

TOWN OF RYE – ZONING BOARD OF ADJUSTMENT

Wednesday, September 6, 2017

7:00 p.m. – Rye Town Hall

Members Present: Chair Patricia Weathersby, Vice-Chair Shawn Crapo, Patrick Driscoll, Gregg Mikolaities and Charles Hoyt.

Others Present: Zoning Administrator Kimberly Reed

I. Call to Order and Pledge of Allegiance

Chair Weathersby called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

II. Approval of Minutes:

- **August 2, 2017**

Tabled to the October meeting.

- **August 9, 2017**

Tabled to the October meeting.

III. Amend Rules of Procedure

Tabled to the October meeting.

Requested continuances:

Motion by Shawn Crapo to continue the application of the Whittemore Family Exempt Trust to the November meeting. Seconded by Charles Hoyt. All in favor.

Motion by Shawn Crapo to continue the applications of Michael C. Appe, (items 8 and 9), to the October meeting. Seconded by Charles Hoyt. All in favor.

Note: *Patricia Weathersby recused herself from the following rehearing request. Shawn Crapo stepped in as Acting Chair.*

IV. Rehearing Request

- Request for rehearing from Sarah Baybutt for Variances granted to Section 203.1 of the Rye Zoning Ordinance for the property located at 236 Sagamore Road

Acting Chair Crapo explained that Sarah Baybutt is the applicant for rehearing. There is also a letter from the original relief applicant, Tom Aspinwall. He opened up to the Board for discussion.

Member Mikolaities stated that he was not present for the application; however, he did read through both letters and is up to speed.

Acting Chair Crapo stated that Ms. Baybutt's letter delineates a number of reasons that she feels warrants a rehearing.

Member Driscoll commented that the Board never stopped anyone who was speaking against this application.

Acting Chair Crapo stated her letter had been submitted to both or a recap got submitted as a request for rehearing. The letter was addressed. The applicant made comments to it.

Member Driscoll stated that she said that "the applicant's lawyer reviewed and discussed his client's case for 54 minutes, while my concerns were discussed for 5 minutes". He continued that it is not like the Board stopped anyone after that period and said "we have to move on here".

Acting Chair Crapo stated that he had read her letter that night. It was brought up for discussion. Most of the points in her letter adhered to she was looking for a literal enforcement of the zoning and complaining that it had not been properly enforced over time. Taken the applicant was her requesting the variance, if it is granted, it is suspending those sections of the zoning ordinance as it relates to that property or modifying them. They can't literally be enforced. While she was arguing that they need to be enforced to the black letter of the law, by the nature of granting a variance, that is why the Board exists to be able to say "we know that section exists, we know what it says and what's its spirit and intent is but in this certain case we evaluated it and found that it can be waived or relief granted from it". He did not see anything in her letter that night that caused a "show stopper" that wouldn't allow the relief. He does not see that under the criteria for granting a rehearing that the Board made a mistake or that there is new information that has come to light that might change the outcome or the view. He does not see that her letter raises either of those to a degree to grant a rehearing.

Member Driscoll stated that he does not think the Board made any errors or overlooked anything substantial that would grant a rehearing.

Member Hoyt stated that he read the request and does not see any evidence for a rehearing.

Member Mikolaities agreed.

Motion by Patrick Driscoll to deny the request for rehearing. Seconded by Charles Hoyt. All in favor. 4-0.

Note: Patricia Weathersby reseated as chair. Shawn Crapo stepped down as Acting Chair and was seated as a regular member.

