey, Historic District Chair stems from 2 years worked with Dominique Hawkins to redo guidelines.

David Choate, Historic District Committee and Heritage and Demo Chair.

Ms. Coffey the application outdated, explains and back to drawing board. What she would like if someone has a small repair like and kind and not default to hearing. Bigger things that change building structure and appearance have full meetings for and sometimes want a work session. We have monthly meetings now the second Wednesday of the month. Background where this is coming from.

Ms. Sherman upon review, it makes sense. Old homes, emergency needs. Thinks this is a great idea.

Mr. Choate, modeled after Exeter, gives us more time to interact with applicant and no spend a lot of money for minor repair.

Chair Carter said it makes sense to him and asks if front page part of the application.

Ms. Coffey explains cover just explanation and shows the application.

Chair Carter asked if just replace in kind.

Ms. Coffey said still need to fill this out.

Mr. Choate says it ties into 190-3.3.D must certificate of approval, it allows us to have someone who is doing like/kind not spend process. Don't have to go through long process.

Chair Carter said it makes sense.

Ms. Coffey if opportunities to review applications ahead of time, save applicants time, frustration and money.

Mr. Choate asks Kim the process.

Ms. Reed 190-3.3 there is no application in the ordinance.

Mr. Choate says procedures and application from the building inspector.

Ms. Reed points out that all fees go through the Board of Selectmen, and they will be having a public hearing soon and therefore should talk to Janice.

Ms. Coffey said focus on coming to Rules and Regulations first.

Mr. Choate Subsection C goes through the list.

Ms. Reed asks Mr. Choate and Ms. Coffey if they could go through their application and align it with the current zoning ordinance to see what is different. D is certification and 1 is application procedure, if you follow the current zoning ordinance and look at what you presented in a-g in your application and what is different.

Ms. Coffey said a lot same the same.

Mr. Choate said he will compare both and get back to us.

Ms. Reed will send them the section of the ordinance in word so they can mark it up and compare.

Chair Carter says if you go through this and insert what you want and cross out what you don't then we can send it to Attorney Maher. Come back with a highlighted version.

Ms. Losik tries to talk but communication issues and unclear what she said. Something about material.

Ms. Coffey next is the expansion process. HDC put together in the 1960's never in electronic format, try to find it. Awarded CLG Grant \$20,000.00

Chair Carter asks what a CLG Grant is.

Ms. Coffey states it is a Certified Local Government.

Mr. Choate applied a few years ago and part of the grant and Rye can apply some match and this one did not have a match. Want information electronic, long discussion, expand the district closer to center. Logical expansion of the district. Hands out a map, consistent other district goes back 500' significant properties along it. Important to do something most important. The survey includes 8 properties. A few years ago, during COVID a few of us formed a group called "Rye Advocates" not official Town committee it is an ad hoc, try to document all history of houses pre 1900. There are about 350 of those by education slow down demolition. Our concern is not today's owners but 10, 20, 30 years from now. Tear down put-up McMansion and few fall in that category. Important to protect vista from here down the hill, want to get it on the ballot and hopefully Town people will agree.

Mr. Choate applied for a 19,500 grant and the preservation company selected survey good news it was 100% funded, no match for Town.

Chair Carter what talk about in map highlighted in blue.

Ms. Reed explains if this committee thinks reasonable after listening to public, draft zoning and then put before full Planning Board. Planning Board then schedules a public hearing will abutter and legal notice then public hearing and at that time if approved go to the warrant. Any changes 10 days in between public hearings.

Mr. Choate said Rye smallest historic district in the State. He mentioned the house that Shawn Joyce built not sure if what there before was historic, if it had any character this is why you want this then he would not have been able to do that. Logical point to stop.

Ms. Coffey said preservation consultant helped us propose these boundaries she mentioned other legs future expansions along Washington and Wallis. Felt important show her current boundaries and have a starting point.

Ms. Reed asks if the survey company has done all the work already.

Ms. Coffey said they just started.

Mr. Choate report due by December 1st they are $\frac{3}{4}$ way through.

Ms. Reed mentions scope of work and first item was to hold a kickoff meeting with NH DHR, Town Planning Staff and HDC Committee to understand local project objectives. Neither Kara nor is were aware.

Ms. Coffey said they put that in there but since they already knew so much about the project NHDHR felt it was not needed.

