

TOWN OF RYE – BOARD OF ADJUSTMENT MEETING

**Wednesday, June 2, 2021
6:30PM Rye Public Library**

Members Present: Chair Patricia Weathersby, Vice-Chair Shawn Crapo, Chris Piela and Gregg Mikolaities.

Present on behalf of the Town: Planning/Zoning Administrator Kimberly Reed

I. CALL TO ORDER

Chair Weathersby called the meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

II. BUSINESS

- Approval of the May 5, 2021, Meeting Minutes

Motion by Patty Weathersby to approve the minutes of May 5, 2021, as amended.

Seconded by Shawn Crapo. Gregg Mikolaities abstained.

Motion passed 3-0-1

Note: *The order in which applications were heard may have changed from the noticed agenda.*

III. APPLICATIONS

The following applications requested continuances to the July 1, 2021 meeting:

- **Robert & Cynthia Scarano for property owned and located at 1481 Ocean Blvd., Tax map 13, Lot 54** request variances from §190-6.3B for demolition and rebuild of structures; from §190-2.4C(1) for a house 15.62' and a patio 12' +/- from the rear boundary where 30' is required; from §190-2.4.C(2) for a studio 13.27' and a patio 12'+/- from the left side boundary where 20' is required; from §190-2.4.C(2) for a house 5.20' from the right side boundary where 20's is required; and from §190-3.1.H.2(a)-(g) for a driveway within 100' of wetlands. **Property is in the General Residence and Coastal Overlay Districts, SFHA Zone AO(3). Case #24a-2021.**
- **Robert & Cynthia Scarano for property owned and located at 1481 Ocean Blvd., Tax map 13, Lot 54** request a special exception from §190-3.1.G & §190-3.1.H.2(f) for a driveway within 100' of wetlands. **Property is in the General Residence and Coastal Overlay Districts, SFHA Zone AO(3). Case #24b-2021.**

- **Craig & Denise Benson, Trustees, K&L Realty Trust for property owned and located at 2 Merrymeeting Lane, tax Map 15, Lot 18** request variances from §190-3.1.H.2(a),(b), (g) for a generator 19.9', a soffit 28', a foundation 30', a leachfield 86', a septic tank 77', a porous drive 25' from wetland A where 100' is required; from §190-3.1.H.2(a),(b), (g) for a septic tank 83' for soffits 86' and 88' and a porous drive 75' from the wetland across the street where 100' is required; from §190-3.1.E for 79 trees to be cut that are >4" in diameter and relief from Building Code §35-14 B(5) for a septic system 14.5' from the side boundary where 20' is required. **Property is in the Single Residence District. Case# 25a-2021.**
- **Craig & Denise Benson, Trustees, K&L Realty Trust for property owned and located at 2 Merrymeeting Lane, tax Map 15, Lot 18** request a special exception from §190-3.1.G & §190-3.1.H.2(f) for a pervious driveway 25' from the wetland A. **Property is in the Single Residence District. Case# 25b-2021.**
- **Christopher Griffin for Brackett Road Realty, LLC which owns property located at 245 Brackett Road, Tax Map 19, Lot 96,** requests a special exception from §190-3.1.G & §190-3.1.H.2(f) for a proposed driveway in the 75' wetland buffer. **Property is in the Single Residence District. Case# 27-2021.**

Motion by Patricia Weathersby to continue the applications for 1481 Ocean Blvd., 2 Merrymeeting Lane and 245 Brackett Road, as requested. Seconded by Chris Piela. Motion passes vote 4-0-0.

Chair Weathersby explained that they are short a board member and will proceed with a four (4) person board until the other member logs into the meeting around 7pm. She also explained that they would welcome new faces and volunteers. Anyone who is interested may contact Planning & Zoning Administrator, Kim Reed. She thanked John Mitchell for volunteering his time to the Board.

Chair Weathersby explained the process of how the Board will operate the evening's agenda. The applicant will present their application and once the Board has a chance to ask questions, the public hearing will be opened to abutters who may speak. After the public is heard, the applicant will have a chance to address any concerns and/or comments raised by the public. The public hearing will then close, the Board will deliberate and vote. Votes may be approved, denied or an application may be continued, if it is felt that more information is needed. If an application is approved, it may have conditions applied to the approval. There are no new applications heard after 10pm. For this meeting, the Board already agreed there would be a hard stop at 10pm, unless they are in the middle of an application.

