

**Rye Planning Board
Rules and Regulations Committee
Wednesday, July 19, 2017
6:00 p.m. – Rye Town Hall**

Present: Chair Pat Losik, Jeffrey Quinn and Kimberly Reed.

I. Call to Order

Chair Losik called the meeting to order at 6:00 p.m.

II. Approval of Minutes – June 27, 2017

Motion by Jeffrey Quinn to accept the minutes of June 27, 2017 as presented. Seconded by Pat Losik. All in favor.

III. Updates from Last Meeting

1. Parking Size Update

Planning Administrator Reed submitted information to the Committee regarding her research on parking space sizes. She stated that the parking spaces seem to range.

Chair Losik agreed. She stated that it seems like the width is between 9ft and 10ft and the length is 18ft to 20ft.

Mrs. Reed suggested that they consider not putting a change forward because there does not seem to be anyone concerned right now.

Member Quinn stated that he is not concerned about the width but the ability to maneuver as the vehicle as it is backing out of a space and not running into opposing isle parking.

Mrs. Reed explained that the angle of the parking is covered in the Land Development Regulations (LDR). The size of the spaces is addressed in the ordinance. Perhaps, this should be tabled to look at both regulations to look at parking as a whole, not just the size of the spaces.

Chair Losik clarified that the LDR contains the turning radius information.

Mrs. Reed confirmed. She noted that LDR 600 has the parking regulations. That addresses how many spaces are needed per development and turning radius. The size is in the zoning ordinance. She continued that she would like to put together a proposal to get some funds to have the Rockingham Planning Commission (RPC) help rewrite the LDR. That may be the time to look at parking in its entirety.

Member Quinn asked if parking is currently 10x18.

Mrs. Reed confirmed.

Chair Losik stated that she thinks look at it in connection with the LDR is a great idea. She asked if the rewrite with RPC would be a 2018 project.

Mrs. Reed explained that she is going to request funds in the upcoming budget cycle. If the budget is approved in March of 2018, she will be able to move forward with hiring RPC to rewrite the LDR.

Chair Losik noted that parking will be taken off the grid.

2. Impervious Coverage Update

Member Quinn asked what differentiates Single Residence to General Residence.

Mrs. Reed explained that General Residence has a lower density at 44,000sf per lot. In the Single Residence it is 66,000sf. She noted that the building areas are different for each zone. Also, in the Coastal Overlay District there is a height restriction of 28ft and the building area is less as well.

Chair Losik stated that in looking at the sections there are some definitions that appear in 203 E and 204 E, which describe open porches, garages, carports and paved driveways that are not consistent. Also, in 304.5 the language is a little different. She asked if there is a definition for “effective absorption” or “infiltration”. That is something that gets a lot of attention. She wonders if this is something they should consider including in the definitions. She commented that she is not thinking the percentages need to be changed. Overall, the language could be cleaned up in the respective building areas as they relate to the different resident districts.

Member Quinn stated that the discussion with the Building Inspector was relative to making everything consistent. He thinks there is good rationale for it to remain as it is. He does not see a need, since this is relative to lot size and most are built on anyways. It seems that it would be a difficulty to the homeowner if they were going to tear down and rebuild.

Referring to the Building Inspector, Mrs. Reed commented that he is looking for it to be consistent.

Chair Losik stated that the original question came from Corey Colwell of MSC Engineering. He was looking for clarification under 203.3 E, no dwelling can exceed 15% of its lot. Mr. Colwell pointed out that porches, garages, carports, barns, sheds and unwall covered areas, together with the dwelling can occupy no more than 15%. Mr. Colwell went on to say that this seems to indicate that other impervious areas, driveways, walks and steps, are not included in the 15% coverage. Chair Losik continued this is not what the Building Inspector has indicated.

Mrs. Reed pointed out that Attorney Donovan agreed with the Building Inspector’s interpretation, even though there are some inconsistencies with the language.

Chair Losik stated that the Building Inspector is saying that he counts paved driveways and patios in the unwall covered areas. Mr. Colwell is saying that it seems to indicate that those are not included in the coverage. Perhaps, there should be a definition for unwall covered areas.

Member Quinn suggested “such as, paved driveways and hardscape patios”.

The Committee looked at sections 304.5 and 304.6.

Mrs. Reed suggested that they consider defining “unwalled” and look at the actual language to make sure they are consistent. She agreed to work on the consistency.