Ms. Reed said maybe could have been out ahead of this if met with Planning Staff.

Mr. Choate said they met with Alex, talked to Matt. Obviously big forum, work tight timetable, nothing to do with us, started the process last spring. Approval late summer. Exception talking about this a long time, if you had been monitoring the HDR meetings, talking with Town folks not doing this in the dark.

Chair Carter asked if they had discussions with the people whose properties would be in the expansion, house affected.

Mr. Choate said talked to some.

Ms. Coffey sent out mailer, done several things when awarded grant invited to October meeting, sent mailing Q and A and found out late summer then invited them. Lydia and Stacy some mailings and did forum.

Mr. Choate expects to do more between now and Town Meeting. What want to do more formal get together when area survey completed to show to people. Preservation Company reach out to property owners see what they have. The Rye Advocates had information tucked away.

Chair Carter asked if homes not historic and what implication have for those people.

Mr. Choate no implication. Look at time built. Don't see it impact newer homes on area.

Discussion about a couple of the properties. (Trolley Barn and 1 Central)

Mr. Choate could take a house pristine, gut it on the interior. Nothing to do with use.

Ms. Losik walk through the time frame of the proposal they were not going to conclude until January 31, 2024, date. Asking because important process and wants to be the best process, considering the time constraints if any because there are time constraints getting it to public hearing. Your thinking of timing.

Mr. Choate started September since didn't have to have a kickoff meeting. Their goal originally by December 1st at least first draft. Drawings finalized for Deliberative Session. Between finalized and Deliberative Session meeting with all home owners.

Ms. Losik someone look at contract report due end of January.

Mr. Choate that is the outside date. On track end of December.

Chair Cater reads the contract.

Ms. Losik the final product important piece to use to educate people. My question is the consultant has already identified other properties to be pursued.

Mr. Choate said a different consultant that was the one who did guidelines.

Ms. Losik can public get to that information.

Mr. Choate in meeting minutes not formularized. Take the temperature of the Town and then go from there.

Mr. Choate this is specific Rye Town Center.

Discussion of other properties and other sites.

Ms. Losik boundary expansion some not historic, whether eligible or not, based on time period built, this is not.

Ms. Coffey not able to cherry pick.

Ms. Losik factor of resistant it is another process, another oversight, cannot get away from that have to have the discussion. My concern do you have enough time and Planning Board enough time to get through two public hearings. Cannot gauge read the minutes, read the letters and gave me pause and not enough time, that is my concern.

Mr. Choate been engaging with several of the key stakeholders in the proposed district for a few months now there is enough time, not a big expansion it is 8 properties is nothing. A lot of good information about the advantages of being in the Historic District. People are saying property values go town, taxes up and most of that is negative. We have good talking points. A lot of good resources in NH to help people add value. We see lots of examples in Demo Review. We think we have lots of time.

Ms. Reed asks them to look up NHRSA 675:3 and RSA 675:7 those are referring to what Pat Losik is talking about. Legal requirements to get it changed under zoning. Look at RSA's, you may have done work with consultants and there are legal requirements. Please look at those 2 RSA's.

Ms. Losik said that Town Counsel made us aware change in zoning ordinance affects fewer than 100 properties and affected properties do have right to protest petition and when filed can elevate vote from majority to 2/3rds. Not to be discouraged is what it is and you need to be aware of that. How you approach this will be of interest to the public domain.

Mr. Choate said his idea is that the entire Town should be in the Historic District, making his life a lot easier at least Demo review. He asks Ms. Reed if RSA apply if citizens filed a petition.

Ms. Reed agrees and talks about the RSA's.

Chair Carter opens to public.

Peter Moynahan at 146 Central first clarify the Rules and Regs meeting in October, clarifying all Moynahan's are against this expansion. All on same page. He would like more clarification for the initial reason for this expansion, it appears only reason is prevent demolitions and tear downs don't disagree an issue but is that they only issue, what is the purpose.

Mr. Choate preserve the historical character of the homes in the district. More than demolition. This whole situation was accelerated by the Parsons fiasco, the tear down of the Parsonage Building and whole process how that happened. Not concerned people own properties now it is the future properties, protect the Town.

Mr. Moynahan the next question, not same map. Handwritten map. Obviously current HDC is 500ft from center of road, why the change.

