

## **TOWN OF RYE – BOARD OF ADJUSTMENT**

**Wednesday, February 1, 2023**

**7:00 p.m. – Rye Town Hall**

***Members Present:*** Gregg Mikolities, Vice-Chair Patrick Driscoll, Chair Shawn Crapo, Jenn Madden, John Tuttle, Sandra Chororos

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

### **I. CALL TO ORDER**

Chair Crapo led the Pledge of Allegiance, called the meeting to order at 7:03 p.m., and explained the meeting procedures. He explained that applications 2, 3, 5, and 6, as listed in the agenda, have requested continuations to the March 1, 2023 meeting.

#### **Continuations**

**Motion by Patrick Driscoll to grant the requests to continue applications 2, 3, 5, and 6 as laid out by Chair Crapo to the March 1, 2023 meeting. Seconded by Jenn Madden.**

**Vote 5-0** (G. Mikolities, P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

### **II. BUSINESS**

#### **Approval of Minutes - January 4, 2023**

- Member Tuttle corrected the misspelling of Attorney Monica Keiser's last name throughout the document.

**Motion by John Tuttle to accept the January 4, 2023 meeting minutes as amended. Seconded by Patrick Driscoll.**

**Vote 4-0** (P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

**Abstained:** G. Mikolities

### **III. APPLICATIONS**

Chair Crapo explained the procedure for a rehearing: the public is present to witness, but deliberation is limited to board members.

1. **Request for rehearing and reconsideration by Michael Keeley & Michael Valliere of 46 Harborview Drive, Rye, NH by and through their attorneys, Hoefle, Phoenix, Gromley & Roberts, PLLC per NHRSA 677:2 and the Rye Zoning Ordinance §190-7.3 of the Board of Adjustment's December 7, 2022 denial of a height variance**

**for 32.23' where 28' is required for 7 Holland Drive, Tax Map 20.2, Lot 31, Case #57- 2022.**

Chair Crapo explained that in order to grant a rehearing, the board would need to find and demonstrate that a mistake was made in law as it applies to zoning, or that there was new material that came to light which couldn't have been presented at the hearing that could have influenced the vote.

Vice-Chair Driscoll reviewed the height requirement and noted that there wasn't much discussion of the height portion of their application. He summarized the board's prior discussions regarding the property's height and determined that the board did not make an error.

Chair Crapo recalled Vice-Chair Driscoll's observation that the board has seen other applications where flood-plain regulations had driven the height of a structure, and this application is not one of those. He reflected that no new information had come to light, and the appeal intimates that the board should consider FEMA regulations, but it wasn't brought up at the previous meeting.

Member Madden commented that the previous discussion had centered around the shed, the change in grade, and the ways in which the neighbors might be impacted by water. She agreed that the board discussed the height, but ultimately decided that it wasn't a consideration. Referring to a January 18, 2023 email, Member Madden asked if anything in the email would supersede what the board has discussed.

Chair Crapo explained that the request for rehearing is on the height variance. He explained that there is a separate request for clarification on the board's decision. The board will address the semantics of the terms in the ordinance later in the meeting. Chair Crapo recalled a moment at the previous meeting where he questioned whether the property was in the coastal overlay district, which it is. He explained his reasons for denial regarding the height as being driven by the garage underneath, which he didn't consider to be a hardship. He didn't think the board made a mistake in trying to apply the hardship criteria.

Member Madden asked if the board should refer to emails from January 18, 2023 and January 23, 2023.

Planning/Zoning Administrator Reed explained the board should be using only the application from Attorney Phoenix for the current discussion.

Member Tuttle explained that in rewatching the meeting minutes, he felt as though the application did not meet the hardship criteria due to the height variance. In reviewing the applicant's packet, he verified that the property is not in the flood-hazard zone, but Attorney Keiser's submittal asks that the board take into future considerations that the structure might be. Member Tuttle pointed out that the ordinance is clear in addressing the current structure, not

future structures. For these reasons, he did not believe the board erred, and he did not believe any new information had come to light based on what had been submitted.

Member Mikolities acknowledged that he wasn't present for the previous meeting, but in reviewing the meeting minutes, felt as though the board had given the application thorough consideration and there were no obvious errors.

Chair Crapo stated that the board has not discovered any misinterpretations, mistakes of the law, or overlooked any new information brought to light.

**Motion by John Tuttle to deny the request for rehearing by Michael Keeley & Michael Valliere of 46 Harborview Drive for 7 Holland Drive. Seconded by Patrick Driscoll.**

**Vote 5-0** (G. Mikolities, P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

Planning/Zoning Administrator Reed distributed the original notice of decision emailed by Attorney Keiser with amendments.

Chair Crapo noted that all affirmative votes were in favor of granting the requested relief and suggested use of the term "Effluent Disposal System" where needed in the notice of decision.

Planning/Zoning Administrator Reed shared an email from Attorney Keiser regarding her concerns about omissions from the notice of decision and a discrepancy regarding the minutes from the December 7, 2022 meeting. The board authorized Planning/Zoning Administrator Reed to make the necessary edits. Chair Crapo clarified that despite having denied portions of the application, the board was in agreement with the requested relief for the septic system.

Member Mikolities pointed out that page 28 of the 12/7/22 meeting minutes will also need to be edited.

