

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision on Waivers

Applicant: Harbor Street Limited Partnership of Stratham NH

Property: 421 South Road Tax Map 4, Lots 25, 27, 31 & 32 for a 22 Single Residence District

Case: Case #13-2016

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by Harbor Street Limited Partnership of Stratham NH for properties located at 421 South Road Tax Map 4, Lots 25, 27, 31 & 32 for a 22 Lot subdivision. Property is in the Single Residence District and within the Aquifer and Wellhead Protection District. Case #13-2016.

Waiver Request(s): *Waiver to the Land Development Regulations Section 401.E which requires topographic contours and soils delineation for the entire parcel to be shown on the plans. The waiver requested to relieve the requirement for detailed topography, soils and wetland delineation over the portion of the parcel that is contemplated for conservation easement protection.*

Date of Decision: Tuesday, July 18, 2017

Decision: Approved
 Conditionally Approved
 Denied

7/31/17
Date



William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Applicant/Owner: WBTSCC Limited Partnership

Property: 60 Wentworth Road, Rye, Tax Map 24, Lot 51-26
Property is in the Single Residence District

Case: Case #06-2017

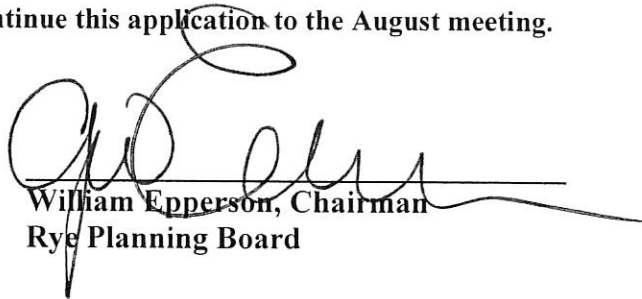
Application: Major Site Development Plan by WBTSCC Limited Partnership for property owned and located at 60 Wentworth Road, Tax Map 24, Lot 61-26 to replace an existing 50' golf net and nine (9) 50' wood poles with a ninety 90' golf net and nine (9) 90' steel poles. Property is in the Single Residence District. Case #06-2017.

Date of Decision: Tuesday, July 11, 2017

Decision: x Continued

The Planning Board voted to continue this application to the August meeting.

7/31/17
Date


William Epperson, Chairman
Rye Planning Board

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision on Waivers

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- Property:** 421 South Road Tax Map 4, Lots 25, 27, 31 & 32 for a 22 Single Residence District
- Case:** Case #13-2016
- Application:** Major Subdivision, Lot Line Adjustment and Conditional Use Permit by Harbor Street Limited Partnership of Stratham NH for properties located at 421 South Road Tax Map 4, Lots 25, 27, 31 & 32 for a 22 Lot subdivision. Property is in the Single Residence District and within the Aquifer and Wellhead Protection District. Case #13-2016.
- Waiver Request(s):**
1. Section 603.3 A which requires 4000 square feet of DLA
 2. Section 603.3 A 1.c which prohibits any area of the DLA from being within 75 feet of bedrock or impervious substratum within 24 inches of the surface
- Date of Decision:** Tuesday, July 11, 2017
- Decision:**
- | | |
|------------------|------------------------|
| ___ | Approved |
| ___ | Conditionally Approved |
| ___ x ___ | Denied |

The Planning Board denied the waiver by a 6 to 1, for the following reasons:

Unnecessary Hardship.

There is no unnecessary hardship to the applicant in complying with the applicable LDR's.

1. The hardship does not arise from special conditions of Lot 12 that distinguish it from other land in the area proposed to be subdivided. Surface bedrock and shallow bedrock exist throughout the entire proposed subdivision as evidenced by the fact that almost 200 test pits and ledge probes were required to review compliance with the DLA requirements.

Originally 22 lots were proposed. Some lots were eliminated because they could not comply with the DLA requirements.

2. Economic advantage alone is the reason for the requested waiver because the same infrastructure construction will be required for a 17 lot subdivision as for a 16 lot subdivision. Thus, the reason for the waiver is to gain \$300,000 to \$400,000 from sale of the additional lot.
3. The hardship is self-created by the applicant who designed the street configuration and lot layout resulting in the configuration of Lot 12.
4. When questioned about unnecessary hardship at the July 11, 2017 hearing, the applicant's attorney responded that compliance with the regulations "takes away a lot" and "changes the economics of the subdivision."

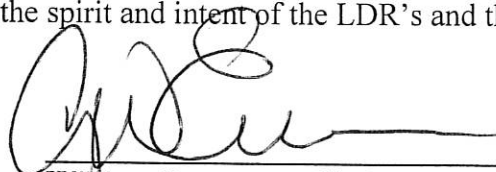
Spirit and Intent.

Granting the waivers would be contrary to the spirit and intent of town regulations.

1. Municipalities may regulate septic systems more stringently than the state. The requirement that 4000 sf of a lot have soils suitable for leachfield disposal means that only 6% of the 66,000 sf minimum lot area must have suitable soils. This is not unreasonable. Under the applicant's reasoning only 500 sf (<1%) of a lot would have to have suitable soils for leachfield disposal in order to provide for a replacement system.
2. As indicated by review of the septi-tech systems in the Marjorie Way subdivision, there is no guarantee that the septi-tech systems will function as designed or that homeowners will provide the required inspections and maintenance. A homeowner with a failed septi-tech system may not be able to afford the expensive replacement and may want to pursue a traditional system.
3. Enforcement against failed or non-compliant septic systems is difficult, particularly where owners cannot afford expensive replacements, as evidenced by the town's ongoing efforts at 204 Locke Road and 1677 Ocean Boulevard. Except in rare circumstances DES does not pursue enforcement and defers to municipalities. In most circumstances the town cannot order a property with a nonconforming system to be vacated because the sanitation statues prohibit that unless there is a clear and imminent danger to the life or health of occupants or other persons.
4. It appears that the usable DLA may be less than the 3400 sf represented due to the narrow tapers at each end.
5. Proposed Lot 12 is within the Wellhead Protection Area. A waiver to DLA requirements would set a precedent contrary to the spirit and intent of the LDR's and the Rye Zoning Ordinance.

7/15/17

Date



William Epperson, Chairman
Rye Planning Board

Peter J. Loughlin

ATTORNEY AT LAW

LEONARD COTTON HOUSE • STRAWBERRY BANKE
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RECEIVED
7-13-17

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E-MAIL
peter.loughlin@pjlaw.com

July 13, 2017

William Epperson, Chairman
Rye Planning Board
Rye Town Hall
Central Road
Rye, NH 03870

RE: STONELEIGH SUBDIVISION - 421 SOUTH ROAD

Dear Chairman Epperson & Members of the Board:

At the July 11th Planning Board meeting, Board Member J. M. Lord expressed his concern that certain test pit information was not listed on each individual lot development plan. He said he could not tell whether the home or the DLA on Lot #12 could have been shifted without having all test pit information listed on the face of the lot development plan. This was surprising to the Harbor Street development team for several reasons:

(1) Extent of Soil and Ledge Information Developed

As the Town's Engineering Consultants (and I presume the Board) are well aware, Mr. Falzone has spent many tens of thousands of dollars on 200 +/- test pits to find the ideal location for a home and DLA on each of the 17 proposed lots. If the home or DLA could have been moved a few feet to avoid the need for a request for waiver, I think it is fair to assume that this would have been accomplished many months and many thousands of dollars ago.