- **Rye Place Realty, LLC for property owned and located at 150 Lafayette Road, Tax Map 10, Lot 14** requests variances from §190-3.1.H(2)(a) and (b) for construction of replacement septic and proposed parking within the 100' wetlands buffer; and from §190-3.1.H(2)(a) for surface alteration within the wetlands buffer; and from §190-3.1.(2) for 49 trees to be cut that are >4" in diameter. **Property is in the Commercial District, Aquifer and Wellhead Overlay District and Multi-Family Overlay Districts. Case #19a-2021.**

- **Rye Place Realty, LLC for property owned and located at 150 Lafayette Road, Tax Map 10, Lot 14** requests a special exception from 190-3.1.H(2)(f) & §190-3.1.G(2) for a proposed drive within the 100' wetlands. **Property is in the Commercial District, Aquifer and Wellhead Overlay District and Multi-Family Overlay District. Case #19b-2021.**

John Chagnon, AMBIT Engineering, along with owner Howard Lazerowich, was present to speak to the application. Currently, the motel has 27 units, and the building is being repurposed. There was a restaurant on site and there will still be a restaurant. The single-family home is now an insurance office, and the owners are upgrading the building including a new septic and hardscape. Currently, there are two (2) old dry wells that will be replaced with a state-of-the-art septic system. The septic system is going to require a change in the location of the parking in the back. The intent is to take that parking and turn it into a more solidly, durable, non-erosive, paved surface. The parking will be moved closer to the building, at the same time they do the renovation of the septic system. The grade changes on this property so the motel units are accessed in the front and the lower units are accessed in the back. For the units on the lower floor, people park in the back. The business access is also in the northeast corner of the larger retail building. He continued that the site is currently within the Berry's Brook watershed and there are impacts in the buffer. The colored plan depicts the wetlands impact. There will be some extension of the pavement into the buffer. However, there will be a decrease in impervious coverage across the entire lot with this proposal. They are applying for variances and a special exception for the septic system intruding more into the buffer.

Mr. Chagnon stated that the hardship is that this site has existed long before there was zoning in Rye. They are providing improvements to the buffer. They are installing two (2) rain gardens. Initially, the plan was to install just one, but the Planning Board wanted a second to pick up more of the stormwater runoff. These will be an improvement and assist with the treatment. This needs to be done in the buffer.

Mr. Chagnon addressed the criteria for the variances and how this application meets the spirit and intent of the zoning ordinance.

Mr. Chagnon stated that the Rye Conservation Commission reviewed the plans and attended two (2) site walks. They also held a meeting on this application.

Mr. Chagnon moved on to the criteria for the special exception and stated that they meet the criteria. The construction being proposed will have the least detrimental impact on the buffer. It will cut down on erosion. There is no alternative site feasible for the septic system, as access is needed around the property for the fire department.

Vice-Chair Crapo asked if the parking lot will be elevated. Will it be changing what is being done to mitigate the swampy area at the back of the lot?

Mr. Chagnon replied that he had not seen mud there, only some puddles. The water table is 30 inches down in this location. In the area where there are concrete steps, they will be holding that

elevation. There will be a slight slope away from the building directing runoff to the rain garden. Lafayette Road is higher.

Vice-Chair Crapo asked if it will work year-round when the ground is frozen.

Mr. Chagnon confirms.

Vice-Chair Crapo asked if they would connect to sewer if that was offered.

Mr. Chagnon stated that the driver for the sewer up Lafayette Road is currently under construction. They went with septic systems because the parties involved in the sewer proposal could not come up with enough money to connect the sewer to Portsmouth. At this time, sewer is not offered and the applicant would like to move forward with the property upgrades.

Mr. Lazerowich stated that he would be interested in connecting to sewer if it is ever provided.

Chair Weatherby asked if it will be pervious or impervious pavement.

