

TOWN OF RYE – BOARD OF ADJUSTMENT

Wednesday, October 4, 2023

7:00 p.m. – Rye Town Hall

Members Present: Rob Patten, Vice-Chair Patrick Driscoll, Chair Shawn Crapo, Sandra Chororos, Patricia Weathersby

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 outlined meeting procedures. Board members introduced themselves.

Chair Crapo explained that, due to time constraints, the board would move application nine on the agenda to the top.

II. BUSINESS

Motion by Patrick Driscoll to approve the August 22, 2023 meeting minutes. Seconded by Rob Patten.

Vote 4-0-1 (R. Patten, P. Driscoll, S. Chororos, S. Crapo in favor, P. Weathersby abstained)

Motion by Patrick Driscoll to approve the August 30, 2023 meeting minutes. Seconded by Rob Patten.

Vote 4-0-1 (R. Patten, P. Driscoll, S. Chororos, S. Crapo in favor, P. Weathersby abstained)

III. APPLICATIONS

- 1. BSL Rye Investors, LLC d/b/a Benchmark Senior Living for property owned and located at 295 Lafayette Road, Tax Map 10, Lot 3 requests an extension of the variances granted on November 17, 2021 to June 7, 2025. Property is in the Commercial District, Multi-Family Overlay District, Aquifer & Wellhead Protection District and Berry's Brook Watershed. Case #46a-2021.**

Attorney Tim Phoenix of Hoefle, Phoenix, Gormley & Roberts presented the application on behalf of Benchmark Senior Living along with **Eric Gardner** and **Lee Castignetti**.

Attorney Phoenix explained that his partner, Kevin Baum, sent the board the history of the application on 9/1/23 explaining that they obtained a special exception several years ago for the use, which expired earlier this spring. He explained that they were later granted variances for height and a variance for a bioretention pond within 20' of the front property line, which is set to expire in November. He described the challenges they faced related to Covid and noted that nothing has changed, but they're asking for the variances to be extended.

Mr. Gardner described the challenges and impacts on their project's start date related to COVID-19 and the banking industry.

Chair Crapo asked if the plans are the exact same, which Attorney Phoenix confirmed. He explained that their application includes the building height measurement confirmation from Jones and Beach Engineers.

Chair Crapo opened to the public at 7:09 PM; hearing no comment, the public session was closed.

Chair Crapo reminded the board that they're looking for good cause for an extension.

Vice-Chair Driscoll stated that considering the state of the building industry and the challenges stated, he has no issues with the application.

Chair Crapo called for a vote:

Is there good cause to grant the extension requested?

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to grant the request by BSL Rye Investors at 295 Lafayette Road, Tax Map 10, Lot 3 for an extension of the variances granted on November 17, 2021 to June 7, 2025. Seconded by Sandra Chororos.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

- 2. Ocean Mustang Trust & Viking Realty Trust, Donna M. Miller, Trustee for property owned and located at 1264-1266 Ocean Blvd, Tax Map 17.3, Lots 55 & 57 request**

variances from §190-20.4.C(7)/ §190- 3.4.D for building height of 35'-4" (+/-) where 28' is allowed; from §190-2.4.C(5)/ §190-3.4.E for impervious lot coverage of 36.6% (+/-) where 30% is allowed and 44.5% (+/-) exists; from 190-6.3.B for demolishing two existing structures on two nonconforming lots and creating one house where lot frontage is 54' (+/-) and lot size of 23,694 sq. ft (+/-); from 190-3.1.H(2 for the structure 51' (+/-) from the highest observable tide line where 100' and 44.6'(+/-) exists; and from 190-11.1 for a driveway within 10' of an abutting property line. Property is in the General Residence and Coastal Overlay Districts, SFHA Zone AO (3) and VE (20). Case # 45-2023.

Attorney Derek Durbin presented on behalf of the applicants along with **John Chagnon** of Ambit Engineering and **Jared Martin** of Rand Paul Architects.

Attorney Durbin noted that letters of support from the property's abutters were submitted to the board and he could provide copies as needed. He explained that the properties are two adjoining lots: 1264 is located north of 1266. He stated that 1266 has no frontage on Ocean Blv. and it's accessed by a shared driveway easement. It also shares a septic system with 1268 Ocean Blv. He explained that the properties are situated between Parsons Creek and the Atlantic Ocean and heavily encumbered by state shoreland and local wetland buffer. Both properties are in the flood zone, requiring an elevation of 20'. He stated that the finished living space is at a minimum elevation of 22' and that the existing properties don't meet the flood zone requirements. They're proposing to merge properties together, demolish the existing homes, and construct one single-family home and need several variances, including a variance for height.

Attorney Durbin stated that the RCC issued a letter of support in July contingent on a buffer plan being implemented on the ocean side of the property. He noted that the planting plan is shown in the plan set and all abutters have been consulted for months and all indicate their support.

Attorney Durbin invited Jared Martin to present the home design.

