

Rye Planning Board
Rules and Regulations Committee
Tuesday, June 27 2017
4:00 p.m. – Rye Town Hall

Present: Chair Pat Losik, Jeffrey Quinn, Anne Richter-Arnold and Kimberly Reed.

I. Call to Order

Chair Losik called the meeting to order at 4:00 p.m.

II. Review last year

Chair Losik stated that she reviewed the minutes, particularly from the spring, and noted items that were in reference to consideration by Rules and Regs. She would like to get a sense of a time table; not only the scope of what is going to be covered but a scope of what works best for people in regards to meetings and how often.

Member Quinn asked about deadlines that need to be met when considering changes.

Planning Administrator Reed stated the deadline is the end of December. A proposed zoning amendment has to be legally noticed in January. If it needs any changes, there needs to be ten days for it to be legally noticed. She continued that this time of year, when they are working on zoning changes, there tends to be extra meetings because of the law and the changes. The first public hearing cannot actually be posted until the end of October into November because of the days needed, per the RSA, to hold a public hearing from when it is posted and enacted. Between June and October is a good time frame for deciding what the committee would like to get done and to start the editing process. October and November is when zoning language should be drafted. The deadline for the public hearing is January 1st to meet the ten day requirement for posting any additional public hearings that may be needed if there are any changes.

Member Losik stated that she worked on the Rules and Regulations Committee last year. The committee had a large area to address with the wetlands. A sub-committee was formed to the Rules and Regulations Committee. The sub-committee met fairly frequently starting in early July. The committee went as far as it could go given the timeframe. There is still work to be done. At the end of 2016, the sense of the committee was there were members who still wanted to work in this area because of the significant amount of time that was devoted to it.

Member Quinn asked if the wetland buffer was the only thing that was left to work on from last year.

Member Losik stated there were areas in the wetland scope that were brought forth by the consultant in 2015 to a public hearing. The buffers were expanded and the scope of wetlands was expanded to include surface waters, which had some concern in terms of how they applied to surface waters. The committee looked at the existing wetlands zoning ordinance and the consultant's proposed wetlands zoning ordinance. The committee then looked at the coastal and Great Bay Estuary Towns. She noted that they

looked more specifically at Greenland because they had been updating their code throughout their ordinance. The committee came to agreement as to what would fit and what met the areas of concern, given the areas of extreme concern that was raised at the public meeting in 2015. She continued there were probably a couple of members of the committee that felt more work needed to be done related to stormwater management issues. The committee also talked about how it would be ideal to have guidance from a consultant to take the next step.

Planning Administrator Reed stated that the Board does not have the funds right now to hire a consultant. The Environmental Protection Agency (EPA) is rolling out a new MS-4 Permit in July 2018. With that, it is going to require towns to do stormwater management ordinances. She does not want to jeopardize the town's MS-4 Permit or any work that could be hindered upon or join forces with a consultant, as well as the DPW. She commented that they really need to look at the Land Development Regulations, not in the Zoning Ordinance. Referring to her table submitted to the committee, she noted that there is a separate line for Land Development Regs. She would like to look into hiring Rockingham Planning Commission (RPC) to redo the Land Development Regs with an eye on stormwater management. The consultant will have to wait until 2018 because the Planning Board does not have the funds for this year. She continued that there are other issues that can be worked on this year. Impervious is very much related to wetlands, as well as stormwater. There are ways to address some of the concerns that the wetlands subcommittee touched upon, such as looking at impervious and making it consistent.

Chair Losik asked if there are any other areas that should be addressed.

Planning Administrator Reed stated there was one area that the committee talked about; Shoreland Protection Act and the different bodies of water. She asked if this is something that the committee would like to now address or wait on.

Chair Losik stated that she will rely on her guidance since she has been associated with the work of the committee.

Planning Administrator Reed stated that she would like some more information before making a decision because it is going to be a big task.

Referring to surface water concerns, Chair Losik stated that because they are pulling in a different area from what is currently in the wetland ordinance, she would go back to a strong committee in terms of form. That would put them in the best possibility for success if they are going to look at changing any of the language or expanding into another section.

Planning Administrator Reed noted that in order to form a sub-committee the full Planning Board would need to agree. This can be brought up to the Board at the July 11th meeting.

Chair Losik stated that she will pull from the minutes of the sub-committee, and other work documents, that specifically address the structure that other towns are using for surface waters.

Planning Administrator Reed agreed this would be a good idea. She noted that the Planning Board must also set a charge for the sub-committee if they agree to move forward with one.