Mr. Choate replied he does not know where 500 ft goes. Use the property lines. He points to 37.

Someone says Trolley barn. Confusion on the map and what the address is. Confusion of the creation of 500ft. not work on this addition of the expansion.

Mr. Moynhan the survey with Regan, confused it sounded like early stages but now Mr. Choate said $\frac{3}{4}$ way through and they have been talking to a lot of the owners.

Ms. Coffey said talking to current district owners. Working on this as whole project and she refers to Mr. Moynahan that she did not have a lot of information on his property.

Chair Carter this isn't about the proposal it is about a different project.

Ms. Coffey said the project was to replace what we lost and that information well documented and Alex pulled information for her.

Mr. Choate find out from Regan made with new houses.

Mr. Reed asks if they can get her exact Tax Map, Lot and house numbers of those to be included in the HDC boundary expansion.

Ms. Losik asks about the original map from the Attorney.

Ms. Reed talks about Attorney Donovan, and she will go back. She emailed it to committee members.

Ms. Sherman are you getting general census they are against.

Mr. Choate the Moynahan's only ones against.

Ms. Sherman asks the Moynahan's what their concerns are other than someone tell you your property changed.

Mr. Moynahan increases costs to do anything to do if you want to renovate, materials and process, the costs are huge.

Mr. Choate said not true, same process if pull building permit, specify the materials, the extra costs what you use.

Ms. Sherman said change or what is currently being used.

Ms. Coffey if change they come before us. Wood to wood if fine, send picture other materials they need to go before HDC.

Mr. Moynahan explains the guidelines anything public view, what about the cemetery.

Discussion about view of property from cemetery, and if that is a public view.

Ms. Coffey said in past when people do things in rear view, they present to show what doing, not visible from road but we look at it whole picture make sure not crazy modern affect neighbor's view.

Mr. Choate anything changes exterior view must go before HDC. Not worried about current owners it when changes hands.

Chair Carter one concern, my brother in Historic in another town and it is a pain because issue and costs, materials look old but costs.

Ms. Coffey provide alternative options.

Ms. Sherman said you may feel that way but next HDC Commissioner may not feel that way.

Mr. Choate guidelines because before was wild west.

Mr. Borne said green in cemetery is all public land. Maybe those who do not want to be maybe only when they sell.

Ms. Coffey breaks it apart if don't have everyone's participation.

Ms. Sherman I live in an old house and understand the blanket everyone else in same but understand don't want to be told have to use specific materials.

Mr. Moynahan subject to rules no one else around you are, we are stuck out there last one on the map after the cemetery.

Ms. Coffey town green put in our purview.

Ms. Reed have to talk to the Select Board if want to make the Town Green part of the HDC.

Ms. Moynahan 165 Central Rd small town, center of town, yes but do not understand why extend, will go down Washington, down Wallis. I live in a house 225 years old built by a Locke, my husband's ancestor. My husband is a Locke, why come down this way, why stop. My house is historic, 4 houses after mine is historic. Why HDC center of town. Needs to be more user friendly. Sidewalks, hopefully go in. Besides that why just come down this way and not go other ways. Historic are sprinkled throughout town, my problem with this. My house angled there was no town road. Doing too much. That 500 ft. My daughter lived on Old Parish she wanted to expand they could not do an addition the HDC said no, the people right next door to them put up an atrocity addition because they were just past 500ft from the property line. To me, get rid of 500ft great idea. Besides that I lived here 66 years want to see what we moved here for, keep historic buildings: Church, Town Hall and keep without expanding because if you keep expanding then whole town will be in the historic district. I think it is great smallest historic district in the state. For my mind, kept the way it is, leave it alone.

Ms. Sherman said sounds to me next step, makes sense, if grow. Can understand.

Ms. Losik disclose that she too is a Moynahan and a Locke and a Garland. She does think, hearing the hard work of this committee and everyone heard it is a HDC pivot, do think language they are land use board which carries huge responsibility in land use law. In land use really pay attention. Go back to the language and when I look at the language she reads "...." You really need to get the language right if think scale is right in pivot.

Mr. Choate don't think it is a pivot.

Ms. Losik may be a pivot, the language there now works really well. Think HDC moving forward will change.

Mr. Choate hope to make it more user friendly for those with minor change. Have more to do.