(2) **Additional Information Provided**

Mr. Lord had, indeed, made a request for additional information on the plans at an earlier meeting. As a result, Beals Associates added certain symbols which had been requested. Beals also added detail concerning the contours of each developed building site and the location of each drain outlet. While information of such detail may be more than what is requested on many plan submittals, that information was added without objection and it was assumed that that information was what the Board wanted.

(3) **Test Pit Information Provided**

Harbor Street and Beals Associates were aware that test pit logs for all 200+/- test pits needed to be submitted to the Town and, in fact, they were. It is rather unusual, and there is nothing in the Town's land development regulations, that would lead Beals to assume that all detailed test pit information was to be shown on the Lot Development Plan for each of the 17 lots.

(4) **Sebago Review**

After many weeks of detailed and costly review, every engineering issue raised by the Town's Consultant, Sebago, was addressed by Harbor Street to the satisfaction of Sebago. It seemed reasonable to assume that since the Town's Engineering Consultant was satisfied, additional plans were not required.

Cooperation by Harbor Street

Having said all of the above, as a preface, to the best of my knowledge, Harbor Street has acceded to every request made by the Planning Board, regardless of whether those requests were thought to be required by the Town's Regulations. When the Board or its consultants indicated that ledge outcroppings on the site were a "special feature," the roadway was redesigned to lessen the impacts on the ledge outcroppings. When Board members expressed concerns about the possible impact that blasting could have on Town wells some 2,500' away, Harbor Street agreed to eliminate all blasting, even though Harbor Street's hydrological consultant felt that was unnecessary. When Board members expressed concerns about the proximity of the original Lot 7 to the Atlantic White Cedar Swamp, that lot was eliminated. When concerns were expressed about impacts on the Atlantic White Cedar Swamp, a buffer of approximately 700' was agreed to be permanently established with detailed and specific restrictions on what could occur in that buffer, even though there are no State requirements for such a buffer, and even though the Town's Regulations would cover no more than 100'.

William Epperson, Chair
July 13, 2017
Page 3

When abutters demanded a second site walk with the argument that spring rains had changed wetland boundaries, Harbor Street agreed to the second walk and provided its consultants for that walk and paid for the Town's hydrologist to go on that walk - the net result of which confirmed that there was no change in the wetland boundaries which are established over many, many years, and not affected by a rainy spring or a dry summer. When the Town's hydrologist speculated that an area seen on the side walk during a heavy rain was a wetland that was not included on the wetland plans, Harbor Street paid to have the Town's wetlands consultant revisit the property to confirm that, in fact, it was not a wetland.

Even though Harbor Street does not believe that the preparation of Lot Development Plans with detailed charts showing the results of each and every test pit is required under the Regulations, now that the desire for that information has been clearly articulated to Harbor Street, that information is being provided herewith, in its continuing spirit of cooperation.

Respectfully submitted,



Peter J. Loughlin

PJL/dea
Enclosure

Cc: Kimberly Reed
Michael Donovan, Esq.
Harbor Street Limited Partnership

Falzone\2017-07-13 Ltr to Epperson 07/11 Mtg

Shari R. Cohen

399 South Road, Rye, New Hampshire 03870

July 11, 2017

To: The Rye Planning Board and Rye Town Attorney

On May 31, 2017, I went to the Rye town hall to meet with the building inspector, Peter Rowell. I asked Mr. Rowell what he observed on the property of the proposed development at 421 South Road that provided him evidence to corroborate any vandalism to test pit flags, survey hubs and/or roadway stations. He looked puzzled. I told him that we, the abutters to the proposed development, have been told (and scolded) on several occasions at Planning Board meetings, and on an official site walk, that he had visited the site with Mr. Falzone for the express purpose of investigating this allegation.

Mr. Rowell then offered that he had only ever been to the property two times, at a much earlier date, and that his visits had nothing to do with concurring vandalism. Mr. Rowell added that he never even heard of this accusation, but that such vandalism and mischief is not uncommon on development sites.

This is pertinent as it relates to this boards' weighing of information and testimony brought forward by the developer; this is not the first incident of their presenting misinformation. If the Board so desires, I will provide further examples of falsehoods presented by the developer and his team during this (and a previous) approval process. I request that unsubstantiated information provided by Mr. Falzone, Harbor Street Limited Partnership, and their hired experts as fact, needs to be qualified with evidence before being accepted and acted upon.

Sincerely,

Shari Cohen

handcut
attach 7-18-17

Susan Cole Ross
333 West Road

I stand before you now representing over 775 Rye residents petitioning for you to fulfill your duty “to protect, preserve and maintain the groundwater resources and groundwater recharge areas in Rye.”

To put my previous comments into context as asked, as recorded in the Minutes of Feb. 8, 2017 Work-session of the Planning Board:

“Vice-chair Winslow asked how far out could the water come from that gets drawn into Rye wells.

Mr. Stone (of StoneHill Environmental, Inc.) stated that the Wellhead Protection Area is a 4000 ft. radius around the wells. This area was done to create a safety area around the wells. In reality, the 4000 ft. radius may have little to do with where that well draws its water. It is not really known where the well is drawing water from.”

Clearly no expert has been able to say that say that the wells will not be adversely affected by this major development.

The fact that the developer has not closed on the property demonstrates that the land is problematic for development due to its ecological sensitivity. In fact, the town tax card for one property indicates the need to “check for buildable” as the Planning Board has been doing so diligently this year.

Your constituents ask you not to violate The Aquifer and Wellhead Protection District, because the need for clean water is increasingly imperative, because we do not know from where the Rye wells draw, and because the town determined by vote in 2008, in 2013, and again in 2015 zoning ordinances in order to protect the primary resource for our health and safety, our water. We therefore request that you deny this major subdivision, because it is clearly contrary to the public interest and puts an undue burden on town resources. Given that the lots do not yet exist, and the town’s acreage requirements are lower than those requiring two or more acres, such as North Hampton, there is no reasonable purpose for shoehorning lots, structures, and septic systems into this ecologically important and sensitive area that protects rare wildlife and the residents’ water supply.

handout
Attach 7-18-17

Special Planning Board 07/18/2017

Public Comment

Abutter of 421 South Road - Beverly Levesque at 381 South Rd, Rye, NH

Water, Water, Water!

The development at 421 is being requested in the Rye Wellhead Protection Area – it is a **protected area** for a reason and supported by the residents and taxpayers of Rye. Please protect the water sources.

The development at 421 is being requested to the south of the Rye Aquifer Protection Zone – we have learned that experts don't know where the water flows from to our wells. It is a **protected zone** for a reason. Please protect the water sources.

There have been no guarantees that damage will not be done to the **only area protected and designated as possible spots to build more wells and protect the wells we have. (Rye Aquifer and Wellhead Protection Districts).** **The experts have advised you that once this subdivision is built, it will no longer be available to use for future wells. It will be needed in the future!!**

So many horrific headlines this week in the **Portsmouth Herald** about our water supply and what local landfills are probably sending our way in these toxic plumes:

Thursday, July 13th – **"PFCs detected near Rye's main water source"** – PFCs more than **twice** the EPA health advisory level found in the Old Grove Road landfill monitoring well **less than 400 feet way from the water districts biggest well – the Garland well.**

<http://www.seacoastonline.com/news/20170713/pfcs-detected-near-ryes-main-water-source>

Tuesday, July 11th – **"State says PFCs are migrating"** – NHDES director Michael Wimsatt has made an official comment on the Coakley landfill concerns indicating he **"believes that the migration of the contaminants and the impact on Berry's Brook is unacceptable and need to be addressed"**

<http://www.seacoastonline.com/news/20170710/state-admits-pfcs-are-migrating-from-coakley-landfill>

The need for new wells was the topic of a discussion held at the June Water District meeting:

RYE WATER DISTRICT MONTHLY MEETING MINUTES WEDNESDAY, June 7, 2017 – 9:00 a.m.

