

MEETING AGENDA

BUSINESS

- Approval of July 10, 2019 meeting minutes
- Rules of Procedure

APPLICATIONS

1. **Mary Murphy Westover Mt. Vernon Street, Boston, MA for property owned and located at 9 Perkins Road, Tax Map 5.2, Lot 123** requests variances from Section 603.2 to raze the existing non-conforming home and detached garage and replace with a new home and attached garage; from Section 204.3 A for building 3.8' from the rear boundary where 25' is required and from Section 204.3 B for an AC unit 16.8' from the side boundary where 20' is required. **Property is in the General Residence and Coastal Overlay District. Case #30-2019.**
2. **Patrick Merrill for Carbajal Family Rev Trust, Lori Carbajal, Trustee for property located at 18 Tower Ave, Tax Map 8.1, Lot 66** requests variances from Section 603.1 for expansion of a non-conforming structure; from Section 204.3 A for a patio where 18' exists from the rear boundary, 5' is proposed and 30' is required and from Section 204.3B for a patio where 23' exists from the side boundary, 8' is proposed and 20' is required. **Property is in the General and Coastal Overlay Districts. Case #31-2019.**
3. **Jackie & Jay Rushforth for property owned and located at 199 Locke Road, Tax Map 12, Lot 86** request variances from Section 204.3 C for a garage 22.08' from the front boundary where 30' is required and from Section 203.3B for a garage 10' from the side boundary where 20' is required. **Property is in the Single Residence District. Case #32-2019.**
4. **Paul R. Bacon for property owned and located at 200 Parsons Road, Tax Map 19, Lot 115** requests variances from Section 301.8B(1) & (7) for fill, regrading, and improvements including a boardwalk 16.21', grading and patio 30.47', a greenhouse 34.50' and a retaining wall 33' from the wetlands where 100' is required. **Property is in the General Residence, Coastal Overlay and Wetlands Conservation Overlay Districts. Case #33-2019.**
5. **James Holland for property owned and located at 2250 Ocean Blvd, Tax Map 5.3, Lot 70** requests variances from Section 203.3 A for a patio 6.0' and stairs 15.9' from the rear boundary where 18.28' was approved and 30' is required; from Section 203.3 B for rinsing station 14.6' from the left side boundary where 20' is required and for a patio 5.9' from the right side boundary where 20' is required and from Section 304.5 for impervious coverage of 17.4% where 17.2% was approved and 15% is required. **Property is in the Single Residence, Coastal Overlay and SFHA, Zone AO+1. Case #33-2019.**

Burt Dibble, Clerk

TOWN OF RYE – BOARD OF ADJUSTMENT
Wednesday, August 7, 2019
7:00 p.m. – Rye Town Hall

Selectmen Present: Chair Patricia Weathersby, Vice-Chair Shawn Crapo, Burt Dibble, Charles Hoyt, and Rob Patten.

Others Present: Planning/Zoning Administrator Kimberly Reed

I. CALL TO ORDER

Chair Weathersby called the meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

II. BUSINESS

- **Approval of July 10, 2019 meeting minutes**

Motion by Burt Dibble to table the minutes of July 10, 2019. Seconded by Shawn Crapo. All in favor.

- **Rules of Procedure**
Discussion moved to the September meeting.

Motion by Burt Dibble to continue the applications of Rushforth, Bacon, and Holland to the September meeting. Seconded by Shawn Crapo. All in favor.

III. APPLICATIONS

1. **Mary Murphy Westover, Mt. Vernon Street, Boston MA for property owned and located at 9 Perkins Road, Tax Map 5.2, Lot 123, requests variances from Section 603.2 to raze the existing non-conforming home and detached garage and replace with a new home and attached garage; from Section 204.3A for building 3.8' from the rear boundary where 25' is required and from Section 204.3B for an AC unit 16.8' from the side boundary where 20' is required. Property is in the General Residence and Coastal Overlay District. Case #30-2019.**