**Motion by Shawn Crapo to change the notice of decision and the December 7, 2022 minutes to correctly reflect a more accurate description of the relief granted. Authorization will be granted to Planning/Zoning Administrator Reed to make those changes prior to Chair Crapo's review and issuance of a new notice of decision. Seconded by Gregg Mikolities.**

**Vote 5-0** (G. Mikolities, P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

- 2. Robert Lang on behalf of Tucker D. Allard & Mary Coppinger for property owned and located at 457 Central Road request a variance from §190-5.0.C for a driveway 6' where 10' is required and from §190-2.3.C (2) for a shed 12' from the side**

**boundary where 20' is required. The property is in Single Residence District. Case #55-2022.**

*Application continued to March 1, 2023 meeting (see motion above).*

- 3. Wentworth by the Sea Country Club for property owned and located at 60 Wentworth Road, Tax Map 24, Lot 61-26 requests variances from §190-2.3.C(2) for 32 parking spaces in or partly in the 20' side setback and from §190-5.0.C for 7 off-street parking spaces within or partly within the 10' lot line setback. Property is in the Single Residence District. Case #03-2023.**

*Application continued to March 1, 2023 meeting (see motion above).*

- 4. Paul & Kathleen Cavanaugh for property owned and located at 100 Brackett Road, Tax Map 22, Lot 93 request variances from §190-2.3.C(2) for a new home with a second floor located 12.2' from the side boundary where 20' is required (existing ground floor is 12.2'); from §190-3.1.H(2)(a)(g) for an attached garage 29.5' from the wetland where 100' is required (existing is 4'); from §190-5.0.C for 1 off-street parking space slightly in the front yard area where that is prohibited; and from §190-6.3.B where the replacement of all nonconforming parts of the structure are in the same location or less nonconforming. Property is in the Single Residence District. Case #04-2023.**

**Attorney Tim Phoenix of Hoefle Phoenix Gormley & Roberts, PLLC**, representing the applicants, presented a packet to the board and noted the attendance of **Mike Garvan, Rye Conservation Commission**. Attorney Phoenix pointed out a comparison of the existing building and the new building included in the packet and described the proposed changes and the requested relief. Attorney Phoenix discussed each of the variance requirements as they relate to this application.

Member Mikolities asked about the field survey, noting that it was unclear what the stamp of approval was for. Attorney Phoenix commented that he's never worked with these individuals before and didn't know the answer to his question.

Vice-Chair Driscoll expressed that he takes no issue with the project but wanted to be sure that it's done properly. Alluding to the RCC's request to remove a pump, Vice-Chair Driscoll asked if there is an existing basement and what the elevation of the basement is. Attorney Phoenix explained that he didn't know the elevation of the basement, but the sump pump and basement will be removed. Vice-Chair Driscoll explained that he wants to make sure there is little manipulation of ledge that would affect the wetland during construction. Attorney Phoenix

explained that the crawlspace will be built at ground level, just as it is currently. Vice-Chair Driscoll clarified that a foundation will be built under the garage. Attorney Phoenix expressed that he would be fine if the board were to approve the application conditioned upon providing plans to show the discussed details.

Member Mikolities commented that there are no grades included in the plan. Vice-Chair Driscoll agreed and noted that the slab height is also not included. Member Tuttle pointed out that there is some grade information included in the stormwater management plan.

Chair Crapo asked the board whether this application is something they could grant conditional approval upon or should the board continue by requesting more accurate plans.

Member Mikolities commented that the plan is tastefully done, but it's lacking control.

Member Madden commented that if it's approved conditionally, the board is asking a question that they will not have an answer to before it's approved.

Chair Crapo noted the gravity of approving the application without all the information. He pointed out the variety of soil types in the proposed building area that may pose an issue.

Vice-Chair Driscoll commented that he's in favor of doing things cleanly as he's not as familiar with the laws. If the applicant is okay with continuing the application in order to provide all information including grades, heights, etc., then he would feel more comfortable approving the application. He also commented on some of the well-planned pieces of the proposed plan and noted that the RCC might appreciate the additional information.

Attorney Phoenix commented that Mike Garvan would speak on behalf of the RCC, but noted that he'd like to know more about the expectations regarding invasive species. He added that he would make an executive decision on behalf of his client, who was not in attendance, and agreed that the board's requests are reasonable and that they would continue the application in order to provide the board with the requested information.

Member Madden asked about the concern regarding a ledge outcropping on the property.

Chair Crapo asked some questions regarding the current structure as it's presented in the plot plan. He requested that they find a way to demonstrate the path of the existing pipe bringing effluent to the field. Member Mikolities pointed out that the information is provided on the septic plan.

Vice-Chair Driscoll pointed out that there are no condensers or generators included in the plan.

Member Tuttle requested that the applicant specify if it's a plot plan or a survey. He also requested a more specific plan for the placement of the shed. Attorney Phoenix explained the placement of the shed, which involved adherence to guidelines set by the RCC.

Vice-Chair Driscoll reiterated that he'd like to know the grade of the basement and the grade surrounding the house.

Chair Crapo commented that he'd like to know about the amount of digging for the garage and whether that would require a temporary or permanent relocation of the septic system, and whether that would need any other relief or permitting.

**Mike Garvan**, 220 Washington Road, representing the Rye Conservation Commission, clarified the RCC's requests regarding invasive species and commented that the RCC's is pleased to see that the new garage will be moved further from the wetland. He noted that around the new structure will be a stone drip edge to manage stormwater runoff.