Attendance: Art Ditto, Commissioner Chair Ralph Hickson, Commissioner Tom Clifford, Commissioner Others Present: Dyana Ledger, Business Manager Ken Aspen, Superintendent Phil Winslow, Resident

http://town.rye.nh.us/Pages/RyeNH_WaterDistrictMin/2017/RWD_Minutes_6-07-17.pdf

"VII. Discussion

Chris Berg – Wright Pierce Engineering

Chris Berg gave an update to the Commissioners on projects that he is working on for the Water District...

...There was discussion on the **process involved in searching for an additional water source for the district. A proposal with costs for the well investigation will be submitted to the Commissioners for their consideration for the 2018 budget.**”

Let it be noted that earlier in these minutes, it was advised that there was a lightning strike on the pump house where the extent of the damage is still being reviewed.

“ Superintendent’s Monthly Report, Pumping Chart, Data Chart and Bacteria Tests for the month of May.

It was noted that the pumping for the month of May had decreased from 2016. Ken Aspen noted that there was a lightning strike on the pump house, with a direct hit on the electrical meter socket. The power to the transfer station and the mobile generator was taken out by the lightning. He is working with Primex Insurance, Servpro and Regan Electric to repair the damage. The wells are currently up and operating.”

Rye Awards Greenland water by request in 2015

RYE WATER DISTRICT MONTHLY MEETING MINUTES Wednesday, April 01, 2015

Attendance: Ralph Hickson, Commissioner Chairman Kenneth Aspen, Superintendent Arthur Ditto, Commissioner Vice-Chairman Thomas Clifford, Commissioner

Visitors: Peter Crawford citizen Brian Goetz, City of Portsmouth Deputy Director Public Works

http://www.town.rye.nh.us/Pages/RyeNH_WaterDistrictMin/2015/RWD_Minutes_4-01-15.pdf

Water supply agreement with Portsmouth for Greenland was approved at the RWD annual meeting March 28, 2015.

Starting in 09/2016, we heard that all the rock on the site was “rubble” and not bedrock ledge outcroppings? We are still waiting for the road center lines and lot lines to be staked on the ground and there has been nothing new to indicate what is going on with Lot 2 because all ZBA requests were denied.

I respectfully request the Planning Board to vote tonight and to deny the development at 421 because the proposed subdivision is not in the best interest of the residents of Rye.

Thank you!

COAKLEY LANDFILL



The Coakley landfill is seen from the perspective of Rye looking west into North Hampton and Greenland. (PHOTO BY IOANNA RAPTIS/SEACOASTONLINE, FILE)

State says PFCs are migrating

Advocates see admission as 'huge victory'

By Jeff McMenemy
jmcmenemy@seacoastonline.com

GREENLAND — A state official believes "the migration of contaminants from site groundwater" at the Coakley landfill "and the resultant impacts on Berry's Brook are unacceptable and need to be addressed."

Michael Wimsatt, the director of the state Department of Environmental Services' Waste Management Division, made the comment in response to a recent letter sent to him by a group of Seacoast lawmakers

concerned about high levels of PFCs found in Berry's Brook after the chemicals left the Coakley Landfill Superfund site.

Wimsatt also said "actions need to be implemented at the site to provide additional removal or containment of the contamination in order to mitigate these surface water quality impacts."

"In the long run, this will be the most reliable way to limit exposure to site contaminants via the surface water pathway," Wimsatt stated in the July 7 email.

Wimsatt told the Portsmouth Herald that DES and EPA officials will be meeting Tuesday to discuss a series of issues relating to PFCs in

SEE LANDFILL, A10

ional health advisory. EPA classifies PFOs rfluorooctanoic acid, 1A, as "contaminants rging concern."

Agency for Toxic Sub- and Disease Registry ated that the health s from PFC exposure yet clear. Early stud- ve tentatively linked xposure to health ns including cancer, d disease, ulcerative s, high cholesterol, pmental delays, preg- induced hypertension eclampsia.

sials believe the PFCs ed to the closure of outh's wells came .refighting foam used ormer Pease Air Force hich also disposed ste at the Coakley ll.

isatt said "additional eds to be completed ert with New Hamp- Fish and Game" to s concerns raised by makers about how Cs in Berry's Brook pacting the fish that cked there, Wimsatt

has been working with nce May on the issue. att said, and added e agency will continue g with Fish and Game o determine whether ace water quality ... any risk to residen- glers who catch and ne the stocked brown in Berry's Brook.

omer is hoping state kers will hear shortly ES "about a schedule lementation" of the ; Wimsatt mentioned mail.

awmakers' letter was by Fuller Clark, Mess- id state Reps. Mike Henry Marsh, Dennis , Becky McBeath, Pam n, Tamara Le, Phil

to MITTEDV MAINE admit there's a problem and it

than what was then the EPA's

Bean, Laura Pantelakos and Renny Cushing.

PUBLIC HEALTH

PFCs detected near Rye's water source

Well tests show contamination exceeds EPA safety standards

By Jeff McMenemy
jmcmenemy@seacoastonline.com

RYE — Tests on a monitoring well at the old Grove Road landfill found levels of PFCs more than twice the Environmental Protection Agency's permanent health advisory level.

State Rep. Mindi Messmer, D-Rye, said the monitoring well where the high levels of PFCs were found is "less than 400 feet away" from the water district's biggest well.

"I'm about close, the discontan in the r the wa land we concern. V don't bi going to at some Mess critical select district "planni tect the dang "It's



State Rep. Mindi Messmer, D-Rye, said the monitoring well where high levels of PFCs were detected is "less than 400 feet from the Rye Water District's biggest well. (JOAN SEACOASTONLINE)

EDITORIAL

Time to get serious about Coakley landfill

A New Hampshire Department of Environmental Services official recently said contaminants from the Coakley landfill are migrating from the Superfund cleanup site and measures must be put into place to stop it.

Thankfully, a government official at long last acknowledged the environmental impact of the 27-acre landfill in Greenland and North Hampton. Hopefully, this will compel the U.S. Environmental Protection Agency, lead agency for management and oversight of Coakley, to take immediate action to stop the environmental degradation.

The problem dates to the decision 20 years ago to choose the least expensive form of remediation, natural attenuation, which means the landfill was capped and the waste was left to seep into the ground slowly over time. The problem is the approach isn't working safely.

Michael Wimsatt, director of the NHDES Waste Management Division, said the original remediation for the site involved a pump and treat system of shallow groundwater at the landfill, but that was not implemented.

Discovery of PFCs and 1,4-dioxane in groundwater and surface water at varying levels should be more than enough evidence that the cap and natural attenuation is not working. Furthermore, the natural attenuation remedy called for institutional controls, such as deed restrictions to prevent the addition of

Jenness

PLANNING BOARD STATEMENT

Chairman Epperson and members of the Board, as you know my name is Priscilla Jenness.

For those of you who may not be aware, the Jenness family has been an integral part of Rye, and specifically, the South Road area of Rye, since 1665. It is fair to state that many people now living on South Road would be able to locate and trace a Jenness descendant in their chain of title. It is said that at one time there were numerous Jenness families living simultaneously along the entire length of South Road with one notable exception, that being the property of Jenness Locke.