Mr. Martin explained that they considered the flood elevation of 20' in the design and started at 23'. He explained that they established a 10' floor-to-floor and from there created a 12' pitch to allow the second floor to have as much space available without having to lift the roof higher than needed. He explained that part of the design is for the impact on the house from the Ocean Side and they did set the house back.

Chair Crapo asked if they are merging two homes into one, what the established benchmark for grade is, and whether it's something that the building department is in agreement with.

Mr. Martin explained that the average grade measured around the building is 13', 6" and the back side of the property has a concrete block that adds an extra 16.

Chair Crapo asked how they got the average grade.

Mr. Chagnon explained that they prepared a plan that measured the grade around the structure

every 5' and calculated the average grade.

Member Weathersby asked if the average was taken from both buildings or just one. Mr. Chagnon explained that they took the average of the proposed new building.

Mr. Martin explained that with the average grade coming up to the designed flood elevation, in order to be above the FEMA line they established the first floor at 23'. In order to make this a two-story home, they planned for 10' floor to floor and pulled the roof down to 7" lower than the second floor. They did a standard 12-pitch, allowing for the most room under the roof for living space. He stated that from the street, you won't see a large, imposing structure and that they studied options to lower the building further, but with 8', 9" as a standard, they felt that this was the best option.

Chair Crapo explained that the starting height is not the average around the proposed structure, but the average around what's being replaced. He read the definition of grade and explained his interpretation, noting that this project is unique in that there are two buildings that are going to be one. He stated the applicant would need to have the building department get a proper benchmark for grade.

Mr. Chagnon stated that pre-construction would mean the existing grade.

Member Weathersby stated that it wouldn't make sense to measure grades around one building and another building with the proposed in a different spot. She explained the grade that exists now where the building is going is the most relevant.

Mr. Chagnon stated that elevation was 13.22, which was pretty close to the average grade.

Member Weathersby asked Mr. Chagnon for clarification of the measurements. He explained that it would be 10' floor to floor, 8', 9" floor to ceiling, and floor to peak living space is 8'.

Chair Crapo noted that there's a height consideration and asked for an explanation of why there are 9' ceilings on the first floor.

Mr. Martin stated that it's a standard height and 10' is typical. He stated that if it were made any lower then everything else including windows and doors would shrink.

Chair Crapo explained that the applicant is asking for a height that exceeds the minimum code.

Attorney Durbin discussed the character of the area and explained that they did a survey of Wallis Sands Beach looking at one and two-story homes. Of the 53 homes, there were 46 at two levels or three levels, and of the remaining six, two were owned by the Millers.

Member Weathersby asked for the heights of the abutting properties to the north and south.

Attorney Durbin stated that the closest building has a slightly higher elevation than this property.

Mr. Miller, the applicant, stated that it would be within a foot of the two abutting houses.

Attorney Durbin discussed each of the variance criteria as they relate to this application.

Member Weathersby, noting that the driveway is within 10' of the property line, asked where the 10' is.

Attorney Durbin stated it's toward the abutters to the north: 17.355 on the plan.

Mr. Chagnon stated that currently, the driveway comes up within 10' and the design has a leachfield to meet setbacks from the side property line, so they pushed the driveway over a bit.

Member Weathersby asked if the curve around the garage is compliant.

Attorney Durbin stated that the driveway as it exists is nonconforming within 10' of the property and they're putting the driveway in the same location, it's becoming narrower, and reducing coverage.

Mr. Chagnon described the lot line, easement, and parking area, stating that its preexisting nonconforming, made more conforming.

Vice-Chair Driscoll noted that the plans include a walkway easement that's being moved. He asked if that was solely for 1268.

Mr. Chagnon stated that 1268 has a walkway easement and the builders have worked out an arrangement to move the access easement.

Vice-Chair Driscoll asked if it has been determined whether 1268's access to the shared septic can be cut off.

Mr. Chagnon explained that the septic being used can continue being used with no adverse effect.

Vice-Chair Driscoll observed that there's no garage-level plan. He asked if it was all going to be FEMA space.

Mr. Martin stated that there are breakaway doors that meet FEMA regulations and there would be nothing in that space other than the garage.

Member Chororos asked if the utility shaft would include an elevator.

Mr. Martin stated no, it would be for plumbing and electrical to come up to the house.

Chair Crapo noted that the grading plan refers to a proposed decorative curb, 6" reveal. He asked if that is functional in the septic to give a different slope.

Mr. Chagnon stated that the purpose is to keep plows from tearing into the septic slope and it's

mostly a protective barrier.

Chair Crapo observed that the driveway is being narrowed and asked if the Planning Board still needs to approve this merger, which Mr. Chagnon confirmed. Chair Crapo asked if they've had a driveway analysis or discussion of narrowing the driveway as it relates to Fire Department access.

Mr. Chagnon stated that they're not at a point of discussion with the Fire Department, but there's just as much access now as there was in the past and it's suitable for the passage of a truck to get to the structure.

Member Weathersby asked for the width of the driveway. Mr. Chagnon stated that it's 12' wide.