Speaking to Mr. Garvan, Chair Crapo asked about item seven regarding natural straw supported by compost. He pointed out some of the drawbacks of using compost as opposed to wood chips.

**Motion by Patrick Driscoll to continue the application of Paul & Kathleen Cavanaugh for property owned and located at 100 Brackett Road to the March 1, 2023 meeting. Seconded by John Tuttle.**

**Vote 5-0** (G. Mikolities, P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

Planning/Zoning Administrator Reed noted that Vice-Chair Driscoll will not be present at the March 1, 2023 meeting, for which Member Mikolities agreed to sit.

5. **Leigh & Darren D'Andrea for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 request variances from §190-2.4.C(1) for an overhang 23.7', chimney 21.9', steps 21', retaining wall 15.3', and patio 9' from the rear boundary where 25' is required; from §190-2.4.C(3) for steps 17.5' and a paver pad 17.5' from the front yard boundary where 23.5' for Jenness Avenue and 8' for Surf Lane is required; from §190-3.1.F, H(2)(a)(e)(f)(g) for tree removal, a foot wash 3.3', house 5.3', steps 13', and driveway 20' from the wetland where 75' is required; from §190-3.4.E for 17% dwelling coverage where 15% is required; from §190-6.1.A and from §190-6.1.B(1)(2), (C) for a 9,998 square foot lot area with 200' of frontage on a nonconforming lot; and from §190-5.0C for off-street parking spaces within the front setback where that is prohibited. Property is in the General Residence and Coastal Overlay Districts, and SFHA Zone AE(8). Case #06a-2023.**

*Application continued to March 1, 2023 meeting (see motion above).*

6. **Leigh & Darren D'Andrea** for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 request special exceptions from §190-3.1.G(2) for a driveway located in the wetland buffer; and from §190-3.4.C to develop a vacant coastal lot in accordance with Criteria §190-3.4.C(1)-C(8). Property is in the General Residence and Coastal Overlay Districts, and SFHA Zone AE(8). Case #06b-2023.

*Application continued to March 1, 2023 meeting (see motion above).*

7. **Mukherjee Living Trust Sumeeta Mukherjee Trustee** of 60 Deer Meadow Road, North Andover, MA for property owned and located at 1701 Ocean Blvd, Tax Map 13, Lot 6 requests variances from §190-2.4.C(3) for second story building addition and deck 10' +/- from the front boundary where 30' is required; from §190-3.1.H(1)(b) for the work within 75' wetland buffer. Property is in the General Residence, Coastal Overlay and SFHA, Zone VE. Case #07-2023.

**Shannon Alther of TMS Architects** presented the application on behalf of the applicant. He explained the history of the property's various applications for building permits. He explained his hope that in coming before the board he could plan for the correct processes for the septic design and the Rye Conservation Commission's requests. Mr. Alther explained that he submitted an application to Mr. Marsden but hadn't yet received a denial letter outlining necessary changes.

Chair Crapo asked for clarification regarding the timeline of the building permit applications for interior modifications. Mr. Alther explained that the contractor didn't do it correctly, but it didn't involve changes to septic. Mr. Marsden requested that the applicant go before the board regarding all exterior changes, but approved interior changes that comply with building code.

Chair Crapo asked Mr. Alther if he anticipates further variances being needed. Mr. Alther stated that they will need DES approval for the septic, but the exterior package will only require the two requested variances.

Member Mikolities clarified that phase one is interior, phase two is exterior. Mr. Alther agreed. They also discussed the dimensions of the bump out and Mr. Alther clarified that he will not be requesting a height variance.

Chair Crapo asked if the plan will be modified to a degree where the requirement to meet FEMA regulations will apply. Mr. Alther responded that it would not and explained. Planning/Zoning Administrator Reed explained FEMA standards.

Member Mikolities asked about the height of the proposed deck. Mr. Alther clarified that the deck height is 30' maximum and explained that the plans for the septic system were altered to consider the RCC's comments and the building permit.

Vice-Chair Driscoll asked if Mr. Alther is looking for clarity from the board for when he returns in order to have all requests approved at once, or if he is planning to come before the board requesting approval in several phases.

Mr. Alther explained his assumption that he will need an approved septic system. His hope for the current application is approval for a variance to work in the buffer zone and approval to build a deck within the 30' setback. Once those variances are approved, he could finalize paperwork for DES, septic, and the RCC.

Chair Crapo asked if Mr. Alther would be comfortable with an approval conditioned upon all septic approvals. Mr. Alther agreed and did not anticipate that the septic system would require any variances. Chair Crapo clarified that height variances would not be necessary, Mr. Alther confirmed that there is no need for height variances.

Member Madden asked for clarification of the denial letters. Chair Crapo explained changes to the processing and issuance of denial letters. Member Madden clarified that the board can grant the relief applied for, but the septic relief is not before the board at this meeting.

Mr. Alther explained some of the RCC's recommendations and noted Mr. Garvan's attendance in order to speak to those recommendations.

Chair Crapo discussed the potential outcomes of conditioning the application upon approval of the septic. Member Madden discussed the second request for relief to work within the 75' buffer.

Vice-Chair Driscoll, referring to a plan from TFMoran, discussed a 50' and 100' setback, but not a 75' setback. He asked if a 75' setback is marked on any of the submitted plans. Mr. Alther explained that there is not. Vice-Chair Driscoll asked for clarification on what part of the project would require a variance. Chair Crapo also asked for clarification from Mr. Garvan.