While some individuals and families inherit stocks, bonds and other investments, the woodlot known to you as Tax Map 4, Lot 32 is the inheritance of my sister, Fran Hyde and myself from our mother, Vivian Jenness Volkmann. Many of you probably know that Fran and I were both teachers during our careers, now both retired. We are both on fixed incomes. Together, we have six children, our heirs, which are widely scattered.

Independently, through each of our estate planners, we have been advised to sell the South Road woodlot to simplify our estates and enable the individual inheritances to pass to our heirs more efficiently.

There is nothing more certain for any of us than change and we have had to accept that. As co-owners of the woodlot, deciding on its future has long been a concern and a responsibility for us, especially given the presence of Cedar Swamp Run and the aquifer; but time does not stand still and we have been forced to become realists.

Since inheriting the woodlot, we have been approached, and in some instances literally hounded, by numerous major developers. Many, if not all, of them were known in this area and had previously developed land in Rye.

Meanwhile, a number of ideas for use of this land have been considered over the years. In the 1990s, our families investigated the feasibility of our own development possibilities which included a conceptual meeting with the Planning Board. Single family homes were not always the topic of conversation. The family also considered putting forward a workforce housing subdivision.

We are well aware of the intrinsic value of our woodlot which is best evidenced by approximately 15 acres of Cedar Swamp Run that includes the stand of rare Atlantic White Cedar on the rear portion of the property.

I prepared and featured the material expressing the need for protection of Cedar Swamp Run for the back cover of the 2005 Annual Report of the Town which was read into the Planning Board minutes earlier this year by now Planning Board vice-chairman Pat Losik. Our awareness of the importance of Cedar Swamp Run, which is only a portion of the entire parcel, was always balanced against our right and ability to make a more profitable use of the rest of the land.

In fact, to ensure protection of this wetland, our Purchase & Sale Agreement with Joe Falzone contains an express requirement that the wetland portion of the property “shall be gifted to the Rye Conservation Commission”.

Our decision to enter into a P & S Agreement with Mr. Falzone followed a comparative analysis of developers and developments in the Town. Planning Board minutes of meetings held during the Board’s approval process of Mr. Falzone’s Brackett Road Starfish Circle project will confirm his willingness to follow the rules, incorporate Planning Board suggestions and work with the Planning Board to produce a high quality project suited to its location.

Three members of this Planning Board are South Road neighbors of this project. One member lives near South on West Road and all members live within the southern portion of our Town. We appreciate the amount of work and diligence invested by this Board in association with this application due to the size and scope of the project and especially with regard to the importance of the aquifer. That said, we trust that you, the Board, will remain objective in your deliberations while reaching a conclusion that will protect the rights of the landowner(s) as you continue to uphold the rules and regulations of the Town in keeping with your history as a fair and effective Planning Board.

Priscilla V. Jenness
Frances I. Hyde

Hodsdon 1

July 18, 2017

Anne Hodsdon, 427 South Rd, abutter

Chairman Epperson and Board Members,

On behalf of all concerned abutters and Rye residents, thank you for the **enormous** amount of time you have devoted over the past year to this application. A huge volume of data has been presented to you regarding this extremely large development proposal with seemingly **endless** changes, corrections and edits. I know my many letters and submissions, as well as those of other abutters and concerned Rye residents, have just added to your huge piles as you have continued your due diligence and jurisdictional duties. We appreciate your service **immensely**.

From the very beginning I have had a long list of concerns and questions relative to the **size, scope and location** of this proposed development. To date, few have any sufficient answers and I certainly have **no confidence** in those few. My lack of confidence initiated with my first interaction with Mr. Falzone, when he emailed me on May 13, 2016, noting that he had not noticed that I was an abutter. This lack of attention to such a basic detail raises a huge red flag especially since the scale, scope and location of this proposal has the developer continually adding countless **"belts and suspends"** to address various parts of Rye's Land Use code (such as, HOA document mandates and deed buffer restrictions) in order to address all the **potential long term risks** associated with developing these environmentally sensitive and topographically challenging parcels.

Seventeen lots is certainly one of the largest, if not the largest, subdivision ever proposed in our small town of Rye's history. How will the additional demand on town resources not have negative implications both in the immediate future and **for the long term** including, but not limited to, such key aspects of the quality of life in Rye as safety, traffic, wetland protection and clean, dependable water?

In healthcare there is a term called **NEVER EVENTS** --- events that should NEVER happen, yet THEY DO. **Why?** - Because, it is impossible to avoid human error. Despite all the PROTECTIVE measures, processes and protocols **NEVER EVENTS** happen. How can the countless risks, especially **long-term** for our community, for our wetlands, for our rural character, be protected? Human error is most definitely a certainty. How can our small town incur the burden in time and/or expense to enforce policies and proceeds of trying to protect against the long list of **NEVER EVENTS** in these ecologically sensitive parcels with a development of this size and scope?

HOAs, statistically, often struggle financially and lack strong governance practices. How can we be assured that the magnitude of policing 1) the long list of pollutant

2

prevention mandates and 2) road and drainage maintenance mandates will be responsibly administered **in perpetuity** by the HOA? How can we be assured that there will be **sufficient funds** if problems arise that need to be mitigated and, most importantly, **mitigated in the quick and timely fashion required within such a sensitive land parcel**? One example is the Firestone PondGuard synthetic line on lot 4 – all part of a **multi-stage discharge outlet control** structure. Who is responsible? In addition, this HOA will not be fully functioning for possibly several years. Will some designated management entity have the ability to properly oversee all the mandates as well as have the financial resources to mitigate or correct issues in a timely fashion within such a sensitive land parcel? Will the town potentially be fining or suing property owners or the HOA because NEVER EVENTS happen and over time structures deteriorate?

One of the Planning Board's responsibilities is consider **the greater community's rights** in reviewing any application, and especially, when reviewing an application for a large development within Rye's Aquifer and Wellhead Protection District. This proposed development will be a multi-year process that **will disrupt** the scenic, rural nature of this stretch of South Road which includes a variety of homes, barns, and fields, plus an old cemetery and almost zero night-time light pollution by the addition of noise pollution, heavy equipment traffic exhaust, as well as topographical changes between the current natural state and the FINAL grading of all the proposed lots potentially posing risks that might not be reversible or fixable.

I urge the Planning Board to deny this application given all the potential long-term risks given the size, scale and location of the proposal.

Thank you

From: Joe Falzone jfalzone@weinvestinland.com
Subject: South Road 112 acres
Date: May 13, 2016 at 11:11 AM
To: thodsdon@comcast.net

3



Hello Anne

I am following up on your inquire to Anne Cottey and will gladly meet to discuss any of your questions or concerns?

I do not recall seeing you as a direct abutter can you tell me facing from South Road where you are located?

Thanks

Joe

Sent from my iPhone



FIRESTONE PONDGARD™ LIMITED LIFETIME WARRANTY

Firestone Building Products Company, LLC d/b/a Firestone Specialty Products ("Firestone"), located at 250 West 96th Street, Indianapolis, IN 46260, subject to the terms, conditions, and limitations set forth herein, warrants for as long as the original owner ("Owner") named below that the Firestone PondGard membrane (the "PondGard") is fish friendly and that should any area of the Firestone PondGard experience a leak due to normal weathering or a manufacturing defect, Firestone will, at its sole option, repair the membrane, provide sufficient Firestone materials to repair the PondGard membrane or provide sufficient Firestone PondGard to replace the area that leaks.