Planning/Zoning Administrator Reed stated that the Building Department would not entertain this application until they went to the Planning Board for a voluntary lot merger; it didn't meet the requirements as it has two structures on it and the Planning Board denied jurisdiction.

She stated that she'd met with the owner and discussed variances; since it's a single residence issue, they would have to meet fire code and building code requirements. They will not go back to the Planning Board until it meets the requirements for a voluntary merger.

Attorney Durbin stated that there are two different trusts with the same trustee merging ownership interests.

Chair Crapo stated that the board may have a potential logistics issue. He stated that if they get approval, there need to be legal merger requirements.

Member Weathersby suggested legal merger requirements as a condition of approval.

Chair Crapo opened to the public at 7:54 PM.

Susan Shepcaro of the RCC stated that the RCC was unaware of the issues the board is discussing at the time they saw this project. The RCC thought it would be a good change to have a new septic and 1268, if this change happens, would be a bit more autonomous, which would be better.

Chair Crapo explained that he's trying to reconcile the RCC's letter and Attorney Durbin's submittal. The RCC letter stated that they support the project with a full planting plan submitted to the RCC prior to installation, whereas Attorney Durbin refers to buffer plantings. He asked if these were verbal agreements.

Ms. Shepcaro stated the RCC didn't recommend it because the engineer said they were not at the planting plan stage and that they would get back to them later in the process.

Mr. Chagnon stated that the project would have to go for shoreland approval at which point the RCC would review the particular planting plans and make a decision based on what's submitted

to the Wetland Bureau. He stated that the RCC would have another opportunity to look at it and comment on the wetland approval process.

Chair Crapo clarified that the shoreland approvals have not already been obtained, which Mr. Chagnon confirmed.

Chair Crapo closed the public session at 7:58 PM.

Vice-Chair Driscoll explained that he's sometimes a stickler for height, but because this is being pulled away from side yard setbacks and it's a two-story house, not three, he doesn't have an issue with the height as it seems to satisfy all requirements. He stated that while it's a 9' ceiling, it's a proportional house and most homes in that area are at that height or taller, especially in abiding by FEMA regulations.

Chair Crapo stated his rationale that beyond the code, there's 4' of extra height.

Member Patten observed that the plan brings one of the side-lot setbacks from 4' to 20', the building is lower towards the street, and they've made a good-faith effort to design a home. Regarding a 7',9" ceiling, he stated that there's no benefit to the public that would outweigh the hardship to the applicant to have a low ceiling. He stated that it's a compromise and it's near or below the height of homes to the north. He stated that he doesn't have a problem with the application as, on aggregate, there's a much-improved plan and the RCC doesn't have a problem with it.

Chair Crapo noted that the structure's width drives the height and if it were still two separate homes, it wouldn't have such a big expanse.

Member Patten observed that you couldn't get a compliant second floor whether it's 10' or 50' wide.

Member Weathersby stated that it could be a single-story, but it would need to be a bigger home to have similar square footage. She expressed that, given what's been stated and the size of the homes in the area, the height seems appropriate.

Member Patten observed that the expectation of the use has changed since the house was originally designed and argued that zoning is too encumbering to build something that fits most people's needs today.

Vice-Chair Driscoll stated that, while he doesn't suggest it, the applicant could have a flat roof. He wondered what the benefit would be to the town and to the abutters noting that no abutters have complained about the height and there would be no benefit to that 5' as it's not adding bulk, just a 12-pitch roofline.

Member Chororos, referring to Attorney Durbin's chart, stated that they've made improvements in nearly all existing nonconformity.

Member Weathersby stated that it's a good proposal and suggested some conditions:

1. Lot merger approved by Planning Board
2. RCC planting plan condition
3. Driveway easement is extinguished
4. Pedestrian easement is relocated
5. Approval by DES

Vice-Chair Driscoll asked whether the movement of the stairs to access the beach has anything to do with zoning.

Chair Crapo stated that it's technically a structure. He reopened to the public at 8:07 in order to discuss the matter with Attorney Durbin. He asked if the applicant had addressed the stairs with the building department. Attorney Durbin stated that he was not sure.

Mr. Chagnon stated that three sets of stairs service the houses currently; they're going from three sets of stairs down to two. He clarified that permitting with DES would include stair access to the beach.

The board reviewed the location of the stairs on sheet C3.

Chair Crapo stated that any motion of approval by the board would be as presented and as applied. He stated that he doesn't know if separate relief for its location on the lot line is needed.

Mr. Chagnon explained that the stairs come out in the winter and they're a temporary structure.

Chair Crapo closed to the public at 8:09 PM.

The board reviewed the proposed conditions and determined that they would vote on the application as a package.

Vice-Chair Driscoll stated each of his reasons for the variance requirements. He explained that the two buildings merging into one is more conforming on the lot. The applicant and their team have answered substantial questions by the board. The property is being improved with a modern septic system and home which is proportional to the lot. It's a unique property with conditions that have been addressed. The height of the structure relates to the two-story home with FEMA regulations and appropriate rooflines. It's a single-family home, there's no extra massing, and it seems to fit well on the lot.

