

**RYE PLANNING BOARD
RULES AND REGULATIONS COMMITTEE**

Tuesday, November 28, 2017

3:00 p.m. – Rye Town Hall

Present: Chair Patricia Losik, Jeffrey Quinn, Steve Carter and Planning Administrator Kimberly Reed

I. Call to Order

Chair Losik called the meeting to order at 3:00 p.m. and led the Pledge of Allegiance.

II. Minutes of November 2, 2017

The following corrections were noted:

- Page 2, 2nd to last paragraph, 2nd sentence should read: **The structure shall have the lowest floor at least 2ft above.**
- Page 3, 3rd paragraph from bottom, last sentence should read: **Nowadays, most construction projects on Ocean Boulevard are demos and rebuilds so a P.E. is already on site.**
- Page 5, 5th paragraph, 1st sentence should read: **Planning Administrator Reed noted that with some of them if the garage is attached it is part of the dwelling coverage.**

**Motion by Jeffrey Quinn to accept the minutes of November 2, 2017 as amended.
Seconded by Steve Carter. All in favor.**

III. Building Code Proposed Amendment 2018-02 Removal of Swimming Pools

**Please see attached Proposed Building Code Amendment 2018-02.*

Planning Administrator Reed noted that she deleted the building code and cut and pasted the language as stated by Peter Rowell in the meeting minutes. She sent that over to Attorney Donovan. He thought it was fine and wrote up the explanation as to why this is being done.

Chair Losik explained that the committee discussed the deletion of 7.12 at previous meetings. It was the building inspector's recommendation and the committee agreed.

Member Carter asked about the new language for 7.12.

Planning Administrator Reed explained that there will be none. Section 7.12 is going to be completely removed. She pointed out that she will make a memorandum on the last page regarding the update on the building code (date of change).

Motion by Jeffrey Quinn to move Building Code Proposed Amendment for Section 7.12 to the Planning Board for consideration at the next meeting. Seconded by Steve Carter. All in favor.

IV. Housekeeping

****Please see attached Proposed Building Code Amendment 2018-01 and Proposed Land Development Regulations Amendment 2018-01.***

Planning Administrator Reed stated that the committee proposed a building code change to 7.9.4.1. A member of the public brought it to her attention that this was also in one other place in the building code and the Land Development Regulations. Attorney Donovan has recommended that this be reopened and rescheduled for a public hearing to make the amendment to Building Code 2018-01, as revised November 24, 2017. She continued that the changes to the Land Development Regulations can be legally posted for a public hearing; however, it does not have to go to the warrant. The Planning Board can approve it.

Motion by Steve Carter to move Proposed Building Code Amendment 2018-01 and Proposed Land Development Regulations Amendment 2018-01 for full disclosure at that next Planning Board meeting. Seconded by Jeffrey Quinn. All in favor.

V. Proposed Zoning Amendment No. 2018-xx to Section 306 Aquifer and Wellhead Protection District

Planning Administrator Reed noted that she had taken everything that everyone had given her, put it into a write-up and forwarded it to Attorney Donovan for review. A letter was received from Attorney Donovan with some additional changes.

Chair Losik stated that Planning Administrator Reed did a great job in not only bringing the committee the initial draft to the November 2nd meeting but also in reaching out to Aquarion, Rye Water, Danna Truslow, Attorney Donovan and NHDES. It has been a helpful process. She continued that Attorney Donovan felt that the principal purpose in looking at incorporating Aquarion resources, specifically Well 5A, is farsighted and legal. The amendment also adds to the definitions from the Model Groundwater Protection Ordinance, which is the DES document. His comments with regard to the definitions were that they add strength and clarity to the ordinance.

Referring to 306.6C, Drainage, under special requirements within the Aquifer and Wellhead Protection District, Chair Losik stated the deletion of the words “to the extent possible” was suggested by DES in conformance with their ordinance. Attorney Donovan noted that he would retain the language “to the extent possible”. His note about 306 is that it applies to all

development in the district, construction and renovation of the homes. He wanted to be sure that vague language was not included. He wanted to make sure that the town would be able to allow drainage to be conveyed to the town's storm drain system or the roadside drainage swales. She continued that she is okay with leaving the original language in. She asked the members how they feel.

Member Quinn asked about the sentence at the end "All discharges shall comply with state Underground Injection Control requirements under Env-Wq 400". He commented that in regards to the language "to the extent possible", it made a great deal of sense.