Attorney Tim Phoenix, representing the applicant, presented to the Board. He stated there are a couple of preliminary items he would like to address. One of them is regarding Chair Weathersby's question about Planning Board approval. He explained that under Rye's ordinance the driveway does not need a setback, as it is exempt. However, under the driveway regulations it cannot be closer than 10' to a property line without Planning Board approval. (He submitted copies of the approval from the Planning Board. He also submitted a letter from one of the neighbors, James Cassin, 17 Perkins Road.) He continued that a couple of days before the last scheduled hearing in July, the Planning Administrator received a letter from Mary Dirago who owns the property next door. He would like to address that letter specifically because some of it is wrong. The letter talks about required setbacks in the Overlay District. He thinks Ms. Dirago may not have understood that right now the home is on the lot line. Everything is

being moved over 20'. It may just be a misunderstanding of what the Westovers are asking for. Ms. Dirago's letter also goes into some detail about water problems coming from the Westovers' lot, specifically addressing a sump pump. (He submitted photos showing the existing home. He pointed out the sump pump pipe in the photo.) He noted that the sump pump pipe daylighted at the slope of the driveway. The neighbor's concern about water runoff is just unfounded. In addition, the building inspector has required a stormwater plan, which will address any stormwater issues. The plan has been completed for the purposes of submitting it to the building inspector for the issuance of a building permit.

Vice-Chair Crapo asked if the stormwater management plan was reviewed by the Planning Board in relation to the driveway approval.

Attorney Phoenix replied no. The Planning Board did not ask about it. He continued that he made an error and did not realize it until Chair Weathersby asked about parking within 10' of the rear setback. He pointed out that the parking is there now. He continued the proposal is to replace the existing garage with another garage, which would be attached. (He pointed out the location on the plan of where the cars would park.) He stated that one of those is closer than 10'. In the submission, he did not think it was needed because it was grandfathered but was going to ask for it anyways; however, it was not requested. He firmly believes the parking is grandfathered and/or there is parking that can meet the requirement. He noted that he found a tax card that shows the house in 1955. He then went online to find the older zoning ordinances. The first ordinance was from 1952 and was revised in 1959. It does not mention anything about where a car can be parked. There is also an ordinance from 1953 that makes no reference. In 1966, paragraph 17 is the first place that he found that says there can be no parking within 10' of a lot line. He stated the house was built in the mid 50's and it is believed that the garage was there at that time. He believes there has been parking in this exact location with the existing garage since the house was built in 1955. He noted that the situation is actually going to be improved somewhat because the back of the existing garage is only 4" from the property line. The cars would be parked a couple of feet from the property line. The new garage will be moved back and the cars are going to be parked sideways. In the existing situation, both of the cars will be within 10'. In the new situation one will be and one will not. If the house was rebuilt today, but the garage was not replaced, there would be no question. It would be the same garage with the same parking. He is asking that the Board finds this is grandfathered and a variance is not needed. Alternatively, the parking that is closest to the house is more than 10' away. If a variance is needed it would only be for one. He noted that the engineer has found two spots that would be in compliance for parking. He commented the ordinance is odd because it is not that cars cannot park in the setbacks, it is that the "assigned" parking can't be there.

Chair Weathersby asked if the garage itself was compliant in the 50's. She asked if he is saying that the location of the garage is grandfathered or just the parking.

Attorney Phoenix replied just the parking. He thinks one would have to conclude that when the garage was built it complied with whatever it needed to comply with. He noted that he drove up and down all those streets in that neighborhood. Most, if not the vast majority, of the homes have parking in the front or within 10' of the lot line. That is just how it is on these small lots.

Member Dibble asked if the new garage floor will be a cement slab.

Ralph Amsden, architect, replied yes.

Attorney Phoenix stated 9 Perkins is a 10,005sf lot. There is an existing 1,000sf two bedroom home with an attached garage of 508sf. The Westover Family has owned the property since 1973. Mary Westover has owned it since 1993. The Westovers would like to make this house into their full year round living home. He continued the existing total impervious coverage is 26.6%. The home is located to the far left and about 3' to 4' off the left property line. The garage wall is about 4" off the property line and any overhang might be on, or a bit over, the property line. The proposal is to tear down the existing structures (garage and house) and build a new home. The new home will cover 1497sf, which is 15% of the lot. The entire main house meets all building setbacks and coverage. The attached garage is a little larger than the existing garage. The amount of the proposed garage that is in the actual setback is within 3' or 4' of the original garage, which is all in the setback. They want to utilize the lot for the house and leave the garage where it was and attach it to the house. (The plans for the proposed garage were put up on the easel before the Board.) Attorney Phoenix noted the existing garage is one story. The new garage is expanded up but it is not living space or storage. That area is going to be used for mechanicals because there is not much room for them in the attic space above the house. He pointed out it is going to be roughly the same size and the same amount of floor space in the setback but just a little taller.