Member Patten agreed.

Member Chororos added that substantial justice is done because the design places the home further from the highest observable tide line, brings the side-setbacks into compliance, impervious surface will be reduced, and will occupy a smaller footprint than the existing homes. Also, it would place a flood-compliant home with greater conformity than what is presently there.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

7. The proposed use is a reasonable one.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patricia Weathersby to approve the relief requested by Ocean Mustang Trust & Viking Realty Trust, Donna M. Miller, Trustee for property owned and located at 1264-1266 Ocean Blvd. for variances from §190-20.4.C(7)/§190- 3.4.D for building height of 35'-4"; §190-2.4.C(5)/ §190-3.4.E for impervious lot coverage of 36.6%; §190-6.3.B for demolishing two existing structures on two nonconforming lots and creating one house where lot frontage is 54' (+/-) and lot size of 23,694 sq. ft (+/-);§190-3.1.H(2 for the

structure 51' (+/-) from the highest observable tide line; §190-11.1 for a driveway within 10' of an abutting property line.

The above variances to be granted with the following conditions:

- 1. The lot merger is approved by the Planning Board.**
- 2. A formal planting plan is submitted to the RCC for review and approval prior to installation.**
- 3. The driveway easement benefiting 1266 Ocean Blvd over 1268 Ocean Blvd. is extinguished and that document is recorded.**
- 4. The pedestrian easement is relocated as presented and recorded.**

Seconded by Rob Patten.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

Jenn Madden was seated for the application for 65 Big Rock Road, and Patricia Weathersby recused herself.

2. Marcie Michaud for property owned and located at 65 Big Rock Road, Tax Map 5.2, Lot 59 requests variances from §190-6.3B for demolishing a structure and rebuilding on a non-conforming lot; from §190-2.4.C(2) for a structure 23.8' and a patio 23.8' from the Pine Street front boundary where 30' is required; from §190-2.4.C(2) for pervious paver patio 18 +/- from the Big Rock Road front boundary where 30' is required; from §190-2.4.C(1) for the house 20.3' and a patio 9.0' / 17.4' from the rear boundary where 30' is required; from §190-2.4.C(1) 17.4' for a patio 17.4' from the rear boundary; from §190-5.0.C for parking in the front boundary and from §190-3.4E for impervious lot coverage of 18.6% where 15 % is allowed. Property is in the General Residence and Coastal Overlay Districts. Case # 46-2023.

Attorney Doug MacDonald, representing the applicant, introduced **Mike and Marcie Michaud**, **Corey Colwell** of TFMoran, and TMS Architects.

Attorney MacDonald described the property, proposed project, and variance requests. He stated that the plan would eliminate two outbuildings in the rear of the property, create a single-family residence, and remove a driveway. He stated that the home would be improved by centering it to the boundary line. He stated that the current buildings are nonconforming as they were created before zoning and the relief requested is outlined in the chart. He discussed the proposed process for demolition, construction, and the setback relief required for the patios and for impervious coverage in the Coastal Overlay District. He noted the request for parking in the front boundary and stated that they don't need to consider a 3rd request for a patio as they don't believe they have a patio in the front boundary.

The board discussed the driveway permitting for a corner lot and referred to §190-2.2F.

Attorney MacDonald distributed abutter letters and letters from two realtors regarding property value. Chair Crapo explained that letters like that are to come from appraisers, not realtors.

Corey Colwell of TFMoran explained that there's a 20' walkway to the boundary from the front door. The property is a 2-family dwelling on a corner lot, built in the 1940s. He stated that the new home would be centered on the lot and the gravel driveway, existing garage, and shed would be removed. The gravel drive would be replaced with permeable pavers and the proposed driveway brings the lot line setback for the driveways into compliance. He stated that the existing is under 10' and the proposed is 13.7'. He discussed the two permeable paver patios, a generator pad, two condenser pads, and an existing above-ground propane tank which would be removed and replaced with a 3500-gallon tank. He stated that the proposed site layout reduces impervious coverage from 26.4% to 19.6%. He also discussed the soil type and stormwater management.

Attorney MacDonald distributed three abutter letters to the board and discussed each of the variance criteria as they relate to this application.

Member Madden discussed the hazards within the existing structure.

Attorney MacDonald continued to discuss the variance criteria, noting abutters' support of the project.

Member Chororos asked who the rear abutter is and whether they have been reached.

Mr. Michaud stated that the rear abutter on Pine is the parent of the abutter across the street. He stated that he spoke with their daughter and she was supportive. She stated that her parents are fine with what is happening. Mr. Michaud stated that there are three abutters they haven't connected with, but they have spoken with the rear abutters.

Planning/Zoning Administrator Reed stated that she received signed, certified receipts of all abutters notices.

Chair Crapo noted that the turnaround is 9' from the lot line and asked if relief is needed because it's a driveway.