Member Carter stated he changed the sentence because without "to the extent possible", it really does not work. He noted that at the end he would add "See section 306.7 B regarding regulated substances".

The committee agreed to add back **"To the extent possible"**. They also agreed to add **"See section 306.7 B regarding regulated substances"**.

Referring to the new definition of "impervious", Member Carter asked if they think it is an improvement.

Chair Losik commented it relates specifically to this section. She continued there are two definitions of impervious in the model ordinance. One is for "impervious" and one is for "impervious surface". The model ordinance makes a point and calls out that what is considered impervious, with respect to stormwater infiltration, is not necessarily considered impervious with respect to containment of regulated substances. It is a different definition than what is seen elsewhere in the zoning ordinance. In regards to "impervious" in 306.7, Performance Standards, Chair Losik noted that it is distinguished from "impervious surface".

Member Carter asked if they need to give examples in 306.3 C.

Chair Losik commented that "impervious" is used in Performance Standards and is defined, so it is distinguished from "impervious surface". She continued that she thinks the DES is saying that it is better to have one definition for "impervious" and one for "impervious surfaces".

Note: *Member Quinn was excused from the meeting at 3:30 p.m.*

Member Carter asked if the word "impervious" is used consistently in other parts of the zoning ordinance.

Planning Administrator Reed pointed out that page 109 of the zoning ordinance shows a definition of "impervious".

Chair Losik noted that where it differs is the language regarding "concrete, unless unsealed cracks or holes are present". "Impervious surfaces" is a bit different in the section that deals with the regulated substances.

Member Carter asked if they need to add “impervious surface” to the glossary in the back.

Chair Losik commented this would be a form question for Attorney Donovan. Should all of the definitions be included?

There was discussion on 306.10 and 306.11.

It was agreed add a second sentence to 306.10. **The NHDES map entitled ‘Stratified Drift Aquifer Map Rye, N.H. and Wellhead Protection Areas’, Rye Water District and Aquarion, depicts the Wellhead Protection areas (WHPA).**

After reviewing 306.11, it was agreed to revise the last sentence to, **“Only activities or uses approved by RWD, Aquarion and NHDES may occur within the Sanitary Protective Radius”.**

The Committee reviewed 306.5 C (1) along with the revisions submitted by Attorney Donovan. The members agreed with Attorney Donovan’s suggested revision. They also reviewed 306.7 E. The members agreed with the suggested revisions from Attorney Donovan.

Referring to 306.11, Chair Losik suggested adding, **“Only activities or uses approved by the RWD, Aquarion and NHDES in accordance with BMP’s set forth in NHDES rules at Env-DW 302.10”.**

Member Carter agreed with that change.

Motion by Patricia Losik to bring, 306, Aquifer and Wellhead Protection District, with the changes as discussed, to the Planning Board on December 12th for consideration. Seconded by Steve Carter. All in favor.

VI. Proposed Zoning Amendment to the Floodplain Ordinance No. 2018-01 on Freeboard

Planning Administrator Reed explained that she took what was discussed at the last meeting and sent it to Julie LaBranche, Rockingham Planning Commission, for review. She returned the draft with some markups for the Committee.

Referring to Section 8, Chair Losik asked if the proposed changes should go in there or as a separate section.

Planning Administrator Reed stated her opinion is that it remains separate because Section 8 explains what it is. It does not go into detail as to what has to happen.

Chair Losik suggested that they look at proposed options 1 and 2 and the question could be brought to Attorney Donovan.

Planning Administrator Reed suggested adding the proposed draft to Section 8.3.

It was agreed that this is a question for Attorney Donovan.

Speaking to Member Carter, Chair Losik asked his thoughts on proposed option 1 and 2.

Member Carter stated that he likes option 1, as it is clearer. He also likes 2ft.

Chair Losik agreed.

After discussion, it was agreed to strike out “**including basement**”. It was also agreed that it should be elevated 2ft. The word “construction” in the proposed amendment should have a small “c”.

Motion by Patricia Losik to move Proposed Zoning Amendment 2018-01, with the changes, to the Planning Board, as Planning Administrator Reed will discuss with Attorney Donovan whether it’s a standalone under Section 12 or incorporated into Section 2 of VIII. Seconded by Steve Carter. All in favor.

