

TOWN OF RYE – BOARD OF ADJUSMENT

**Wednesday, June 1, 2022
7:00 p.m. – Rye Public Library**

***Members Present:* Chair Shawn Crapo, Vice-Chair Patrick Driscoll, Clerk Chris Piela, Jennifer Madden, John Tuttle and Alternate Sandra Chororos**

***Also Present on behalf of the Town:* Planning/Zoning Administrator Kim Reed**

I. CALL TO ORDER

Chair Crapo called the meeting to order at 7:00 p.m. and led the pledge of allegiance.

II. BUSINESS

- **Approval of Minutes – May 6, 2022**

Motion by Chris Piela to approve the minutes of May 6, 2022 as amended. Seconded by Patrick Driscoll. All in favor.

III. APPLICATIONS

- 1. Robert Dietrich/CVHR, LLC of 107 Longmeadow Road, Greenville, NC for property owned and located at 6 Richard Road, Tax Map 5.2, Lot 154-01 requests variances from §190-6.3.A/B for construction on non-conforming lots; from §190-5.0.C for one parking space within front boundary; from §190-2.4.C(1) for a house 20.17' and patio 19.94' from the rear boundary where 24.81' is required; from §190-2.4.C(2) for a pervious patio 11.73' from the right side boundary where 20' is required; from §190.2.3.C(6) for depth of lot 115' +/- where 200' is required; from §190-2.4.C(6) for 114'/141' frontage where 150' is required. **Property is in the General Residence, Coastal Overlay District. Case #21-2022.**
Request continuance to the July meeting.**

The Board voted 5-0 to grant a continuance to the July 7, 2022 meeting and requested information on the shed on their property and the stormwater management plan.

- 2. Tom & Pam Prophet for property owned and located at 245 Washington Road, Tax Map 16, Lot 158** request variances from §190-2.3.C(5) for lot coverage of 18% +/- for a shed where 15% is allowed and from §190-5.0 and §190-5.0.C for parking 4' from side boundary where 10' is required on an existing driveway. **Property is in the Single Residence District. Case #23-2022.**

Tom Prophet, applicant, presented his proposal to the Board for a variance for lot coverage of 18% +/-, where 15% is allowed, for a shed on his property. The applicants also requested a variance for parking 4' from the side boundary where 10' is required for the existing driveway.

The Board reviewed the plans showing the proposed location for the shed and parking.

Chair Crapo opened to the public for comments.

Mike Flanigan, 252 Washington Road, spoke in support of the proposal.

A member of the Burdick Family, 257 Washington Road, also spoke in support.

The public hearing was closed for Board deliberation. The Board did not have any issues with the location of the shed, nor were there any issues noted with the parking variance request.

Chair Crapo called for a vote on variances to 2.3.C(5); 5.0: and 5.0.C:

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes

Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

**Motion by Patrick Driscoll to approve the application of Tom and Pam Prophet for property located at 245 Washington Road for variances as advertised.
Seconded by Chris Piela. All in favor.**

Note: *Patrick Driscoll recused himself from the following application. Alternate Sandra Chororos was seated.*

Members sitting for application: Shawn Crapo, Chris Piela, Jenn Madden, John Tuttle and Sandra Chororos

- 3. Matthew & Catherine Madara for property owned and located at 11 McLaughlin Drive, Tax Map 5.2, Lot 28 requests variances from §190-2.4.C(1) for a shed 18' from the rear boundary where 30' is required and from §190-2.4.C(2) for a shed 15' from the side boundary where 20' is required. Property is in the General Residence District. Case #24-2022.**

Matthew Madara, applicant, presented the proposal for a shed to be located 18' from the rear boundary, where 30' is required, and 15' from the side boundary, where 20' is required.

After a few questions from the Board, Chair Crapo opened to the public for comments. Hearing none, he closed the public hearing for Board deliberation. The board members did not have any issues with the placement of the shed, but did agree that the shed should be no larger than 14' x 18'.

Chair Crapo called for a vote on variances to 2.4.C(1); and 2.3.C(2):

- 1) Granting the variance is not contrary to the public interest?**

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

- 2) The spirit of the ordinance is observed?**

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

- 3) Substantial justice is done?**

Sandra Chororos – Yes

Chris Piela - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
Chris Piela - Yes
Jenn Madden – Yes
John Tuttle – Yes

Shawn Crapo – Yes

Motion by Chris Piela to approve the application of Matthew and Catherine Madara for variances to §190-2.4.C(1) and §190-2.4.C(2) for a shed, no larger than 14' x 18' in size. Seconded by John Tuttle. All in favor.

Note: Alternate Sandra Chororos was unseated and Patrick Driscoll was reseated for the remainder of the meeting.

- 4. Ian & Terry Buchan for property owned and located at 8 Hunterville Ave, Tax Map 8.1, Lot 91 request variances from §190-6.3.A for expansion of a non-conforming structure; from §190-2.4.C(2) for expansion 8 +/- on the right side where 20' is required. Property is in the General Residence District. Case #25-2022.**

Ian Buchan, applicant, spoke to the Board regarding the proposal for an expansion of a non-conforming structure, which will be located 8' +/- to the right-side boundary where 20' is required.

The Board reviewed the dimensions of the proposal on the plans. They also discussed stormwater runoff and was assured by the applicant that there's no real runoff in the proposed area. There was also some discussion about the location of the driveway in relation to the property line. It was noted that a variance to §190-2.4.C(3) for expansion 35' from the front boundary was needed. After discussion, it was agreed that the expansion from the right-side boundary should be approved for 7'. The applicant confirmed that the neighbors were informed of the project and there were no concerns.

Chair Crapo opened to the public. Hearing no comments, the public hearing was closed for Board deliberation.

The Board had no issues with the proposal and agreed it was a reasonable modification to the home.

Chair Crapo called for a vote for variances to 6.3.A and 2.4.C(2):

9) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

10) The spirit of the ordinance is observed?

Chris Piela – Yes

Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

11) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

12) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

15) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

Motion by Patrick Driscoll to approve the application of Ian & Terry Buchan for property owned and located at 8 Hunterville Avenue for variances to §190-6.3.A for expansion of a non-conforming structure; §190-2.4.C(3) for expansion 35' from the front boundary; and §190-2.4.C(2) for expansion 7' +/- from the right side boundary.
Seconded by Chris Piela. All in favor.

- 5. Mike Meserve for Jededia Morton of 41 Pryer Lane, Larchmont, NY for property owned and located at 2188 Ocean Blvd, Tax Map 5.3, Lot 51 requests a variance from §190-2.3.C(1) for an AC unit 6.5' +/- from the rear boundary where 30' is required. Property is in the Single Residence, Coastal Overlay District. Case #26-2022.**

Mike Meserve, representing the applicant, presented the proposal for an a/c unit to be located 6'5" +/- from the rear boundary with a 30 x 30 concrete pad.

It was noted that a letter was received from Gary Wingate, 20 Oak Avenue, who had no issues with the proposal.

Chair Crapo opened to the public for comments. Hearing none, he closed the public hearing for Board deliberations.