TERMS, CONDITIONS, AND LIMITATIONS

- 1. What Products are Covered by this Limited Lifetime Warranty.** This Limited Lifetime Warranty covers your Firestone PondGard sold on or after April 15, 2015 so long as the Firestone PondGard membrane is correctly installed in accordance with Firestone's Technical Specifications for normal use and in approved applications. This Limited Lifetime Warranty extends only to the Firestone PondGard and does not cover the installation of the PondGard, any third party fabrication of the PondGard, or any non-Firestone brand materials or accessories furnished or installed in connection with the PondGard.
- 2. What Products and Services are not Covered by this Limited Lifetime Warranty.** This Limited Lifetime Warranty does not cover the installer's workmanship in the installation of the Firestone PondGard, or any materials or accessories not manufactured or supplied by Firestone. This Limited Lifetime Warranty does not cover any third party adhesives, sealants, or coatings used on the Firestone PondGard.
- 3. Term.** This Limited Lifetime Warranty is a non-pro-rated warranty.
- 4. How to Submit a Warranty Claim.** If you believe that you have a warranted claim due to a manufacturing defect in a Firestone PondGard membrane, you must give notice in writing or by telephone to Firestone within thirty (30) days of such occurrence. Written notice may be sent to Firestone at the street address or fax number shown within this Limited Lifetime Warranty. Evidence of this notice shall be the receipt by Owner of a Firestone PondGard Limited Lifetime Warranty Claim Notification form. The Owner's notice to Firestone will serve as authorization for Firestone or its agent to investigate the claim. Should the required notice not be given, the alleged defect and all further rights under this Limited Lifetime Warranty shall be deemed waived by the Owner, and this Limited Lifetime Warranty shall become null and void.
- 5. Investigation of Warranty Claims.** If upon investigation, Firestone determines that the leak is the result of ordinary exposure to the elements or a manufacturing defect and not otherwise excluded by the terms of this Limited Lifetime Warranty, the Owner's sole and exclusive remedy and Firestone's liability will be limited to Firestone, at its sole option, repairing the PondGard or offering the Owner replacement PondGard or other Firestone repair products to repair or replace the area that leaks. Firestone shall not be obligated to perform repairs or replacements under this Limited Lifetime Warranty unless and until the area to be repaired or replaced is accessible, clean, dry and free from all water, dirt, sludge, animal wastes, residuals and/or liquids of any kind. Should the investigation reveal that the claim is excluded under the Terms, Conditions, and Limitations set forth below, the Owner is responsible for payment of the investigation costs and for any repairs affected during the investigation. Failure by the Owner to pay for these costs shall render this Limited Lifetime Warranty null and void. To the extent repairs that are the Owner's responsibility are not completed during the investigation, Firestone will advise the Owner of the type and/or extent of repairs required to be made at the Owner's expense that will permit this Limited Lifetime Warranty to remain in effect. Failure by the Owner to properly make these repairs in a reasonable manner and within a reasonable time shall render this Limited Lifetime Warranty null and void.
- 6. What Claims are Excluded by this Warranty.** Firestone shall have no obligation under this Limited Lifetime Warranty, or any other liability, now or in the future if a leak or defect in the Firestone PondGard is caused by: (a) Natural forces, disasters, or acts of God including, but not limited to, hurricanes, tornadoes, hail, lightning, earthquakes, atomic radiation, insects, or animals; (b) Act(s), conduct or omission(s) by any person, or act(s) of war, which damages the Firestone PondGard or which impairs the product's ability to perform or resist leaks; (c) Failure by the Owner to use reasonable care in maintaining the Firestone PondGard, said maintenance to include, but not limited to those items listed on this Limited Lifetime Warranty; (d) Acid, oil, harmful chemicals, or the reactions between them; (e) any

Firestone

BUILDING PRODUCTS

atypical atmospheric conditions or weather, which damages the PondGard, or which impairs the PondGard's ability to resist leaks; (f) any penetrations, alterations or repairs to the PondGard not approved in writing by Firestone; (g) improper site preparation or covering materials, or improper application or installation; (h) excessive pressures or stresses from any source; or (i) any product not furnished by Firestone.

- 7. **Exclusive Remedy and Non Assignability.** The Limited Lifetime Warranty on the PondGard herein is given in lieu of all other warranties, either expressed or implied, and by accepting delivery of the PondGard, Owner waives all other warranties and/or remedies, except those specifically granted hereunder. This Limited Lifetime Warranty is extended to the Owner and is non-transferable and non-assignable and there are no third-party beneficiaries to this Limited Lifetime Warranty. This Limited Lifetime Warranty becomes an obligation of Firestone only upon receipt of full and final payment for the PondGard and execution by a duly authorized representative of Firestone.
- 8. **No Waiver.** Firestone's failure to enforce any of the terms or conditions stated herein shall not be construed as a waiver of such provision or of any other terms and conditions of this Limited Lifetime Warranty.
- 9. **Choice of Law.** This Limited Lifetime Warranty shall be governed and construed in accordance with the laws of the State of Indiana without regard to the conflicts of laws thereof.
- 10. **Handling of Disputes.** In the event of a dispute, controversy, or claim between the Owner and Firestone concerning this Limited Lifetime Warranty, the Owner and Firestone agree that neither party will commence or prosecute any suit, proceeding, or claim other than in the courts of Hamilton County in the State of Indiana or the United States District Court, Southern District of Indiana, Indianapolis Division. Each party irrevocably consents to the jurisdiction and venue of the above identified courts and waives any rights to challenge or otherwise raise questions of personal jurisdiction or venue in any action commenced or maintained in such courts.

THIS LIMITED LIFETIME WARRANTY SHALL BE THE OWNER'S SOLE AND EXCLUSIVE REMEDY AGAINST FIRESTONE, AND FIRESTONE SHALL NOT BE LIABLE TO OWNER OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES INCLUDING BUT NOT LIMITED LIFETIME TO CLAIMS FOR PERSONAL INJURY OR DEATH, PROPERTY DAMAGE, ENVIRONMENTAL DAMAGE, DAMAGE TO THE SUBSTRATE, OR DAMAGE TO THE CONTENTS OF THE PONDGARD. THIS LIMITED LIFETIME WARRANTY CANNOT BE AMENDED, ALTERED, OR MODIFIED IN ANY WAY EXCEPT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF FIRESTONE. NO OTHER PERSON HAS ANY AUTHORITY TO BIND FIRESTONE WITH ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL. FIRESTONE SPECIFICALLY DISCLAIMS ALL LIABILITY, UNDER ANY THEORY OF LAW, ARISING OUT OF THE INSTALLATION OR PERFORMANCE OF, OR DAMAGES SUSTAINED BY OR CAUSED BY, MATERIALS NOT FURNISHED BY FIRESTONE. THIS LIMITED LIFETIME WARRANTY SUPERSEDES AND IS IN LIEU OF ALL OTHER WARRANTIES OR GUARANTEES WHETHER WRITTEN, ORAL, OR EXPRESS. FIRESTONE SPECIFICALLY LIMITS ANY IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE TO THE TERM OF THE LIMITED LIFETIME WARRANTY, UNLESS A SHORTER PERIOD IS PERMITTED BY LAW OR UNLESS A FULL DISCLAIMER IS OTHERWISE PERMITTED BY LAW. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.



