

TOWN OF RYE – BOARD OF ADJUSTMENT

Wednesday, June 7, 2023

7:00 p.m. – Rye Town Hall

Members Present: Sandra Chororos, John Tuttle, Chair Shawn Crapo, Chris Piela, John Mitchell

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

I. CALL TO ORDER

Chair Crapo called the meeting to order, led the Pledge of Allegiance, and reviewed meeting procedures.

II. BUSINESS

Continuations

Motion by Chris Piela to continue applications three and four on the agenda submitted by Leigh & Darren D’Andrea for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 to the July 5, 2023 meeting. Seconded by Sandra Chororos.

Vote 4-0-1 (S. Chororos, S. Crapo, C. Piela, J. Mitchell in favor, J. Tuttle abstained)

Motion by Chris Piela to continue application five on the agenda submitted by Grail Real Estate LLC for property owned and located at 6 Airfield Drive, Tax Map 10, Lot 15 to the July 5, 2023 meeting. Seconded by Sandra Chororos.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, J. Mitchell in favor)

Approval of Minutes - May 3, 2023

- Page seven, correction to the spelling of “conversion”

Motion by Chris Piela to approve the May 3, 2023 meeting minutes as amended. Seconded by Sandra Chororos.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, J. Mitchell in favor)

Chair Crapo introduced the seated board members.

III. APPLICATIONS

1. Frank Goguen for property owned and located at 29 Gray Court, Tax Map 5.2, Lot 87 requests variances from §190-6.3.A for expansion of existing non-conforming structure; from §190-2.6.C(5) & 1903.4.E for dwelling coverage 21.30% is proposed and 15% is allowed, and lot coverage 34.18% where 30% is allowed. Property is in the General Residence, Coastal Overlay District. Case #22-2023.

Chris Crump of CWC Design presented the application on behalf of the applicant, **Frank Goguen**, who was also present.

He described the existing structure as a small, single-family cape. He explained that the applicant is looking to remove the roof to add a second floor and to put an addition on the back right-hand corner of the house. To complete this requires a special permit to extend a non-conformity on the back of the property, though he explained that it would not intensify the setback. Referring to the site plan, Mr. Crump pointed out the extension of the existing rear structure line and explained the proposed non-conformities in relation to the zoning matrix. Mr. Crump also outlined the proposed changes to the existing structure.

In response to Chair Crapo's question about overall dwelling coverage, Mr. Crump explained that the woodshed, which would remain on the property, contributes to the change in dwelling coverage from 21.3 to 18.6. He also noted that information regarding the floodplain and elevations of the existing and proposed property is in the application package.

Chair Crapo asked about the height of the roof with the potential for a roof cap.

Member Chororos asked if the outdoor shower would be removed, which Mr. Crump confirmed.

Member Tuttle asked to see pictures of the property, which Mr. Crump presented and pointed out some details of the structure. Member Tuttle asked if the HVAC units would remain. Mr. Crump explained that they may need to add additional units due to the increase in square footage.

In response to Member Piela's acknowledgment of the abutter's letter, Mr. Goguen explained that all abutters are in support of the project. Member Piela read the submitted letter aloud. Mr. Crump explained that the applicant has no intention of renting the property. Chair Crapo read another abutter letter of support aloud for the board.

Chair Crapo opened to the public at 7:18 p.m.

Member Tuttle asked if any of the pavers would be replaced. Mr. Goguen explained that the driveway is not made up of pavers, but a small area of pavers would be removed to square off the corner. Mr. Crump explained that nothing in the front of the house would be touched.

Hearing no further comments, the public session was closed.

Member Chororos commented that if there are no concerns from the neighbors related to height, aesthetically it's very pleasing.

Member Mitchell commented that while the change to the footprint of the house is minimal, it vastly improves the look of the home. He stated his initial concern regarding the home's visible mass, but in looking at surrounding properties, the house will fit right into the neighborhood. He added that height is not an issue as the surrounding properties have various elevation changes.

Chair Crapo commented that multiple people are living in the home and it seems fitting to the neighborhood. He also clarified the requested relief.

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

2. The spirit of the ordinance is observed:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

3. Substantial justice is done:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

4. The values of surrounding properties are not diminished:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – 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.

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

7. The proposed use is a reasonable one.

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

Motion by Chris Piela to approve the variance requests by Frank Goguen for property owned and located at 29 Gray Court, Tax Map 5.2, Lot 87 for variances from §190-6.3.A for expansion of existing non-conforming structure; from §190-2.6.C(5) & §190-3.4.E for dwelling coverage 18.8% where 15% is allowed and for lot coverage 34.18% where 30% is allowed. Seconded by John Tuttle.

Vote 5-0-0 (S. Chororos, J. Tuttle, C. Piela, J. Mitchell, and S. Crapo in favor)

2. Anthony & Susan Farmer for property owned and located at 440 Sagamore Road, Tax Map 18, Lot 51 request variance from §190-6.3.A for expansion of nonconforming structure; from §190-3.1.H.1 & H.2(a)(g) for a deck 44' and garage 48.8' from the wetland where 100' is required; from §190-2.3.C(3) for pervious pavers 24', 21' and 18' +/- from the front boundary where 40' is required; and §190-2.3.C(1) for pervious pavers

Susan Farmer presented the application to the board and explained that she and her husband purchased the property two years prior, at which point a lot of work was needed on the home. She explained that to convert the existing, attached barn into a living space, they were required to have surveys and wetland work done by soil scientists. She explained that through that process they learned a new septic system was needed, which they hired engineers to replace. The replacement of the septic system required them to work near the wetlands, for which they had to go before the RCC twice and present the requested information. She explained that she has met with the RCC twice, conducted a site walk, and presented them with all the requested information. Ms. Farmer discussed the property's existing conditions and noted the inclusion of a stamped plan from an engineer, information regarding the septic system, and impervious coverage in her application package.