The Board felt that the a/c unit would be located in the most logical area on the lot. They did not have any issues with the proposal, as it was a reasonable request.

Chair Crapo called for a vote for a variance to 2.3.C(1):

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes

Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

Motion by Patrick Driscoll to approve the application for property located at 2188 Ocean Boulevard for a variance to §190-2.3.C(1) for an AC unit 6.5” +/- from the rear boundary.

6. Donna & William Purdie for property owned and located at 1154 Ocean Blvd, Tax Map 19.4, Lot 90 request a variance from §190-2.4.C(2) for an HVAC 16’ from the side boundary where 20’ is required. Property is in the General Residence, Coastal Overlay District and SFHA, Zone VE(14). Case #27-2022.

Jennifer Karnacewicz, representing the applicants, presented the application to the Board for an HVAC to be located 16’ from the side boundary. She noted that the abutter was contacted about the proposal and she did not have any issues. Ms. Karnacewicz pointed out that she doesn’t have the decibel levels, but that was never brought to their attention as an issue. A variance is needed due to the size of the a/c unit infringing on the property line. She noted that there is a document in the Board’s packet that shows what the compressor will look like in proportion to the house and how far it is off the abutter’s property.

Referring to the plan, Chair Crapo pointed out that it shows shed construction. He asked if there is a new shed as part of this project.

Ms. Karnacewicz noted there is no shed proposed.

Planning/Zoning Administrator Reed explained that the applicant said that the only boundary survey sketch that she had was from 2013, which shows the shed. The Town’s requirements state that a survey plan is needed.

Chair Crapo read a letter from abutter Ann O’Sullivan, 1158 Ocean Blvd., who had no objections to the proposal. It was noted that Ms. O’Sullivan is the most affected abutter. He opened to the public for comments. Hearing none, the public session was closed at 8:28 p.m.

Member Piela commented that it seems like a reasonable spot. He pointed out that opposite that location is the driveway and the walkway. He thinks they would have a hard time putting the a/c unit on the other side. It seems like a logical location and a reasonable request.

Vice-Chair Driscoll stated that it looked like there might have been more space on the other side. However, because of the way the house is oriented on the lot, it seems like the most logical spot for the a/c unit.

Chair Crapo called for a vote on the variance to §190-2.4.C(2):

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes

Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

Motion by Patrick Driscoll to approve the application for the property located at 1154 Ocean Boulevard as advertised. Seconded by John Tuttle. All in favor.

- 7. Alissa Bournival of 59 Woodland Rd, N. Hampton, NH for property owned and located at 271 Harbor Road, Tax Map 8, Lot 50 requests variances from §190-6.3.A/B for demolition of an existing non-conforming home to replace with new; from §190-3.1.H(2) for a house 24.9', garage 46.3', deck 23.3', stairs 20.2', driveway 23.9', retaining wall 68.1', walkway 56.4', a KOI pond 19.0" and a generator pad 53.5' from the wetlands where 75' is required; and from §190-2.3.C(3) for a walkway and retaining wall in the 40' front boundary. Property is in the Single Residence District. *Case #28-2022. Request a continuance to the July meeting.***

The Board voted 5-0 to continue the application to the July 7, 2022 meeting so that the applicant may appear before the Conservation Commission on June 9, 2022.

8. **Sagamore Wentworth Owner, LLC of 1209 Orange Street, Wilmington, DE for property owned and located at 24 Harborview Drive, Tax Map 24, Lot 52** requests variances from §190-2.3.C(2) for patio/hardscape structures 12'9"/12'5" from the left side boundary and 8'8"/10'11" from the right sound boundary; from §190-2.3.C(5) for lot coverage of 29% where 15% is allowed; from §190-5.7.D from submission of a drainage and grading plan; and from §190-6.3 for expansion of a non-conforming patio. **Property is in the Single Residence District. Case #29-2022.**

Attorney Tim Phoenix, representing the applicant, presented the proposal to the Board. He reviewed the plans for the Board for the .63-acre lot. He pointed out the existing patio location and noted that the proposed patio is either as close, or within a foot or two, as the existing. The existing patio is impervious and has a waterfall feature with water, which attracts mosquitos. He pointed out that the water feature will be coming out. The impervious coverage will be reduced from 34% to 29%, which is a fairly significant reduction. In his submission, he questioned whether that variance is needed because the situation is being improved. Similarly, he included relief for a grading and drainage plan. He's not sure why they need relief from it, but he wanted to be safe and included it.

Attorney Phoenix noted that Alex Ross, Ross Engineering, has inspected the site and written his report. He continued that right now there are drainage problems. The draining can't percolate and collects in the patio. The runoff runs down the driveway to the street and eventually into the catch basin. He reiterated that the new patio will be an impervious surface. A firepit is also proposed for the patio. Mr. Ross noted in his report; *"The site work that is proposed will result in an improvement to the stormwater runoff rate since there will be removal and replacement of such a large impervious surface with a pervious surface. A stormwater runoff will percolate through the new pervious paver system and infiltrate into the soil. An underdrain line is proposed with a small 2" outlet to allow detention while ensuring outlet to daylight. The current stormwater path is such that it concentrates flow and has a rapid runoff rate. After this design is installed, the stormwater will absorb into the soils and replenish the aquifer."* Attorney Phoenix pointed out that not only are they decreasing pervious coverage, further steps are being taken to stop the runoff from going down to the front. He knows that's not what they are asking relief for; however, it's important to know that this project is providing those benefits.

Attorney Phoenix commented that he often questions why a permeable patio even needs a variance because a driveway doesn't need a variance. He always failed to understand why a walkway or patio would be treated any different, but the ordinance doesn't exempt patios. He read letters of support from Wendy and Rick Finnerty, 12 Harborview Drive, and Frank and Putzy Pinto, 34 Harborview Drive.

Attorney Phoenix reviewed the criteria for granting the variances.

- **Public interest and spirit of ordinance:** The question is whether it conflicts with the ordinance such that it violates the ordinances basic zoning objectives. It's a single-family house and will remain a single-family house. The pervious compared to the existing impervious is much better. Will granting the variances alter the essential character of the

locality? That is clearly no. Will it threaten the public health, safety or welfare? That's also no. In fact, it will improve both because of the mosquito issue and by creating much less impervious surface.

- Will granting the variance diminish surrounding property values? It won't. It can't be seen and it's much better looking. The two neighbors who are the most affected both approve. It's a much better functioning area.
- Special conditions exist with the triangular rear yard. Now, water is not able to percolate through and runs down the driveway towards the street. All of this creates special conditions.
- The reason there are setback and expansion reconstruction limits are to have adequate air, light, space, separation from neighbors and stormwater treatment. None of those are harmed. Notably stormwater treatment and insect control are being improved. Since the two neighbors, who might be able to see it, are firmly in favor, there's no reason to apply the requirements that limit a patio at or below ground level in the side setbacks.
- It's a permitted use, so it's considered reasonable under the law.
- Substantial justice will be done and there would be no harm to the general public in granting these variances. However, there would be harm to the homeowner as it would either stay as it is or the size of the patio would have to be sharply reduced, which would reduce the enjoyment of this home to no one else's benefit.