Mr. Garvan explained that it's the 100' setback as virtually everything is in the buffer and requires a variance.

Chair Crapo reiterated that the relief requested is for 75' and suggested that the board continue this application in order to tighten things up.

Mr. Alther discussed the grade and plan for the brick walls. Chair Crapo explained that, at a minimum, the applicant will need to dredge-and-fill in the buffer in order to remove the walls, so the board needs a complete application that would request the appropriate relief.

Chair Crapo asked Mr. Alther if he would be able to gain septic approval prior to an April 2023 meeting. Mr. Alther responded that he would try and explained TFMoran's plan including the septic.

Vice-Chair Driscoll commented that this project is unique and the clarifying discussion was time well spent.

Mr. Garvan explained the RCC's concerns regarding the removal and replacement of the discussed railroad ties. Chair Crapo encouraged the RCC to discuss that matter prior to the next



meeting. Mr. Garvan explained that the RCC's submitted letter wasn't an official recommendation, but the site-walk minutes.

**Motion by John Tuttle to continue the application of Mukherjee Living Trust Sumeeta Mukherjee Trustee of 60 Deer Meadow Road, North Andover, MA for property owned and located at 1701 Ocean Blvd to April 5, 2023. Seconded by Patrick Driscoll.**

**Vote 5-0** (G. Mikolities, P. Driscoll, S. Crapo, J. Madden, J. Tuttle)

*Note: Member Sandra Chororos arrived at 8:37 p.m.*

- 8. Mario Ponte & Paula Parrish of 200 High Street, Exeter NH for property owned and located at 1627 Ocean Blvd, Tax Map 13, Lot 23 requests a variance from §190-3.4.D for height 33.25' where 28' is allowed. Property is in the General Residence, Coastal Overlay District, SFHA, Zone AE. Case #08-2023.**

**Attorney Derek Durbin**, representing the applicant, presented the application and explained the history of the property. He pointed out that the application was legally noticed as requesting relief from a 28' building height requirement; however, he felt as though the 30' requirement which applies to the coastal overlay district is the applicable building height requirement. He referenced §190-3.4.

Chair Crapo clarified that the plans include the same elevations presented, the correction is that the presentation represented 25' where the height was actually taller. Attorney Durbin confirmed and explained the variances needed for the building height.

Member Mikolities, referring to the existing conditions plan, asked for clarification of the first floor elevations.

**Alex Ross** explained that the property is in the AO(3) zone, which means the base flood zone comes up to 15.22. He explained the proposal to build the slab on grade at 11.35 and the floor above at 19.75. He commented that the property is in a flood zone which is why they felt 30' would apply. He distributed a street plan demonstrating that the neighboring properties are at or above the elevation proposed.

Member Mikolities asked for clarification of the height of the existing as opposed to the proposed height. Chair Crapo confirmed that measurements were based upon the grade of the previous structure. Mr. Ross confirmed and explained that the elevation of the existing ground at the center of the exterior wall is at a grade of 10, not 10.64. He pointed out the dimensions for building height at 33.25' where the town regulation is 30'.

Chair Crapo asked for the ceiling height levels and what efforts have been made to avoid extending beyond the regulation. Mr. Ross explained the first floor is at 19.75', there is framing support which adds to the height by 2'. The BFE is 13.22' with an additional 2'.

Vice-Chair Crapo noted that Mr. Ross' plans don't include a floor plan. Mr. Ross discussed the ceiling heights of each floor with the board.

**Glen Trueman** of 43 Westside Drive in Exeter, builder of the proposed structure, explained the dimensions of the ceiling height.

Chair Crapo asked for the minimum code. Mr. Ross explained that the minimum code is 6', 8". Chair Crapo pointed out that the 8', 10" ceiling height could be lower, which would bring the total height of the building down. Mr. Trueman pointed out that the plans have minimized the height of the first two floors in order to accommodate a taller ceiling on the top floor. Chair Crapo expressed that the ceilings should be minimized or the under-home garage could be removed in order to avoid the need for variances.

Attorney Durbin explained the hardship is the conditions of the property in offsetting the existing non-conforming, so impervious surface coverage is being squeezed in, parking is being sacrificed, and everything on the property is being narrowed. Chair Crapo and Attorney Durbin discussed the relief previously granted to this property by the board. Attorney Durbin outlined some of the restrictions set by the Rye Conservation Commission and restated that ceiling height is one of the sacrifices that's being made.

Member Tuttle asked Attorney Durbin to speak to the requirement of an elevator. Mr. Ross explained that all sites in a flood zone must present a flood elevation certificate and the elevator controls need a little height in order to meet the requirements. Chair Crapo commented that an elevator is not a hardship of the land in terms of variances.

**Mario Ponte**, a property owner, explained that the need for an elevator on the property is related to recent and potential future back surgery.

Chair Crapo explained that he understands the need for an elevator presents a hardship to the owner's personal health, but that it doesn't meet the zoning board's criteria for hardship.

Attorney Durbin discussed each of the variance criteria as they relate to this application. He spoke to the misunderstanding in building height and addressed the support and concerns of abutting neighbors.