V. Applications:

- 1. Dan & Diane Conway for property owned and located at 2 West Road, Tax Map 7, Lot 37, request a Variance from Section 203.3 C for a porch within the front property boundary where 28' exists, 30' 26' is proposed and 40' is required. Property is in the Single Residence District. Case #25-2017.**

Dan Conway, applicant, stated that he is proposing two things. One is the west facing side of the house has a small porch with covered roof that is rotting and is falling apart. That needs to be replaced as a safety measure. The proposal is to expand it 20" to either side and 24" to the front. He noted that no windows will be changed on that portion of the house. They are simply expanding the existing porch and roof; 40" in width and 24" to the front. The second part of the project is the repair of a sunroom that looks like it has been tacked onto the house with materials from the 40's and 60's. It is a patchwork of materials and in some places the floorboards are rotting. The siding is inconsistent with the look and feel of the rest of the house. The proposal is to rehab that sunroom with no changes to the square footage, replacing all the rotting floorboards and the siding so it will be consistent with the rest of the house. The sunroom will be upgraded to keep it from rotting and falling apart. He noted that what is being proposed is not altering the square footage of the house in any way. It is not changing the use or occupancy of the house. It is not for commercial purposes. It is strictly for the residents of the house. This is preserving the classic colonial look that would add to the value of the surrounding neighborhood. He pointed out that they are not bulking out the property. (He submitted photos showing the existing home and the proposals.)

Member Mikolaities stated that the building inspector's letter states that in the front yard setback 40' is required, 28' exists and 30' is proposed.

Mr. Conway noted that it should read 26' instead of 30'.

Member Driscoll asked if they are looking for any relief for the sunroom.

Mr. Conway explained that the sunroom is being replaced and is not being expanded.

Member Hoyt asked if there is a foundation under the sunroom.

Mr. Conway replied that there is a stone foundation that is consistent with the rest of the house and that is not changing.

In looking at the dimensions, Mr. Conway stated that the front entryway may be another 6" to a foot closer to the rock wall.

Member Mikolaities stated that they should figure out the dimension to get it on the record.

Member Crapo stated that on the sketch the note on the right refers to the front entryway. He asked if would be acceptable to say from his existing he can add no more than 24".

Member Mikolaities stated that it should be clarified because this puts the building inspector in a bad position

There was discussion on the dimension from the corner to the setback.

Mr. Conway stated that he would be comfortable with 24'.

Member Hoyt asked if he would respect the dimensions in the sketch.

Mr. Conway confirmed.

Chair Weathersby opened to the public.

Joe Cummins, 990 Washington Road, asked if there will be any increase in the height of the porch.

Mr. Conway replied that it is not an enclosed porch. The height will not be changed at all.

Mr. Cummins spoke in support of the proposal.

Member Crapo asked if the sunroom is going to keep the same roof.

Mr. Conway clarified that the sunroom will be the same as it is now.

Hearing no further comments, Chair Weathersby closed the public hearing at 7:40 p.m.

The Board did not have any issues with the proposal.

Chairman Weathersby called for a vote relative to Section 203.3 C, for the front entry way being an additional 2' from the house and no closer than 24ft to the front boundary.

1. Granting the variance would not be contrary to the public interest?

Shawn Crapo - Yes

Charles Hoyt – Yes

Patrick Driscoll – Yes

Gregg Mikolaities – Yes
Patricia Weathersby – Yes

2. The spirit of the ordinance is observed?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes

Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

Motion by Patrick Driscoll to approve the application as proposed for Dan and Diane Conway for property owned and located at 2 West Road requesting a variance to Seciton 203.3 C for a front covered entryway within the front property boundary where 28ft exists, 24ft is proposed and 40ft is required. Seconded by Shawn Crapo. All in favor.

Note: Patricia Weathersby recused herself from the following application. Shawn Crapo stepped in as Acting Chair.

- 2. CWO Rev Trust, Carrie Webb Olson Trustee, for property owned and located at 610 Central Road, Tax Map 5.2, Lot 190, requests Variances from Section 603.1 for expansion of a non-conforming building; from Section 204.3 B for construction of a deck within the side setback 3.4' where 20' is required; and from Section 204.3E and 304.5 for lot coverage of 39.2% where 30% is allowed. Property is in the General Residence District and Coastal Overlay District. Case #28-2017.**

Carrie Webb-Olson, applicant, introduced herself to the Board. She introduced Attorney Tim Phoenix and Architect Robert Rodier.