Referring to the 29% proposed lot coverage, Chair Crapo asked if there is any opportunity to do more pervious to reduce that number.

Attorney Phoenix replied that in order to do that, impervious changes would have to be done somewhere else on the lot. Pretty much everything that is impervious now is going to be replaced with pervious. He doesn't know that there's a way to easily make other changes that would decrease impervious surface in this area.

Vice-Chair Driscoll asked if the large driveway and house is constituting the 29% lot coverage.

Ben Woods, Site Structures Landscaping, confirmed that the driveway and house "eats" up a lot of it. He explained that in the backyard, where the landscaping is focused, everything that is impervious (the patio) has been turned into pervious surface. All of that flat surface is now going to be pervious. He further explained that technically the cap of the wall is not pervious because the water is going to hit the wall and run off the side. However, the wall is surrounded by gardens in the back and pavers in the front. The water is going to sheet drain into pervious area. In reality, that water is not going to be leaving the property. Even the steps of the raised patio area are technically considered impervious but they're surrounded by pervious pavers. He reiterated that in the backyard, where all the work is focused, they converted pretty much every surface possible into a pervious surface, according to the rules. Something outside the work zone would have to be converted into a pervious surface to get more square footage.

Zachary Deese-Laurent, applicant, stated that they made the decision to preemptively convert the entire project. At one point, it was bifurcated with some being pervious and some

impervious to save some money. For the purposes of this, the decision was made to convert the entire project to pervious. There is no other area that could be converted as part of the project.

Member Piela stated that in looking at the elevations it's -5 and -9. Where the fire pit is going to be it's +30. He asked if this necessitates the concrete wall on that right-hand side.

Mr. Woods confirmed. He explained it's like a patio that's been elevated by one step to contend with the grade a bit. The existing patio is an older patio that has some undulation. Moving towards the firepit, the existing condition is a pond that is built into the slope. He noted they will be cutting into that slope, removing the pond and building a retaining wall to hold back the grade. At the present, above that pond is a raised paver area. That is not going to be raised anymore. It's going to be sunk down to a lower grade. The patio as a whole will be lower, relative to the neighbors' perspective and how it exists right now.

Chair Crapo opened to the public for comments. Hearing none, he closed the public hearing at 8:56 p.m.

Vice-Chair Driscoll stated that this application was really well put together. It makes sense to him and it looks great. The effect it has on the neighbors and the neighborhood seems to be an improvement for everyone involved. He has no issues with the proposal. He continued that the way he looks at the difference between the driveway and the patio is that the patio is not quite living space but people are spending longer periods of time on it. It's not just a pathway space to get in and out of the home. He likes to see the patio as needing that variance. The same thing with the impervious. He's better off looking at this and knowing that they did everything they can. This seems to pass all the tests. He doesn't see this conflicting with the Town's code at all.

In looking at the existing versus the proposed, Member Piela stated that the things that are not pervious are truly things that cannot be; such as, the fireplace, steps and wall. He appreciates that. He echoes that it's very well laid out.

Member Tuttle commented that he appreciates the reduction in impervious surface. It's a good design and it would be hard to say no.

Chair Crapo noted that the back area of the property is already disturbed. The lot slopes towards Harborview. This is up a bit on higher ground. He doesn't think the proposed changes are going to cause any extra runoff to go towards the neighbors and exit the property. The stormwater management plan is going to be easy to follow.

Chair Crapo called for a vote on requested variances to 2.3.C(2); 2.3.C(5); 5.7.D and 6.3:

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes

Patrick Driscoll - Yes

Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

Motion by Chris Piela to approve the application of Sagamore Wentworth Owner, LLC for property located at 24 Harborview Drive as advertised and as presented. Seconded by Patrick Driscoll. All in favor.

Note: Applications #9 and #10 were heard together, as they were for condominium units in the same building both asking for relief for HVAC systems.

9. William Hart for property owned and located at 1031 Ocean Blvd, Tax Map 202.2, Lot 2 requests a variance from §190-2.4.C(2) for an HVAC system 14.5' from side boundary where 20' is required. Property is in the General Residence District, Coastal Overlay District and SFHA, Zone AE(3). Case #30a-2022.

10. Jan Olmstead for property owned and located at 1029 Ocean Blvd, Tax Map 20.2, Lot 2-003 requests a variance from §190-2.4.C(2) (1) for an HVAC system 14.5' 25' from side rear boundary where 20' 30' is required. Property is in the General Residence District, Coastal Overlay District and SFHA, Zone AE (3). Case #30b-2022.

William Hart, applicant for 1031 Ocean Blvd., spoke to the Board. He noted that he started the process and Jan Olmstead “piggy-backed” onto it, so they will be using the same contractor. The other building already has air-conditioning and has had it for a number of years. The building he and Jan live in does not have air-conditioning. The requested relief is to locate the condenser on the side. The intent is for the systems to be on stands; however, they could be mounted to the building. He pointed out that the condensers are really quiet.

Jan Olmstead, applicant for 1029 Ocean Blvd., stated that she is more sensitive to the sun and in particular the heat, due to the treatments that she is taking for her disease.

Chair Crapo asked if the dimensions to the side line would change if the systems were on the building versus stands.

Mr. Hart replied no. He reiterated that they're proposed to be put on a stand. The question was whether the building inspector would require a concrete pad or not. However, it will not change the dimensions.

Chair Crapo asked if the base will need to be wider, if it were to be on stands.

Mr. Hart replied that he doesn't think that would be the case. The stand and the condenser are almost vertically straight.

Chair Crapo commented that his preference would be to give 14+/-, in case concrete is needed.

The Board agreed.

Zoning Administrator Reed noted that she made a mistake on the agenda. Ms. Olmstead needs relief from the rear setback and Mr. Hart is from the side. The agenda lists them both from the sides. She pointed out that both need the same setback dimensions.

It was noted that Ms. Olmstead needs a variance from §190-2.4.C(1) for an HVAC 14.5' from the rear boundary where 30' is required, not 20' as shown in notice.

Mr. Hart clarified that when they measured for Ms. Olmstead's system to the rear, it was approximately 25' where she needed 30'.

Zoning Administrator Reed pointed out to the Board that the packets contain a sketch that shows approximately 25' from the rear where 30' is required. Mr. Hart's request is 14+/- from the side where 20' is required.

Chair Crapo opened to the public for comments. Hearing none, he closed the public hearing at 9:15 p.m.

The Board did not have any questions for the applicant and felt it was a reasonable request.

Chair Crapo commented that he wants to take each property separately because the variances run with the property. This way, the record will be clear for future owners.

The Board agreed.

Referring to 1031 Ocean Blvd, Chair Crapo called for a vote on requested variances to 2.4.C(2) for an HVAC system 14'+/- from the side where 20' is required:

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes

Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

**Motion by Chris Piela to approve the variance for William Hart for property owned and located at 1031 Ocean Boulevard, Tax Map 20.2, Lot 2 for a variance from §190-2.4.C(2) for an HVAC system 14' from the side boundary where 20' is required.
Seconded by John Tuttle. All in favor.**

Referring to 1029 Ocean Blvd, Chair Crapo called for a vote on requested variances to 2.4.C(1) for an HVAC system 25'+/- from the rear boundary where 30' is required:

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo - Yes

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – Yes

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

7) The proposed use is a reasonable one?