Chair Losik clarified that the pre-March 2017 ordinance defined the Wetland Conservation District as tidal marshes, freshwater marshes, streams, ponds and wetlands. The proposed ordinance that went to public hearing in 2015, expanded the overlay district to include all surface waters, including fresh and tidal rivers. Some of the concerns that were raised in 2015, is that it would be expanding the definition of resources. This is also bringing in the specific areas of buffers, cutting and grandfathered issues. Going

through the study last year, it was found that there are specific RSA's which deal with surface waters. It was found in the study of the coastal towns and estuary towns that some of them are more specific to the RSA's and that is how they incorporate the protection of that area. There is language in the RSA around grandfathering for specific aspects of those resources. She explained that they would be looking for a sub-committee to open up this specific area wetland ordinance to study whether this is an area that the town would like to change.

Member Quinn commented that he thought this was the role of the committee last year.

Chair Losik explained the committee could not accomplish all the areas that were under consideration. Surface waters was not brought in last year. It was simply beyond the scope of time.

Member Quinn asked if there were any conclusions.

Planning Administrator Reed stated that conclusion was that the committee would like to bring it up again in 2017 to see if they could come to an agreement on surface water to make changes.

There was discussion on the work of the 2016 Wetlands Sub-Committee.

Chair Losik stated the consultant did a great amount of work at the highest quality. It resulted in a presentation of a comprehensive zoning ordinance that was "one stop" for everything that relates to wetlands. It was found that there is specific language in the NH RSA's that deal with shorelands. Some towns shift and have more of a relationship between what is provided by the State requirements for these resources and what is in the town's regulations. She continued that the first comprehensive proposal from the consultant was more restrictive than the RSA. People that had those resources which may incorporate their land, certainly had concerns that it might be going too far. She thinks the committee was saying that they didn't want to go too far. They wanted to do the right thing and protect the resources but it has to be reasonable. She reiterated that it really was a time constraint. Nobody on the committee felt they had the wherewithal to have a separate zoning section to deal with surface waters.

Chair Losik stated that she would like to bring a proposal to the Planning Board at the July meeting to reconvene a sub-committee for the purpose of looking at the wetlands and related surface waters; nothing more. She suggested that the committee members read a few documents to have a sense of the big issues that came out of the work of the Rules and Regulations Committee. She also suggested that they read the minutes from the December 22, 2015 Planning Board Meeting, which addresses the issues that were expressed by the public with regards to the initial proposal that was put forth by the Board based on Tracy Degnan's work.

III. New Proposed Zoning Ordinance to consider

The committee reviewed the list prepared by Kim Reed in regards to zoning ordinances to look at for the 2018 Warrant:

- Amend Section 500.1 – Size of parking spaces, to change the width required from 10ft to 9ft. This was on the ballot in 2014; however, there was a typo on the warrant. It was on the 2015 warrant and failed.

Planning Administrator Reed explained that this came up when the Atlantic Grill was being developed. The engineer for the developer, Eric Weinrieb, said in Portsmouth the size of the parking spaces are smaller than what Rye has. In Rye, the spaces are 10x18. She noted that the proposed amendment is already written and they could try it again.

Member Quinn stated that he would like to have some discussion on the ramifications.

Planning Administrator Reed stated that from a developer's perspective, they can get more parking. From an environmentalist, maybe there could be less asphalt. She is not sure what the pushback was on the ordinance. There has been new people coming and going from the town. She does not think they will know the "hot buttons" until the first public hearing. The purpose of the Rules and Regulations Committee is to come up with proposed amendment changes. It still has to go back to the full Planning Board. It still has to be legally noticed and have public hearings before it can ever go to the warrant. She agreed to print off the minutes from when this was brought to the Planning Board last time for the next committee meeting. She will also confirm the size of parking spaces for Portsmouth, Greenland and North Hampton.

Continue on the list review:

- 203.3E, 204.3E and 304.5 – Specific areas of the ordinance offer some inconsistencies regarding impervious coverage areas.

Planning Administrator Reed stated that 15% is the maximum lot coverage in the Single Residence District, where it is 30% in the General District. There are three different impervious coverages for the General, Single and Coastal Overlay Districts. Both Peter Rowell and Attorney Donovan, have requested that this be looked at by the Rules and Regulations Committee.

Chair Losik proposed that the members read and research, in the time before the next meeting, so it can be discussed.

Review of list:

- 306 – Recommendation by the Winebaums to include the well on Central Road (Aquarion 5A well) to the town's aquifer.

Chair Losik stated that she will listen to the tape of the April 11th Planning Board meeting, which is when the email from the Winebaum's was brought to the Planning Board. She wants to understand the resource correctly. There is certainly the mechanical infrastructure but there may be an actual ground well. She asked the members of the committee to also listen to that portion of the Planning Board tape (livestream) for the April 11th meeting.

Planning Administrator Reed suggested that they read the email from Dominique Winebaum in regards to the well on Central Road, which has been made available to the committee.

Chair Losik suggested they also read the minutes of the Jenness Beach Village District, which have been provided.