Member Piela, in reviewing the RCC's letter dated May 30, 2023, suggested that Ms. Farmer might request a continuance to address the issues identified in the letter. He explained that if the board denies the variance request, an applicant can't come before the board again unless the application has changed substantially.

Chair Crapo explained the board's process in working alongside the RCC and clarified that while the board is not required to take the RCC's recommendations into account, they tend to use their recommendations as guidance in making decisions.

Speaking to Ms. Farmer, Member Tuttle asked if she has met with Dana Truslow. Ms. Farmer confirmed that she did.

Ms. Farmer explained that she worked with several engineers to determine the best course of action to install an infiltration trench; however, the engineer she spoke with isn't able to help install such a trench for another eight months.

Member Tuttle commented that the soil in the proposed area has poor drainage.

Chair Crapo noted that he hasn't seen any proposals including a rain garden or trench. Ms. Farmer presented the information and clarified that it was included in the application packet.

Chair Crapo asked when this plan was presented to the RCC. Member Chororos clarified that Susan Shepcaro states that the information was presented on the 26th and the RCC wrote their letter on the 30th.

Speaking to Ms. Farmer, Member Piela asked for clarification of a pervious deck. Ms. Farmer explained that it's a deck with spaces. Member Tuttle commented that, per state law, a deck is not considered a pervious surface.

Jeff Gardener of the Rye Conservation Commission commented that the RCC would like to approve the project; however, they typically see projects laid out with engineer drawings. He explained that if it were a 15' encroachment it would be different, but this is a super-sensitive site and the entire project is in the buffer. Have explained that the RCC is hoping for an engineered design to have more confidence in the water flow. In response to Ms. Farmer's comment that the only additional proposed building would be a garage, he explained that the RCC hasn't had an opportunity yet to review the newest plan.

Chair Crapo reiterated that if the project were denied, the application would have to be materially different for the applicant to return before the board and noted the list of concerns presented by the RCC.

Ms. Farmer asked the board for clarification regarding a proposed stone wall.

Chair Crapo suggested that Ms. Farmer refer to the zoning rules and work with Planning/Zoning Administrator Reed and/or the Building Department to discuss possibilities. He commented that the less machine activity near the buffer, the better. Member Piela noted that all zoning rules are on the town website, which can be easily searched for guidelines.

The board discussed a continuance and determined that August 2, 2023, would be the most appropriate date.

Member Chororos encouraged Ms. Farmer that it's not uncommon for an applicant to go back and forth with the RCC to get a plan right.

Motion by Chris Piela to continue the application of Anthony & Susan Farmer for property owned and located at 440 Sagamore Road, Tax Map 18, Lot 51 to the August 2, 2023 meeting. Seconded by John Tuttle.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, J. Mitchell in favor)

Member John Mitchell departed the meeting at 7:45 p.m. and Vice-Chair Patrick Driscoll was seated.

3. 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 23.66', chimney 21.86', deck stairs 15.84', and deck 14.80' from the rear boundary where 25' is required; from §190-2.4.C(3) for steps and a paver pad 17.5'; a bioretention pond +/- 0 ft (Jenness Avenue side) and +/- 1 ft (Surf Lane side) 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, overhang 4.50' house 5.73', steps 12.35', deck stairs 8.16', 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 1 off-street parking space 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 the July 5, 2023 meeting (see motion above).

4. Leigh & Darren D'Andrea for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 request special exceptions pursuant to §190-3.1.G(2) for a driveway located in the wetland buffer; and §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 the July 5, 2023 meeting (see motion above).

5. Grail Real Estate LLC for property owned and located at 6 Airfield Drive, Tax Map 10, Lot 15 requests an appeal of administrative decision per NHRSA 677:2 and the Rye Zoning Ordinance §190-7.3 of the building inspectors 4-19-2023 letter which determined that the uses for the property are materially different from the uses presented to the Planning Board in 2021. Property is Commercial District, Multi-Family Overlay District. Aquifer Protection Overlay and Berry's Brook Watershed. Case #23-2023.

Application continued to the July 5, 2023 meeting (see motion above).

6. BSL Rye Investors, LLC d/b/a Benchmark Senior Living for property owned and located at 0 Lafayette Road and 295 Lafayette Road, Tax Map 10, Lot 1.1 requests a special exception from §190-6.4 & §190- 2.11.B(1)(5) to permit the construction of a ±41,210 sq. ft. semi-attached assisted living facility addition, with associated parking, to the existing Evolve at Rye senior living facility building Property is Commercial District, Multi-Family

Overlay District. Aquifer Protection Overlay and Berry's Brook Watershed. Case #24-2023.

Attorney Kevin Baum of Hoefle, Phoenix, Gormley & Roberts as well as **Eric Gardner** and **Lee Castignetti** of Benchmark Senior Living presented their application to the board. Attorney Baum explained that they're before the board with the same request they presented in April 2021 with no changes to the application: it includes the same number of beds and the same use, but they've completed the site plan review and are requesting a special exception for an extension. He added that they will likely also request extensions for the two variances that were granted.

Chair Crapo recalled the applicant's previous request and granted variances and clarified that the request for extensions to those variances will be separate from this application. Attorney Baum confirmed and explained they still have some months before the granted variances expire.

Member Chororos asked for clarification regarding the construction of a $\pm 41,210$ sq. ft. semi-attached assisted living facility addition, noting that Attorney Phoenix described the dimension as $\pm 43,000$ sq. ft. in his memo.

Referring to the memorandum, Attorney Baum stated that $\pm 43,500$ sq. ft. is what's shown on the plans.