Planning/Zoning Administrator Reed explained that it doesn't meet driveway regulations. Per the LDRs, the driveway regulations are only for a curb cut, not a turnaround. The only time it would matter is if it were increasing impervious coverage.

Mr. Colwell stated that driveways, stonewalls, and fences are exempt from the setbacks, but not from impervious coverage.

Vice-Chair Driscoll expressed his concern that high use of the patio would have an impact on the rear abutter. He asked for more explanation of how the radius patio meets the variance criteria.

Member Chororos agreed and explained that's why she asked about the rear abutter. She asked if there is any interest in moving it more sideways or making it less radial.

Attorney MadDonald referred to TFMoran's plans for the patio explaining that they envisioned a patio that could accommodate a table, the radial part is a sitting area.

Tim Giguere TMS Architects stated that they tried to make it as small as possible to reduce impervious coverage but also fit the contour of the neighborhood.

Chair Crapo noted that if the garage were to stay it might block noise. He clarified that the direct rear abutter hasn't seen the plan, but a family member, who is also an abutter, has.

The board had a detailed discussion regarding patio placement, the impact of noise on abutters, and the possible condition of a vegetative buffer for sound mitigation.

Chair Crapo opened to the public at 9:18 PM.

Robin Wehbe, 20 Spruce Ave., stated that this project would be a nice improvement and that he has no concerns about the plan. He commented that trees are horrible sound barriers.

Mr. Giguere, regarding the lesser traveled driveway, pointed out two existing curb cuts and explained that they chose the safer location and lesser traveled road with Pine Street. He stated that it was a car-length away from the intersection.

Hearing no further comments, the public session was closed at 9:21 PM.

Chair Crapo stated that they would add §190-2.2F to the notice of relief for a driveway on a corner lot. He asked the board if they would like to vote on the patio separately or add conditions of a buffer.

Member Patten stated that his first preference is to leave it as is, his second preference is to have a buffer, and his least preferred option is to separate them.

Member Chororos agreed.

Vice-Chair Driscoll stated that he hears what the board is saying, but would like for there to be a condition that says that some sort of fencing is to remain and the vegetative sound buffer is to be planted.

Member Madden stated that she would prefer no vegetative buffer condition and that the fence is fine. She stated that it should all be voted on together. She added that she wanted the condition of the home on the record; there was nothing salvageable.

Vice-Chair Driscoll stated that considering water flow off the roof, all was well thought out and well designed and the heights of the roof lines all fit in nicely in the neighborhood. He stated that it will be the nicest home in the neighborhood and it makes a lot of sense with the condition of a vegetative buffer.

Chair Crapo agreed that it's in keeping with the upgrades in the neighborhood and that it makes sense to have a vegetative buffer.

Vice-Chair Driscoll stated that he would vote against the application without the condition of the fence and the vegetative buffer.

Member Madden stated that if there is a condition to have a vegetative buffer, it could be removed and replaced.

Vice-Chair Driscoll noted the addition of §190-2.2F for a driveway exiting from Big Rock Road.

Chair Crapo agreed and suggested a condition that permeable pavers be maintained. He stated that the board would vote as a package with the addition of §190-2.2F so they can exit to Big Rock Road, which is more traveled than Pine Street.

Member Patten outlined his rationale for voting in favor of the application:

A modern, code-compliant home would replace a home that's not very safe. The removal of two outbuildings improves compliance. It would go from a duplex to a single residence. It has a stormwater management plan. The overall impervious coverage would be improved by roughly 7%. The essential character of the neighborhood is not diminished and there's no threat to public welfare or safety. Substantial justice is done and there is no benefit to the public that outweighs the hardship to the applicant if the board were to deny this. The values of surrounding properties are not diminished and it's encumbered on most sides with setbacks. The ordinance is intended to ensure a harmonious look and feel and two structures that are too close to the rear boundary will be removed. It's Reasonable to construct a modern, code-compliant home and if the code were enforced literally then the owner would be very limited on the property.

Member Chororos stated, in regards to the driveway, the board agrees that it's a safer driveway access.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated. Also, the board's solution is the best choice considering if the patio were moved, they would be sitting where people are waiting at the stop sign.

Shawn Crapo - Yes, as stated, with the conditions as proposed.

2. The spirit of the ordinance is observed:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

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.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

7. The proposed use is a reasonable one.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Jennifer Madden - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to approve the variances requested for property owned and located at 65 Big Rock Road, Tax Map 5.2, Lot 59 as advertised with the addition of a variance from §190-2.2F for a driveway exiting on Big Rock Road as presented with the following conditions:

- 1. A fence and vegetated sound buffer between the radius patio and the closest abutter.**
- 2. Permeable pavers are to be installed and maintained to the manufacturer's specifications.**

Seconded by Rob Patten.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, J. Madden, S. Crapo in favor)

Patricia Weathersby was reseated.