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Firestone PondGard Limited Lifetime Warranty Claim Notification Form

Return this completed form along with proof of purchase for the PondGard membrane to:

FIRESTONE BUILDING PRODUCTS
250 WEST 96TH STREET
INDIANAPOLIS, IN 46260
Attn: Lining Warranty Services Department
Fax: 317-575-7002

Owner Information (address must be that of the project site):

Name: _____

Street Address: _____

City, State, Zip: _____

Owner Contact: _____

Phone: _____

Email: _____

Project Size (in square feet): _____

Dimensions (length x width): _____

Installer Information:

Installation Date: _____

Installer: _____

Street Address: _____

City, State, Zip: _____

Purchase Information:

Distributor/Installer/Vendor: _____

Street Address: _____

City, State, Zip: _____

Proof of Purchase Must be Attached (a warranty claim cannot be processed without valid proof of purchase, for example - receipt(s), contract, paid invoice or other purchase documents.)

Firestone reserves the right to withhold the processing of any claim until all the required information is provided to Firestone. Firestone reserves the right to require submission of samples of the PondGard membrane that contain representative evidence of any alleged defect. The sample or samples must be shipped to Firestone for inspection at the owner's expense. Submission of non-Firestone materials for review will result in a minimum \$500 service charge for identification or other analysis.

June 2017 *over* PB 8

I am Anne Hodsdon, 427 South Road

Once again, on behalf of fellow abutters and concern Rye residents, I thank you for your exhaustive due diligence efforts. This is an extremely complex and multilayered application. Tonight toward a goal of efficiency, the points we will raise, the on-going concerns we will state and the unanswered questions we will ask, represent consensus of thought of our entire abutter and concerned Rye resident group. X

We urge the Planning Board to deny this application as it will increase in the long-term susceptibility to potential pollution to our Wellhead Protection area. The ecosystem of Tax Map 4 parcels (25, 27, and 32) is extremely topographically sensitive given its significant amount of ledge, its abundant amount of wetlands and its various vernal pools. Protecting these approximately 100 acres --- all lying within the Wellhead Protection District --- is NOT anti-development. It is prudent land management for the greatest good, completely aligned with the intent of Rye's land regulations and in accordance with our Master Plan goal to preserve the semi-rural character of our town.

I have addressed the Board in person and in several letters throughout this long process. As one of many here tonight my comments will be two:

First, I am an abutter to the Chisholm Family Trust parcel (with approximately 59 acres and no frontage) and the Jenness Revocable Trust parcel (with approximately 38 acres and minimal frontage). Both of these parcels, along with the approximately 1 acre Bishop Family Trust parcel, are currently under **conditional P&S agreements** with Harbor Street LLC in hopes of combining these 3 parcels with the approximately 3.8 acre property at 421 South Road that Harbor Street LLC currently owns to develop a 17 lot major suburban style subdivision which this board has been reviewing in some form since last July. The **unconsummated status** of these land purchases demonstrates the **complexity of determining the viability, *if any***, of developing this eco sensitive and regulation protected land.

Second, protecting the eco sensitivity of this land for the great good of the community through an HOA is not a prudent solution. Statistically, the long-term financial soundness of HOAs and their ability to enforce mandates have proven to be weak and inadequate. The long-term burden on our town resources for oversight has potential huge negatives. These homes, their yards, their septic systems, the roads, and drains will be here for the decades and decades. These 'state of the art systems' will age and any lapse in monitoring the systems' performance **increases the susceptibility to potential pollutants**. The various drainage elements proposed will require maintenance and any lapse or delay in repairing or replacing **increases the susceptibility to potential pollutants**. Will neighbors actually call each other out if chemicals are used on lawns, gardens or driveway ice? Any of these violations **increases the susceptibility to potential pollutants**. An HOA for a development of this scale and scope cannot adequately safeguard the sensitive land.

Thank you and I respectfully submit these comments for the record.

June 2017 act 20K 9

I am Anne Hodsdon, 427 South Road

I am here tonight to **respectfully resubmit** a copy of my June 7th comments in support of denying the application from Harbor Street LLC for a special exception and variance for a driveway crossing through a **valuable** and historic ecosystem that includes wetlands and vernal pools as well as lying completely within Rye's Wellhead Protection District.

In addition tonight, I specifically and respectfully urge the Board of Adjustments to deny the **variance** application from Harbor Street LLC. The variance fails to meet the various requirements of Rye's regulations and more importantly is **premature, as was the special exception application.**

The application and it is **complex and multi layered** as the owner, the Chisholm Family Trust, Tax Map 4, lot 25, is not the applicant, but rather, Harbor Street LLC. The application intertwines **variance** criteria from the property owner's perspective with that of the applicant's intentions. Harbor Street LLC's intentions are subject to actually closing and obtaining ownership of several Tax Map 4 parcels (25, 27, 32) and gaining Planning Board approval for a major housing development combining these parcels along with parcel 31 for a proposed 17 lot subdivision.

First, the application is premature as Lot 2 does not exist.

Second, granting this variance is CONTRARY to public interest, it is INCONSISTENT with the spirit of the ordinance and poses long-term risks to the value of surrounding properties.

The low lying, poorly draining land parcels, surrounding wetlands and the vernal pools exist within a complex ecosystem completely within Rye's Wellhead Protection District where the natural topography has water flowing into an abutting Nature Conservancy land parcel that protects a rare Atlantic White Cedar swamp **as well as** being the habitat of the rare Hessel's Hairstreak butterfly. There is **no way to guarantee** that there will not be any **increase in the long-term susceptibility to potential pollutants.** (Reference Danna Trustow, Feb 8, 2017 PB work session)

There is NO Injustice to the owner NOR is there unnecessary hardship. The **owner** of the parcel has over 50 acres on which to potentially apply for permits to develop. This application **is to maximize** the lot potential for Harbor LLC.

Acc May 2017 20A 10

I am Anne Hodsdon, 427 South Road

I am here tonight along with my fellow neighbors and abutters as we share a number of common concerns that need to be raised as a group. Toward a goal of efficiency, the discussions by abutters and concerned Rye residents represent consensus of thought of the entire group.

We urge the Board of Adjustments **to deny** this special exception and waiver for a driveway crossing through this valuable and historic wetland ecosystem **as it fails** to satisfy various criteria for the special exception and variance.

We have read the application and it is **complex and multi layered** as the owner, Chisholm Family Trust, Tax Map 4, lot 25, is not the applicant, but rather, Harbor Street LLC. The application intertwines special exception and variance criteria from the property owner's perspective with that of the applicant's intentions. Harbor Street LLC's intentions are subject to actually closing and obtaining ownership of several Tax Map 4 parcels (25, 27, 32) and gaining Planning Board approval for a proposed major subdivision combining these parcels along with parcel 31 for a proposed 17 lot subdivision.

We believe the special exception and variance do not meet the requirements of Rye's regulations and more importantly is **premature at best**.

First, give the fact that the wetlands have already been disturbed by the logging road, which according to Rye's regulations should have been restored by the owner sometime ago, it is impossible to totally assess the size of the wetlands in their natural state at this particular spot until the restoration has been completed and a season cycle has occurred. Hence, it is **premature** to truly know that the impact will be **minimal**. In addition, the fact that the wetlands and vernal pools exist within a complex ecosystem completely within Rye's Wellhead Protection District where the natural topography has water flowing into an abutting Nature Conservancy land parcel that protects an Atlantic White Cedar swamp as well as being the habituate of the rare Hessel's Hairstreak butterfly, is **not in harmony** with the general intent of our zoning ordinance for wetlands **nor in the spirit** of the ordinance and there is **no way to guarantee** there will not be any **long increase in the long term susceptibility to potential pollutants and thus contrary to public interest and injurious to the neighborhood**.

Second, the application is purely for **further economic gain**. The owner of the parcel has over 50+ acres on which to potential apply for permits to develop. Denying this application to maximize the lot potential for Harbor LLC is only to increase the sale proceeds to the owner.