Member Piela, referring to the same memorandum of project history, also asked for clarity regarding the dimensions.

Attorney Baum explained that what they're requesting is what was approved in the site plan.

Vice-Chair Driscoll noted that $\pm 43,500$ sq. ft. is what's listed in the site plan; he asked if the $\pm 41,210$ sq. ft. is what's in the lot.

Planning/Zoning Administrator Reed confirmed that $\pm 41,210$ sq. ft. is listed in the ZBA's April 7, 2021 Notice of Decision. The board determined that the request should remain for $\pm 41,210$ sq. ft.

Chair Crapo asked about the difference between 2A and 2B. Attorney Baum explained that 2A is the ZBA site plan which was approved two years ago and 2B is the site plan reviewed by the Planning Board and is included to present the minor changes. Attorney Baum confirmed that no significant changes have been made.

Chair Crapo, in reviewing 2A and 2B, noted that Attorney Baum might consider whether the applicant needs to request an extension of the ZBA's relief or request new relief if the plans have changed.

Attorney Baum noted Chair Crapo's suggestion and stated that he doesn't believe it will be an issue, but that he will confirm.

Vice-Chair Driscoll asked if there are any lot line adjustments or drainage easements with the new development next door.

Attorney Baum responded that while he doesn't believe they're relevant tonight, there are easements. He explained that this property is under common ownership with the next-door lot, which is now being renovated to become condos. He explained that they were developed separately but on a dual tract with the same engineers and attorneys. Going forward for the site plan review, there are a few fully-vetted easements on record. He added that the lot line has been approved by the Planning Board since the site plan approval in January 2022. He stated that he can speak to the easements, though he would argue they are not relevant to their special request.

Member Piela noted that while the project is in the commercial zone and it seems to be a reasonable use, wondered about the traffic study conducted.

Attorney Baum discussed the traffic study and explained that the parallel projects' affect on traffic was very carefully considered by the Planning Board in their many months of reviewing the project. He explained that the easements for drainage and emergency access were also fully considered during the Planning Board review. He explained that the facility's impact on traffic is fairly low. In response to Member Piela's question, Attorney Baum confirmed that this study was done with the anticipation of a neighborhood next door. He added that the market is different for residential construction than for assisted living and made a case for the difficulties posed to assisted living facilities due to Covid, lending challenges, and cost increases.

Chair Crapo, in comparing 2A to 2B, noted that the lot line shifted to add more land to one parcel, and the residential portion gained buffer plantings.

Attorney Baum explained that a full site plan review was conducted where landscaping and details were fleshed out. He noted that there was a mutual landscape architect between the two properties.

The board discussed the matter of a residence abutting a business in a commercial district.

Attorney Baum spoke to each of the criteria for a special exception as they relate to this application.

Member Tuttle made a correction, noting that the correct section should be §190- 2.11.B(2)(5), not §190- 2.11.B(1)(5). The board discussed and determined that the correct section should be §190- 2.11.B(5).

Chair Crapo opened to the public, hearing no comments, he closed the public session at 8:10 p.m.

Member Piela commented that he was in favor of the project two years ago and his only concern was over traffic, which has been explained, so he now has no concerns.

Is it neither injurious nor detrimental to the neighborhood?

Patrick Driscoll – Yes
Chris Piela – Yes
John Tuttle – Yes
Sandra Chororos – Yes
Shawn Crapo – Yes

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

Patrick Driscoll – Yes
Chris Piela – Yes
John Tuttle – Yes
Sandra Chororos – Yes
Shawn Crapo – Yes

Motion by John Tuttle to grant a special exception from §190-6.4 and §190-2.11.B(5) as presented on June 7, 2023. Seconded by Chris Piela.

Vote 5-0-0 (P. Driscoll, C. Piela, J. Tuttle, S. Chororos, and S. Crapo in favor)

7. The Gove Group Real Estate, LLC for property owned and located at Thompson Way, Tax Map 10, Lot 1 requests a special exception from §190-5.1.A(3) and §190-5-1.B for a two-sided sign that is 25 sq. ft. per side for a total of 50 sq. ft. for the sign to remain until the last unit is sold. Property is Commercial District, Multi-Family Overlay District. Aquifer Protection Overlay and Berry's Brook Watershed. Case #25-2023.

Alexx Monastiero of The Gove Group Real Estate, LLC presented the application to the Board and explained their need to request a 25-square-foot, double-sided sign that would remain posted for longer than the permitted 60-day period.

Chair Crapo discussed the placement of the sign, noting that it may obstruct visibility for a driver pulling out onto Route One.

Ms. Monastiero explained that the proposed placement is related to the topography but she is open to changing its location.

Member Tuttle discussed the wording of a recently granted special exception related to signage.

Ms. Monastiero explained their history of applying for signage and the dimensions of the sign.

Crapo proposed that the requested relief could be granted, conditioned upon the placement of the sign. He added that the applicant might work with Jason from Public Works.

Chair Crapo opened to the public, hearing no comments he closed the public session at 8:19 p.m.

Member Tuttle proposed a condition that the applicant works with the DPW Director to find a proper location on the parcel that creates an appropriate sight line.

Is it neither injurious nor detrimental to the neighborhood?

Patrick Driscoll – Yes
Chris Piela – Yes
John Tuttle – Yes
Sandra Chororos – Yes
Shawn Crapo – Yes

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

Patrick Driscoll – Yes
Chris Piela – Yes
John Tuttle – Yes
Sandra Chororos – Yes
Shawn Crapo – Yes

Motion by John Tuttle to approve the special exception as presented with the conditions that the sign be removed within 30 days of the last deed conveyance of the property owner and that the applicant works with the DPW Director to find a proper location on the parcel that creates an appropriate sight line. Seconded by Chris Piela.