Mr. Chagnon noted that since they are reducing the impervious coverage overall, they went with impervious asphalt, as it is easier to maintain.

Chair Weathersby asked if they were okay with the RCC conditions.

Mr. Chagnon confirmed.

Member Piela asked about the easement.

Mr. Chagnon stated that the drive comes around the back of the property. The pavement encroachment is minor because there is an easement. However, as part of the final approval with the Planning Board, they will be moving the drive back, which will eliminate the encroachment.

Chair Weathersby stated that the board has received a letter dated May 29, 2021 from the Rye Conservation Commission with three conditions:

1. The final planting plan is implemented as shown.
2. The plantings have a survival rate of 85% or better after one year.
3. Conservation Commission to revisit the site.

Chair Weathersby opened to the public for comments. Hearing none, she closed the public hearing and opened to the Board for deliberation.

Member Mikolaities stated it is an older property and they are bringing it up to current standards. He is not a fan of rain gardens, but they are adding treatment.

Member Piela echo's his sentiments. This is an improvement to the property. His biggest concern was in regards to the drive onto the abutters land; however, that has been addressed.

Vice-Chair Crapo had nothing to add.

Chair Weathersby stated that it is getting better and we have talked about the plantings. She noted that they did not talk about the tree cutting request. She asked the board members if they have any comments or want to discuss the trees.

No questions or concerns raised.

Chair Weathersby called for a vote for variances to §190-3.1.H(2)(a) and (b); §190-3.1.H(2)(a) and §190-3.1.(2) for 49 trees to be cut that are >4” in diameter.

1) The variances are not contrary to the public interest?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

2) The spirit of the ordinance is observed?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

3) Substantial justice is done?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

4) The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

7) The proposed use is a reasonable one?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

Chair Weathersby called for a vote for the special exception from 190-3.1.H(2)(f) & §190-3.1.G(2) for a proposed drive.

Is this proposal neither injurious nor detrimental to the neighborhood?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

Is it in harmony with the general purpose and intent of the zoning ordinance and in accordance with the general and specific rules contained within the zoning ordinance?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

Motion by Shawn Crapo to approve the application of Rye Place Realty, LLC for property owned and located at 150 Lafayette Road, for variances to §190-3.1.H(2)(a) and (b) for construction of replacement septic and proposed parking within the 100' wetlands buffer; and from §190-3.1.H(2)(a) for surface alteration within the wetlands buffer; and from

§190-3.1.(2) for 49 trees to be cut that are >4” in diameter; with conditions #1 and #2 listed in the Rye Conservation Commission letter, dated May 29, 2021. Seconded by Chris Piela.
Vote: 3-1-0

Opposed: Patricia Weatherby

Motion by Shawn Crapo to approve the application of Rye Place Realty, LLC for property owned and located at 150 Lafayette Road, for a special exception to §190-3.1.H(2)(f) & §190-3.1.G(2) for a proposed drive within the 100’ wetlands; with conditions #1 and #2 of the Rye Conservation Commission letter, dated May 29, 2021. Seconded by Gregg Mikolaities.

Vote: 4-0-0

- **Michael & Erin Horn for property owned and located at 281 Wallis Road, Tax Map 19, Lot 13** request variances from §190-2.3C(1) for a 12’x18’ shed 5’ from the rear boundary where 30’ is required; and from §190-2.3C(1) for the shed 10’ from the side boundary where 20’ is required. **Property is in the Single Residence District. Case #20-2021.**

Michael Horn, applicant, was present to speak to the Board in regards to a proposal for a 12’x18’ shed to be located in the northeast corner of the property located at 281 Wallis Road. The shed will be located 5’ from the rear boundary and 10’ from the side boundary. Variances are being requested for placement of the shed as the rear boundary requires a 30’ setback and a 20’ setback is required for the side boundary. The proposed location for the shed was chosen because it would be away from the existing leachfield. There are also oak trees in this area, which will provide a privacy barrier to the neighbors. The neighbors leave their light on most nights and the shed will also shield the light coming from that property. Mr. Horn has spoken with the two abutters to his property, who have confirmed they do not have any issues with the placement of the shed. Mr. Horn noted to the Board that the shed is being custom made to resemble the look of the house, so it will not stick out like a “sore thumb” in the neighborhood. He also noted that the shed is needed for storage of tools. Currently, garage space is limited, due to the removal of the third bay, as it extended into the setbacks.