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

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

Chris Piela – Yes

Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – Yes

Motion by Chris Piela to approve the variance for Jan Olmstead for property owned and located at 1029 Ocean Boulevard, Tax Map 20.2, Lot 2-003 for a variance from §190-2.4.C(1) for an HVAC system 25'+/- from the rear boundary where 30' is required. Seconded by John Tuttle. All in favor.

- 11. Isolino, LLC for property owned and located at 2263 Ocean Blvd, Tax Map 5.2, Lot 3 requests variances from §190-5.0.B(4) 12 parking spaces where 17 currently exist and required are 1 space per 3 seats, 1 space per 2 bar stools, 1 per employee on maximum shift for a total of 37 parking spaces to allow for seasonal outdoor dining in the parking lot and from §190-6.2.A for 12 proposed parking spaces where 17 spaces currently exist and 37 are required. Property is in the Business District, Coastal Overlay District. Case #31-2022.**

Attorney Tim Phoenix, representing the applicant, presented to the Board. He introduced RJ Joyce one of the owners of The Carriage House Restaurant. He presented the existing condition site plan that was prepared by John Chagnon, Ambit Engineering. Currently, there are 17 spaces on the site for parking. The request is to take the 5 spaces located on the southerly corner of the lot and convert that area to seasonal outdoor dining. It will reduce the onsite parking spaces from 17 to 12. Attorney Phoenix pointed out that Chair Crapo just read the requirement for parking spaces for a restaurant; by seats, stools and employees on a maximum shift. By employee, they could take up most of the parking on a nightly basis. The Carriage House is currently leasing 12 spaces from Martha Leary who owns The Dunes from the parking lot in the rear where beach people park. Mrs. Leary has agreed to allow them to lease an additional 5 spaces. It solves a lot of parking problems by having their employees park off site, which leaves more parking for customers.

Chair Crapo commented that the seating and the outdoor area are also structures. He thinks it needs setback relief. In looking at structure, it's any man-made things placed upon the land.

Attorney Phoenix replied that on the last case there was a distinction between the driveway and a patio. He asked if they are saying that if a property owner put a picnic table in the side setback, they would have to get relief. He thinks that's going a little too far. He continued that he is not sure how the rest of the Board feels, but he does not think a picnic table is a structure. They're not in any way permanent or attached to the ground. They are just sitting on top of it.

Chair Crapo commented that he is not sure if the Building Inspector will add that on later.

Attorney Phoenix suggested moving forward and just see what the Building Inspector does. He continued that the applicants have solved some of the parking issues on their own by having the

employees park elsewhere. The other point is that this is near the beach and its mostly evenings and it's only from May to October. In the evening hours, there's a lot more parking along Ocean Boulevard and a lot more parking at Jenness Beach. There's also parking behind The Dunes and the thrift shop. The owner doesn't feel that taking these spaces away for part of the year is going to be a problem. He explained this all started with Covid and started with the Governor issuing an order that restaurants could have outdoor seating. This order was issued for two years and then it ended. By that time, people had seen the benefit and patrons had seen the benefit. There are numerous people, who despite the restrictions being lifted, are still not comfortable in enclosed spaces with a lot of people, but they will go to an outdoor restaurant. Also, the seating will not change. Whatever, seating is allowed outdoors on any night or afternoon, the seating inside will be reduced by that number.

Member Piela asked if the staff will be increased.

Attorney Phoenix replied no. If they seat a table outside, they have to close off a table inside.

Alternate Chororos asked they if will be serving the same number of patrons regardless.

Attorney Phoenix clarified they are serving the same number of tables. They hope to be serving more patrons because they are trying to draw people who won't come to sit inside, but would sit outside. Attorney Phoenix noted that ten letters of support have been received.

Chair Crapo pointed out that many of the letters are from people who are not abutters, so they do not have standing.

Attorney Phoenix commented that he respects that and the Board can consider them in any way they want to. He pointed out that when he turned the application in, he had ten letters attached with four being from people right there. He has received four more. He noted that letters have also been received from; Nathan Dunn 6 Maple Avenue, Shawn and Mark Troy 919 Ocean Blvd., Linda and Jeff LaPorta 6 Wildwood Lane, and James Holland and Megan Byrne 2250 Ocean Blvd.

Referring to the letters, Member Madden noted that two of the letters are dissenting.

Attorney Phoenix explained that one that just came in is from the actual property owner and her daughter and son-in-law live in the house. He noted that the proposal went to the Planning Board and they seemed to be favorably inclined, but it couldn't be approved because it was requesting a reduction in parking. (He pointed out on the plan the property location where the owner has an issue with the proposal.) He stated that a lot of the issue those people were complaining about is because there was a take-out window. People would pull up, park their car and get their take-out. However, the take-out window is now closed and it's not going to be used.

Chair Crapo stated that historically this is a business that doesn't have enough parking spaces for the people that patronize it and they end up across the street or on the street. Now, they are asking to reduce the parking even more. His problem is that every restaurant would like to do that. There are other restaurants in the area that have limited parking, why wouldn't they want to push their parking off onto other people as well and make outdoor dining? He pointed out this restaurant has been successful for decades without this avenue. He is interested to hear the hardship criteria.

Attorney Phoenix replied that he understands the point. To him, this is a matter of fundamental fairness and fundamental practicality. If this is denied, the employees will start parking there again and it's the same problem. It's seasonal. It's an odd hardship in that the lot is already there and doesn't have enough parking under the ordinance. It's clearly a matter of practicality by comparing what they want to do with the demand with the nature and validity of the complaints from the neighbors. There's great support for the restaurant in general. There's great support, more than what is generally seen, from abutters. There's one family complaining. He loves seeing people being able to sit out and it's easy to get around. He doesn't share the concern and is hoping the majority of the Board will agree with him.

Referring to the abutter to the rear (Saint Anselm), Member Madden asked if they were in support.

Attorney Phoenix noted that he showed up at the Planning Board hearing and said he was in support.

RJ Joyce, applicant, explained that the abutter said that as long as the back area wasn't being used, he was fine.

Member Madden asked why they are not asking to use the back area, because that's the most logical.

Mr. Joyce replied that they want to be good neighbors. A couple of the abutters said a hard "no". He noted that they have used the front space successfully for the past two years without leasing the additional spaces. Getting the additional spots will help, no matter what happens.

Referring to the configuration of the tables, Member Madden asked if there's separation between the tables.

Mr. Joyce pointed out that over the past couple of years it's been a true capacity issue. The Carriage House is maxed out for capacity. The restaurant can only handle what they can handle right now.

Member Madden asked if the area can be consolidated. She asked if that much space is needed between the tables.

Mr. Joyce replied no. He pointed out that he has people who cancel their reservations because they thought there was outdoor seating. There's still a good segment of people who will only do outdoor seating. The seating is going to stay as it is.