Chair Losik stated that people are thinking more about pervious materials that are available to construct patios, driveways and such. She suggested that other towns be looked at to see what they have.

Mrs. Reed agreed.

3. Aquarion Well on Central Road Update

Chair Losik noted that she will call Carl McMarin for information about the well. She pointed out that the tax card for 480 Central Road does not talk about a well; just the water main, tank, two sheds and two sections of fence. She believes in an email submitted by Mr. Winebaum he noted that the pump house was rebuilt around 2008. There were building permits pulled in 2006 for electrical and 2014 for the fence. In looking at the card, she has questions about what the assets actually are.

The Committee discussed scheduling a site walk with Mr. McMarin.

Mrs. Reed stated that a 4,000sf radius around this well would fall in the Rye Beach Village District. The district would need to be involved in any ordinance change.

4. Freeboard Update

Chair Losik reviewed that freeboard is the elevating of buildings’ lowest floor above the predicted flood elevations by a small additional height generally 1 to 3ft above the national flood insurance minimum height requirements. In looking at Hampton’s Flood Plain Ordinance, she was trying to understand how that relates to where Rye stands today. There is Section 302, Flood Hazard District. She asked where they go from there.

Mrs. Reed explained it still falls within the zoning ordinance but now it is its own entity; Flood Plain Ordinance. It is co-created with the New Hampshire Office of Energy Planning. Right now, it is minimum standards. She continued that when the Town of Rye joined the National Flood Insurance Program the community had to adopt a Flood Plain Ordinance. With the help of the State, a flood ordinance was drafted to set minimum guidelines for development of a home within the special flood hazard zones. The AO Zone is a wash out zone. The AE Zone requires a minimum height and the home to be built at the base elevation or higher. The AO Zone requires the house to be built a little bit higher. Currently, there are no VE Zone; however, when the new maps come out there will be and those have to be elevated above the base elevation. She continued that what they are looking at is going above and beyond the minimum standards.

Member Quinn asked if this is for new construction.

Mrs. Reed explained it is for new construction or 50%. There is a 50% rule that comes through FEMA. If someone is doing a big renovation on their home, the Building Inspector will determine if the renovations of the home go over 50% of the market value of the house. If the renovations exceed 50%,

the home has to meet the requirements of the Town of Rye Flood Plain Ordinance. She continued that the town's ordinance is just the minimum. There is talk about climate change, sea level rise, resiliency and looking into the future. This is going one step above and building in some resiliency in construction of any homes or businesses in the special flood hazard area by having more protection by having a 1 or 2ft freeboard. She noted that it is very specific as to what can be built based on the certified base elevation.

The Commission reviewed the Town of Hampton's Flood Plain Ordinance.

Chair Losik commented that the next step is to look at the language and structure of the town's Flood Plain Ordinance.

It was agreed to review the current Flood Plain Ordinance for the next meeting.

IV. Any new proposed zoning amendment or building code change recommendations

Section 400.1, septic systems in the wetland buffer: 2018-01

Mrs. Reed stated that Attorney Donovan drafted two zoning amendment changes. One is for the building code and one is just for housekeeping.

The Committee agreed to move Proposed Zoning Amendment 2018-01 for Planning Board review on August 8th.

V. Other

1. Status on the Wetlands Committee

Referring to the information from the December 2015 public hearing regarding wetlands, Chair Losik stated this is important context on the proposed ordinance by Tracy Degnan, Rockingham County Conservation District. She noted that Mrs. Reed has put together a packet of information from that meeting, letters that were received from residents and the work of the Wetlands Subcommittee from 2016. She continued that they started with the old Section 301, Wetland Conservation District, and analyzed the components of that ordinance against the proposed ordinance of 2015. All components and elements of the ordinance were compared and discussed. The sub-committee also came to understand that it would be helpful to look at what other communities were doing. She continued that one of the principal changes that was brought forth in the wetland document was to change the town's definition. Right now, the definition of the district included, tidal marshes, freshwater marshes, streams, ponds and wetlands. One of the triggers of concern was that the proposal incorporated all surface waters. All surface waters including fresh and tidal rivers, streams and ponds. It kept in place, wetlands, marshes, wet meadows, bog and swamps, fresh water or tidal. This was done on the legislative authority of 674:16, which relates to innovative land measures that can be adopted by towns. The surface waters, including all those components, cause a lot discussion at that December meeting and with the Committee. There was concern about the buffer and grandfathering activities along the ocean.