Attorney Tim Phoenix, representing the applicant, spoke to the Board. He noted that the lot is 11,811sqf. (He reviewed the existing conditions plan for the Board.) The applicant is seeking relief because she would like to infill, with a deck, the area between the house and garage. There will also be a privacy fence along the outside of the deck. He continued that relief is

needed from 603.1 because the house is presently 1.9ft from the lot line. The infill is in the middle of the house and the garage and is in the side setback line. Relief is needed from 603.1 for the expansion. Relief is needed from 204.3B, side setback, for the same reason. He stated that they have asked for coverage relief but he questions whether this is needed. The building inspector's denial letter notes that the proposed lot coverage is 39.2%, where 30% is allowed. The building inspector may have gotten this number before Ms. Webb-Olson made some changes. What she has proposed to do, in return for putting this square footage in, she is going to remove a portion of her driveway, the turnaround, and make it a permeable surface. The net according to the engineer's plan has slightly decreased the impermeable coverage that exists of 37.5% to 37.4%.

Attorney Phoenix read a letter from **Michael Papoutsy, 166 West Road**, in support of the proposal. He noted that since this letter the Papoutsy property has sold. Ms. Webb-Olson has met with the new neighbors.

Ms. Webb-Olson stated that she has met with the neighbors and has shown them the plans. The neighbors are fine with the proposal and have agreed to write a letter if necessary.

Attorney Phoenix reviewed the criteria for granting the variances.

Attorney Phoenix noted that the applicant is aware that there are four members of the Board and is moving forward with that knowledge.

Member Mikolaities stated that the public notice says 39.2%. The plans say 37.5%. He asked if they are asking for 37.5%.

Attorney Phoenix confirmed that they are asking for 37.4%.

Referring to drawing A-1, Member Driscoll asked if this shows the trees that were removed.

Ms. Webb-Olson stated that no trees were removed. There were some that were trimmed and she can see right in to their backyard. The trees are in the neighbors' backyard.

Attorney Phoenix noted that the trees were trimmed by the neighbors.

Member Driscoll asked if the grade is going to be changed at all.

Robert Rodier, architect, replied that the grade is not going to change at all. The deck is going to come off of grade and connect to the existing wraparound deck.

Member Driscoll asked the type of material that is being proposed between the edge of the deck and the new fence.

Ms. Webb-Olson stated that right now it is grass.

Member Driscoll noted that he wants to be sure that any water from this property is not being shed onto the neighbors' property.

Hearing no further questions from the Board, Acting Chair Crapo opened to the public for comments or questions. Hearing no comments from the public, Acting Chair Crapo closed the public session at 7:57 p.m.

Member Hoyt commented it is pretty straight forward. He does not see any problems with the proposal.

Acting Chair Crapo stated that the ground back there is pretty beat up from the runoff from the roof. He does not see that a deck is going to change any type of runoff situation. He does not see the water changing any of the runoff dynamics. Obviously, the offset with the permeable driveway helps. The natural drainage in that area goes down towards the corner of the property closest to where the permeable driveway would be.

Member Mikolaities commented that he is fine with the proposal.

Acting Chair Crapo called for a vote on variances to Sections 603.1, 204.3 B, 204.3E and 304.5:

1. Granting the variances would not be contrary to the public interest?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

2. The spirit of the ordinance is observed?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

3. Substantial justice is done?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

4. The values of surrounding properties are not diminished?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes

Shawn Crapo - Yes

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

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

7. The proposed use is a reasonable one?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Shawn Crapo - Yes

Motion by Charles Hoyt to grant the CWO Rev Trust, Carrie Webb Olson Trustee, for property owned and located at 610 Central Road, the variances requested from Section 603.1 for expansion of a non-conforming building, from Section 204.3B for construction of a deck with a side setback of 3.4ft where 20ft is required and from Section 204.3E and 304.5 for lot coverage of 37.4% where 30% is allowed. Seconded by Patrick Driscoll. All in favor.

Note: Patricia Weathersby reseated as chair. Shawn Crapo stepped down as Acting Chair and was seated as a regular member.

