

**Rye Planning Board
Rules and Regulations Committee
Tuesday, August 1, 2017
7:00 a.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 7:00 a.m. and led the Pledge of Allegiance.

II. Updates from Last meeting

1. Impervious Coverage Update

Planning Administrator Kim Reed stated that she reviewed Sections 203.3, 204.3, 304.5 and 304.6 to make sure each one had the same language. (She reviewed her suggested changes that were submitted to the committee.) She noted that each one should say, “Open porches, accessory buildings, patios, paved walks, garages, carports, paved driveways and other impervious areas, barns, sheds and unwall covered areas shall not be included as ground floor area or living space”.

Member Quinn asked if there is a disadvantage to trying to be more general in the description, rather than be more detailed. He thinks they used the term “hardscape” at the last meeting. He continued that he read through the State law. He thought their description of impervious surface made a great deal of sense. It seems like every time an issue comes up, something else has to be added to the list of impervious surfaces. He asked if there would be an advantage to keeping it broad. He noted that he is taking this from RSA 483-B, “An impervious surface means having modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surface include, but are not limited to, roofs, and unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking areas or walkways”.

Chair Losik stated that the two areas she was having difficulty with are carports. Definitions might need to be added to areas that one might not be sure of what that is. She continued that 204.3 E, “paved surface and other impervious areas” seem to come out of that section as one category, which adds a lot of confusion because “other impervious areas”, unless it is so defined. She likes the idea of adopting a definition. She asked for thoughts on crushed stone.

Member Quinn stated that crushed stone eventually becomes impervious. He continued that he would add to the definition parking areas, common walkways and other hardscape surfaces.

Planning Administrator Reed suggested adding before “open porches”, “Per RSA 483-B 4 VII-b, i.e.....

Chair Losik stated that she would take the rest out.

Member Quinn commented that he is a fan of communicating with as few words as possible.

Planning Administrator Reed stated that the building inspector and the ZBA are the ones who have to interpret it and they can go back to this.

Chair Losik stated that they could incorporate the first sentence under the RSA definition in the ordinance. A definition could be added in the definition section.

Planning Administrator Reed pointed out that there is a definition.

Chair Losik stated that they want to be sure to conform the definition to the current 483.

Planning Administrator Reed suggested the words “as amended” to cover any amendments by the legislature.

Member Quinn suggested referencing the appendix and putting in there “for example, but not limited to...”

Chair Losik stated that the definition should be what is in the RSA, “Examples of impervious surface include, but are not limited to, roofs, and unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways.”

The members agreed on the wording.

Chair Losik commented that each respective area will incorporate the same structure.

Planning Administrator Reed noted that she is going to add “as amended” so when it is updated by the legislative it will always be current.

Chair Losik stated that the other question was in regards to 203.3 E, “However, no dwelling unit shall provide less than 600sf of floor area per family”. She knows this is language which is consistent with the General Residence. She wanted to get the background for the addition of the sentence.

Planning Administrator Reed explained that she was trying to be consistent. Under 204.3, dimensional requirements in the General, it’s the very last sentence in General. She was trying to have everything be consistent. She noted that she was going to run this by Attorney Donovan. Member Quinn stated that he gets confused when he goes to the next one down and it talks about minimum living space of 960sf be provided therein.

Planning Administrator Reed noted that this was originally written by Attorney Donovan and she can ask him the reasoning for the numbers. She wonders if the numbers should go in definitions.

Chair Losik stated that the first question for Attorney Donovan is about the structure and the second would be about the numbers.

Planning Administrator Reed agreed to speak with Attorney Donovan and incorporate the RSA.

2. Aquarion Well on Central Road update

Member Quinn stated that he has seen the location of the well. He is not sure how it differentiates between the bedrock well and the characteristics of this well. It makes a great deal of sense to him to put it in a protection zone. Before he goes to that step, he would like to understand what the ramifications are to people who presently live in that area and what that will mean to them moving forward.