Member Madden clarified that the distance between tables is going to be kept for people who want to feel protected.

Mr. Joyce confirmed. He pointed out that the distance between the tables has been kept inside also.

Member Madden asked who parks on Brown's Court.

Mr. Joyce replied that it's all for guests. The employees know that they are not to park on Brown's Court.

Chair Crapo asked if the Planning Board was comfortable from a safety perspective of just the fence separating the cars, that are still going to park in spots 9 through 12, from the people eating.

Attorney Phoenix commented that did come up.

Mr. Joyce pointed out there are granite boulders. The Fire Department came out to the site when the outline was done for the Covid period. Each spot has a half ton piece of granite and the fence is just for esthetics.

Attorney Phoenix read the letter from Fire Chief Mark Cotreau, which stated that he has not seen any adverse impacts over the time the outdoor dining has been in place. He also noted that a letter was received from Police Chief Kevin Walsh.

Member Piela stated that he likes that the Police Chief Walsh has not said anything about previous issues. He does make a comment about no outside speakers or announcements and the seating has to stay the same. Member Piela commented that his perspective is that if there were a significant amount of parking issues on Brown's Court or ticketing issues, or if the restaurant was behaving irresponsibly, the Chief would have made a negative comment about it.

Attorney Phoenix noted that he recalls from the Planning Board meeting that Mr. Joyce had said there have been no complaints from anyone, including the people who are writing these letters.

Member Madden pointed out they are not at the meeting tonight, nor did they send a proxy.

Attorney Phoenix reviewed the criteria for granting the variances.

- Contrary to the public interest and spirit of the ordinance is observed: Would granting the variances unduly and to a marked degree conflict with the ordinance such that it violates the basic zoning objectives? Mere conflict is not enough. There's evidence with what

has happened over the past couple of years, with no complaints from anyone, no complaints from the Fire Department and no problems with the Police Department, and with now leasing 12 and up to 17 spaces, there will not be a problem. Safety from fire, panic and other dangers was looked at by the Planning Board. In regards to promote health and the general welfare, with Covid still around, there are people who will go to outdoor seating but will not go indoors. This affects the business's bottom line. This promotes adequate light and air and prevents overcrowding. There's no change to transportation, solid waste, water, sewage, schools and recreation facilities. Proper use of natural resources is really not a factor.

- Will granting the variance change the essential character of the locality or threaten the public health, safety or welfare? The past two summers have demonstrated that the central character of the locality will not be diminished. Granting the variance won't alter the essential character of the locality. Clearly, it won't threaten the public health, safety or welfare, as evidence by the past two years.
- Granting the variances will not diminish surrounding property values. The number of seats will not be increased on any given day or night. It's temporary and will only be used during the summer.
- Special conditions exist in that there are not the required 37 spaces any way. The size of the lot creates a hardship because there is no place to put 37 spaces. The parking has been there since the restaurant opened in 1931. It started before zoning was ever enacted. This parking cannot be provided for anywhere on the site. This is a request for something that has become expected by the public. Except for the letter from the one family, who never complained before, it hasn't been a problem. All the letters from neighbors, near or far, are in support. There are parking requirements so there's enough parking and problems are not being created on or around the lot.

Chair Crapo asked if he off-site parking for the employees is a long-term lease.

Mr. Joyce replied they just go from year to year.

Chair Crapo noted that Mrs. Leary could sell that property off and a house could go up.

Attorney Phoenix replied that the employees would have to find somewhere else to park anyway.

Chair Crapo asked why they wouldn't ask the Planning Board for a use permit, versus a variance that's going to run with the land assuming those parking spots.

Attorney Phoenix explained that the Planning Board couldn't grant a special use permit that reduces the parking on site.

Chair Crapo commented the parking is what it is because of being grandfathered. If any other restaurant around here tried to do something new, and not meet the ratio of parking spots, it would be denied.

Attorney Phoenix replied that he doesn't think that's a guarantee. He noted that they have empirical, day to day, actual evidence of the effect of this request on parking in the area and it's negligible, if at all. He continued with the variance criteria.

- The use is reasonable and is permitted by grandfathering. Overall, this is a reasonable approach to their business compared to the needs of the public and the affect upon the nearest neighbor and the public.
- This proposal conforms with the character of the community. It allows the restaurant to stay competitive. It meets the needs of patrons. The Police Chief and Fire Chief don't think it's a problem. The evidence over the last two summers shows that there haven't been any problems. There have been no complaints from neighbors and no complaints from people saying they can't find a place to park. However, there have been people who say they can't go to the restaurant because they can't sit outside. There's no harm to the general public in granting the variances. Denying the variances takes away the applicant's ability to stay competitive in the market and takes away a demand from the public.

Alternate Chororos asked for clarification on the evening hours.

Mr. Joyce replied 4:30 to 8:30 and five days a week.

Referring to the noise level issue, Member Tuttle read from the minutes of the Planning Board meeting; *"Chief Walsh sent comment back to the Board stating that noise issue has not been tested outside because the majority of Covid time, The Carriage House was closed."* Member Tuttle continued he assumes Chief Walsh was talking about decibel rate.

Vice-Chair Driscoll pointed out that the Google Maps shows the picnic tables outside. He asked if they have been serving food out there for a period of time.

Mr. Joyce replied over the last two summers.

Vice-Chair Driscoll clarified there have been no real complaints or issues with the abutters.

Mr. Joyce confirmed.

Vice-Chair Driscoll asked if everything that is being proposed now is based off how it was run over the past two years with no changes.

Mr. Joyce confirmed.

Vice-Chair Driscoll asked for the applicant to speak about the interactions that have taken place with the abutters on either side; Ocean Scares and the Bryant properties.

Mr. Joyce stated that he was surprised by the Bryant property because he thought they had a great relationship. During Covid time, there was a contactless pick-up table that was just used

during Covid. At that point, it was off the side road, so there was more traffic on Brown Court for people using the contactless pick-up, which is long since gone.

Member Madden asked if there is going to be anything on that side.

Mr. Joyce replied no. He continued that the rest of the abutters are in support both verbally and through letters. He has spoken to all the neighbors. The Bryants just didn't want people parking on their wall. He noted that they are vigilant when they see guests trying to double park. He also noted that the abutters who would be closest to the picnic tables are in support.

Vice-Chair Driscoll stated that zoning is more concrete than planning. With zoning, they are looking at the eight criteria. He disagrees a bit with hardship. He asked if the guests are offered parking in the lot that the employees park in during working hours.

Mr. Joyce explained that Mrs. Leary has an attendant for the spots in the lot in general. As of right now, the relationship with her is just leasing spots for the employees, which has been done since before Covid.

Vice-Chair Driscoll asked if they would be okay with a condition for operating hours only between 4:30 p.m. and 8:30 p.m.

Mr. Joyce confirmed.

There was some discussion about the length of time the condition should be to cover the time for dining.

Mr. Joyce noted that the dining at the restaurant is an early dining. There are not many guests who show up at 8:30 p.m. The majority of the guests show up in the heart of the night. On any given night, there may be four reservations for 8:30 on a weekend. He pointed out that by 11:00 p.m., the building is dark.