- 3. Stacey Smith Rev Trust, Stacey Smith Trustee for property owned and located at 51 Central Road, Tax Map 12, Lot 36,** requests Variances from Section 603.1 for expansion of a non-conforming building; and from Section 203.3B for an addition within the side setback where 17.5' exists, 18' is proposed and 20' is required. **Property is in the Single Residence District. Case #29-1=2017.**

Stacey Smith, 51 Central Road, stated that she is proposing a small 7x10 addition, which will stick out just a little over into the setback. The addition will be 2.3ft into the setback on one end and 2ft on the other end; however, it does not stick out any further than the current building that is there, which was there long before there were setback requirements. She continued that the Board has copies of letters from the neighbors in their packets. (She reviewed the packet submitted to the Board regarding the proposal.)

Chair Weathersby clarified that the expansion is for the bump-out, which looks like a laundry room.

Ms. Smith confirmed.

Chair Weathersby asked if it will be single story.

Ms. Smith confirmed. She noted that there is a crawl space under the addition. There is a full basement under the rest of the house. The crawl space foundation will be connected to the rest of the house.

There was review on the setback numbers shown on the drawing.

Chair Weathersby opened to the public for comments or questions. Hearing none, she closed the public hearing at 8:08 p.m.

Vice-Chair Crapo it seems reasonable particularly because it is not encroaching anymore on the neighbor than what is already there. That is a vegetative non-used side of the neighbor's property. He does not think it is infringing on them given the placement of their home.

Chair Weathersby reopened the public hearing to acknowledge the letters received in support from:

- **Susan and Paul Vogelsang, 59 Central Road**
- **John Surprenant, 23 Meadow Lane**

Chair Weathersby reclosed the public hearing at 8:09 p.m.

Chair Weathersby stated that she agrees with Vice-Chair Crapo. The proposal is very reasonable and modest. It will have very little effect on the neighbors and they are in support.

Member Driscoll agreed.

Chair Weathersby called for a vote on variance to Sections 603.1 and 203.3B:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

Motion by Patrick Driscoll to approve the application of Stacey Smith Rev Trust, Stacey Smith Trustee for property owned and located at 51 Central Road as advertised. Seconded by Shawn Crapo. All in favor.

4. Sean Maxwell for property owned and located at 24 Park Ridge Ave, Tax Map 19.4, Lot 11, requests Variances from Section 204.3B for a shed within the side setback 8.5' where 20' is required and from Section 204.3E and 304.5 for lot coverage where 25% exists, 36% is proposed and 30% is allowed. Property is in the General and Coastal Overlay District. Case #30-2017.

Sean Maxwell, 24 Park Ridge Ave., spoke to the Board about his proposal for a shed, which will add 1% of additional impervious coverage to his property. The existing coverage is 35% and this will bring it to 36%. He is proposing to mitigate this by installing a rain capture system on the roof of the shed to use for his garden. He is also proposing to elevate the foundation of the shed to allow for stormwater to infiltrate. Referring to his map, he noted that there is an existing shed near the proposed area. The west side of the shed is a wooded area with no

structures near. The lot is a 2.76 acre lot and the shed would be far away from the neighbors. He continued that he has the approval of all nearby abutters. There was a shed on the property in 2001, which was removed. The shed is needed for outdoor storage, lawn equipment and bikes. The shed dimensions are 7.5x9ft.

The Board reviewed the proposal.

Chair Weathersby asked if the proposed location is the approximate location of the shed that came down in 2001.

Mr. Maxwell replied from what he understands it was in that area.

Chair Weathersby opened to the public for comments or questions. Hearing none, she closed the public hearing at 8:20 p.m.

The Board did not have any issues with the proposal.

Chair Weathersby called for a vote on variances to 204.3B, 204.3E and 304.5:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

Motion by Shawn Crapo to grant relief to Sean Maxwell, 24 Park Ridge Ave for a side setback of 8ft on either side of the shed where 20ft is required and lot coverage under Section 304.5 of 36%. Seconded by Charles Hoyt. All in favor.