Planning Administrator Reed noted that where the well is located is already under the protection of the Town's aquifer. In looking at page 32 of the Rye Zoning Ordinance 306.4, it says, "The Aquifer and Wellhead Protection District is an overlay district that includes the area portrayed as a stratified drift aquifer on Stratified Drift Aquifer Map and all the area within the Rye Water District Wellhead Protection as delineated on the official map". She continued that what Chair Losik found out yesterday is that this particular well is already partially in the Rye Water District Wellhead Protection area and it is already in the Stratified Drift Aquifer Map.

Referring to the map, Chair Losik stated that it can be seen how much of Lot 118, which is the lot being discussed, is currently in the aquifer. There is only a small area that is not under the protection of the current 306.4. She continued that she did some research on well 5-A and there is a protection area around the well called 'Existing Aquarion Water Company Wellhead Protection Area'. This area roughly follows Rye's Zoning Ordinance Aquifer and Wellhead Protection District, except for the area that goes around Well 5-A which is not a part of Rye's map. She thinks they need to go back to Aquarion and ask them what happens in what they are describing as the 'Existing Aquarion Water Company Wellhead Protection Act'.

Chair Losik continued that would include some element of the Sanitary Protection Radius, which is the 400ft around the well. It seems to her as it is depicted on the map that there is a greater reference to space, something closer to 1000ft. Her questions would be; Are there easements? Is there communication with landowners? She would like to know from Aquarion what protections are in place. How are they protecting their wells? She noted that this information was in one of their filings for a temporary discharge water permit in 2007; application filed on October 24, 2007. There is reference to the map that shows Well 5-A and the "source water protection area".

Member Quinn stated that he was under the impression, relative to what the Winebaums were trying to promote, is that after identifying Well 5-A there be a radius of 4,000sf around that well, which would be additional.

Chair Losik stated that she is not sure. As has been stated by the Rye Water District Commissioners, the radius around the three wells, which was done specifically in connection with the two bedrock wells, was done in association with the lineaments that were feeding those two bedrock wells. They talked about those lineaments being the northeast to southwest flow. Referring to Well 5-A, she commented this is not a bedrock well. According to DES, it is a drilled in gravel well and is 20.5ft deep. The casing goes down 21.5ft. The yield that was tested at the time, January 2008, was 100 gallons per minute. She noted that there are questions that need to go to Aquarion. It is seen in the documents that there is reference to protections by Aquarion but it needs to be known what those protections are.

Planning Administrator Reed asked why they would reinvent the wheel by adding another radius, when Aquarion already has a map with a radius around it. Once the answers are received, why can't the map with the radius be referenced in the zoning ordinance for protection, instead of creating a new radius which may complicate things.

Chair Losik commented this is where she was heading with this. When she looks at what DES has for model groundwater protection ordinance, one of the things they are saying is that maps change. The communities need to find, when defining and refining their boundaries for the Aquifer Protection District, that the platforms that support their ordinance changes. DES says that the drafter should take time to understand the various identified groundwater resources that might be located in a local groundwater protection district. This could include NH DES approved Wellhead Protection Areas, Stratified Drift Aquifers and til areas located upgradient of certain Stratified Drift Aquifers. She noted that one place to start is with DES Staff and ask for their suggestions. The ordinance right now specifically references the map and the Wellhead Protection District as defined by Rye Water District. This is a way to expand the language to create the most likely opportunity for the ordinance to maintain a current position.

Member Quin agreed.

Chair Losik stated this is a reasonable direction, at this point, that will be further flushed out by the discussion with the Aquarion representative and a public site walk if needed. She continued that they first need to understand what Aquarion's protections are. She noted that in looking at the information from DES, Well 5-A is shown jurisdictionally in Hampton.

Speaking to Planning Administrator Reed, Chair Losik asked her to reach out to Mr. McMarin from Aquarion and ask him to come to the next Rules and Regulations meeting. She would like to schedule a meeting for the last week in August.