Attorney Phoenix noted the driveway is going to be changed to a permeable surface. That will leave the total lot coverage at 28.4%, which is under the 30%. He continued that Mrs. Westover did some research on her own and found that homes on Perkins Road range from 2000sf up to 5000sf. The tax cards show there are 12 at 3400sf, 13 at 3100, 17 at 2300sf and 18 at 4200sf. The home the Westovers are building is going to be 2800sf of living space. This fits in with the other houses in the neighborhood. He summarized that they are trying to build a home that they can enjoy that will fit in with the neighborhood and still accommodate their large family. The Westovers looked at renovating the existing home but it became unfeasible, as the old foundation cannot be saved. Also, the Westovers did not want their home to the far left of the lot. (He presented a rendering of the proposed home to the Board.) He stated the variances being requested are minor. A rear yard setback is needed for the garage where 25' is required and the proposal is for 3.8' to the eave and 4.3' to the wall. The existing home is only 3.8' from the left sideline. The proposal is for 20' for the home. There will be a couple of air conditioning units on the left side at 16.8'. There is also a request for 603.2 for taking down the non-conforming building.

Vice-Chair Crapo stated the denial letter mentions lot coverage.

Attorney Phoenix explained there were some other improvements previously that have been eliminated.

Vice-Chair Crapo pointed out the building inspector's letter says 21% where 15% is allowed.

Attorney Phoenix explained the ordinance says it is 15% for the dwelling and an additional 15% for open porches, garages and driveways. The first calculations included the porch. When that was taken off and put in the second 15%, it met the requirement.

Chair Weathersby clarified it is 15% coverage for the dwelling and 28.4% for total lot coverage.

Attorney Phoenix confirmed. He went on to review the criteria for granting the variances.

- The variances are not contrary to the public interest and the spirit of the ordinance is observed. Malachy Glen case says "will granting the variances unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives; mere conflict is not enough".

One of the purposes of the ordinance is to lessen congestion in the street. There will be no change from this. There is a single family home there now and that will remain.

Secure safety from fire, panic and other dangers. There is an existing home that is not entirely to code. The new home will be entirely to code. The house itself will comply with all the setbacks and coverages. (He noted that the neighbors to the rear did not have any objections to the proposal.)

Promote health and general welfare. Moving the home off the line and the garage slightly is an improvement. The proposed home will be to code and is more beautiful than what is currently there.

The home will fit it better in the neighborhood. Centering the home on the lot is promoting health and general welfare.

Promote adequate light and air. For the same reasons, moving the house off the sideline and the garage back as much as possible, increases air, sight lines and the like.

Preventing overcrowding of land. It is a single family home and will remain a single family home.

Avoid undue concentration of population. Facilitate transportation, waste, water, sewer and recreation will not have any change.

Ensure proper use of natural resources and other public requirements. Air and light is being improved.

There will be a stormwater plan, where there is not one currently. Stormwater will not be an issue.

For the reasons stated, this proposal fits in with the neighborhood very well. Particularly, where other homes are very close to the lot line. The proposal will not threaten the public health, safety or welfare.

- Granting the variances will not diminish surrounding property values. The variance for the rear is improving by several feet. The variances for the sideline is improving by almost 20' for the house and 16' for a couple of air conditioning units. The home will certainly not decrease the value of any surrounding home.
- Special conditions exist. The lot is 10,005sf, which is a small lot by Rye standards. The existing house is located over the left and close the rear lot line. The small lot, and problematic location for the house and the garage, is combined to create a special condition to make this worthwhile.
- There is no fair and substantial relationship that exists between the public purposes of the ordinance and its application in this instance. Rear and side yard setbacks were designed to give space between neighbors and provide stormwater protection, air and light. This proposal improves those.
- For all the reasons stated, the proposed use is reasonable.
- Substantial justice will be done by granting the variances. If there is no benefit to the public that would outweigh the hardship to the applicant this factor is satisfied. Any loss to the applicant, not outweighed by any gain to the general public, is an injustice. If the variances are denied the project cannot be done. There is no benefit to the public by denying them, particularly since the side and rear setbacks are being improved. The substantial justice test is met.