- 5. Karl & Andrea Swanson for property owned and located at 320 Brackett Road, Tax Map 19, Lot 137, request an Administrative Appeal of the Building Inspector's 3/9/2017 letter. Property is in the Single Residence District. Case #31-2017.**
- 6. Karl & Andrea Swanson for property owned and located at 320 Brackett Road, Tax Map 19, Lot 137, request Variances from Section 203.1A to allow for two dwellings on one lot and from Sections 506.3D, M and N for an accessory dwelling in a detached building and from Building Code Relief from Section 7.9.1.2 for the continued use of septic system. Property is in the Single Residence District. Case #32-2017.**

Attorney Monica Kieser, representing the applicant, suggested that they address the variances first. If the variances are granted the administrative appeal can be withdrawn without prejudice.

The Board agreed.

Attorney Kieser explained that the property has a little cottage that was built around 1930. About 65 years later, another structure was built in the back to be used as a home and at the time the cottage would be used as a workshop. Thereafter, there was permission obtained for a relative to live there. The Swansons purchased the property in 2003. At that time, they understood that the cottage could be used as it was and they undertook some renovations in that regard. In terms of the criteria to address, she would put the relief for 203.1A and the building code waiver to 7.9.1.2 together. If that is successful, it may not be necessary for her to seek the second variance that is being requested to 506.3D.

Vice-Chair Crapo pointed out that two dwellings on one lot and an accessory dwelling are drastically different.

Attorney Kieser replied that she understands. She does not need both variances. She continued the criteria for both is the same. With respect to two dwellings on one lot, there is some information in the packets on the septic system that exists. There is a proper septic system in place. It has been inspected and the report is in the packet. (She reviewed the criteria for granting the variance for two dwelling units on one lot.) She stated that 506.3D, M and N are the sections that the Board of Adjustment have to look at. She will still need to go to the Planning Board to demonstrate to them that all the other criteria have been met. Section 506.3D looks at whether any unit constructed be maintained in a manner as to retain the appearance and character of the structure and site of a single family. She noted that she needs to ask for relief from that because while the two structures share similar characters and are esthetically pleasing they are separate structures. There is no way to conceal the fact that there are separate structures there.

Section 506.3D speaks to a common interior door and that is not the case here. She continued that relief is needed from 506.3N because this is a separate structure.

Attorney Kieser stated that the cottage is under 700sf. It has 1.5 bedrooms. There is a couple with a baby that currently live there now. In terms of the septic load, the cottage does not have a dishwasher or washing machine. There is one $\frac{3}{4}$ bath. She reiterated that the septic has been inspected and it is pumped yearly.

Vice-Chair Crapo asked if it is a separate system than what is at the house.

Attorney Kieser replied that it is a separate system because it is some distance away. The septic inspector has recommended that if the septic system fails and replacement is necessary the septic for the cottage be tied in with the house. There would be a separate pump tank that would pump to the cottage. The main house system would have to be expanded. The intent would be to upgrade the main house system to a four bedroom system. She continued the inspection indicates the cottage septic is nearing the end of its useful life so some preliminary recommendations have been made. She noted that the property has been before the Board in the past. The property had been expanded.

Vice-Chair Crapo stated that drawings show proposed additions which he believes are in place now.

Attorney Kieser replied that is correct.

Vice-Chair Crapo asked if a variance was granted. He asked if there were any conditions on those variances that might come in to play on this application.

Attorney Kieser stated that Phil Miles had the house originally when it was just the cottage. He is the one who obtained the permit to build the home in back. When the home was built there was a foundation for a garage that was not finished. The property was then sold to the St. Jeans who submitted an application to finish the garage with a living space above. The application was submitted in March of 2000. The building permit was for an addition to the house, two car garage, family room and screened porch. (She presented minutes from April 5, 2000 addressing the variances granted at that time. She also read from the Notice of Decision from April 5, 2000.)

Member Driscoll commented that was for the garage. He asked about the original house.

With respect to the original house, Attorney Kieser stated that had been built in 1930. There was a building permit issued by Bill Jenness to construct the second house in the back. That was granted without going to the Zoning Board in part because Mr. Miles, at that time, submitted the cottage would be a workshop. However, before the main house was complete, Mr. Miles wrote to Mr. Jenness and said he would like to have a relative live in the cottage and that was approved. (She noted that this information is in the Board's packets.)