Chair Weathersby noted that the plan shows another shed on the property.

Mr. Horn confirmed that the shed has been removed, as it was not safe.

Chair Weathersby asked if variances were granted for the garage.

Mr. Horn replies no. This is why the third bay was removed.

Chair Weathersby opened to the public for comments.

There were more questions to Mr. Horn from the Board regarding the design of the shed. Mr. Horn noted the back of the shed will be straight siding without windows. There was also a question regarding power to the shed. Mr. Horn confirmed there will not be any power to the shed. The shed will be used for storage of his lawn mower and other small tools. After some

discussion, the Board agreed that if the applicant needed power to the shed for a safety light, it would not be obtrusive to the neighbors, due to the layout of the property.

Chair Weathersby called for a vote for variances to §190-2.3C(1) for a shed 5' from the rear boundary, where 30' is required, and 10' from the side boundary, where 20' is required:

1) The variances are not contrary to the public interest?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

2) The spirit of the ordinance is observed?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

3) Substantial justice is done?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

4) The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes

Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

7) The proposed use is a reasonable one?

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

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

Shawn Crapo – Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patricia Weathersby – Yes

Motion by Shawn Crapo to approve the application of Michael and Erin Horn for property located at 281 Wallis Road for variances as advertised. Seconded by Chris Piela.

Vote: 4-0

- **Steven & Denise Manseau for property owned and located at 117 Wentworth Road, Tax Map 24, Lot 36, request variances from §190-2.3C(2) for a shed 2.6' from the side boundary where 20' is required; from §190-2.3C(2) for a shed 20' from the south corner front boundary and 4.2' from the east corner front boundary where 40' is required; and from §190-2.3C(5) for dwelling coverage of 19.04% where current is 15.25% and 15% is allowed. Property is in the Single Residence District. Case #21-2021.**

Steven Manseau, applicant, spoke to the Board regarding his request for variances to locate a shed 2.6' from the side boundary, where 20' is required. The shed would also be 20' from the south corner front boundary and 40' from the east corner front boundary. The setback required to the front boundary is 40'. The applicant also requested a variance for dwelling coverage of 19.04%, where 15% is allowed. He noted that there are five non-conforming cottages on this property. There is a sixth vacant lot and the lots all share common space. His lot is a pie shaped lot to the rear of the parcels. He explained that each owner owns 1/6th of the common space. He also explained to the Board that his property is reached by an easement over the common land.

There is discussion by the Board in regards to how the applicant calculated his lot coverage, as the calculations cannot include the common area. It is explained to Mr. Manseau that impervious coverage calculations can only be based on the square footage of his lot, which is 8,596sf. It is noted that the existing home is 1,054sf.

After discussion, the Board agreed that the application should be continued for clarification on the impervious coverage calculations, as it seems that the common space may have been used.

They agreed it is important to be certain of the percentages, so the record is clear as to what is approved, if the application moves to an approval. The Board asked the applicants to confirm their calculations for the next meeting, so there is no confusion moving forward.

Motion by Shawn Crapo to continue the application of Steve and Denise Manseau for property located at 117 Wentworth Road, for clarification on lot coverage impacts, to the July 1, 2021 BOA meeting. Seconded by Gregg Mikolaities.

Vote: 4-0

- **Heidi Conley for property owned and located at 104 Alehson Street, Tax Map 15, Lot 25,** requests a variance from §190-2.3C(3) for a shed 6' from the left side boundary where 20' is required. **Property is in the Single Residence District. Case #23-2021.**

Heidi Conley, applicant, spoke to the Board in regards to a variance request to locate a shed 6' from the left boundary of her property, where 20' is required. She reviewed the requirements for the variance to confirm that the proposal would not be contrary to the spirit and intent of the ordinance.

After some review of the application, there was some question as to the drainage easement along that boundary. The Board agreed that the application should be continued for further clarification on the easement and whether the shed would have any impact.