3. Kate D'Appolonia for property owned and located at 11 Ham Lane, Tax Map 10, Lot 64 requests variances from 190.2.3.C(3) for the new porch/stairs 29 +/- from the front boundary where 40' is required and 190-6.3.A for expansion. Property is in the Single Residence District. Case #47-2023.

Chris Atwood, the builder representing the applicant, explained that he's currently remodeling the property. He explained the plan to remove the existing front steps and replace with larger front steps and an overhang. He explained that the front of the building sits 40' from the property line. They're looking to improve the curb appeal, the neighbors are on board with it, and there are no negative impacts on the neighborhood.

Member Chororos asked if the walkway would stay and Mr. Atwood explained that it would be replaced in kind.

Member Weathersby asked if there is no cover over the front door. Mr. Atwood responded no. They agreed that this would help with safety and protect their investment.

Member Patten asked if the side porch is part of this application. Mr. Atwood explained that the side porch was already approved by the building department and already built.

Chair Crapo opened to the public at 9:44 PM; hearing no comments, the public session was closed.

Chair Crapo stated that he's familiar with the property and the current stairs are about ready to fall apart

Member Chororos agreed with Member Weathersby that it's a safety feature and very reasonable.

Vice-Chair Driscoll commented that it doesn't really need relief.

Member Patten and Chair Crapo discussed the fact that the lot line may be further back from the pavement.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

7. The proposed use is a reasonable one.

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to approve the variance requests for property owned and located at 11 Ham Lane as advertised and presented. Seconded by Sandra Chororos.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

The board discussed a date for the next ZBA public hearing for agenda items 6, 7, and 8.

Motion by Shawn Crapo to continue applications 6, 7, and 8 to October 11, 2023. Seconded by Sandra Chororos.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

4. Seacoast Apart-Hotels LLC for property owned and located at 741 Ocean Blvd, Tax Map 23.1, Lot 28 requests variance from 190-2.10.C(3) for expansion of office 14' where 14' exists and 30 is required. Property is in the Business and Coastal Overlay District and SFHA, Zone AE (9) Case #48-2023.

Doug Palardy, representing Seacoast Apart-Hotels LLC, clarified that he's seeking a variance for setback relief in the front of the hotel on the second floor within the same footprint.

Member Chororos asked for the reason for the expansion. Mr. Palardy explained that the apartment would primarily be for housing J1 visa workers for housekeeping in the summer and for off-season rental. He explained that it would be residential but expanding off of an office space that currently exists.

Member Chororos asked if it would be two bedrooms. Mr. Palardy confirmed and explained that he removed three bedrooms and would add two back in. He explained that the plan is to relocate the dumpster inside of an enclosed shed to allow tandem parking spaces and make the front of the property more appealing.

Chair Crapo asked if the more major renovation included a variance for parking spots. Mr. Palardy discussed the previously granted variances and explained that he'd asked for 9 instead of 10 to improve fire and life safety issues.

Member Weathersby observed that there are 18 or 19 spaces, and 12 motel units, and is planning to add an additional space. She noted that the store requires 1 or 2 spaces and that Mr. Palardy allows people from his other inns to use the pool.

Mr. Palardy discussed access to the pool by guests staying at the Great Island Inn.

Chair Crapo noted that pictures were included of the old merger with the apartment above. He asked if it was dimensionally the same. Mr. Palardy explained that it goes back a little further and he wanted to scale it back.

Chair Crapo stated that one of the abutters who is in support of the project stated that it doesn't impact their view. Mr. Palardy confirmed that his direct abutter to the north, Judy, is in support of the project.

Member Patten asked if they would get rid of the overhang. Mr. Palardy explained that he would set it back. The overhang would exist, but the wall would be set on concrete; it's a widow's walk.

Member Weathersby asked about the plan for the deck. Mr. Palardy explained that it would be a 3' widow's walk, enclosed on the parking lot side.

Member Patten noted that the plan says it goes back about 53'(+/-); he stated that it seems like it goes back further. Mr. Palardy agreed.

Member Patten asked for the length of the building, noting that the property line is 250' and the building seems to run all along the property line. Mr. Palardy clarified that the crossline is where it says 28'wide.

Member Weathersby asked if there are any plans to make a second floor for the entire property. Mr. Palardy stated no, that it would never work with the septic. Member Weathersby asked if the existing septic is adequate to have two more bedrooms, which Mr. Palardy confirmed. Chair Crapo asked if the septic is shared with someone across the street. Mr. Palardy explained that it shares a septic system with the house attached to it.

Vice-Chair Driscoll asked about the feasibility of the project and whether a contractor has looked at the space to say they can build the second floor on top of that first floor. Mr. Palardy stated

that he's spoken with his contractor and knows he will need to have engineering work done to bring to the building department.

Vice-Chair Driscoll asked about stormwater management and whether the roof runoff would be similar to what's there now. Mr. Palardy explained that he has gutters on the building which will remain and there should be no change in stormwater.

Member Chororos noted that a wetland variance is not needed.