Vice-Chair Crapo stated that at that time there was the former in-law apartment requirement.

Attorney Kieser stated this is why that may have been approved. There was no subsequent certification obtained from the Miles who sold the property in 1999 to the St. Jeans. Upon the sale of the property there was no recertification process that was initiated. It seems the property had been marketed to the St. Jeans as having a separate rental unit. The Swansons were under the assumption that the St. Jeans had rented the cottage; however, there is no specific evidence to that effect. There were no recertifications or issues taken against the St. Jeans while they were there. Also, when the St. Jeans went before the Board to finish the garage it was not raised as an issue. When the Swansons purchased the property, they were assured by the realtor that the property could be used by guests or others. There is a letter from Mr. Swanson stating that they had specifically addressed this with the building inspector at the time and were assured that it was permissible. After they purchased the property they sought a building permit to perform renovations to the existing guest/in-law cottage. A copy of that building permit application is in the Board's packet. That was approved with asterisks that it was not a rental unit. They have never used it as a rental unit. They have only used it for a nanny that took care of their daughter when she was young. Currently, the person that lives there looks after the property when the Swansons are away. She stated the building permit had been sought and approved with a stipulation that it not be a rental. It has not been a rental. The building inspector, Peter Rowell, took a different view as to the services the Swansons were getting in exchange for the person being able to live there. That is why the issue was raised and an in-law certification form was sent. Before that time, no certifications were sent to any owner of the property. She pointed out that assessor records for the property list it as 320 and 322 Brackett Road. The property is separately indicated as two separate buildings and are addressed differently.

Vice-Chair Crapo stated that 506.3F states that the property owner must reside on the property. If that is not an issue it can be looked at as an accessory dwelling.

Karl Swanson, applicant, confirmed that they live there now and intend to live there.

Chair Weathersby asked if the preference is to have two dwellings on one lot but as a backup they would do the accessory dwelling.

Attorney Kieser confirmed. The Board may grant the relief for the accessory dwelling unit but it doesn't mean the Planning Board is going to agree. She would rather have the two dwellings on one lot granted; however, it made sense to present the accessory dwelling as an alternative understanding that would present additional obligations.

Mr. Swanson stated that since 1995 there have been two residences on that property. It was never a workshop. The cottage has always had its own water and its own address. He continued that it is not a congested area. There is only one house that can be seen from the property. Across the street is conservation land. Behind the property is a 17 acre property and the house is down near the marsh. It is an isolated situation.

Referring to Exhibit 19, Member Mikolaities stated that there was a septic inspection that was done April 6, 2017 that states “poor or end of useful life”. The recommendation is to change the other septic system from a three bedroom system to a 4 bedroom system. He continued that the three bedroom system barely fits on the property. There is a note that says “the existing cottage to be used as workshop”. He asked the applicant to address the situation with the septic system since April 6th when the inspection was done. He asked what the plan will be if a bedroom is added to the property.

Attorney Kieser explained that no one is looking to add a bedroom to the property. What would happen is when the current septic system is replaced, it would be replaced with a tank that pumped up to the other leachfield and that would be expanded. She understands it is an old system; however, there are no breaks and there is regular pumping.

Member Mikolaities stated that he thinks there is an approved three bedroom septic system on the house. It is a three bedroom house; however, he thinks there is going to be a fourth bedroom. If there was a plan for a reserve system for four bedrooms he would feel a lot better. The burden is on the applicant to show that if this is allowed to be a dwelling, and the septic system fails, the lot can support four bedrooms.

Mr. Swanson stated that a septic system can be installed where the existing system is. The septic inspector recommended that tying into the main house would be the most cost effective way.

Chair Weathersby asked if there was any information that say this property can support a septic system, or two, for the four bedrooms.

Member Mikolaities explained it is about soil absorption and how much that “sponge” can absorb.

Attorney Kieser stated that part of the applicant’s focus was to document what is currently present. The Board has the ability to grant relief with conditions set upon it. In order for the applicant to get an accessory dwelling unit, he has to submit to the Planning Board NH DES approval that the septic system servicing the cottage, or accessory dwelling unit or the main house if that is incorporated, is sufficient.