Member Dibble asked if the proposed home will have a basement.

Mr. Amsden replied yes.

Member Dibble asked if there will be a sump pump.

Mr. Amsden replied yes. The discharge from the sump pump will be going to the east side of the property, which is topographically going downhill.

Henry Boyd, Millennium Engineering, stated the sump pump will outlet into a stone area in which it will infiltrate. There is about 54" from the ground surface to the water table so it can infiltrate very easily.

Chair Weathersby asked if it will be a full basement.

Mr. Boyd confirmed.

Chair Weathersby asked why the mechanicals have to go above the garage.

Mr. Amsden explained that the air handler for the heating and air conditioning for the second floor normally goes in an attic over the second floor. With the 28' height restriction, there is no space so it will be located over the garage.

Chair Weathersby asked if there are any FEMA issues.

Mr. Boyd replied no.

Chair Weathersby asked if they have heard anything from the other abutter to the rear.

Mary Westover, applicant, replied no.

Chair Weathersby asked if the property is on town water and sewer.

Attorney Phoenix confirmed.

Chair Weathersby asked if the entire driveway will be permeable pavers.

Mr. Boyd explained at first there was going to be an impervious driveway for the whole length. He noted this has changed to pervious pavers in the back where cars will be turning, which will hold up better. He noted that one section of the driveway will be pervious asphalt and the other part will be pervious pavers. He also noted the existing house is 4' from the side line and it is being moved over to 20'. They are also going to erect a fence for added privacy to that neighbor, as well.

Mrs. Westover explained the fence that is there now is the neighbor's fence and they have also planted arborvitaes. She commented that she is going to put up a fence also and it will be lovely.

Chair Weathersby opened to the public for comments. Hearing no comments for or against the proposal, she closed the public hearing at 7:45 p.m.

Speaking to the Board, Chair Weathersby suggested they discuss the parking and whether they feel a variance is needed or if the parking in the garage area is grandfathered.

Vice-Chair Crapo stated they would have the right to rebuild what is there and there is parking in the existing garage, which has been done for years. He leans towards it being grandfathered. It is an existing use that is not under enforcement or corrective action. Before the Board is also a proposal for a garage in that location. The purpose of a garage is to park in it. Only about 3' of the bay is going to be in the 10' setback. It is going to be about 5' to the door of the vehicle.

Chair Weathersby stated the garage has been there since the 50's and is pre-existing.

Member Dibble explained the reason for his question about the pavement in the garage is because it is important to setbacks. Petroleum products dripping from cars to the ground is a bit of a problem when there is a permeable driveway. He likes the idea that the garage floor is paved and whatever drips out of the car is not going to be going into the ground.

Chair Weathersby clarified that she is hearing there is a consensus that a variance to park in the proposed garage is not necessary.

Vice-Chair Crapo commented it was also shown that a car could park outside the 10' setback behind the other car. A variance would be required if they could not meet the minimum and show two spaces. It has been shown that one could be outside the garage and one in.

It was agreed that no parking variance was necessary.

Chair Weathersby asked the Board how they feel about the project as a whole.

Member Patten stated the project improves the side and rear setbacks. It sits mostly within the building envelope. It's an attractive home.

Member Hoyt agreed.

Member Dibble agreed.

Chair Weathersby stated they are trying to make everything more conforming; however, she feels there was very little effort to make the garage more conforming. With that said, she does not feel it is enough for her to deny the proposal.

Vice-Chair Crapo stated that 603.1 says it can be rebuilt where it is or the replacement shall be less non-conforming. This project is less.

Referring to proposed conditions, Chair Weathersby stated the Board sometimes puts in that the pervious surfaces need to be installed and maintained so they continue to be pervious. She would recommend that condition. She also suggested a stormwater management plan satisfactory to the building inspector.

Member Dibble stated if the maintenance of the pervious surface is going to be a condition he would like to know about the process.

Chair Weathersby asked the engineer to explain.

Mr. Boyd explained there are paver and maintenance details in the notes in the stormwater management plan. He continued that all around the house are stone trenches which receive water also. Referring to the porous pavement and pavers, he commented that they are pretty easy to maintain. The maintenance plan calls for them to be vacuumed or blown out at least twice per year. The porous pavement should actually be done regularly. The maintenance schedule is listed right in the plan. He noted this is all part of the stormwater management plan.