Member Madden asked for a copy of the letter of support from the abutting neighbor. Attorney Durbin provided a letter from June 17, 2022, but did not have a copy of their letter of support to present. Chair Crapo, Member Madden and Attorney Durbin discussed the abutting neighbors and their support of the plan. Attorney Durbin explained that the neighbors questioned how the plan might impact their view. Vice-Chair Driscoll asked if the neighbors had been provided with information regarding the requested variances. Attorney Durbin explained that they had not.

**Jason Goulemas** of 5 Sagamore Road, Portsmouth, the builder of the property, explained that the abutting neighbor to the south provided him with a signed letter of approval. Another letter of approval from a different neighbor was provided and both were submitted to the town in August of 2022. Mr. Goulemas confirmed that as of August, both neighbors were aware of the ridgeline height.

In response to a concern by Member Madden, Attorney Durbin assured that the neighbors were properly noticed. Planning/Zoning Administrator Reed stated that she has a signed, certified receipt that the neighbors received the legal notice five days prior.

Mr. Trueman presented a picture sent by the abutting neighbor of their view of the widow's walk.

Member Mikolities, speaking to the builders, asked about the front, side, and rear elevation. He asked about the three extra windows and the framing in the back. It looks like there is an extra 2-3 feet. The builders explained the elevation and roofline.

Chair Crapo opened to the public at 9:21 p.m.

Vice-Chair Driscoll asked if there is anything in writing from the southerly neighbor. Attorney Durbin responded that there is not. Mr. Goulemas summarized that the southerly neighbor approved the plans as drawn in August 2022, and that signed statement is in the building permit.

Chair Crapo explained his thoughts on the application and stated that he does not approve of the proposed height. He suggested that the height could be dropped by a foot as the current height does not equate to a hardship.

Member Mikolities discussed a similar application which he did not support, and the importance of remaining consistent.

Regarding the hardship criteria, Member Madden pointed out that the lots in the proposed area are very restricted.

Mr. Ponte commented that this property is a retirement home and explained the hardship he and his wife would experience without a garage.

Chair Crapo commented that it's reasonable to have a garage and bring down the height of the ceilings.

Mr. Ponte explained that the original house had four bedrooms and bathrooms on the ground level, which had to be raised.

Chair Crapo expressed that the additional height is a luxury, the home is in an area that requires special accommodations to build it, and if there is not a true necessity for it, he cannot support it. Speaking to Attorney Durbin, he asked for a reason as to why the ceiling could not be brought down by one foot. Attorney Durbin referred to the builders but noted that he didn't believe it was a possibility to lower the planned ceiling height.

Member Madden asked for the total square footage. Mr. Goulemas responded that the square footage is roughly 3,000.

Member Tuttle expressed that he is not in favor of the plan as presented and suggested the group take a moment to discuss whether bringing the height lower would be a possibility. He noted that many other properties in the area have been able to achieve a design inclusive of a garage within the height requirement.

The board took a five-minute recess.

Attorney Durbin stated that the applicant will find a way to reduce the total height by one foot. He explained that the builders do not yet know where the one foot will be taken.

Chair Crapo closed the public session at 9:37 p.m.

Chair Crapo explained that the requested relief changed from 42.25 from a grade of 10' where 28' is allowed, now the structure would be 2.25' above the FEMA overlay requirement. He expressed that for the relief requested

Vice-Chair Driscoll explained his thought process when considering ridgelines: who will the ridge line impact including, but not limited to, abutting neighbors. He explained that the proposed plan doesn't adversely affect the neighborhood, the abutters are okay with it, and it's unique enough from applications past and future, that it will not affect his stringent call on ridge height. As presented, with the changed height, so long as it's not a flat roof, he is in favor of the plan.

In response to Chair Crapo's question, Vice-Chair Driscoll explained that he doesn't see a need to condition the plan upon a roof of a certain pitch. The applicant made clear that there is no intention for a flat roof.

Regarding the topic of ridge heights, Member Madden noted that the board is making its decision on the merits of this application and this application only. She agreed that consideration of the neighbors is very important, and outside of the two abutters, this plan doesn't present much impact.

Chair Crapo called for a vote on the requested variances as modified: 42.25 from a grade of 10' where 28' plus two FEMA feet is required.

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

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Shawn Crapo – Yes

**2. The spirit of the ordinance is observed:**

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Shawn Crapo – Yes

**3. Substantial justice is done:**

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Shawn Crapo – Yes

**4. The values of surrounding properties are not diminished:**

Gregg Mikolities – No  
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 that area?**

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – 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 Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Shawn Crapo – Yes

**7. The proposed use is a reasonable one.**

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Shawn Crapo – Yes

**8. Therefore, literal enforcement of the ordinance would result in unnecessary hardship.**

Gregg Mikolities – No  
Patrick Driscoll – Yes  
Jenn Madden – Yes

John Tuttle – Yes  
Shawn Crapo – Yes

**Motion by John Tuttle to approve the application of Mario Ponte & Paula Parrish of 200 High Street, Exeter NH for property owned and located at 1627 Ocean Blvd for a variance from §190-3.4.D for height 42.25' from a grade of 10' where 30' is allowed as presented on February 1, 2023. Seconded by Jenn Madden.**

**Vote 4-1-0** (P. Driscoll, S. Crapo, J. Madden, J. Tuttle in favor, G. Mikolities opposed)

*Note: Vice Chair Driscoll exited the meeting at 9:50 p.m.*

- 9. Matthew & Natasha Goyette for property owned and located at 750 Brackett Road, Tax Map 17, Lot 66 request a variances from §190-6.3A/B for expansion of a structure on a non-conforming lot; and from §190-3.1.H(2),(g) for an addition on an existing footprint 55' from the wetlands where 75' is required. Property is in the Single Residence District. Case #09-2023.**

**Attorney Tim Phoenix** of Hoefle Phoenix Gormley & Roberts, PLLC presented the application on behalf of the applicants, who were also present at the meeting. He also introduced **Sergio Bonilla**, who conducted the wetlands work and **Alex Ross**, a surveyor and engineer who did the technical work for the application.