It was agreed that the committee would meet on August 22nd, time to be determined. Mrs. Reed will ask Mr. McMarin to attend.

Member Quinn stated that he is trying to get his head around what they are trying to protect against. In most cases, they are trying to protect against the septic systems and how they affect the eventual water quality of the wells. Getting down to the area of Well 5-A, most of that area has been serviced by public sewer.

Chair Losik replied no. (She showed a DES map outlining the neighborhood.)

Member Quinn commented that anything that is northwest of Central Road is going to have septic systems of some kind. The area all the way to the beach and Rye Beach Village has sewer.

Chair Losik stated this would be a question for Mr. McMarin. There is some level of protected area that Aquarion has initiated around this well. The question is what does that mean, knowing that most of the area to the east and south has sewer. She continued that this water is treated. There was some public testimony on April 21st, that Rye Water treats their water minimally with some salt. Referring to Well 5-A, she stated that what is not understood at this time, is how this water is treated. She thinks the treatment is there but the Town does not have that information yet. Those two items are big factors in how to go about protecting this well.

The committee agreed this was the right direction to take.

3. Wetlands Sub-Committee

Chair Losik asked if they are in agreement to ask the Planning Board to support forming a sub-committee for the specific work of shoreland protection.

Member Quinn stated that as long as the committee identifies what that charge is pretty closely.

Planning Administrator Reed commented the Planning Board needs to set the charge.

Chair Losik stated she is concerned about how much the sub-committee could undertake in this time. She thinks it is important to take the time to address the opportunities they have to add to the ordinance. The interplay between what is now in Wetlands, which includes tidal marshes, and bringing in the shoreland protection that by virtue of 483:B has larger buffers. She sees that there is potential conflict; however, she is loath to give up a time period to study this to see if there is some language that could be adopted.

Member Quinn stated that the area they are talking about in Rye is densely populated, especially close to the shoreline. His major concern is telling the Town of Rye that they want to increase the buffers, which has detrimental effect on present property owners as to what they can and cannot do on their lot. He would like to have good appropriate judgement as to what the buffers ought to be. The other question he has in his mind is the square footage of what qualifies as a wetland.

Chair Losik submitted to the committee a copy of the DES summary of the standards in the shoreland water quality for their review. She noted that there may be some components that might be incorporated into the current RZO. Structurally, there is a problem right now that 301 does not reference shoreland. The ocean is not included. That is where the work was going in 2015, to bring in all of those assets under one area and that is when it met with some resistance. She would like the opportunity to bring this up with a sub-committee and keep this work going.

Member Quinn stated that he would like the sub-committee to be able to tell the Planning Board what the ramifications are of becoming more restrictive in these regulations. If the ocean water is added, what ramifications will that have on people who already own property.

Chair Losik noted there is a lot of language in 483:B that refers to a 2008 date for grandfathered properties. She is not sure they can get to 483:B in its entirety.

The committee agreed to bring the request to reform the sub-committee to the Planning Board.

3. Freeboard update – look at the Rye Floodplain Ordinance and how it relates

- **To be addressed at next meeting.**

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

- Planning Administrator Reed noted that the building inspector has asked for some more items to be addressed. She submitted a list of those items in the committee's packet for the member's review for the next meeting.

IV. Other

Next Steps:

- **Speak with Attorney Donovan regarding the structure of the language for impervious coverage – Kim Reed**
- **Speak with Attorney Donovan regarding the numbers for lot coverage – Kim Reed**
- **Revise 203.3 and 204.3 to include the RSA – Kim Reed**
- **Contact Mr. McMarin, Aquarion Water, in regards to attending the next Rules and Regulations Meeting – Kim Reed**
- **Move the request to form a sub-committee to address shoreland protection – Committee as agreed.**
- **Next meeting to be held August 22nd, time to be determined, Rye Town Hall.**

Adjournment

Motion by Jeffrey Quinn to adjourn at 8:05 p.m. Seconded by Pat Losik. All in favor.

Respectfully Submitted,
Dyana F. Ledger