Planning Administrator Reed noted that the Rye Beach Village District has their own zoning regulations. The Jenness Beach Village District follows the Town of Rye. She is not certain this is in the Jenness Beach Village District. They need to keep this in mind moving forward so they do not overstep their jurisdiction.

Member Richter-Arnold agreed to find out information on the location of the well before the next meeting.

Review of list:

- 400.1 – Address renumbering

Planning Administrator Reed noted this is a simple fix. It is something that she could work on with Attorney Donovan. Section 400 addresses mobile home parks and subdivisions. The section was redone a few years ago and added a 400.8 and some sections are inconsistent with the numbering. She can have Attorney Donovan draft a proposed zoning ordinance, as there is nothing that the committee needs to work on for this.

Review of list:

- Building Code 7.9.4 change to 7.9.4.1 – Note from Building Inspector that the building code change should be referenced in 301.7 to 301.8.

Planning Administrator Reed noted that this is another “housekeeping” change. She can ask Attorney Donovan to draft the proposed zoning amendment for this along with 400.1.

The committee agreed.

IV. Other

Planning Administrator Reed explained that Freeboarding is a requirement for any construction that is in the Special Flood Hazard Zone in the Coastal District. In looking at the FEMA Maps, the ocean is at a certain elevation and the ground is at a certain elevation. There is an AO Zone, which is a splash over, and an AE Zone, which is flat. The town can put in a Freeboard that says that any new construction in the AO and AE Zone has to be built at another 1ft or 2ft. Currently, in the AO Zone the house has to be built at the 1ft elevation; however, the town can change it to 2ft above the elevation. In the AE Zone, a home can be built at grade but the town can say that building has to be 1ft above base elevation. She continued that there are specific materials that are used. FEMA has standards and guidelines as to what Freeboard is and what can be built in the Special Flood Hazard Zone. She continued that the reason she is suggesting that language be added about Freeboarding is because the town has been doing a lot of work on climate change. There are some changes with science to back it. The Town of Rye has been working with the Rockingham Planning Commission for four years on maps showing what the changes are going to be in 50 years. About a year ago, the Planning Board agreed that they should look at resiliency changes for the Town of Rye. If the Planning Board is helping out residents moving forward, as they are building, the town is being a little more resilient for things that could come down the pike in the future. She stated the other reason is that the Town of Rye was part of a program called Community Rating System. Unfortunately, the town was kicked out in 2010. If the town is a member of this FEMA Program, the residents of the town can receive a discount on their flood insurance at a minimum of 5% per policy. The more the town does, the more discounts.

The committee agreed that they would be interested in reviewing the language of other towns who have passed a Freeboard.

Referring to the April 11th Planning Board minutes addressing the consultation on cutting of trees, Chair Losik pointed out that Chairman Epperson have the Planning Board suggested that the Rules and Regulations Committee look at this for the future. There were some extensive discussions at the Planning Board about cutting.

Planning Administrator Reed stated that under the RSA, for all roads that are designated scenic, it's by law that they have to go to the Planning Board. She noted that an RSA cannot really be changed.

Member Quinn asked if the town has a set of protocols that PSNH (Eversource) has to follow in order to do any kind of cutting.

Planning Administrator Reed stated that every time they want to cut trees they have to apply to the Planning Board. The Board can set the procedures with them.

Member Quinn stated that he would be in favor of having those procedures written down.

Planning Administrator Reed commented they are in the Notice of Decision. Every application has to be looked at on its own merits. There is nowhere in the Zoning Ordinance or the Land Development Regs where the procedures would go. The procedures are written on the Notice of Decision for that application because every application is going to be a little bit different. She commented that over the years, the guidelines could change. Something unforeseen could come up that would add another procedure.

Chair Losik clarified that when an application is presented at the Planning Board, the former Notice of Decisions should be reviewed as a Board. It seems that the reflection in the minutes regarding confusion might be around the process for the Planning Board. She commented that this is not something that needs to be addressed by Rules and Regulations.

Tasks for Next Meeting:

- **Section 501 – Kim Reed to research minutes and look at Greenland, No. Hampton and Portsmouth.**
 - **Impervious – All members to review.**
 - **Section 306 – Member Richter-Arnold to seek information regarding Eversource's Well Protection Area.**
 - **Section 400.1 – Kim Reed will speak with Attorney Donovan about drafting an amendment.**
 - **Building Code 7.9.4.1 – Kim Reed will speak with Attorney Donovan about drafting an amendment.**
 - **Freeboard – Kim Reed will research information for the committee.**
 - **Wetlands/Surface Waters – Chair Losik will draft information for the Planning Board meeting for discussion about the sub-committee.**
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- **Next Meeting – Wednesday, July 19th, 6:00 to 7:30 p.m.**

Adjournment

Chair Losik adjourned the meeting at 5:22 p.m.

Respectfully Submitted,
Dyana F. Ledger