Mr. Ross discussed the stormwater management plan which was created with the Rye Conservation Commission's concerns in mind. Mr. Ross shared and explained the RCC's recommendations with the board.

Speaking to Mr. Ross, Chair Crapo asked if the applicant's understanding of the RCC's recommended plantings was to delineate the flood zone, rather than act as functional plantings for filtration.

Mr. Ross responded that his understanding of the RCC's letter is that the plantings are intended to delineate the location of the flood zone. He stated that it would not add value to or benefit the stormwater management plan.

Member Chororos asked if the 22' of non-mowable area will go away with the proposal of a buffer planting. Mr. Ross confirmed and explained.

Chair Crapo asked about the density of the buffer plantings.

Sergio Bonilla with Mission Wetlands explained that their plan would increase the amount of natural wetland vegetation and improve its functional and aesthetic value as well as improved drainage.

Chair Crapo asked for the distance between the house and the proposed 10' tree plantings along the flood line. Mr. Ross replied that it's just over 20'.

Mr. Bonilla spoke to the benefits of an increased lawn space.

Mr. Ross explained that the owners have discussed this site with the RCC for a long time and explained that the original stormwater management plan the infiltration trench was directed more toward the northern property line, but in response to an abutting neighbor, it was adjusted to be in the center of the lot.

Attorney Phoenix apologized for the timing and explained that their letter from the RCC was just received the afternoon prior. He explained that Mr. Garvan is present on behalf of the RCC to hear their position. Attorney Phoenix explained that while the RCC typically works very hard to find a balance between their regulations and landowners' applications, he feels that their stance in this case is an overreach, particularly regarding the requested plantings. Referring to page two of their cover letter, Attorney Phoenix outlined the RCC's recommendations and explained that, while different from what the RCC has recommended, the applicant's proposed changes meet the same desired outcome. Attorney Phoenix expressed his hope that the applicant's careful efforts would result in approval from the board.

Member Madden commented that there was nothing in the purview regarding flood management.

Chair Crapo, speaking to Mr. Garvan, commented that he'd not before seen a request to delineate a flood zone. Rather, he's seen requests to delineate the difference between a buffer.

Attorney Phoenix commented that the RCC's feedback on this site is more than what is typical, in his experience. He expressed that what the applicant has proposed is more aligned with what the RCC typically recommends and is reasonable.

Attorney Phoenix described the proposed structure.

The board discussed the requested relief and the reasons why the structure is considered a non-conforming lot.

Chair Crapo commented that this application doesn't appear to need a demolition permit.

Attorney Phoenix discussed each of the variance requirements as they relate to this application.

Member Chororos asked if the three-bedroom would become a four-bedroom, and a septic system that accounts for the addition. Attorney Phoenix confirmed.

Chair Crapo asked if a portion of the addition is outside of the buffer and not in need of relief.

Mr. and Mrs. Goyette explained that they're 55' from the buffer, so 20' of the additional roofline will be in the buffer. The board discussed the footprint of the home and its relation to the buffer.

Mr. Garvan explained that the requested vegetation every 10' along the flood zone is really an error on the part of the RCC. He explained the RCC's intent in making that recommendation and noted that the RCC disagrees with Attorney Phoenix in that the drainage and stormwater management on the house is superior, but explained what more could be done. He suggested the site should at least include a 10-foot-wide planting plan, which would provide the Goyette's with sufficient lawn and protect the wetlands.

Chair Crapo noted that the planting plan submitted by Attorney Phoenix seems to be sufficient in delineating the buffer and keeping it protected from mowing.

Mr. Garvan commented that a four-foot buffer doesn't seem adequate.

Member Chororos asked Mr. Garvan how he arrived at 22 feet, which he explained.

**Ted Simenov** of 720 Brackett Road distributed and discussed a flood map for 750 Brackett Road, information regarding the Goyette's Paper Birch planting, and a document, "Hydrology, Hydraulics, and Water Quality Analysis of the Roof Drainpipe at 750 Brackett Road". He summarized his concern that the Goyette's proposed changes would flood his property.

Chair Crapo clarified that Mr. Simenov's conclusions are flawed in that the documents presented refer to "historical removal of vegetation". He explained that the application before the board reviews the land in its existing condition.

Member Mikolities commented that the presented document was prepared on December 7th, and it should have been presented to the board a month prior in order for them to review the information.

Chair Crapo and Mr. Simenov discussed his contention that the proposed changes would saturate the land and increase runoff.

Planning/Zoning Administrator Reed noted that Mr. and Mrs. Simenov filed an application and will be on the March agenda. She added that Mrs. Simenov was made aware of and acknowledged the rule that the board requires supplemental materials to be submitted 3-7 days prior to the hearing.



**Scott Marion** of 71 Washington Road, an abutting neighbor, commented that the Goyette's are good stewards of the land, are not increasing the footprint, improving the drainage and protection of the wetland area, and they are enhancing the property and wetland buffer.