Vote 5-0-0 (P. Driscoll, C. Piela, J. Tuttle, S. Chororos, and S. Crapo in favor)

8. Steve & Tara Danielson for property owned and located at 5 Douglas Circle, Tax Map 8.1, Lot 105 requests variances from §190-2.4.C(2) for a dormer 15.4' from the side boundary where 20' is required and from §190-5.0. C for parking in the front boundary. Property is in the General Residence District and Aquifer Protection Overlay District. Case #26-2023.

Tom Hammer, the applicant's contractor, presented the application. He explained that in planning their renovation he tried to avoid disturbance to the setback, but most of the house is in the setback. He explained that in an attempt to decrease the pitch of the roof, the volume within the setback increased. He explained that the lot and the house is nonconforming and referenced notes from the Building Inspector.

In response to Member Piela's question, Mr. Hammer explained that they would not be any closer to the setback and the house would be in the same footprint. He explained that their other issue is with parking and that most of the driveway is in the setback. He noted that they obtained a driveway permit and there are no proposed changes to the driveway; they are seeking relief for additional encroachment on the setback and parking.

Chair Crapo opened to the public and hearing no comments, he closed the public session at 8:28 p.m.

Vice-Chair Driscoll discussed the details of the dormer and the extension of the roofline with the concern that the applicant may wish to include more detail so they aren't in the position of needing to request more relief at a later date.

Mr. Hammer explained that the current plan includes an eve and referred to the site plan. He discussed the design with the Board.

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

2. The spirit of the ordinance is observed:

Sandra Chororos – Yes
John Tuttle – Yes

Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

3. Substantial justice is done:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

4. The values of surrounding properties are not diminished:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

7. The proposed use is a reasonable one.

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

Motion by John Tuttle to approve the application for Steve & Tara Danielson for property owned and located at 5 Douglas Circle, Tax Map 8.1, Lot 105 as presented on June 7, 2023. Seconded by Sandra Chororos.

Vote 5-0-0 (S. Chororos, J. Tuttle, C. Piela, P. Driscoll, and S. Crapo in favor)

9. Circle Furniture Rye, LLC for property owned and located at 37 Central Road, Tax Map 12, Lot 38 requests variances from §190-6.3.A for expansion of a nonconforming structure on a nonconforming lot; from §190-2.3.C(1) for expansion for pervious pavers 6.3' (+/-) and for a house 18.9' (+/-) where 30' is required in the front boundary; from §190-2.4.C(2) for a generator 5' (+/-) and house 10.5' (+/-) from the right side boundary where 20' is required; from §190-2.4.C(2) for a house 9.3' (+/-) from the left boundary where 20' is required; from §190-2.4.C(5) for building area 34% (+/-) where 15% is allowed; and §190-2.4.C(5) for lot coverage of 48.7% where 15% is allowed; from §190-5.0.C for parking in the front boundary; and a waiver from the Building Code §35-14.C(1) to allow for an effluent disposal area to be located 4' above top of bedrock where 6' is required. Property is in the Single Residence District and Aquifer Protection Overlay District. Case #27-2023.

Attorney Derek Durbin presented the application to the Board and introduced Bob Richard, the sole member of Circle Furniture Rye, LLC, who was also present. He also introduced Richard Desjardins and Mark Giannini of McHenry Architecture.

Attorney Durbin summarized the history of the property as well as its dimensions and noted it's the smallest, narrowest lot in this area. He discussed the old, non-conforming septic system and that the only requirements that the property conforms to are the front and side yard setbacks and the building height. Attorney Durbin discussed the amount of pavement and the challenges this property faces in conforming to zoning ordinances.

Mr. Desjardins and Mr. Giannini presented the architectural plan. Member Chororos commented that the Board has site plans but no architectural plans, so architectural plans were distributed.

Mr. Desjardins and Mr. Giannini explained that they aim to maintain the historical structure of the building's facade and described their proposed plan. They also discussed the proposed improvements to the site.

Attorney Durbin invited questions from the Board regarding the architectural design.

In response to Chair Crapo's question, Attorney Durbin confirmed the plan is to restore the building, not tear it down and start over.

Commenting that the property's foundation is a mystery, Chair Crapo suggested adding section B to §190-6.3.A to cover abandonment, discontinuance, or destruction.

Member Tuttle alluded to DES' former concerns with the property.

The board agreed that section B should be added to §190-6.3.A.

Attorney Durbin discussed each of the variance criteria as they relate to this application. He clarified that an abutter requested a six-foot privacy fence along the left-side boundary, which the applicant would agree to upfront in their application. Chair Crapo discussed the abutting neighbors' concerns regarding lot coverage. Attorney Durbin also discussed the request for a building code variance.

Speaking to Attorney Durbin, member Tuttle asked for confirmation that they didn't hit bedrock eight feet down, but they still want the building code permits. Attorney Durbin confirmed.

Discussing the potential complications of putting a leach field under a driveway, Chair Crapo asked if the system will be enhanced to be able to handle it.

Attorney Durbin explained that John is prepared to handle this, they're comfortable with the design they're using, and the associated implications of placing a leach field under a driveway was a big point of discussion.

Member Chororos asked what the driveway material will be.

Mr. Desjardins explained that the driveway will be asphalt and the parking area and walkway will be pervious pavers.

Member Chororos asked if the parking pad will be used as a turnaround, which Mr. Desjardins confirmed.

Chair Crapo asked if the septic will be standing stone and pipe or an advanced system.

Member Piela noted that it would be an enhanced enviro septic system. The board discussed the septic system.

Member Tuttle asked about drainage. Attorney Durbin explained that they did not conduct a drainage analysis since they're decreasing lot coverage, but stated that he could provide drainage analysis if needed.