Chair Weathersby asked if the wetland buffers have ever been delineated on the property. She asked if there is a sense of where they are.

Mr. Swanson stated that they are very clear.

Attorney Kieser explained that she did not ask for wetlands relief because it is not on the wetlands.

Chair Weathersby commented there are wetlands down by the cottage.

Mr. Swanson stated the wetlands are 40 yards away from the cottage.

Chair Weathersby asked if the entire property is outside the wetlands buffer.

Mr. Swanson replied except for the strip in the middle. Each house is at the furthest point away from the strip in the middle.

The Board reviewed the plans submitted in the packets.

Planning Administrator Kimberly Reed pulled the file on the property from the Building Department Office and submitted it to the Board. The Board reviewed the plans from 1995 and 1999 that were submitted to the Building Department.

Chair Weathersby opened to the public for comments or questions on the application. No comments were heard.

The Board continued to review the file from 1995 and 1999.

Chair Weathersby pointed out that the most recent approval was in 1999 for a three bedroom, 450 gallons per day tank with a 24 inch separation. There is also the original system for the cottage.

Attorney Kieser stated that the two dwellings on one lot is in synchronicity with the Master Plan when it talks about the need to preserve some of the lots that have two dwellings on one lot. Even though these are non-conforming, it allows other opportunities by allowing a young family to live somewhere that would not otherwise be able to afford to live in Rye and alternatively to allow an aging family to age in place.

Chair Weathersby closed the public hearing at 9:15 p.m.

Member Mikolaities asked if this kind of request has come before the Board before.

Chair Weathersby stated that up until recently the Zoning Board saw all the accessory apartments and if it met all the criteria it was approved. Since the change, it is now done by the Planning Board but they need some relief because they can't meet all the criteria. What is different in this case is the detached nature. She commented that there has been at least one other that was detached. There have also been some requests for two dwellings on one lot. One of the situations with two dwellings on one lot, is that the Board cannot stipulate that they remain under the same ownership. There have been requests where people have condominiumized and that cannot be prevented.

Vice-Chair Crapo commented there has also been two dwellings on one lot temporarily as one was being constructed and then the original unit was torn down.

Member Hoyt stated this is a unique one. It has been there for a while and is hidden away. He would be inclined to be in favor, except the septic system is a little vague. He wishes he had

better information and the wetlands were delineated properly. He stated that he does not have a problem with what is being requested but there is some information missing.

Member Mikolaities stated that he is okay with the concept. He is wrestling with the two units on one lot. He almost likes the idea of it going to the Planning Board. The second thing he is wrestling with is he really believes they called that a workshop because they could only get three bedrooms. He commented the burden is not on the Board to try and figure out what happened.

Chair Weathersby stated that if this was to be approved it could be conditioned on DES approval for either a four bedroom septic system for the main house that this would tie in to or a separate system. If they needed waivers they would have to come back to the Board again. If the Board decides to go the accessory unit route, they would have to have a DES approved septic plan for the cottage.

Vice-Chair Crapo commented that they would need a plan for a new plan or show that the existing system is adequate.

Member Driscoll stated that he thinks it is possible. The Board has seen a lot of technology for smaller more efficient systems.

Member Mikolaities noted that they submitted something that said in poor condition. The Board would be doing a disservice if it was not caught right now.

Member Driscoll pointed out that if they did not submit anything the Board would not listen without it. He continued that he likes the accessory dwelling for a couple of different reasons. For one, it makes it cleaner. The success of the property and what has been proposed is hinged on the relationship between those two units. That appeals the most to him. He is fairly familiar with the property. He thinks it functions in that neighborhood fine the way that it is with someone living there right now.

Chair Weathersby agreed. She thinks it is more protective of the Single Family Residence if the owner is on site and has a vested interest in making sure the property stays under the same ownership, is maintained and looks out for the best interest of the people in there. She is much more comfortable going the accessory apartment route. She is generally not in favor of two dwellings on one lot. In this case given the history of the property, she would go along with this one but only under the accessory dwelling tract.