**Tom Clifford** of 95 Washington Road, another neighbor, also expressed his support of the Goyette's project.

**Ann Fox** of 73 Washington Road reiterated her support of the Goyette's and their project.

**Ralph Hickson** of 91 Washington Road expressed his support of the Goyette's and reiterated what other neighbors have said, that they are good stewards of the land and that their children, who use the yard frequently, will benefit from their project.

Chair Crapo distributed photos submitted by Attorney Phoenix depicting the property's storm damage.

Mr. Ross addressed Mr. Simenov's comments on the functionality of the proposed plantings. He explained that the stormwater drainage plan does not rely on trees. He added that Mr. Simenov's report and claim that the changed roofline will create a freshwater wetland does not make sense.

Chair Crapo, speaking to Mr. Ross, asked about the roof pitch. He commented that he didn't see anything in the plans that would cause additional runoff to any measurable degree. Mr. Ross confirmed.

Mr. Garvan reiterated that a no-mow area in the wetland should be a given requirement and commented that the proposed barrier does not sound dense enough.

Chair Crapo re explained the proposed plantings and clarified that the plantings would be at grade. Mr. Bonilla confirmed and explained the proposed plantings. The board continued to discuss the proposed planting plan.

Chair Crapo clarified that if the applicant's planting plan is accepted, then the pink area would be an average of 7' depth and the plant selection and density would need to be discussed with the RCC.

**Joel Feid**, 705 Brackett Road, asked if the board had received his letter of support. Chair Crapo confirmed.

**Cindy Hickson**, 91 Washington Road, corrected that the property was originally the Foss Farm and the land was cow pasture, which is why there aren't many mature trees.

Attorney Phoenix suggested that the board review the RCC's recommendations one-by-one. The board reviewed each of the RCC's recommendations.

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

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**2. The spirit of the ordinance is observed:**

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**3. Substantial justice is done:**

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**4. The values of surrounding properties are not diminished:**

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

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

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – 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 Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**7. The proposed use is a reasonable one.**

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**8. Therefore, literal enforcement of the ordinance would result in unnecessary hardship.**

Gregg Mikolities – Yes  
Jenn Madden – Yes  
John Tuttle – Yes  
Sandra Chororos – Yes  
Shawn Crapo – Yes

**Motion by John Tuttle to approve the application of Matthew & Natasha Goyette for property owned and located at 750 Brackett Road for variances from §190-6.3A/B for expansion of a structure on a non-conforming lot; and from §190-3.1.H(2),(g) for an addition of an existing footprint 55' from the wetlands where 75' is required with the following conditions:**

1. A conservation mix of native grasses and/or water tolerant native plantings to be added in the location at 7' average depth strip similar to the Alex Ross Engineering buffer implementation plan.
2. RCC requests that a complete planting plan be submitted prior to installation.
3. No bark mulch or wood chips may be used. Material used within an area being restored shall be natural straw supported with compost.
4. Any invasive plants found on the property outside the wetland boundary should be removed, including but not limited to bittersweet, barberry, multiflora rose and autumn olive.
5. The RCC believes that an 85% or greater survival rate of the planted vegetation after one (10 Year is sufficient.

Seconded by Sandra Chororos.

**Vote 5-0** (S. Crapo, J. Madden, J. Tuttle, G. Mikolities, S. Chororos)

**Motion by John Tuttle to adjourn at 11:11 p.m. Seconded by Sandra Chororos. All in favor.**

Respectfully Submitted,  
Emilie Durgin

# BOARD OF ADJUSTMENT

-Rye, New Hampshire-

## NOTICE OF DECISION

**Applicant:** Hoefle, Phoenix, Gromley & Roberts, PPLC

**Owner:** Michael Keeley & Michael Valliere of 46 Harborview Drive, Rye NH

**Property:** 7 Holland Drive, Tax Map 20.2, Lot 31  
Property is in the General Residence, Coastal Overlay and SFHA, Zones AO(3) and AE(8)

**Application case:** Cases #57-2022

**Date of decision:** 02/1/2023

**Decision:** The Board voted 5-0-0 to deny the Request for Rehearing and Reconsideration of the Board of Adjustment's December 7, 2022 denial of §190-3.4D for the height of the house 32.23'.

  
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:**

Robert Lang, Applicant  
Tucker D. Allard & Mary Coppinger, Owners

**Property:**

457 Central Road, Tax Map  
Property is in the Single Residence District.

**Application case:**

Case #55-2022

**Date of decision:**

02-01-2023

**Decision:**

The Board voted 5-0 to continue the application to the March 1, 2023 meeting to allow the applicant to provide drawings with adequate distances to lot lines, turn-around and a plan that shows the removal of the existing parking/driveway.

  
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

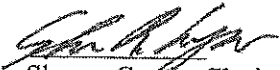
**Applicant/Owner:** Paul & Kathleen Cavanaugh

**Property:** 100 Brackett Road, Tax Map 22, Lot 93  
Property is in the Single Residence District

**Application case:** Case #04-2023

**Date of decision:** 02-01-2023

**Decision:** The Board voted to continue the application to the March 1, 2023 agenda for clarity of the plans and grade.

  
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:

Leigh & Darren D'Andrea

Property:

0 Jenness Avenue, Tax Map 8.4, Lot 48  
Property is in the General Residence and Coastal Overlay Districts, and  
SFHA Zone AE(8).