Chair Crapo asked if the state has seen the septic plan. Attorney Durbin stated that the state has not approved the septic plan and Attorney Kieser explained that the state can't approve it until the Board does. The Board discussed state and ZBA approval of the septic and which should come first. Chair Crapo explained that the Board could grant approval conditioned upon state septic approval.

Chair Crapo opened to the public at 9:08 p.m.

Member Tuttle wondered about the feasibility of the pervious parking area on this lot and whether the ground could absorb water to the extent that's discussed.

Chair Crapo commented that water ponds on the property now, but this is an attempt to create a pervious area and it's bound to drain somewhat easier than it does now.

The Board discussed the maintenance of a catch basin and the installation of a fence.

Chair Crapo discussed stormwater management with Attorney Durbin, recommending that the applicant works with the Department of Public Works.

Member Piela and Chair Crapo discussed proposed conditions regarding stormwater management and drainage analysis.

Chair Crapo closed the public session at 9:16 p.m.

Member Chororos explained that she agrees with the proposed plan and commented that the increase in building area would be offset by the reduction of pavement between the home and the street. She added that the applicant is taking an ugly, abandoned building and improving the aesthetics while making it more compliant and updating the septic.

Member Piela agreed and commented that the rendering of the structure looks nice and would be an improvement compared with the current structure. He added that the applicant has been

accommodating to abutters' concerns, that the septic is an improvement, and that he's generally okay with the project.

Member Mitchell acknowledged that it's a challenging piece of property, that he can't see the proposed project doing any harm, and that he places a lot of weight on the feelings of the abutting neighbors. He commented that a house couldn't be placed on this property because of its proximity to the back setback, but that he questions the size of the building for the property. He also expressed that the septic system is questionable, but the state will have to approve it anyhow.

Chair Crapo commented that the Board could condition approval on state approval of the septic system.

The Board discussed side-setback relief.

Chair Crapo discussed the Board's options to either approve the application as presented or to include section B to §190-6.3.A to cover abandonment, discontinuance, or destruction. He explained his reasoning for a possible addition of section B.

Acknowledging that it's a challenging property, Member Mitchell expressed his concern about the building's overall expansion.

Member Tuttle expressed his concerns regarding the impervious area, septic location, and environmental concerns.

Chair Crapo noted that environmental concerns aren't before the zoning board, and discussed the matter of impervious coverage.

Member Piela and Chair Crapo discussed the addition of §190-6.3.B to the relief with the understanding that in the event of a teardown, the applicant doesn't get the outside dimensions and permission to build two stories, it would be as the plan is proposed.

Member Piela proposed the following conditions:

- Drainage analysis to be submitted if required by the Rye Building Department
- State approval of the septic plan
- Installation of a six-foot privacy fence on the left side of the property, similar in style to what exists on the right side
- The fence on the right side of the property is to be maintained and replaced as needed if the neighbor removes it
- Proposed pervious areas to be maintained per manufacturer recommendations

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

2. The spirit of the ordinance is observed:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

3. Substantial justice is done:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

4. The values of surrounding properties are not diminished:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – 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.

Sandra Chororos – Yes
John Tuttle – Yes

Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

7. The proposed use is a reasonable one.

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

Would enforcement of the specific provisions do manifest injustice and be contrary to the spirit and purpose of the Building Code and public interest?

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
John Mitchell – Yes
Shawn Crapo – Yes

Motion by Chris Piela to approve the variances and waiver as presented and requested by Circle Furniture Rye, LLC for property owned and located at 37 Central Road, Tax Map 12, Lot 38 with the addition of §190-6.3.B and with the following conditions:

- **Drainage analysis to be submitted if required by the Rye Building Department**
- **State approval of the septic plan**
- **Installation of a six-foot privacy fence on the left side of the property, similar in style to what exists on the right side**
- **The fence on the right side of the property is to be maintained and replaced as needed if the neighbor removes the fence**
- **Proposed pervious areas to be maintained per manufacturer recommendations**

Seconded by Sandra Chororos

Vote 5-0-0 (S. Chororos, J. Tuttle, C. Piela, J. Mitchell, and S. Crapo in favor)

10. Michael R. Parsons & Katelyn B. Randall for property owned and located at 34 Perkins Road, Tax Map 5.2, Lot 148 request variances from §190-2.4.C(1) for a pool 23.5' from the rear boundary where 28.9' is required; from §190-2.4.C(2) for a pool 17.1' from the right side boundary where 20' is required; and from §190-2.4.C(5) for impervious coverage of 51.9% where 30% is allowed. Property is in the General Residence and the Coastal Overlay District. Case #28-2023.

Attorney Derek Durbin presented the application on behalf of the property owners. He requested a preliminary ruling that the variances requested aren't needed. He explained that when the applicants first approached the building inspector the plan was rough and they were presented with a denial letter. He explained that the shape of the proposed pool is oval, while the existing pool is rectangular. The pool would be in the same location, becoming more conforming. Attorney Durbin referenced §190-6.2.D.

Chair Crapo asked if the existing pool is there via prior approval or permit.

Attorney Durbin explained yes, as far as he knows it's a recognized, lawful use of the property. He explained that he doesn't know if there's anything in the building office that states it was permitted at the time of its installation in the 1970s.

The Board discussed the legality of the pool. Attorney Durbin explained that the Building Inspector looked at the file and confirmed for the Board that it is an in-ground pool, but due to the property's slope, it's higher on one side than the other.

Chair Crapo noted that the hardscaping is higher than the lawn. He explained that what's being proposed is also in-ground with the same elevation, but oval and more conforming.

Attorney Durbin explained that the volume of the pool is being reduced from 555 square feet to 505 square feet.

The Board discussed the associated building permits and requested variances and whether they can decide on this application.