Member Piela commented he is thinking less time and more on the date. He asked if they could condition it from June 1st through October 15th. He is concerned that by the notice, they would be giving 12 spaces as a permanent variance. It would have to be defined as seasonal.

Attorney Phoenix stated that they can put some parameters on both time of year and the time of day for the outside.

Vice-Chair Driscoll stated he has more concern about the front-end. When he has gone down there, he has never had an issue parking, but he goes down at 6:00 p.m. or 7:00 p.m. when people have left the beach. If this becomes successful and it's determined that they want to do lunch, all of a sudden, the spots are going to become even more of an issue. there will be congestion if there's an earlier opening.

Mr. Joyce stated that this is somewhat regulated on their end as impossible right now because of a lot of other factors with staff. They don't have parking for anyone during the day, nor do they have the bandwidth for employees.

Vice-Chair Driscoll stated that the variance goes with the property, not the applicant.

Mr. Joyce asked if it could be put in as a condition that it would not be granted for lunch or before 4:00 p.m.

Vice-Chair Driscoll pointed out it would be based on the timing. The Board has to be cognizant of the fact that the property could be sold to someone else.

Chair Crapo stated that he is a little uncomfortable with a condition of no seating after 8:30 p.m. He would rather see it be all tables cleared by a certain time; such as, 10:00 p.m.

Mr. Joyce stated that an 8:30 guest might be there till probably 10:30 p.m. It's usually two hours.

Member Piela noted that the existing ordinance for noise is 11:00 p.m. An abutter could be having a party that's being louder than the guests at the restaurant, until 11:00 p.m. without any violation. He feels like they have a hard time having a limitation that would be more onerous against the restaurant.

Mr. Joyce confirmed that 11:00 p.m. would work for them.

Vice-Chair Driscoll asked who polices the seating.

Mr. Joyce replied the Fire Department comes through every year. He reiterated its impossible for the restaurant to do more, which is far less than capacity per the assembly permit. The capacity is less just because of the sheer ability to take care of guests.

Chair Crapo asked if the restaurant does functions.

Mr. Joyce replied they'd like to within those hours.

Chair Crapo noted that there's only a certain amount of seating.

Mr. Joyce commented that they generally operate like they do the tables. From the ability to take care of guests, they have to shut down sections to open up other sections. That works whether it's inside or outside. If a function is going on, banks of tables have to be shut down because of the ability to take care of guests. He noted that the capacity of the restaurant is about 90 to 94.

Member Piela noted that the variance goes with the property. To change that assembly amount, the property would have to be modified, which would require variances anyway. He commented

that they wouldn't want to have 100 people crowded in that front lot, even though technically 100 people are allowed in the restaurant. It could be limited by saying no more than 10 picnic tables. Outdoor seating to have no more than 10 tables with about 6 people per table, which would be 60 people outside. He doesn't know if this is a concern with others on the Board.

Vice-Chair Driscoll suggested just eliminating the tables and having it be no more than 60 seats. He continued that the concern he has is that if this is approved, it goes with the property and there's no retraction that can be utilized. He asked if the zoning variance can be conditioned on the planning conditional use permit.

Attorney Phoenix stated that he doesn't think this can be done without the conditional use permit. If that was to be a condition, he would be okay with that. The other option would be to give a 5-year variance. If it's working, they will come back. If it's not, they won't.

Zoning Administrator Reed noted that in 2000 when The Surf Club was being built, the Planning Board felt there was a capacity issue and said that only so many members would be allowed. If they wanted to raise the membership, they had to go back to the Planning Board in two years. The Surf Club was able to increase their membership based on how it was operated in the first two years.

Chair Crapo stated that one of his biggest reservations here, is they are taking what was a public health emergency Governor's order, which created the outdoor seating as a "band-aid" fix, and now it's going to be memorialized. He would recommend a condition that it somehow be tied to the availability of those leased spots. If the owner of The Dunes parking lot sells that lot, it would create a parking issue here. It's being represented that the way to achieve this is by renting those spots. If the Board is allowed to limit variance for a certain number of years, he thinks that would make sense. He's not sure if they can. He stated that he feels this is a Covid issue that is granting the benefit on this entity that is not available to all others. To him, it's not a hardship of the land. It might be a hardship of the temporary business. However, successful businesses have been here for 80 years with the grandfathered parking spots, which is the only way that it doesn't require 37 spots.

Member Madden asked if they could say that if the ability of the parking spots goes away, they have to reapply. If those spots are lost, they have to be replaced somehow.

Member Tuttle pointed out that they do not know if The Dunes is up to code on the spots for their business.

Chair Crapo noted that it's not in the paved parking. It's in the rear where they sell summer parking.

Member Madden commented that those spots are half empty by 3:40 or 4:00.

Attorney Phoenix stated the spots out back are parked all day on warm days during the summer. They are already doing what they are doing. The Carriage House is going to be using the parking when there is less demand overall. If the parking is shut down, then The Carriage House has to either find spaces, do away with it or come back to the Board.

Vice-Chair Driscoll stated that he has less of an issue with the parking spaces because it's far less of a tax on the parking spaces than the beaches. In looking at the requirements, the one he is struggling with is "the value of surrounding properties are not diminished". The way people value their homes is being affected by the amount of noise that is up in the front. If it were a variance that had a time limit on it, it gives the applicant "more skin in the game". He would like to see that for five years; the owners and employees have "skin the game" to make sure it works and they know they have to reapply after that time period.

Attorney Phoenix commented that he understands, but he does not like the idea. However, it might help Chair Crapo to see how it goes. If the majority of the Board feels this way, he thinks it's a condition this Board can put on it. He doesn't see any impediment to it.

Member Piela stated that he was thinking the same thing about the values of the abutting properties. He's also thinking that the restaurant has almost been there for 100 years. Everyone knew there was a restaurant there when they moved there. The town's noise ordinances allow people to "party like rockstars" until 11:00 p.m., even in private residences. He continued that he knows many people, including his parents, who will only go to outdoor restaurants, even though rules and exemptions have expired. Looking at the demographics of the Town, there are a lot of older people who are probably in the same thought process as his folks. He likes to see a successful business in town. He would like to see The Carriage House remain a profitable business for the owners. He's leaning towards the five-year timeline.

Chair Crapo commented he would give it two years.

Member Piela suggested splitting the difference and going with three years.

Alternate Chororos commented that she is from Sarasota Florida. There was a movement, prior to her departure, of everyone wanting to be outdoors, pre-Covid. This isn't just Covid specific. The world is liking outdoor dining, outside of Covid. People love it and want it to stay, whether there's a pandemic or not. Maybe they should take the Covid mindset out and say there is a want beyond Covid for outdoor seating.

Member Piela stated they don't want to be granting a variance that gives The Carriage House an unfair advantage relative to the competitors' restaurants in Rye, who may not have made the investment in outdoor seating. The Board is going to run into multiple restaurants coming in with a reduction in required parking. This is why he's suggesting a time limit on the variance and a time limit on the time of day as a condition of the variance that runs with the property.