Application case:

Cases #06a-2023 and 06b-2023

Date of decision:

2/1/2023

Decision:

The Board voted 5-0-0 to continue the application to the March 1, 2023  
meeting.

  
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:** Wentworth by the Sea Country Club, Inc.

**Property:** 60 Wentworth Road, Tax Map 24, Lot 61-26  
Property is in the Single Residence District

**Application case:** Case #03-2023

**Date of decision:** 2/1/20023

**Decision:** The Board voted 5-0-0 to continue the application to the March 1, 2023 meeting.

  
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:**

Mukherjee Living Trust, Sumeeta Mukherjee Trustee  
of 60 Deer Meadow Road, N. Andover MA

**Property:**

1701 Ocean Blvd, Rye NH Tax Map 13, Lot 6  
Property is in the General Residence, Coastal Overlay and SFHA Zone VE

**Application case:**

Case #07-2023

**Date of decision:**

02-01-2023

**Decision:**

The Board voted 5-0-0 to continue the application to the April 5, 2023 meeting.

  
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:** Mario Ponte & Paula Parrish of 200 High Street, Exeter NH

**Property:** 1627 Ocean Blvd., Tax Map 13, Lot 23  
Property is in the General Residence, Coastal Overlay and SFHA Zone AE

**Application case:** Case #08-2023

**Date of decision:** 02-01-2023

**Decision:** The Board voted 4-1-0 to grant the following variance from the Rye Zoning Ordinance as presented:

- §190-3.4.D for height 32.25'

  
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 & Natasha Goyette

**Property:**

750 Brackett Road, Tax Map 17, Lot 66  
Property is in the Single Residence District

**Application case:**

Case #09-2023

**Date of decision:**

02-01-2023

**Decision:**

The Board voted 5-0 to grant the following variance from the Rye Zoning Ordinance as presented:

- §190-6.3A/B for expansion of a structure on a non-conforming lot;
- 190-3.1.H(2),(g) for an addition on an existing footprint 55' from the wetlands

These variances were granted with the following conditions from the Rye Conservation January 31, 2023 letter:

1. A conservation mix of native grasses and/or water tolerant native plantings to be added in the location at 7' average depth strip similar to the Alex Ross Engineering buffer implementation plan.
2. RCC requests that a complete planting plan be submitted prior to installation.
3. No bark mulch or wood chips may be used. Material used within an area being restored shall be natural straw supported with compost.
4. Any invasive plants are found on the property outside the wetland boundary should be removed, including but not limited to bittersweet, barberry, multiflora rose and autumn olive.
5. The RCC believes that an 85% or greater survival rate of the planted vegetation after one (10 Year is sufficient.

  
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:**

Michael Keeley & Michael Valliere

**Property:**

7 Holland Drive, Tax Map 20.2, Lot 31  
Property is in the General Residence, Coastal Overlay and SFHA, Zones AO(3) and AE(8)

**Application case:**

Cases #57-2022

**Date of decision:**

12-7-2022

**Decision:**

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

- §190-2.4.C(3) for stairs of a house 24.2' and overhang 27.4' from the front boundary;
- §190-2.4.C (2) for a generator 15.7', Permeable Paver Walkway and retaining wall 2.4' from the side boundary; and
- §190-3.1.H.2(a), (b), (e)2, (f) & (g) for a retaining wall 2.8' and 32.2', a house 11.0', a septic tank 30.0', leachfield 30.6' and the removal of 7 trees from the wetland.
- §190-603B for replacement of a house more compliant.

The Board voted 5-0 to grant the following relief from the Building Code as presented:

- §35-14.B(2)(a) for an effluent disposal system 30' and 30.6' from the wetland;
- §35-14.C(1) for bottom of the effluent disposal system 3.17' above bedrock; and
- §35-14.C(2) for bottom of effluent disposal system 2' above the seasonal high water table.

These variances and building code relief were granted with the following conditions from the Rye Conservation Commission letter dated 12-3-2022:

1. All debris in the disturbed area of the buffer to be removed using the least disruptive method.
2. The three (3) red maples located in the back area of the property will remain.
3. After restoration to the natural grade, the buffer area will be thickly planted with native plantings.

**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.

4. Mulch used within an area being restored shall be natural straw or equivalent non-tox, non-seedbearing organic material, in accordance with Env-Wt 307.12(d).
5. Lawn will end at the side of the shed.
6. Invasive plants currently on the property should be removed. Including but not limited to bittersweet, barberry, multiflora rose and autumn olive. If such plants are located in the buffer they must be removed using the least disruptive method.
7. The RCC believes that an 85% or greater survival rate of the planted vegetation after one (1) year is sufficient.

The Board voted 3-2 to deny the following variances from the Rye Zoning Ordinance:

- §190-2.4.C(2) for a shed 10.6' from the side boundary;
- §190-3.4.D for the height of the house 32.32'; and
- §190-3.1.H.2(a),(b),(e)2.(f) & (g) for a shed 22.1' from the rear and 36.9' from the right side from the wetland.

The variances were denied for the following reasons:

1. The ridge height of the house does not satisfy the variance criteria because it does not have to meet FEMA regulations, higher than surrounding homes in character of neighborhood and does not meet the hardship criteria.
2. The shed moved closer to the wetland resources is not reasonable and does not satisfy the hardship criteria.

  
Shawn Grapo, 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.