Member Patten asked what means of enforcement is used in the future if this is made a condition.

Chair Weathersby explained if there is ponding or runoff onto the neighbors and it is obviously not working there would be an inspection.

Vice-Chair Crapo commented the porous asphalt is easier to fail than the porous pavers.

Mr. Boyd replied there is no doubt that it has to be maintained.

Vice-Chair Crapo stated it is being used as a tool to meet the runoff criteria so he agrees with the condition.

The Board agreed the maintenance of the pervious asphalt and pavers should be a condition.

Chair Weathersby called for a vote on variances to Section 603.2, 204.3A and 204.3B:

1) Granting the variances would not be contrary to the public interest?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – Yes

2) The spirit of the ordinance is observed?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

3) Substantial justice is done?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – Yes

4) The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

5) There are special conditions of the property that distinguish it from other properties in the area?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

6) There is no fair and substantial relationship between the general purposes of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

7) The proposed use is a reasonable one?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

8) Therefore, literal enforcement of the ordinance would result in unnecessary hardship?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – Yes

Motion by Burt Dibble to approve the application of Mary Murphy Westover for property owned and located at 9 Perkins Road for variances to 603.2, 204.3A and 204.3B as applied for with the condition the pervious surfaces be properly maintained. Seconded by Shawn Crapo. All in favor.

- 2. Patrick Merrill for Carbajal Family Rev Trust, Lori Carbajal, Trustee for property located at 18 Tower Ave, Tax Map 8.1, Lot 66, requests variances from Section 603.1 for expansion of a non-conforming structure; from Section 204.3A for a patio where 18' exists from the rear property boundary, 5' is proposed and 30' is required and from Section 204.3B for a patio where 23' exists from the side boundary, 8' is proposed and 20' is required. **Property is in the General and Coastal Overlay Districts. Case #31-2019.****

Patrick Merrill, on behalf of the owner of 18 Tower Ave, presented to the Board. The proposal is to install a patio in a space that has been used for a number of years but is dirt covered ground at this time. The patio falls under the classification of a structure. He continued the use is not changing. The only change is the ground covered material. It is going to be a permeable surface so there will be no increase in runoff. It will actually improve the ground because there will be no mud during heavy rains. It will allow the owner to use the space that is already being used for grilling without having to sit in a mud pit. To complete the area, there is a proposal to plant an evergreen hedge, which would add privacy at the lot line and improve upon vegetation that is growing over from the neighbor's property. He pointed out it is an older house built on a corner lot in a tight neighborhood. The patio will be 10x12 and will be built with 4x6 red clay brick pavers. He further explained the bricks have natural voids so they will end up with joints so they will be pervious. In this situation, he would add 3/8 stone in the joint to avoid any

clogging of matter. He explained it is not an engineered permeable pavement system but it would be pervious. The red clay brick itself is not pervious.

Vice-Chair Crapo asked if there will be packed gravel underneath the aggregate.

Mr. Merrill explained there would be brick, 3" peastone and 18" to 2' of open graded aggregate. He continued that the building inspector agreed this project does not bring the calculations near the impervious surface coverage.

Vice-Chair Crapo commented that what is there now is packed dirt, which would probably be more pervious than what is proposed. It is an improvement in the existing condition.

Chair Weathersby stated there is an existing deck and she is trying to understand the need for the patio. It is kind of a big ask. She asked why they do not use what they already have.

Lori Carbajal, 18 Tower Ave, explained that only 4 people can be on the deck. It would not be conducive to have the grill on the deck. The area where the grill is now is either sand or mud.

Chair Weathersby asked if putting the patio closer to the deck, or expanding the deck, was considered.

Mr. Merrill explained that no matter where the deck is located it would be in the setback so a variance would be needed.

Vice-Chair Crapo commented the abutting neighbor has written a letter. At the end of the road, the neighbor's house is off to the right. There is empty land just adjacent to the applicant's garage.

Member Hoyt stated he could see it being a problem if it was a structure with walls and a roof. However, in his mind he sees this as landscaping. He does not see this as an eyesore or infringing on people's air, light or quality of life. The applicant can gather on the property next to the boundary and no one can stop them. He does not see it being an issue and it is such a small ask.

Speaking to the applicant, Member Dibble asked if the existing deck is being removed.

Ms. Carbajal replied no.