Zoning Administrator Reed noted that there are not a lot of restaurants in Rye. However, Kook's, The Atlantic Grill, Petey's, Ray's and the restaurant that used to be at 1215 Ocean Boulevard have outdoor seating.

Chair Crapo commented that Petey's has three or four picnic tables and then there's the upstairs. The Atlantic Grill designed their building and parking lot to meet the requirements for outdoor seating. There were parking issues and a condo was lost because of lot coverage issues for the proposed Tibbett's building. He's having a hard time saying that because of the economics of this business, it's reasonable to make it different. There was no outdoor dining when the current owner bought it and there hadn't been for years. It's a very high-end successful restaurant. He's having trouble agreeing that it's a hardship to not allow this when the parking is only allowed as it is because of grandfathering. It's going to create something that other people are going to argue that they have the right to do because this one does. His whole issue is this running with the land and becoming a permanent change. He may be able to get there with the two- or three-year time limit. He just doesn't know what would be the review criteria or benchmark it would need to be measured against.

Attorney Phoenix stated that Covid was an eye-opener for a host of reasons. It was also an eye-opener for the United States and this is one of them; outdoor dining. He understands the concern. If a number of years' time limit is put on this with the hours and number of patrons, then there's some criteria. The simplest way to deal with this is to say it expires in three years. If the applicant wants it after that, they have to come back for another variance. He thinks there would be enough limitations with the yearly limitations. He asks the Board to go with as many as they can.

Vice-Chair Driscoll asked how many employees are on a maximum shift.

Mr. Joyce replied twelve.

Vice-Chair Driscoll stated that with the Petey's example, if they came before the Board, something tells him the room would be filled with abutters, as it was the last time. If there's "skin in the game" the applicant has to be good to the neighbors because they know that in three years they can come in and voice some opposition. He asked if it makes sense to go through a couple of condition options to get their take. He likes Member Piela's suggesting of 36 months. He would also like to see a condition that the layout be the same as Sheet C-2. He noted that they talked about this layout. They talked about the boulders and the spacing. He doesn't want to see the layout change.

Mr. Joyce asked if they can get nicer tables. If this is to be longer term, he would like to invest in nicer tables. He's not looking to change the number.

Vice-Chair Driscoll commented that they would be tied to the layout, which just shows where the tables are located and the numbers.

Member Piela noted possible conditions: May 15th through October 15th for the outdoor dining timeframe; No outdoor seating before 4:00 p.m.; No more than 60 patrons outside; Must have 5 off site parking spots available during outdoor dining season; variance shall expire 10-25-2025 (or 2024); and variance shall adhere to Sheet C-2 as submitted and presented.

Member Tuttle asked if a variance can be conditioned upon sale of the property.

Attorney Phoenix stated that he would be very disappointed if the Board put a condition like that on because if they decide to sell, that's one of the selling points. Someone would buy it knowing they can have outdoor seating. He noted there is protection in the three years. If the current owner sells in year one and there's problems, the new owner would have to figure it out in year three.

Chair Crapo pointed out that the new owner would have to follow the parameters of the variance.

Zoning Administrator Reed noted that if a new owner wanted to change anything, they would have to do a change of use and that would trigger the Building Inspector. A change of use has to go to the Planning Board.

Referring to the suggested conditions, Attorney Phoenix commented they all seem reasonable.

No members of the public were present to make comment. Chair Crapo closed the public hearing at 10:47 p.m. and opened to the Board.

There was discussion about the number of years the variance should be granted for. It was agreed to have the variance expire on October 15, 2024.

Member Madden suggested that this be conditioned upon the town attorney weighing-in.

Vice-Chair Driscoll asked if the application would have to be continued, in case there needs to be a modification.

Zoning Administrator Reed explained that procedurally, the vote would be to continue it to the next meeting pending attorney's write-up of the notice of decision. At the next meeting, the Board would actually vote on the notice of decision. She noted that Attorney Maher is going to be at the Planning Board meeting on June 14th. This could be conditioned on planning board approval and have them go over these conditions.

Member Madden stated that the attorney's decision should not supersede the Board's. It's not that the attorney should say it can't be done. However, there might be something in the way that it's written.

Chair Crapo stated that the only thing he would question is whether the length of the variance can be limited. The hurdle tonight is whether they Board is going to come to a final vote with a

condition and make part of the condition of that vote be that town counsel has to approve that it's allowable. However, he could come back and say that case law shows a variance is a variance. Would that change anyone's vote? That's what the Board has to decide. If this instantly becomes a lifelong variance, would it change the vote tonight? If this is conditioned upon that, it needs to trigger that it comes back to a rehearing. He continued that if this was October right now and it was for next season, he would have said to continue this for consultation with counsel and bring it back to the Board. He noted that he is going to vote "no" on everything just because of where he stands on the principle of the zoning. That also preserves that there is at least one no vote in case that vote needs to be the one to open up a rehearing based on Attorney Maher's decision. With that said, he believes everyone is doing everything possible to make it so that this decision isn't waiting past the useable season for the applicant.

Member Madden asked if the applicant has to wait thirty days.

Chair Crapo opened to Attorney Phoenix for comment.

Attorney Phoenix explained that if they put all the stuff out there for dining and someone appeals it, they do it at their own risk, so they can proceed. In terms of the three-year term, he is not aware of any reason this cannot be a condition. If there's a stipulation that the applicant is putting a limitation on it himself, this might help. He continued that he is leery of delaying this for someone else to weigh-in who is not here to hear everyone's decision. If there's a built-in time limit and that cannot be done, someone will have to appeal that and there's no one to appeal it. He doesn't think that a Board can appeal their own decision. His view is that there are built-in parameters, which in worst case scenarios, is three summers.

Chair Crapo asked if he is stipulating that the applicant is requesting a three-year limit.

Attorney Phoenix replied yes, with the right to come back and ask again when it expires.

Chair Crapo reclosed the public hearing at 10:58 p.m.

Zoning Administrator Reed noted that she is on NH.gov and it says that the Board can put on any reasonable condition.

Member Piela read from NH.gov. (Michelle J. Robinson v. Town of Hudson Case #2005-687)

Member Piela reviewed suggested conditions:

1. Outdoor dining/seating will be from May 15th to October 15th;
2. No outdoor seating prior to 4pm;
3. No more than 60 patrons outside;
4. Variance shall expire 10-15-24;
5. Variance shall adhere to Sheet C-2 as presented and submitted; and
6. Must have 5 private off-site parking spots available during the outdoor dining season.

The Board agreed with the conditions.

Chair Crapo called for a vote for variances to 5.0.B(4) and 6.2.A with the conditions as discussed and agreed upon:

1) Granting the variance is not contrary to the public interest?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – No

2) The spirit of the ordinance is observed?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – No

3) Substantial justice is done?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – No

4) The values of surrounding properties are not diminished?