March 2, 2017

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Rye Planning Board
William Epperson, Chair
10 Central Road
Rye, NH 03870

Dear Chairman Epperson and Members of the Board,

Thank you for your exhaustive due diligence efforts over the past six plus months on the proposed major subdivision at 421 South Road. An enormous amount of material, reports, presentations by numerous specialized consultants, and letters of concern have been submitted. Each has raised long lists of critical questions.

Having attended numerous Planning Board meetings as well as watching, and often re-watching, taped sessions, there still seem to be many questions without definitive answers. Getting the answers, I believe, encompasses the fundamental responsibility of the Board to protect the public health and general welfare of our citizens by balancing character and suitability of land uses within our community. Most especially, the question of guaranteeing the long term of supply and quality of Rye's water within the Aquifer and Wellhead Protection District since the site of this proposed development has been determined to be the site of any future well.

Note:

306.1 Authority: The Aquifer and Wellhead Protection District is an Innovative Land Use Control adopted pursuant to RSA 674:16 and RSA 674:21, I. (j). (Rev 3/10/15)

306.2 Purpose: The purpose of the Aquifer and Wellhead Protection District is to protect, preserve and maintain the groundwater resources and groundwater recharge areas in the Town of Rye. The objectives are:

1. To protect the public health and general welfare of the citizens of Rye.
2. To prevent development and land use practices that would contaminate or reduce the recharge to the identified aquifers.
3. To assure the availability of public and private water supplies for future growth of the Town in accordance with the Master Plan.
4. To encourage land uses that can appropriately and safely be located in the aquifer recharge areas.

Of particular note is

306.5, C

1. The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by *increasing* the long-term *susceptibility* of the aquifer to potential pollutants.

I have submitted two previous letters to the Board raising numerous questions and concerns regarding the scope, size and location of this proposal most of these focused on the long term risks. While many of these questions still have not been adequately answered by the developer or by his team, tonight, I would like to focus on questions and concerns with the near term risks posed by approving this development.

First, this is a *multi-year* development that will disrupt the scenic, rural nature of this stretch of South Road adding noise pollution, heavy equipment traffic exhaust, and threaten wetlands, abutters, and wildlife as the natural environment is bulldozed, dug and cleared for the road, utilities, basements and septic systems. The restrictions on lots per subdivision per calendar year by our Growth Management Ordinances are certainly hardships over a long period for abutters and many other South Road residents with a project of this duration. In addition, the possibilities for mishaps with construction spills and/or unexpected heavy storms by Mother Nature occurring *between* the current 'natural' topographical vector flows on the parcel (as it exists today) *to* the 'completed' and, per projections presented by the developer to the Board, 'environmentally controlled' vector flows of the finished development, notwithstanding the construction protection regulations in our regulations, are still significant given the sensitivity of the land within the Wellhead Protection Area. One micro-burst, one hurricane, one Mother's Day '05 type storm, or one fire at one of homes under construction, is all it would take to negatively impact the wetlands as well as the Atlantic White Cedar Swamp.

Note:

303.5 Compliance with Growth Management Ordinance Limitation on Subdivision Lots.

In accordance with Article IX, Growth Management, of the Rye Zoning Ordinance, which was enacted the town of Rye on March 10, 1987:

- A. No more than six (6) lots per subdivision per calendar year shall be approved on final subdivision plans.
- B. No lot shall be approved on a final subdivision plan if the annual limitation on newly subdivided lots would be exceeded.
- C. Additional lots may be approved upon request if by November 1 the annual limitation has not been reached.

Also, for the record, I built my home at 427 South Road just over 10 years ago and the lot was a huge challenge. There was basically one location for our basement given the bedrock/ledge under the surface. Our leach bed is raised for the same reason. The challenges on each of the proposed lots, I believe, will be just as great. I respectfully ask the Board that any approvals prohibit in perpetuity ANY waivers with respect to removing bedrock by blasting or other means.

Finally, for the record, I do believe that preserving our semi-rural character is both a worthy goal **AND** a standard by which applications for under consideration by the Planning Board can and should be weighed since *Rural Character* is listed as an element to weigh under 404.5 Major Subdivisions, Site Impact Analysis as well as written into one section of our Zoning Ordinances.

Note:

403.2 Purposes: The purposes of this section are: (1) to preserve Rye's rural character by allowing natural land features and/or open spaces to be conserved

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404.5 Major Subdivisions

D. Site Impact Analysis

7. Rural character

Thank you again for your due diligence regarding this complex and community altering proposal,

Anne C. Hodsdon
427 South Road
Rye, NH 03870

January 25, 2017

Rye Planning Board
10 Central Road
Rye, NH 03870

Dear Chairman Epperson and Board Members,

Once again, thank you for taking the time to review my letter and for your service to our community especially given the magnitude of due diligence required on the proposed 421 South Road subdivision. For the record, my name is Anne Hodsdon. I am owner of parcel 30, 427 South Road and an abutter.

While I have learned much from the material presented at the Planning Board meetings, including the site walk, since my prior letter of October 25, 2016, my primary concerns continue to focus on:

- 1) the vector flows and environmental risks to our water and town wells given the size, scope and location of this subdivision within the Wellhead Protection District
- 2) the long term risks given the magnitude of terrain alterations being proposed
- 3) the amount of wetlands within and abutting the proposed subdivision and the long list of potential short and long term risks to these wetlands and the unique habitats they support
- 4) the suburban scale and its related challenges that do NOT aligned with the semi-rural character Master Plan goal

My concerns reflect my love for our community with its very beautiful, rich natural resources and the responsibility to prudently steward those resources for future generations by:

First, and Foremost: *Protecting, Preserving and Maintaining Rye's Water*

'We never know the worth of water, till the well is dry,' the British intellectual Thomas Fuller wrote in 1732. And he was right. So often, water appears self-evident. For many of us it doesn't even occur to us that water might not flow when we turn on the tap or flush the toilet. In many parts of the world, people face water shortages or, conversely, frequent floods. But however different national and regional circumstances may be, water is something that is easily taken for granted. And yet water is crucial to us all: economically, socially and environmentally. Water has shaped our past and it will shape our future."

World Water Conference 2015

Second, Respecting the Guiding Principle of Rye's Planning Board Decisions and Rye's land regulations: ***Achieving Rye's Master Plan Goals and Objectives***

"... our vision for Rye will continue to be characterized by respect for our neighbors, the common good, and the natural environment."

"We will protect our semi-rural and coastal character by protecting our open space, coastal and wetland resources by managing growth."

Concerns and Questions I respectfully request that the Planning Board address as part of the review and due diligence process:

- 1) The size, scale and scope of the proposed subdivision reflect a suburban style development and not the semi-rural character of Rye. Hence, it is not aligned with the Master Plan.
- 2) The natural topography of the land parcels is quintessential New England and New Hampshire and the development of the proposed subdivision would *forever* alter the terrain, threatening wildlife, significant areas of wetlands as well as the long-term ecological balance of the parcels (which are 100% within the Wellhead Protection District) and the numerous

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abutting properties, including the rare and protected Atlantic White Cedar Swamp. The long-term risks are difficult if not impossible to quantify for Rye's citizens and taxpayers as are the potential financial expense to mitigate or correct any negative impacts.

3) The motor vehicle (car, truck and motorcycle), pedestrian and bicycle traffic along South Road already poses risks year round, weekdays and weekends, commuter hours as well as other daytime and evening hours. The proposed subdivision adds further and unnecessary risks to our community than do not align with the common good.