Chair Weathersby closed the public hearing at 8:15 p.m., as there were no members of the public present to speak.

Member Hoyt reiterated that he sees this as a minimal ask. He sees it as landscaping. The whole issue of "structure" makes him scratch his head. He does not see this as being a hindrance to anyone, except an improvement to the applicant's situation.

Chair Weathersby stated it is definitely an improvement to the applicant's situation. She sympathizes and appreciates what the applicant is trying to do but it is not just landscaping. It's creating an outdoor space for people to gather. The Board has looked at other applications where they were trying to create outdoor space really close to the neighbors. She has some sympathy for the neighbor when there is a gathering 5' from the property line. She is torn because the neighbor's house is not right on the property line. To her, a patio is creating an outdoor living space and it is 5' from the property line. She noted that a letter was

received from **Richard Ender, 17 Alder Ave**, (neighbor to the rear), who opposes the proposal as it hinders his privacy and lowers his property value.

Referring to the tax map, Vice-Chair Crapo stated the closest part of Mr. Ender's property is adjacent to Ms. Carbajal's back wall of the main structure of the house. He commented that if she was to put stone there so it would not be mud, it would then be "placed material". She wouldn't be before the Board for a variance it would be landscaping. With putting pavers there it is inviting more people to gather but people could stand to gather on the grass.

Member Patten stated the deck is so close to where the proposed structure is. There are a whole lot worse things that could be put there to enhance the livability of that space, for example a portal canopy. There are a lot more options that would be a greater detriment to the abutter. He does not see this as being a huge ask. He commented the property is a weird shape and the house is positioned in a way that not much can be done.

Vice-Chair Crapo stated the existing deck is closer to the neighbor. The use on the deck would affect the neighbor more than the use on this patio, which is another 12' to 13' away.

Member Dibble stated when he looked at the site there was a lot of shrubbery between the neighbor and the proposed improvement. It starts off being screened. Secondly, the neighbor did not make a complaint about noise or problems with what was going on in the backyard. The neighbor just cited the setback rules. There was reasonable testimony that the use was not going to materially change. He takes it as a matter of good faith that the use is not going to change. He kind of discounts the neighbor's concerns. He is more inclined to think of this as a potential improvement to the property. As a result, it may be an indirect improvement to abutters' property values.

Chair Weathersby commented it is a challenging site but she worries about the precedent being set.

Chair Weathersby called for a vote on variances to Section 603.1, 204.3A and 204.3B:

1) Granting the variances would not be contrary to the public interest?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – No

2) The spirit of the ordinance is observed?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – No

3) Substantial justice is done?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby – No

4) The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - No

5) There are special conditions of the property that distinguish it from other properties in the area?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - Yes

6) There is no fair and substantial relationship between the general purposes of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - No

7) The proposed use is a reasonable one?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes
Patricia Weathersby - No

8) Therefore, literal enforcement of the ordinance would result in unnecessary hardship?

Shawn Crapo – Yes
Rob Patten – Yes
Charles Hoyt – Yes
Burt Dibble – Yes

Patricia Weathersby – No

Motion by Burt Dibble to approve the application by Lori Carbajal for property owned and located at 18 Tower Ave for variances to Sections 603.1, 204.3A and 204.3B as advertised. Seconded by Charles Hoyt. Vote: 4-1 Opposed: Patricia Weathersby

- 3. Jackie & Jay Rushforth for property owned and located at 199 Locke Road, Tax map 12, Lot 86, request variances from Section 204.3C for a garage 22.08' from the front boundary where 30' is required and from Section 203.3B for a garage 10' from the side boundary where 20' is required. Property is in the Single Residence District. Case #32-2019. Request for continuance to September 4, 2019.**
- 4. Paul R. Bacon for property owned and located at 200 Parsons Road, Tax Map 19, Lot 115, requests variances from Section 301.8B(1) & (7) for fill, regrading, and improvements including a boardwalk 16.21', grading and patio 30.47' a greenhouse 34.50' and a retaining wall 33' from the wetlands where 100' is required. Property is in the General Residence District. Case #32-2019. Request a continuance to September 4, 2019.**
- 5. James Holland for property owned and located at 2250 Ocean Blvd, Tax map 5.3, Lot 70, requests variances from Section 203.3A for a patio 6.0' and stairs 15.9' from the rear boundary where 18.28' was approved and 30' is required; from Section 203.3B for rinsing station 14.6' from the left side boundary where 20' is required and for a patio 5.9' from the right side boundary where 20' is required and from Section 304.5 for impervious coverage of 17.4% where 17.2% was approved and 15% is required. Property is in the Single Residence, Coastal Overlay and SFHA, Zone AO+1. Case #33-2019. Request for continuance to September 4, 2019.**

IV. OTHER BUSINESS

- A letter of thanks was received from Brenda Murray, dated July 17th, for variances granted for property located at 59 West Atlantic Avenue.