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – No

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

Chris Piela – Yes
Patrick Driscoll - Yes
Jenn Madden – Yes
John Tuttle - Yes
Shawn Crapo – No

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – No

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – No

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

Chris Piela – Yes
Patrick Driscoll – Yes
Jenn Madden – Yes
John Tuttle – Yes
Shawn Crapo – No

Motion by Chris Piela to approve the request from Isolino, LLC for property owned and located at 2263 Ocean Boulevard, Tax Map 5.2, Lot 3 for variance to §190-5.0.B(4) for twelve (12) parking spaces where seventeen currently exist for seasonal outdoor dining in the parking lot and from §190-6.2.A for twelve (12) proposed parking spaces where seventeen (17) spaces currently exist and thirty-seven (37) are required with the following conditions:

- 1. The outdoor dining timeframe is from May 15th through October 15th;**
- 2. No outdoor seating of patrons prior to 4pm;**
- 3. No more than sixty (60) patrons allowed outside at one time;**
- 4. The variances shall expire on October 15, 2024;**
- 5. The variances shall adhere to the Sheet C-2 as submitted and presented; and**
- 6. Applicant must have five (5) private off-site parking spots during the outdoor dining season.**

Seconded by John Tuttle. Vote: 4-1-0 Opposed: Shawn Crapo

ADJOURNMENT

Motion by Patrick Driscoll to adjourn at 11:12 p.m. Seconded by Chris Piela. All in favor.

Respectfully Submitted, Dyana F. Ledger

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION


Applicant/Owner: Robert Dietrich/CVHR, LLC of 107 Longmeadow Rd, Greenville, NC

Property: 6 Richard Road, Tax Map 5.2, Lot 154-01
Property is in the Single Residence District and Coastal Overlay

Application case: Cases #21-2022

Date of decision: 06-01-2022

Decision: The Board voted 5-0 to grant a continuance to the July 6, 2022 meeting and requested information on the shed on their property and the stormwater management plan.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Alissa Bournival of 59 Woodland Rd, N. Hampton NH

Property: 271 Harbor Rd, Tax Map 8, Lot 50
Property is in the Single Residence District

Application case: Cases #28-2022

Date of decision: 06-01-2022

Decision: The Board voted 5-0 to continue the application to the July 6, 2022 meeting so that the applicant may appear before the Conservation Commission on June 9, 2022.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Tom & Pam Prophet

Property:

245 Washington Road, Tax Map 16, Lot 158
Property is in the Single Residence District.

Application case:

Cases #23-2022

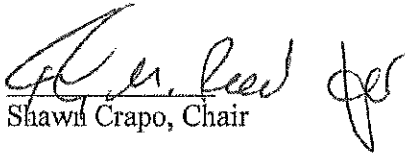
Date of decision:

06-01-2022

Decision:

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

- §190-2.3.C(5) for lot coverage of 18% +/- for a shed.
- §190-5.0 and §190-5.0.C for parking 4' from side boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Mike Meserve for Jededia Morton of 41 Pryer Lane, Larchmont, NY

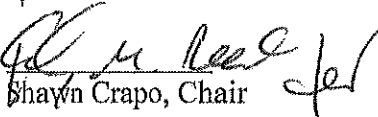
Property: 2188 Ocean Blvd, Tax Map 5.3, Lot 51
Property is in the Single Residence District, Coastal Overlay District

Application case: Cases #26-2022

Date of decision: 06-01-2022

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

- §190-2.3.C.(1) for an AC unit 6.5" +/- from the rear boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Ian & Terry Buchan

Property:

8 Hunterville Ave, Tax Map 8.1, Lot 91
Property is in the General Residence District.

Application case:

Cases #25-2022

Date of decision:

06-01-2022

Decision:

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

- §190-6.3.A for expansion of a non-conforming structure;
- §190-2.4.C(3) for expansion 35' from the front boundary; and
- §190-2.4.C(2) for expansion 7' +/- from the right side boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

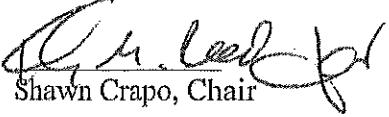
Applicant/Owner: Jan Olmstead

Property: 1029 Ocean Blvd, Tax Map 20.2, Lot 2-003
Property is in the General Residence District, Coastal Overlay District,
SFHA, Zone AE (3)

Application case: Cases #30b-2022

Date of decision: 06-01-2022

Decision: The Board voted 5-0 to grant a variance from the following section of the
Rye Zoning Ordinance:
§190-2.4.C(1) for an HVAC system 25' +/- from rear boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

William Hart

Property:

1031 Ocean Blvd, Tax Map 20.2, Lot 2
Property is in the General Residence District, Coastal Overlay District,
SFHA, Zone AE(3)

Application case:

Cases #30a-2022

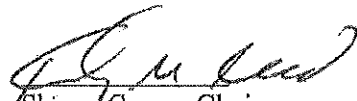
Date of decision:

06-01-2022

Decision:

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

§190-2.4.C(2) for an HVAC system 14.' +/- from side boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Matthew & Catherine Madara

Property:

11 McLaughlin Drive, Tax Map 5.2, Lot 28
Property is in the General Residence District.

Application case:

Cases #24-2022

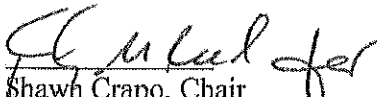
Date of decision:

06-01-2022

Decision:

The Board voted 5-0 to grant variances from the following sections of the Rye Zoning Ordinance for a shed to be no larger than 14' x 18':

- §190-2.4.C(1) for a shed 18' from the rear boundary
- §190-2.4.C(2) for a shed 15' from the side boundary


Shawh Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Donna & William Purdie

Property: 1154 Ocean Blvd, Tax Map 19.4, Lot 90
Property is in the General Residence District, Coastal Overlay District,
SFHA, Zone VE(14)

Application case: Cases #27-2022

Date of decision: 06-01-2022

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

- §190-2.4.C(2) for an HVAC 16' from the side boundary.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Isolino, LLC

Property:

2263 Ocean Blvd, Tax Map 5.2, Lot 3
Property is in the Business District, Coastal Overlay District

Application case:

Cases #31-2022

Date of decision:

06-01-2022

Decision:

The Board voted 4-1 to grant the variances from the following sections of the Rye Zoning Ordinance:

- §190-5.0.B(4) 12 parking spaces; and
- §190-6.2.A for 12 proposed parking spaces.

The variances were granted with the following conditions:

1. The outdoor seating/dining will be from May 15th to October 15th;
2. No outdoor seating of patrons prior to 4pm;
3. No more than 60 patrons allowed outside at one time;
4. The variances shall expire on 10-15-2024;
5. The variances shall adhere to the Sheet C-2 as presented and submitted; and
6. The applicant must have 5 private off site parking spaces.


Shawn Crapo, Chair

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

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Matthew & Catherine Madara

Property:

11 McLaughlin Drive, Tax Map 5.2, Lot 28
Property is in the General Residence District.

Application case:

Cases #24-2022

Date of decision:

06-01-2022

Decision:

The Board voted 5-0 to grant variances from the following sections of the Rye Zoning Ordinance for a shed to be no larger than 14' x 18':

- §190-2.4.C(1) for a shed 17' from the rear boundary
- §190-2.4.C(2) for a shed 15' from the side boundary


Shawn Crapo, Chair

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