Chair Crapo asked whether the deck is solid, not slat, related to whether stormwater would be retained in the gutter. Mr. Palardy confirmed.

Member Weathersby stated that Mr. Palardy could put this 16' further back, she asked why it needed to be in this location. Mr. Palardy explained that was the way it was before and to put a box in the middle of the hotel seemed like strange architecture.

In response to Member Weathersby's question, Vice-Chair Driscoll stated that it's 1000 square feet.

Chair Crapo opened to the public; hearing no comment, the public session was closed at 10:18 PM.

Chair Crapo outlined one letter of opposition from Paul Similaris of 10 Pollock Drive and letters of support from Judy Smith of 733 Ocean Blvd. and from Kelly Coffee of 50 Pollock Drive.

Member Weathersby asked if the apartment would still be for those over 21. Mr. Palardy confirmed but was unsure whether age would be restricted for workers. The board discussed possible ramifications if the age restriction were not enforced.

Chair Crapo closed to the public at 10:22 PM.

Chair Crapo explained that the notice said this project was an expansion of an office, but this is an apartment above an office. The deck will be the same 14' dimension back from the property line and the new end of the structure will be set back 7' and will end 50' back.

Member Weathersby noted that the narrative describes the project accurately. She stated that it's larger than it needs to be but agreed that the best location for the apartment is over the front of the building. She expressed that she doesn't love it but this is a better location, so she's in support of it.

Vice-Chair Driscoll stated that he doesn't see any variance criteria that he can vote against.

Chair Crapo noted if the project were moved back it'd be more in line with the neighbor who wrote that she had no issue with it. This plan puts it closer to the public than if it were at the back of the hotel. He asked whether the stairwell to the second floor was okay for access and egress. Vice-Chair Driscoll confirmed and explained the deck provides a second means of egress

Members Chororos and Patten agreed that they support the project.

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

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Rob Patten - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Rob Patten - Yes, the benefit to the applicant does not outweigh the harm to the public, no harm is done to the public.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Rob Patten - Yes, it's difficult to imagine how the surrounding properties would be diminished and nobody has spoken out to that effect.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, the way the building sits in the current setbacks shows that there are special conditions of the property.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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.

Rob Patten - Yes, the conditions are such that applying the zoning restrictions doesn't serve the purpose of the ordinance in a fair and substantial way.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

7. The proposed use is a reasonable one.

Rob Patten - Yes, it's a similar use to what's happening currently, and the essential character of the neighborhood is not changed at all.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Rob Patten - Yes, because the strict application of the ordinance would restrict the reasonable use of the property.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Patricia Weathersby - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to approve the variance requests for property owned and located at 741 Ocean Blvd for a variance from §190-2.10.C(3) for expansion of office 14' where 14' exists and 30' is required. Seconded by Sandra Chororos.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

Motion by Shawn Crapo to continue application 5 for Seacoast Apart-Hotels LLC as it relates to an administrative appeal to the October 11, 2023 meeting. Seconded by Sandra Chororos.

Vote 5-0-0 (R. Patten, P. Driscoll, S. Chororos, P. Weathersby, S. Crapo in favor)

Motion by Rob Patten to adjourn at 10:36 PM. Seconded by Shawn Crapo. All in favor.

Respectfully Submitted,
Emilie Durgin

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Seacoast Apart-Hotels LLC

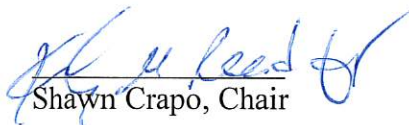
Property: 741 Ocean Blvd, Tax Map 23.1, Lot 28
Property is in the Business and Coastal Overlay District and SFHA, Zone AE (9)

Application case: Case #48a-2023

Date of decision: October 4, 2023

Decision: The Board unanimously voted to approve the variances from the Rye Zoning Ordinance as presented and advertised.

1. § 190-2.10.C(3) for expansion of office 14' from 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

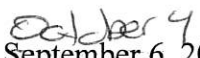
-Rye, New Hampshire-

NOTICE OF DECISION

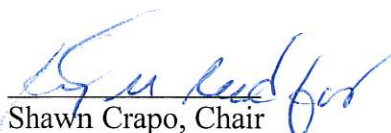
Applicant/Owner: Seacoast Apart-Hotels LLC

Property: 741 Ocean Blvd, Tax Map 23.1, Lot 28
Property is in the Business and Coastal Overlay District and SFHA, Zone AE (9)

Application case: Case #48b-2023

Date of decision: 
September 6, 2023

Decision: The Board voted to continue the application to the October 11, 2023 meeting to hear the administrative Appeal.


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:

295 Lafayette Road, Tax Map 10, Lot 3
Property is in the Commercial District, Multi-Family Overlay District,
Aquifer & Wellhead Protection District and Berry's Brook Watershed.

Application case:

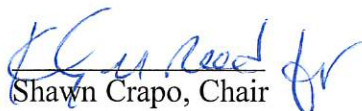
Case #46a-2021

Date of decision:

October 4, 2023

Decision:

The Board unanimously voted grant an extension of the variances granted
on November 17, 2021 to June 7, 2025.