ADJOURNMENT

Motion by Burt Dibble to adjourn at 8:28 p.m. Seconded by Shawn Crapo. All in favor.

**All corresponding files and documents may be viewed at the Building Inspector's Office, Rye Town Hall.*

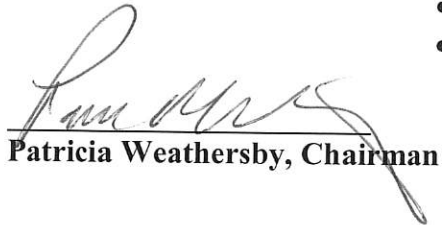
Respectfully Submitted,
Dyana F. Ledger

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

- Applicant:** Patrick Merrill
- Owner:** Lori Carbajal, Trustee
- Property:** 18 Tower Ave, Tax Map 8.1, Lot 66
Property is in the General Residence, Coastal Overlay District
- Application case:** Case #31-2019
- Date of decision:** August 7, 2019
- Decision:** The Board voted 4-1 to grant variances from the following section of the Rye Zoning Ordinance:
- Section 603.1 for expansion of a non-conforming structure;
 - Section 204.3 A for a patio 5' from the rear boundary; and
 - Section 204.3 B for a patio 8' from the side boundary.



Patricia Weathersby, Chairman

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/ Owner:

Mary Murphy Westover
Of Mt. Vernon Street, Boston MA

Property:

9 Perkins Road, Tax Map 5.2, Lot 123
Property is in the General Residence, Coastal Overlay District

Application case:

Case #30-2019

Date of decision:

August 7, 2019

Decision:

The Board voted 5-0 to grant variances from the following section of the Rye Zoning Ordinance:

- Section 603.2 to raze the existing non-conforming home and garage and replace with new;
- Section 204.3 A for the garage to be 3.8' from the rear boundary; and
- Section 204.3 B for AC units 16.8' from the side boundary.

Each variance was conditioned upon proper installation and maintenance of the pervious driveway (pavement and pavers) such that each remains pervious.



Patricia Weathersby, Chairman

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

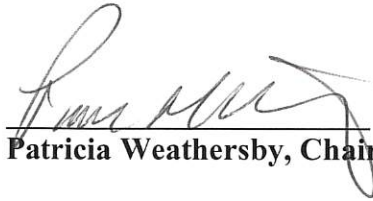
Applicant/Owner: Paul R. Bacon

Property: 200 Parsons Road, Tax Map 19, Lot 115
Property is in the General Residence, Coastal Overlay and Wetlands
Conservation Overlay Districts.

Application case: Case #33-2019

Date of decision: August 7, 2019

Decision: The Board voted 5-0 to continue the application to the September 4, 2019 meeting.



Patricia Weathersby, Chairman

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: James Holland

Property: 2250 Ocean Blvd, Tax Map 5.3, Lot 70
Property is in the Single Residence District, Coastal Overlay and SFHA,
Zone AO +1

Application case: Case #33-2019

Date of decision: August 7, 2019

Decision: The Board voted 5-0 to continue the application to the September 4, 2019 meeting.


Patricia Weathersby, Chairman

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

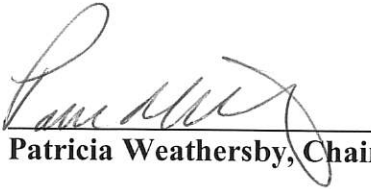
Applicant/Owner: Jackie & Jay Rushforth

Property: 199 Locke Road, Tax Map 12, Lot 86
Property is in the Single Residence District

Application case: Case #32-2019

Date of decision: August 7, 2019

Decision: The Board voted 5-0 to continue the application to the September 4, 2019 meeting.



Patricia Weathersby, Chairman

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.