The Board discussed the history of the pool's installation, it's permitting, and the property's proximity to the wetland buffer.

Attorney Durbin requested a continuance to find some record of how this pool came to be in its existing state.

Chair Crapo observed that the proposal includes gutting and replacement of the pool, which will require heavy equipment. He explained that he doesn't know if relief is needed for that or not, considering the proximity to the wetland buffer.

Attorney Durbin stated that he will provide written confirmation regarding the wetland buffer when he returns before the board.

Member Chororos requested further detail regarding the septic system, manufacturer, and appearance of the proposed pool.

In response to Chair Crapo's observation that this property may have been before the board before, Member Tuttle explained that property owners filed an electrical permit in 2015, a remodel in 2009, and that's it. Member Tuttle explained that the patios and walk were installed in 2006 and the permit ID is 8395. Member Tuttle asked for clarification regarding the size of the proposed pool, noting that the surveyor says the old pool is 555 square feet, and the new pool is 505 square feet, but another document says the new pool is 620 square feet.

Attorney Durbin discussed the decrease in lot coverage percentage.

Vice-Chair Driscoll expressed his desire to have more information regarding the property's previous building permits.

Chair Crapo commented that the applicant may still need a variance.

Motion by Chris Piela to continue the application of Michael R. Parsons & Katelyn B. Randall for property owned and located at 34 Perkins Road, Tax Map 5.2, Lot 148 to the July 5, 2023 meeting. Seconded by Patrick Driscoll.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

11. Patrick McKenna for property owned and located at 139 Wentworth Road, Tax Map 24, Lot 32 requests variances from §190-2.3.C(3) for an expansion of 38.7' where 40' is required in the front boundary, from §190- 3.1.F(7) & §190-3.1H.2(a),(b), (g) for reconstruction of a garage 52.9', septic tank 80.3', leach field 96.0', pervious deck/generator pad ~73.0' from the wetland where 100' is required; from §190-6.3.A for expansion on nonconforming structure; from §190-6.3.B for destruction of parts of the nonconforming structure; and relief from the code §35-14.C.(2) for an effluent disposal system 2' distance to the seasonal high water table where 4' separation is required. Property is in the Single Residence District, Coastal Overlay, and Wetland Conservation Overlay. Case #29-2023.

Attorney Monica Kieser of Hoefle, Phoenix, Gormley, and Roberts presented the application on behalf of the property owners. She introduced herself, **Corey Caldwell**, and **Patrick McKenna**, who were also present.

Attorney Kieser described the property and explained that the applicant has a life estate and the purpose of the proposed changes are so he can care for his parents. She pointed out the scale of the plan and the architectural plans, noting that portions of the structure aren't as structurally sound as others. Attorney Kieser explained that a dry well serves the existing house, and the plan is to cease the use of that well and install a mostly code-compliant septic system, an advanced enviro septic system 96' to the leach field and 80' to the point. She also described the issue with the soils and the reason for the building code waiver. In response to Member Piela's question about the Portsmouth sewer line, Attorney Kieser explained that it only runs to BG's Boathouse.

Attorney Kieser discussed the orientation of the lot and the related requests for variances. She also described the expansion of the deck and stairs.

In response to Member Chororos' question regarding land outside the property line, Attorney Kieser explained that there is no house outside the property line, just a long driveway.

Chair Crapo asked for confirmation that the field is far enough away not to need a variance, which Mr. Caldwell confirmed and explained. She also explained their request for expansion and destruction.

Mr. McKenna explained that the proposed design includes a garage, above which will be a suite for the applicant to live as a caretaker.

Attorney Kieser discussed a revised letter dated May 31, 2023, as well as a relief chart overview before discussing each of the variance criteria as they relate to this application.

Chair Crapo asked if the abutting neighbors have any issues with the application. The applicant stated that the neighbors support the project and that he could get a letter if needed.

Vice-Chair Driscoll summarized the proposed changes including a permeable deck and stairs, an existing garage, a dormer facing the street, and an overhang. Attorney Kieser confirmed. Vice-Chair Driscoll expressed his concern that drainage is not running toward that tidal wetland.

Mr. Caldwell explained that the design allows a very slight reduction in impervious area and no increase in runoff toward the creek; he cited an ordinance regarding drainage and discussed the design of the pervious deck and stairs.

Chair Crapo asked if the pervious design is included due to the property's proximity to the resource. Attorney Kieser confirmed and explained that it helps avoid an increase in lot coverage.

Vice-Chair Driscoll discussed stormwater management and wondered if the inclusion of a pervious deck would have an adverse effect on the creek.

Mr. Caldwell discussed the construction and stated that they would not be concentrating any flow since they're not adding any pavement or impervious coverage. He referenced town ordinance 507 and pointed out that they have an overall reduction of impervious coverage. He also offered to provide the Board with a letter in place of a drainage analysis.

Vice-Chair Driscoll stated that Mr. Caldwell's offer of a letter would satisfy his concern.

The Board discussed the RCC's recommendation of native, saltwater-tolerant plantings around the leach field. The applicant agreed to the RCC's recommendations.

Chair Crapo opened to the public at 10:38 p.m.

Mike Garvan of the RCC stated that they're happy to see the septic system replaced and it seems like a relatively minor impact.

Chair Crapo closed the public session at 10:39 p.m.

Chororos stated that the installation of an advanced enviro septic system is great, the front yard encroachment is minimal, and she sees this as an improvement.

Chair Crapo opened to the public.

Vice-Chair Driscoll discussed the maintenance of the raised dry well and asked Mr. Caldwell if there are any special considerations to be made regarding the crushed stone below the deck for it to remain pervious.

Mr. Caldwell explained that if you store things on top, it won't filtrate, so it should be kept clear.

Mr. Mckenna agreed to the condition of keeping the crushed stone surface clear.