Motion by Patricia Weathersby to continue the application of Heidi Conley for property located at 104 Alehson Street for further clarification on the drainage easement. Seconded by Shawn Crapo.

Vote: 4-0

Note: Patricia Weathersby recused herself from the following application. Shawn Crapo sits in as chair. Shawn Crapo seated Patrick Driscoll for the application.

- **John & Mary Mitchell for property owned and located a 562 Washington Road, Tax Map 12, Lot 48,** requests variances from §190-2.2.D.2(a)(2)(3)(b) for a second floor deck which enlarges the bulk of the building on a lot with two dwellings; and from §190-6.3.A for expansion of a non-conforming structure. **Property is in the Business and Historic Districts. Case #22-2021.**

Brendan McNamara, representing the applicants, presented the proposal to the Board. There is an existing two unit dwelling on the property. The owners are currently remodeling unit 2, which is located on the second floor with access to the third-floor attic space. The project involves the addition of a second-floor deck for which variances have been requested, as it will increase the bulk and expand the non-conforming structure. Also, as part of the project, the exterior stairs are being removed and the primary entrance/exit to the unit will be through the main door. It is also noted that the owners will be turning the third-floor useable attic space into a master suite. There will be no change to the existing roofline. The only increase in volume will be for the exterior deck.

The Board reviewed the plans for the project.

After a few questions from the Board, Vice-Chair Crapo opened to the public for comments. Hearing none, he closed to the public for the Board to deliberate.

As the Board did not have any issues with the proposal, Vice-Chair Crapo called for a vote on variances to §190-2.2.D.2(a)(2)(3)(b) for a second-floor deck and §190-6.3.A for expansion of a non-conforming structure:

1) The variances are not contrary to the public interest?

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

3) Substantial justice is done?

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

4) The values of surrounding properties are not diminished?

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

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

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

- 6) **There is no fair and substantial relationship between the general purposes of the ordinance provision and the specific application of that provision to the property?**

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

- 7) **The proposed use is a reasonable one?**

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

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

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Shawn Crapo - Yes

Motion by Patrick Driscoll to approve the application of John and Mary Mitchell for property located at 562 Washington Road for variances to §190-2.2.D.2(a)(2)(3)(b) for a second-floor deck which enlarges the bulk of the building and §190-6.3.A for expansion of a non-conforming structure. Seconded by Gregg Mikolaities.

Vote: 4-0

Note: Patricia Weathersby returns to the Board. Patrick Driscoll remains seated and the Board continues with a five-member board.

- **Donald E. & Patrese E. Pierson for property owned and located at 1760 Ocean Blvd., Tax Map 13, Lot 60, request variances from §190-2.4.C(3) for a shed 2.4' from the front boundary where 30' is required; from §190-3.1.H.(2)(a)(b)(g) for a shed 91.29' and leachfield fill 92.3' from the tidal marsh where 100' is required; and from §190-3.1.H.(2)(a)(b)(g) for a house 33', an addition 60.5', rear stairs 41.9', pervious patio 45.8', septic tank 81.3', and leachfield fill 98.9' from the wetlands where 100' is required; from §190-6.3.A for expansion of a nonconforming structure; and relief from the Building Code §35-14.D(1)(a) for leachfield fill 92.3' from tidal marsh where 100' is required and §35-14.D(1)(a) for a septic tank 81.3' and leachfield fill 98.9' from the Harbor where 100' is required. **Property is in the General Residence and Coastal Overlay Districts. Case #26a-2021.****

- **Donald E. & Patrese E. Pierson for property owned and located at 1760 Ocean Blvd., Tax Map 13, Lot 60, request a special exception from §190-3.1.H.(2)(f) for a shed 91.29' from the wetland where 100' is required. Property is in the General Residence and Coastal Overlay Districts. Case #26b-2021.**

Attorney Monica Keiser, representing the applicants, presented the application to the Board. As part of her presentation, she noted that she does not believe relief is needed for the shed, as there is an existing shed which is being replaced with a new shed. She also noted that she does not feel building code relief is needed for the septic tank being 81.3' and the leachfield fill being 98.9' from the Harbor, as it is really part of the ocean.