Ms. Jeannie Moynahan talk about selling the house, the Moynahan homestead been in family many years, yes some stay in families and some sell. There is a home built 350 years old and 2 families have lived in it. Philbrick's and now McMann's a house over 100 years and two families lived in it.

Mr. Choate those are the exceptions not the rule.

Ms. Jeannes Moyahan said always exception to the rule but still need that needs to be taken into consideration when you talk about this.

Ms. Sherman said different when it is a historic home versus historic district.

Mr. Choate said there are 350 homes that more than 1900 and perfect world these 350 protected rests not, cannot do that.

Ms. Reed move forward she will send in word document the section of the Historic District and if they could mark it up in track changes and as for the boundary expansion she needs the tax map, lot and house numbers. She says a lot more work to do before can get to a public hearing. Still work that needs to be done.

Ms. Losik the two important dates for public hearings December 19th and January 6th.

Ms. Reed explains the process. If they can get language by the 1st of December the committee can review it and then decide whether they want to move it to the Full Planning board. If it does go to the Full Planning Board on December 19th it will be for discussion and if the Board votes to hold a public hearing then that date has to be set 10 days from the 19th. Then abutter notices will have to go out, legal notices posted in 2 places. If at the Public Hearing in January there are any substantial changes then a second public hearing must be held 10 days after the first and new abutter notices, new legal notice posted. If Board votes to approve then it can go on the warrant.

Mr. Choate not sure what talk about another year experience, asks to refresh his memory.

Chair Carter as he recalls the process streamlined and one less public hearing.

Mr. Choate none required. I have something from September 29th from Pat that is place to start from me to Kim and Pat. You had made requested changes and too many things to proposed.

Ms. Reed came from Attorney Maher.

Chair Carter take time to do it now, discussion.

Ms. Reed get last year's changes to David and the committee.

Mr. Choate should have happened during the summer.

Chair Carter can wait.

Ms. Reed this committee does not meet in the summer.

Mr. Choate talks about Rye Beach Village District application, and they have to come to the town for building permit.

Ms. Reed explains that Planning Board does not have jurisdiction over the Village District.

Mr. Choate some things objected to town counsel suggested, what he recommended, Section E 2A and B add word significant, before significant add architecturally important or historically significant. That is

what we use in our notices of decisions. Add words architecturally important or historically significant. That is the criteria we use now. Section E4, point was why have public hearing if no one shows up and legally if have to make someone appears.

Chair Carter don't know how you can make them come; I suppose.

Mr. Choate wants consistency with what Planning Board does.

Ms. Reed get language to everyone for December 1st meeting.

Mr. Choate Section E5, A and B regard flexibility another meeting after public hearing to have solution. Another Section 6 A and B regarding posting of sign, can delay be indefinite. 4 things on his list from a year ago. November 29th memo from Mr. Choate find what looking at.

Ms. Losik asked David, your committee architecturally important or historically significant, not sure regular zoning definitions but are these planted in the design documents the HDC references or another place to look for definitions.

Mr. Choate does not know the answer.

Ms. Losik asks if he can find support.

MR. Choate said you are making me go back 2 years ago. He then asks that it would be nice to have the authority to deny people in egregious cases, is there any enabling statute or legislation that would allow that.

Ms. Losik question for Attorney.

Mr. Choate asks if Demo Review Committees could have the power to prevent demolition than agitate against it. We are the last permit given if someone does not have approval in place want to put a hold on application until they get approvals in place.

Chair Carter said can have useful conversation on the first.

Mr. Choate says a building code issue.

Ms. Reed says to move to legislative changes. 2 Zoning and 3 Land Development.

RZO 2024-01 and 2024-2 190-2.2 she reads out loud.

Chair Carter all makes sense to include Condo in whole thing.

Ms. Sherman no questions.

Ms. Losik no questions language from Attorney. Need 2 explanations. 2 separate amendments.

Mr. Borne how affect 665-667 Wallis? Could not expand any of the units.

Ms. Reed explains what it says.

Ms. Losik makes a motion to move this to the Full Planning Board on November 21st, second by Ms. Sherman for a discussion and for the Planning Board to schedule a public hearing.

Ms. Reed map change single parcel 22 Pioneer Rd. I let the applicant know there was resistance, does this committee feel pull it or wait 2025.