The public session was closed at 10:41 p.m.

The Board discussed a condition related to the crushed stone area. Vice-Chair Driscoll also noted that the application was good and thanked the applicant for providing all the necessary pieces. He stated that he's in favor of approving the application with the condition, but would not be in favor of it without. Member Piela agreed and also noted the RCC recommendations.

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

2. The spirit of the ordinance is observed:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

3. Substantial justice is done:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

4. The values of surrounding properties are not diminished:

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

7. The proposed use is a reasonable one.

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

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

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

Would enforcement of the specific provisions do manifest injustice and be contrary to the spirit and purpose of the Building Code and public interest?

Sandra Chororos – Yes
John Tuttle – Yes
Chris Piela – Yes
Patrick Driscoll – Yes
Shawn Crapo – Yes

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

Motion by Patrick Driscoll to approve the application by Patrick McKenna for property owned and located at 139 Wentworth Road, Tax Map 24, Lot 32 as presented and advertised with the following conditions:

- The crushed stone detail included in the pervious deck structure remains clear and functional.

- The three recommendations stated in the Rye Conservation Commission's May 31, 2023 letter are followed.

Seconded by Chris Piela.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

12. John St. Cyr, Trustee, Saint Realty Trust for property owned and located at 21 Vin Mar Court, Tax Map 8.4, Lot 34 requests a two-year extension from the variances granted by the Board of Adjustment on August 4, 2021, and expiring on August 4, 2023. Property is in the Single Residence and Coastal Overlay District. Case #30- 2023.

Attorney Kieser presented the application to the Board, noting that she went to the sewer commission, who approved the system conceptually. She discussed complications with the tax map and ownership and explained that there is an agreement between neighbors that an easement could be provided to the applicant if needed.

Speaking to Attorney Kieser, Chair Crapo asked if the house is on septic. Attorney Kieser explained that it would be a far distance to extend the sewer and there is a wetland there, too.

The Board discussed granting approval to extend and the need for good cause to grant an extension.

Vice-Chair Driscoll asked if there is a need for the sign in front. Attorney Kieser stated that the sign should remain because it was a legally noticed meeting. The Board discussed the matter and determined that the signage is needed, especially for an extension.

An abutting neighbor explained that he wasn't convinced that wetland delineation was clear.

Attorney Kieser explained that she checked the delineation and thinks the applicant is still within the appropriate time frame and it includes the wetlands closest to the structure.

Chair Crapo closed the public session at 10:59 p.m.

Motion by Patrick Driscoll to approve the request for a two-year extension from the variances granted by the Board of Adjustment on August 4, 2021 for John St. Cyr, Trustee, Saint Realty Trust for property owned and located at 21 Vin Mar Court, Tax Map 8.4, Lot 34 having found good cause for the extension. Seconded by Chris Piela.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

Motion by Shawn Crapo to continue applications 13 and 14 for Giorgia Nagle, applicant, Samonas Realty Trust, owner for property located at 1215 Ocean Blvd, Tax Map 17.3, Lot 6 to the June 21, 2023 meeting. Seconded by Chris Piela.

Vote 5-0-0 (S. Chororos, J. Tuttle, S. Crapo, C. Piela, P. Driscoll in favor)

Motion by Chris Piela to adjourn at 11:01 p.m. Seconded by Shawn Crapo. All in favor.

Respectfully Submitted,
Emilie Durgin

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Frank Goguen

Property:

29 Gray Court, Tax Map 5.2, Lot 87

Property is in the General Residence, Coastal Overlay District.

Application case:

Case #22-203

Date of decision:

June 7, 2023

Decision:

The Board voted 5-0-0 to grant variances from the following section of the Rye Zoning Ordinance as advertised and presented.

- §190-6.3.A for expansion of a nonconforming structure.
- §190-2-6.C(5) and 190-3.4.E for dwelling coverage 18.8% and lot coverage of 34.18%.


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: Anthony & Susan Farmer

Property: 440 Sagamore Road, Tax Map 18, Lot 51
Property is in the Single Residence District

Application case: Case #17-2023

Date of decision: June 7, 2023

Decision: The Board voted to continue the application to the August 2, 2023 meeting to give the applicant time to work with the Rye Conservation Commission.


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: June 7, 2023

Decision: The Board to continue the application to the July 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

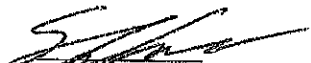
Applicant/Owner: Grail Real Estate LLC

Property: 6 Airfield Drive, Tax Map 10, Lot 15
Property is Commercial District, Multi-Family Overlay District. Aquifer Protection Overlay and Berry's Brook Watershed.

Application case: Case #23-2023.

Date of decision: June 7, 2023

Decision: The Board to continue the application to the July 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

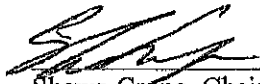
Applicant/Owner: BSL Rye Investors, LLC d/b/a Benchmark Senior Living

Property: 0 Lafayette Road and 295 Lafayette Road, Tax Map 10, Lot 1.1
Property is Commercial District, Multi-Family Overlay District, Aquifer Protection Overlay and Berry's Brook Watershed.

Application case: Case #24-203

Date of decision: June 7, 2023

Decision: The Board voted 5-0-0 to grant a special exception from §190-6.4 & §190-2.11.B(2)(5) to permit the construction of a ±41,210 sq. ft. semi-attached assisted living facility addition, with associated parking, to the existing senior living facility building.


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: The Gove Group Real Estate, LLC

Property: Thompson Way, Tax Map 10, Lot 1
Property is Commercial District, Multi-Family Overlay District. Aquifer Protection Overlay and Berry's Brook Watershed.