Alex Ross, engineer for the project, was present to review the plans and address any questions in regards to the proposed septic improvements, impervious/pervious coverage and stormwater management details.

Attorney Keiser reviewed the criteria for granting the variances.

Chair Weathersby opened to the public. No comments are heard.

The Board reviewed the letter from the Rye Conservation Commission. The Board discussed whether they feel relief was needed from §190-2.4.C(3) for a shed 2.4' from the front boundary, where 30' is required. It was agreed that the shed does not require relief. There was also a discussion in regards to whether relief is needed to building code §35-14.D(1)(a) and 3.1.H.(2)(a), (b) and (g) for the house addition, patio, septic tank and leachfield being located within 100' from Rye Harbor. It was the consensus of the Board that relief is not needed, as Rye Harbor is not a wetland as defined in the zoning ordinance.

Chair Weathersby called for a vote on variances to §190-3.1.H.(2)(a)(b)(g) and §190-6.3.A:

1) The variances are not contrary to the public interest?

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

2) The spirit of the ordinance is observed?

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

3) Substantial justice is done?

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

4) The values of surrounding properties are not diminished?

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

7) The proposed use is a reasonable one?

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes

Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

Chair Weathersby called for a vote on building code relief to §35-14.D(1)(a):

- **Would enforcement of that section do manifest injustice and be contrary to the spirit and purpose of the building code and public interest?**

Shawn Crapo - Yes
Gregg Mikolaities – Yes
Chris Piela - Yes
Patrick Driscoll – Yes
Patricia Weathersby - Yes

Motion by Patricia Weathersby to approve the request from Donald E. and Patrese E. Pierson for property located at 1760 Ocean Blvd for variances to §190-3.1.H.(2)(a)(b)(g) for a leachfield fill 92.3' from the tidal marsh, §190-6.3.A for expansion of a nonconforming structure and building code relief to §35-14.D(1)(a) for leachfield fill from tidal marsh; conditioned upon the Rye Conservation Commission letter dated May 28, 2021:

- 1) **A row of shrubs should be planted along the eastern property line to offset the loss of a large cedar tree;**
- 2) **A strip of native vegetation should be planted to a depth of 5 feet along the seawall to intercept the filter potential contaminants coming from the lawn before they enter the harbor. This would also act to stabilize the lawn edge and the seawall from erosion resulting from storm surges.**
- 3) **The plantings have a survival rate of 85% or better after one year.**

The Board voted that the relief from the Harbor was not necessary.

- **31 Perkins Road Trust, Mary Jo Houghton Trustee, of 210 Ledgewood Road, Manchester, NH for property owned and located at 31 Perkins Road, Tax Map 5.2, Lot 142, requests variances from §190-2.4.C(1) for a shed 18' from the rear property line where 30' is required and from §190-2.4.C(2) for a shed 15' from the side property boundary where 20' is required. Property is in the General Residence District. Case #28-2021.**

Mary Jo Houghton, applicant, was present to address the Board in regards to her request to locate a 12x16 shed 18' from the rear boundary and 15' from the side boundary of her property.

The Board reviewed her proposal. There was discussion about the impervious coverage calculations; however, those numbers were not available. The Board noted that it seems the impervious coverage could be close to the maximum allowed. It was agreed to continue the application to the next meeting, as more information was needed regarding lot coverage; existing

and with the shed. It was also noted that if relief for coverage is needed, the application would have to be amended and re-noticed to include the variance(s).

Motion by Shawn Crapo to continue the application for 13 Perkins Road to the July meeting. Seconded by Patrick Driscoll.
Vote: 4-0

IV. OTHER BUSINESS

Resident John Mitchell spoke with the Board in regards to his interest in serving as an alternate member on the Board.

The Board thanked John for his interest and welcomed him to the Board.

Motion by Shawn Crapo to appoint John Mitchell as an alternate member to the Zoning Board of Adjustment. Seconded by Chris Piela.
Vote: 4-0

ADJOURNMENT

Motion by Shawn Crapo to adjourn at 10:15 p.m. Seconded by Chris Piela. All in favor.

Respectfully Submitted,
Dyana F. Ledger