VII. Other

- Planning Administrator Reed noted that she has sent a memo to Attorney Donovan regarding “impervious”. He has been very busy and has not addressed it at this time. She suggested that it be tabled until next year because of timing. The Committee agreed.

Adjournment

Motion by Steve Carter to adjourn at 4:10 p.m. Seconded by Patricia Losik. All in favor.

Respectfully Submitted,
Dyana F. Ledger

move to P.B

Revised November 24, 2017

RYE PLANNING BOARD
PROPOSED BUILDING CODE AMENDMENT 2018-01

Re: Septic Systems in Wetlands Buffer

Amend Section 7.9.4.1 and Section 7.9.2.2.1 of the Building Code as follows. (Note: Deleted language struck through. New language ***emboldened and italicized***).

§ 7.9.4 Prohibited Conditions. The following are considered unsuitable for the disposal of septic and effluent and may not be remediated by the addition of fill, blasting, excavation or other methods.

7.9.4.1 The Wetlands ***Buffer*** of Section ~~301.7~~ ***301.8, A*** of the Zoning Ordinance ~~and all land within 100 feet of these protected wetlands~~ ***except replacement of existing septic systems pursuant to § 301.8, B. (2) of the Zoning Ordinance.***

7.9.2.2.1 Contiguous wetland areas of 500 sq. ft. or more including ponded areas and hydric soils. However, effluent disposal systems are prohibited in the protected wetlands and setbacks of Section ~~301.7~~ ***301.8*** of the Zoning Ordinance.

Explanation

The amendment makes the building code consistent with the Wetlands Ordinance as amended by voters in 2017. It also corrects erroneous references to the zoning ordinance section describing the Wetlands Buffer.

more to P.B

November 24, 2017

RYE PLANNING BOARD
PROPOSED LAND DEVELOPMENT REGULATIONS AMENDMENT 2018-01

Re: Buffers

Amend Section 611.3, A.1 of the Land Development Regulations as follows. (Note: Deleted language struck through. New language ***emboldened and italicized***).

611.3 Buffers and Screening.

- A. Zoning Requirements: All buffers required by the Rye Zoning Ordinance shall be provided. These buffers are:
1. The buffer adjacent to residential districts required by Sec. 202.10 of the Zoning Ordinance; and
 2. The wetlands buffer required by Sec. ~~301.7~~ ***301.8*** of the Zoning Ordinance.

Explanation

The amendment corrects an erroneous reference to the zoning ordinance section describing the Wetlands Buffer.

November 16, 2017

move to 7.B

RYE PLANNING BOARD
PROPOSED BUILDING CODE AMENDMENT 2018-02

Re: Swimming Pools

Amend the Section 7.12 Swimming Pools in the Building Code as follows: (Note: Deleted language struck through. New language ***emboldened and italicized***).

7.12—Swimming Pools: Purpose: To insure the health and safety of the people of the Town of Rye and more particularly to help prevent accidental drowning and electrocutions in swimming pools.

7.12.1 — All outdoor artificial pools which have a maximum depth of more than three (3) feet when filled to capacity with water shall be surrounded by a substantial wall, fence, or other enclosure having a minimum height of five (5) feet. In the event an artificial pool has elevated sides higher than five (5) feet and it is so constructed that a child cannot easily climb the pool sides or otherwise gain access to the pool, no fencing is required.

7.12.2 — The wall, fence or other enclosure shall be constructed so that a child will be unable to crawl under or through, or easily climb over it so that in fact, the only easy access to the pool is a gate or door. All such gates or doors shall be secured when the pool is not attended. All gates and doors shall be self-closing.

7.12.3 — These requirements shall not apply to natural bodies of water such as ponds and streams, nor shall it apply to ponds constructed primarily for agricultural or industrial purposes.

7.12.4 — All such installations shall comply with National Electrical Code.

Explanation

The State Building Code applies in Rye. The Rye Building Code (RBC) may be more strict than the state code, but it may not be less strict. Both the State Building Code and Section 7.12 of the Rye Building Code regulate swimming pools. The State Building Code requirements are more comprehensive than RBC Section 7.12. To avoid confusion the Building Inspector and the Planning Board recommend removing Section 7.12 from the Rye Building Code and relying only on the State Building Code for regulation the installation of swimming pools. The State Building Code requires 4 ft. high barriers around swimming pools. One effect of the amendment will be to reduce the fence (a/k/a barrier) height requirement in Rye from 5 ft. to 4 ft.