4) Presently, as one drives down South Road, the special and semi-rural character of Rye with its variety of homes, barns, fields, and even an old cemetery, is clearly evident. Importantly, at night there is almost zero light pollution. The clear night skies are amazing and something there cannot be regained if lost. The proposed size of the subdivision, as well as street lights (mentioned on two occasions by the development team) at the entrances risk adding light pollution and another non-alignment with the Master Plan.

5) The subdivision proposal includes the establishment of a Home Owners Association (HOA). The HOA documents (not yet presented) **will**, according to representations by Mr. Falzone, include a variety of restrictions and responsibilities to ensure that proposed designs elements and other homeowner property maintenance/development actions, with their potential environmental risks, as noted to date, are avoided yet many HOAs fail to operate effectively as well as fail to be financially sound enough to address failures, oversights and mitigate unforeseen consequences to abutters and their community at large. Failures of the HOA pose potential risks to our natural environment as well as the common good and respect for our neighbors.

6) The presentation by Mr. Stone on 1/10/17 highlighted the various mappings of water flows based upon the current topographical conditions. What is the guarantee that the very significant alternation of the terrain will not negatively impact the flows? Changes in the water flows potentially put 1) the quality, capacity and flows of our wells, 2) the reasonable price of our well water and 3) future "new source" bedrock groundwater* at RISK. (*per the Wright-Pierce report of December 22, 2016)

7) After reviewing the attached Figure 9 (from 561 South Road produced by Hydroterra) and comparing it with Stone-hill's Figure 2 (attached) it is difficult to see the impact of bedrock, wetlands and changes in elevation on the plumes. Why in Stone-hill's Figure 2 are the septic plumes straight, appearing to show water flowing through bedrock and not around bedrock? In the Figure 9, the illustration clearly indicates flow through soil in red and into ground water in blue. I respectfully request that Figure 2 be illustrated in the same format.

8) Attached is a colored map from the 19 lot Beal site plan highlighting vernal pools, wetlands, ledge/outcrops, DLA/septics, and their requisite setbacks. The map illustrations reveal numerous wetland and ledge setback violations. Since there is not any mapping of ledge or wetlands on abutter lots 28, 29, and 30, it is impossible to ascertain whether further setback violations with respect to lots 13, 14, and 19 exist?

I am not anti-development, rather my concerns and questions represent the critical elements that must be very carefully deliberated and weighed in order to protect our water, wetlands and semi-rural character for the long-term. The proposed subdivision is one of the largest, if not the largest, in our small town's history and thus the risks, given its location in such a very sensitive ecological area, have implications with potentially huge negatives to key aspects of life in Rye for all its citizens.

Thank you for your work and due diligence on behalf of our community.

Sincerely,

Anne C. Hodsdon

October 26, 2016

Rye Planning Board
10 Central Road
Rye, NH 03870

Dear Chairman Epperson and Board Members,

Thank you and the Planning Board for taking time to review my letter and for your service to our community. I understand the huge volume of data presented to you over the past several months regarding this extremely large development proposal. My letter, I know, just adds to your huge pile as you continue your due diligence and jurisdictional duties as volunteer members of our Planning Board.

My name is Anne Hodsdon. I am the owner of parcel 30, 427 South Road, Rye, NH and an abutter to the proposed Stoneleigh Development.

I am writing to the Planning Board today to formally document my concerns and questions as well as to clarify the notes Mr. Falzone has included in his application for a conditional use permit submitted to the Board on or about 9/16/16.

Concerns and Questions:

I attended the July Planning Board meeting where Mr. Falzone presented information to the Board and to the public. I have also watched streaming meetings for both the Technical Review Committee and the Conservation Committee held in August and September as well as reading the minutes from those meetings, Mr. Falzone's application submittal and many other public documents related to this proposal.

My concerns and questions have evolved in priority as I have studied the multitude of aspects of this proposed development. My initial concerns and questions focused on the scale and scope of the proposal. Twenty plus lots is certainly one of the largest, if not the

largest, development subdivision ever proposed in our small town of Rye's history. The additional demand on town resources has implications with potentially huge negatives both in the immediate future and for the long term including, but not limited to, such key aspects of the quality of life in Rye as safety, traffic*, education, open space preservation, wetland protection and clean, dependable water.

Most importantly, I have come to realize, is the location of this development in such a very sensitive ecological area for Rye's water that the town very prudently decided to protect this area with the adoption of the Aquifer and Wellhead Protection District, ordinance: 306 — initially in 2008 and subsequently strengthened with revisions in 2014 and 2015.

I have so many questions, as I realize the Board and our fellow citizens in Rye must have too, regarding how this area can possibly be protected for the **long term** with such a large scale development. My list below is not exhaustive for sure, but represents critical elements, I believe, that must be thoroughly explored and documented as the Board conducts its due diligence and communicates to Rye residents their deliberations and conclusions.

- 1) Vector flows on the maps indicate drainage of many, if not all, sorts (such as surface water and septic plumage) have a very high probability of ending up in wetlands posing pollution risks.

- 2) Studying the various soil and topography maps as well as knowing the amount of ledge on my adjacent property and that of other abutters, I believe, even the most conservative estimates have to anticipate the high probability of blasting within this sensitive area if the development is approved and therefore the potential threat of such blasting to the town wells and aquifer flows. I suggest that the town in order to act in the best long term interests of residents must, at a minimum, expect a significant "eight figure" escrow or bonding by the developer for any future water problems with respect to any capacity deficits, diminished flows, and/or pollution.

- 3) Also from studying the maps, the amount of wetland area within

most of the proposed lots raises concerns regarding the rather significant demand on our small town resources that it will potentially take to monitor that many home sites to insure that there are no violations to our town wetland protection ordinances.

Overall water scarcity is a major threat not only to Rye residents but also nationally. The U.S. Office of the Director of National Intelligence now ranks water scarcity as a major threat to national security alongside terrorism. In addition, our most recent drought amplifies the importance of thoughtful, careful reflection on any potential threat to our water quality and availability.

With a proposed development of this scale and scope, I respectfully disagree with the developer's assertions per materials submitted, that various construction elements such as berms, current septic system designs, and property covenants mandating owner obligations to wetland buffers will be adequate for **long term safeguarding** of our most precious resource per Section 306.2, the purpose of the Aquifer and Wellhead Protection District is to

“protect, preserve and maintain the groundwater resources and groundwater recharge areas in the Town of Rye.”

Clarification:

To clarify Mr. Falzone's notes regarding his correspondence and discussions with me. I did indeed meet with Mr. Falzone twice. My first communication with Mr. Falzone occurred last May and was initiated indirectly from me following an inquiry from me (through email) to a Rye resident friend asking if she happened to know Mr. Falzone. This individual did know Mr. Falzone and the individual cc Mr. Falzone upon replying to me. Mr. Falzone then contacted me and told me he did not recall seeing me as a direct abutter and therefore had not previously reached out to me.

Following this initial contact, I meet with Mr. Falzone twice. He offered several possible options to address my concerns with protecting my property. However, we did not come to any formal agreement. In August, Mr. Falzone emailed me requesting I confirm our

understanding and I did not respond since our meetings were informal board discussions only. Any representation that indicates we had a formal or even an informal agreement is an error. I am submitting this information for the record only and do not expect any response from the Board.

Sincerely,

Anne C. Hodsdon

*I find the submitted traffic study to be inadequate. As a South Road resident since 2000 (several addresses) the traffic volume and speed in all seasons has been increasing every year and is already very dangerous for home owners entering or exiting driveways as well as for the increasing numbers of pedestrians, runners and bikers along South Road.