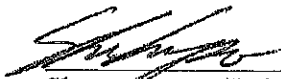
Application case: Case #25-203

Date of decision: June 7, 2023

Decision: The Board voted 5-0-0 to request a special exception from §190-5.1.A(3) and §190-5-1.B for a two-sided sign that is 25 sq. ft. per side for a total of 50 sq. ft.

The special exception was granted with the following conditions:

1. The sign be removed within 30 days of the last deed conveyance of the property owner.
2. Applicant work with the DPW Director to find a proper location on the parcel that creates an appropriate site line


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:

Steve & Tara Danielson

Property:

5 Douglas Circle, Tax Map 8.1, Lot 105
Property is in the General Residence District and Aquifer Protection Overlay District.

Application case:

Case #26-203

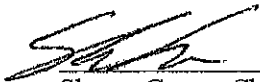
Date of decision:

June 7, 2023

Decision:

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

- §190-2.4.C(2) for a dormer 15.4' from the side boundary.
- §190-5.0. C for parking in the front 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: Circle Furniture Rye, LLC

Property: 37 Central Road, Tax Map 12, Lot 38
Property is in the Single Residence District and Aquifer Protection Overlay District.

Application case: Case #27-203

Date of decision: June 7, 2023

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

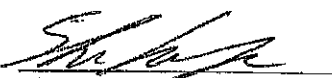
- §190-6.3.A/B for expansion of a nonconforming structure on nonconforming lot
- §190-2.3.C(1) for expansion for pervious pavers 6.3' (+/-) from front boundary
- §190-2.3.C(1) for a house 10.5' (+/-) from front boundary
- §190-2.4.C(2) for a generator 5' (+/-) from right side boundary
- §190-2.4.C(2) for a house 10.5' (+/-) from the right side boundary
- §190-2.4.C(2) for a house 9.3' (+/-) from the left boundary
- §190-2.4.C(5) for building area 34% (+/-)
- §190-2.4.C(5) for lot coverage of 48.7%
- §190-5.0.C for parking in the front boundary

The Board voted 5-0-0 to a waiver from the building code section

- §35-14.C(1) to allow for an effluent disposal area to be located 4' above top of bedrock where 6' is required.

The variances and building code waiver was granted with the following conditions:

1. A drainage analysis submitted if required by the Rye Building department.
2. State approval of septic plan.
3. Fence on the left side be 6' privacy similar to the fence on the right side.
4. Fence on right side to be maintained or replaced as needed, if neighbor removes
5. Proposed pervious areas to be installed and maintained per manufacturer recommendations.


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 R. Parsons & Katelyn B. Randall

Property: 34 Perkins Road, Tax Map 5.2, Lot 148
Property is in the General Residence and the Coastal Overlay District.

Application case: Case #28-203

Date of decision: June 7, 2023

Decision: The Board voted 5-0-0 to continue the application to the July 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:

Patrick McKenna

Property:

139 Wentworth Road, Tax Map 24, Lot 32
Property is in the Single Residence District, Coastal Overlay and Wetland Conservation Overlay.

Application case:

Case #29-2023

Date of decision:

June 7, 2023

Decision:

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

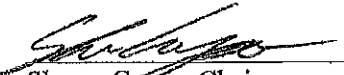
- §190-2.3.C(3) for an expansion of 38.7' from the front boundary
- §190-3.1.F(7) & §190-3.1H.2(a),(b), (g) for reconstruction of a garage 52.9'
- §190-3.1.F(7) & §190-3.1H.2(a),(b), (g) for a septic tank 80.3' from the wetland
- §190-3.1.F(7) & §190-3.1H.2(a),(b), (g) for a leach field 96.0' from the wetland
- §190-3.1.F(7) & §190-3.1H.2(a),(b), (g) for a pervious deck/generator pad ~73.0' from the wetland
- §190-6.3.A for expansion on nonconforming structure
- §190-6.3.B for destruction of parts of the nonconforming structure

The Board voted 5-0-0 to grant waiver from the Rye Building Code

- §35-14.C.(2) for an effluent disposal system 2' distance to the seasonal high water table where 4' separation is required.

The variances and building code waiver were granted with the following conditions including the three items from the Rye Conservation Commission May 31, 2023 letter:

1. Crushed stone remains clear and functional.
2. Any plantings disturbed by the installation of the new septic system will be replanted or replaced as is appropriate. All new plantings to be from the Native Plantings lists or the Salt Water tolerant planting lists attached to this letter.
3. Mulch used within an area being restored shall be natural straw or equivalent nontoxic, non-seedbearing organic material, in accordance with EVN-Wt 307.12(d).
4. The RCC believes that an 85% or greater survival rate of the planted vegetation after one year is adequate.


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

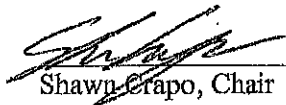
Applicant/Owner: John St. Cyr, Trustee, Saint Realty Trust

Property: 21 Vin Mar Court, Tax Map 8.4, Lot 34
Property is in the Single Residence and Coastal Overlay District

Application case: Case #30-203

Date of decision: June 7, 2023

Decision: The Board voted 5-0-0 to grant the request for an extension from the variance granted by the Board of Adjustment on August 4, 2023 for two years.


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:

Giorgia Nagle, applicant, Samonas Realty Trust

Property:

1215 Ocean Blvd, Tax Map 17.3, Lot 6
Property is in the General Residence, Business District and Coastal Overlay District and SFHA-Zone AO, Case #31a-2023.

Application case:

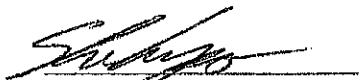
Case #31a-2023 and Case #31b-2023.

Date of decision:

June 7, 2023

Decision:

The Board voted 5-0-0 to continue the application to the June 21, 2023 meeting.


Shawna 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.