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: Chris & Cynde Lingamfelter

Property: 362 Sagamore Road, Tax Map 19, Lot 50
Property is in the Single Residence District

Application case: Case #51-2021

Date of decision: October 4, 2023

Decision: The Board to continue the application to the October 11, 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

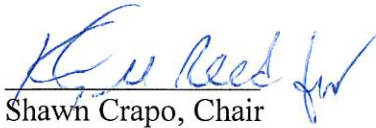
Applicant/Owner: Robin Wehbe, Common Roots Cafe

Property: 2203 Ocean Blvd, Unit D, Tax Map 5.3, Lot 28
Property is in the Business District, General Residence District, Coastal Overlay and SFHA, Zone AO (2).

Application case: Case #50-2023

Date of decision: October 4, 2023

Decision: The Board voted to continue the application to the October 11, 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

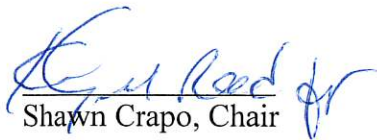
Applicant/Owner: Kathy & Timothy Keane

Property: 5 Cable Road, Tax Map 8.4, Lot 176
Property is in the Single Residence, Coastal Overlay, SFHA Zone VE (14)

Application case: Case #49-2023

Date of decision: October 4, 2023

Decision: The Board voted to continue the application to the October 11, 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

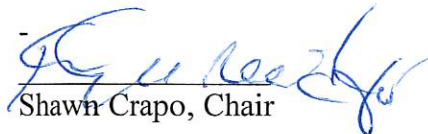
-Rye, New Hampshire-

NOTICE OF DECISION

- Applicant/Owner:** Ocean Mustang Trust & Viking Realty Trust, Donna M. Miller, Trustee
- Property:** 1264-1266 Ocean Blvd, Tax Map 17.3, Lots 55 & 57
Property is in the General Residence and Coastal Overlay Districts, SFHA Zone AO (3) and VE (20).
- Application case:** Case #45-2023
- Date of decision:** September 6, 2023
- Decision:** The Board unanimously voted to approve the variances from the Rye Zoning Ordinance as presented on 10-4-2023 and as advertised:
- §190-2.4.C(7)/ §190-3.4.D for building height of 35'-4" (+/-)
 - §190-2.4.C(5)/ §190-3.4.E for impervious lot coverage of 36.6% (+/-)
 - §190-6.3.B for demolishing two existing structures on two nonconforming lots and creating one house
 - §190-3.1.H(2) for the structure 51' (+/-) from the highest observable tide line.
 - §190-11.1 for a driveway within 10' of an abutting property line.

The above variances were granted with the following conditions.

1. The lot merger is approved by the Planning Board.
2. A formal planting plan submitted to RCD for review and approval prior to installation.
3. The driveway easement bracketting 1266 Ocean Blvd, over 1268 Ocean Blvd is extinguished and document recorded.
4. The pedestrian easement is relocated as presented and recorded.


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: Kate D'Appolina

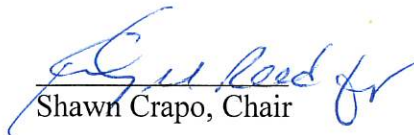
Property: 11 Ham Lane, Tax Map 10, Lot 64
Property is in the Single Residence District.

Application case: Case #47-2023

Date of decision: October 4, 2023

Decision: The Board unanimously voted to approve the variances from the Rye Zoning Ordinance as presented on 10-4-2023 and as advertised:

- 190.2.3.C(3) for the new porch/stairs 29 +/- from the front boundary.
- where 40' is required and 190-6.3.A for expansion.


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: Marcie Michaud

Property: 65 Big Rock Road, Tax Map 5.2, Lot 59
Property is in the General Residence and Coastal Overlay Districts.

Application case: Case #46-2023

Date of decision: October 4, 2023

Decision: The Board unanimously voted to approve the variances from the Rye Zoning Ordinance as presented on 10-4-2023 and as advertised:

- §190-2.4.C(2) for a structure 23.8' and a patio 23.8' from the Pine Street front boundary.
- §190-2.4.C(2) for pervious paver patio 18 +/- from the Big Rock Road front boundary.
- §190-2.4.C(1) 17.4' for a patio 17.4' from the rear boundary
- §190-6.3.B for demolishing a structure and rebuilding new.
- §190-2.4.C(1) for a house 20.3' and a patio 9.0' / 17.4' from the rear boundary.
- §190-5.0.C for parking in the front boundary.
- §190-3.4E for impervious lot coverage of 18.6%.
- §190-2.2. F for driveway exiting on Big Rock Road.

The above variances were granted with the following conditions:

1. A fence and vegetated sound buffer between the radius patio and the closest abutter; and
2. Permeable pavers are to be installed and maintained to manufacture specifications.


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.