Ms. Sherman says to wait, a lot of questions.

Ms. Losik thanks for information and would pull it.

Mr. Borne still reading.

Mr. Carter pull it.

Ms. Reed pull it and move to 2025, not going forward.

Ms. Reed move 2024-01 and 2024-02 to the Planning Board November 21st then the Board can then schedule a public hearing for the December meeting and enough time for public hearing. Next the Land Development Regulations amendments do not need to go on the warrant.

Ms. Reed right out of legislative changes house bill, add language to Homeowners' Association.

Chair Carter thought fine, go to F problems does not make sense.

Mr. Borne how many HOAs do we have in Rye, Liberty Common.

Ms. Reed Liberty Common was in the 1970s.

Mr. Borne they can dissolve, what trying to get at how many HOAs need to communicate to.

Mr. Carter said they do some things, Whitehorse has a landscaping.

Ms. Reed asks what this committee wants to do.

Ms. Losik move LDR 2024-01 with edits and add explanation to move it to the Planning Board's November 21st meeting for the Board to vote to move it for a public hearing at their December meeting.

Ms. Reed LDR 2024-02 the only change is M and already sent to DPW and Fire Chief.

Chair Carter comments related to house bill.

Mr. Borne is fine.

Ms. Losik makes a motion, second by Ms. Sherman LDR 2024-02 to move it to the Planning Board's November 21st meeting for the Board to vote to move it for a public hearing at their December meeting.

Ms. Reed explains LDR 2024-03 relates to surety and Senate Bill.

Chair Carter finds typo and paragraph D does not make sense.

Ms. Reed will ask Attorney Maher.

Motion by Ms. Losik, second by Ms. Sherman LDR 2024-03 with edits and add explanation to move it to the Planning Board's November 21st meeting for the Board to vote to move it for a public hearing at their December meeting.

Mr. Borne logs off.

Ms. Reed explains the next is a recent request by the Chair of the Energy Committee.

Mr. Pfau sits at the table and explains the energy code. What he would like is wording to the Certificate of Occupancy section of the zoning to make sure that the owner/applicant get certified meets the energy code before they can get a certificate of occupancy for health and safety concerns, mechanical ventilation and be tested. Code does say evidence what we want is that they must prove evidence it is

tested, balance system. He talked to Chuck and he has concerns and agrees with this. He suggests fill out a form to get a building permit, does not say need evidence. Add sentence to 190-8.2.A

- (3) ***Builders must provide a third-party certified report demonstrating compliance with the International Energy Conservation Code, as currently adopted by the NH State Building Code, to receive a certificate of occupancy.***

Ms. Reed asks the committee what they want to do, he wrote up what he wants to add.

Ms. Losik are you saying this certification not required in the Building Code 2018 ICC Code.

Mr. Pfau says must comply does not explicitly say that they provide evidence.

Ms. Losik 2021 will be more robust; will that language require that. Thinking go on Zoning or Building Code? Why on this one point put in Zoning not in building?

Mr. Pfau put in zoning because only place found certificate of occupancy.

Ms. Losik says it is in the building code as well.

Mr. Reed looks at the Building Code Section 35 of the Rye General Code.

Ms. Losik under zoning for certificate of occupancy, looking for regulations prior additional reporting, others sprinklers, etc want to make sure go in the right place.

Mr. Reed asks if residence or commercial too.

Mr. Pfau may be both.

Chair Carter says make sense zoning, where certificates of occupancy lives.

Ms. Reed found it Building Code 35-2 title, purpose and scope look under C, Scope. Goes into maybe this might be place for it?

Ms. Losik asks if Mr. Pfau comes back December 1st make sure right place.

Mr. Pfau wording can be massaged, do not want to dictate to a builder.

Ms. Reed says thank you.

Ms. Losik said reminds her of the back flow preventer.

Ms. Reed did not get to Change of Use.

Ms. Losik hurdles this year and components we faced and other communities what they are facing. Gives our ordinances and regulations some guidance. Some things may want to change this does not have to go to the warrant, help everyone the Planning Board, Code Enforcement it is more than just change of use, look at that language.

Ms. Reed the first is a Friday, long meeting.

Ms. Campbell said that Chuck had to leave he had a meeting but looks like he could not.

Ms. Sherman motion to adjourn. Ms. Losik seconded.