Chair Losik commented that in looking at re-establishing the sub-committee and having the approval from the Planning Board to do so, she started to struggle with what is the real question here. She looked back at the notes of discussions that were made during the 2.5 month time frame. People were concerned about whether changes could be made and trees removed, etc. It was also discovered that the Rye Beach Zoning Ordinance establishes in their resource protection district, shoreland is defined as east of Route 1A to the mean low water of the Atlantic Ocean and that area. She continued that as far as Rye Beach is

concerned, shoreland has some protections and permitted uses within their zoning ordinance. The State and DES has a provision, 483:B, Shoreland Water Quality Protection Act. She stated that the sub-committee came to understand that they were not prepared to take on shoreland and were prepared to leave the definition of wetlands as it had previously been established for the Town of Rye. She thinks they now need to determine if this should be opened up at this point or take this on as part of the next iteration of wetlands.

Member Quinn stated that it seemed to boil down to an issue of how many feet of buffer it is going to be. It is now at 75ft and they were proposing 100ft. Also, how large the body has to be to qualify as a wetland area. Right now, it is one acre and they are proposing 3,000sf.

Chair Losik stated that the sense of the sub-committee was that the town would be best served by hiring a consultant to help work through those issues. In terms of the size of the wetlands and the buffers, they remain complex issues. She continued that at the last Rules and Regs meeting there was talk about splitting off just the shoreland piece. Right now, the shoreland piece at the local level, other than the Rye Beach Village District Ordinance and as the State law may apply, is not included in the base of protected assets.

Referring to the sub-committee minutes, Member Quinn pointed out that there was some commitment relative to holding some workshops. He is wondering if those were done. He thinks the intent was to get at communicating with the public to get at the rationale as to why these changes are being promoted. He continued there has to be some level of compromise because the town is pretty well up. He does not see that there is an awful lot of land yet to be developed in town. The majority of the town is living under rules that are at a lesser standard than this. He would assume the new regulations are a standard for new construction. He asked if this would be for people who are already in their homes.

Chair Losik noted that this was part of the difficulty of finding that middle ground. Some of the committee members of the sub-committee member felt the grandfathering language should be expansive. She pointed out that the language is varied amongst the other communities.

Mrs. Reed suggested that they look at the shoreland and not go into the size of the wetlands. They are going to run into the same questions and do not have the technology or expertise to answer those questions.

Chair Losik suggested that the Committee meet before the Planning Board meeting on August 8th. She would like everyone to look at Durham's Ordinance, RSA 483:B and the DES website for the Shoreland Water Quality Protection Act, before the next meeting. She noted that there is some good language in 483:B regarding grandfathering and fertilizers. (She read from RSA 483:B)

- Mrs. Reed noted that Planning Board Chair Bill Epperson would like the Committee to look at the Aquifer and how it can be "tightened up".

Chair Losik stated that they had an interesting exchange with Julie LaBranche, RPC, during the June Planning Board meeting regarding the Master Plan. There was discussion on the USGS Report and specifically the bedrock aquifers. This may be a place to start. She asked Mrs. Reed to reach out to Julie LaBranche for information. The global question is does the town have adequate protection and does it have good definitions of the aquifer within the current 306.

- Mrs. Reed noted that the Selectmen are recommending that boards and commissions revise their Rules of Procedures to address communication to the public regarding applications outside of board meetings. Attorney Donovan has drafted some language for review. She will add this language into the current Rules of Procedure and bring it to the next Rules and Regulations meeting.

Next Steps:

- **Look at impervious coverage in the regulations in terms of consistency – Kim Reed**
- **Reach out to Carl McMarin regarding Aquarion Well (possible site walk) – Pat Losik**
- **Review the Town’s current Flood Plain Ordinance to address freeboard – All members**
- **Review Durham’s Ordinance on wetlands to address shoreland – All members**
- **Review RSA 438:B – All members**
- **Review DES Shoreland Water Quality Protection Act – All members**
- **Reach out to Julie LaBranche, RPC, regarding USGS Report on bedrock and gravel aquifers – Kim Reed**
- **Add drafted language to the current Rules of Procedure – Kim Reed**

- **Next Meeting – Tuesday, August 1st, 7:00 a.m., Rye Town Hall**

Adjournment

Motion by Jeffrey Quinn to adjourn at 7:15 p.m. Seconded by Pat Losik. All in favor.

Respectfully Submitted,
Dyana F. Ledger