Vice-Chair Crapo stated that he thinks this is the way to go with this case. If the Board goes forward with an ADU, would it be conditioned on the septic or is it inherent in 506G that this is just the burden they have? He pointed out that the Board cannot grant the ADU they can only grant the relief to the subsections.

Chair Weathersby stated they could condition it upon the adequacy of the on-site waste disposal system for the dwelling unit. She does not think they need to. (She read from Building Code Section 7.9.1.2) She commented that if the Board wants to be sure that DES does approve the system they could deny the building code waiver request.

Referring to 203.1 A, Chair Weathersby asked if everyone is clear on their position for two dwellings on one lot.

Member Driscoll stated that he is not in favor of the two dwelling units. He would vote against 203.1 A. He continued that he is in favor of the accessory dwelling unit, 506.3. He is going to vote for that. The building code relief he is going to vote against.

Chair Weathersby called for a vote to Section 506.3 D, M and N:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Shawn Crapo - Yes
Charles Hoyt – Yes
Patrick Driscoll – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

**Motion by Shawn Crapo to grant the relief requested to Section 506.3 D, M and N.
Seconded by Shawn Crapo. All in favor.**

Attorney Kieser withdrew the request for relief from Section 203.1A without prejudice and the administrative appeal without prejudice.

Chair Weathersby stated that this Board does not want the applicant to come back with a 203.1 A request. There is a feeling that this is not the route to go. She commented that the Planning Board cannot deny it if it meets all the criteria.

Attorney Kieser withdrew the request for building code relief to Section 7.9.1.2 without prejudice.

7. **Whittemore Family Exempt Trust, Gayle Whittemore, Alexandra Glickman, Trustees of 4091 Camellia Ave, Studio City, CA for property owned and located at 48 Straw's Point, Tax Map 8.4, Lot 89,** request Variances from Section 603.1 for expansion of a non-conforming building; from Section 303.C for expansion of garage and porch within the front setback 11.1' where 30' is required; from Section 203.3B for construction on a connector within the passageway side setback of 16.9' for the house and +/-2' for a patio where 20' is required; from Section 203.3B for construction within the Straw's Point side setback of 25.1' where 20' is required; from Section 203.3E and 304.5 for building coverage of 25% where 15% is allowed and lot coverage of 38.9% where 15% is allowed and from Building Code Relief Section 7.9.2.5 for septic system 5' from the front property line where 10' is required. **Property is in the Single Residence and Coastal Overlay District. Case #33-2017.**

- Continued to the November meeting. See motion above.

8. **Michael C. Appe, Trustee, Michael C. Appe Family Trust for property owned and located at 5 Libbey Lane, Tax Map 16, Lot 162-3,** request an Equitable Waiver of Dimensional Requirements from Section 203.3A for an inground swimming pool and related improvements in the rear setback; Sections 203.3E for lot coverage of 15.9% where 15% is allowed and from Section 301.8B (1) & (7) for swimming pool within the wetland buffer. **Property is in the Single Residence District. Case #34-2017.**

- Continued to the October meeting. See motion above.

9. **Michael C. Appe Trustee, Michael C. Appe Family Trust for property owned and located at 5 Libbey Lane, Tax Map 16, Lot 162-3,** requests Variances from Section 203.3A for an inground swimming pool and related improvements where 20.1 +/- exists 27.7' is proposed and 30' is allowed from the rear lot line; from Section 203.3E for lot coverage where 14.9% exists 15.9% is proposed and 15% is allowed; and from Section 301.8B (1) & (7) for surface alteration and structure (a) 69.6ft (alteration), 80.8ft (structure) from marsh where 94.0ft to deck exists and 100ft is required and (b) 35.1ft (alteration), 48.3ft (structure) from poorly drained soils where 55.9ft to decks exist and 75ft is required. **Property is in the Single Residence District. Case #35-2017.**

- Continued to the October meeting. See motion above.

Note: *Patrick Driscoll recused himself for the following application.*

- 10. Bressan Living Trust, Louis & Susan Bressan, Trustee for property owned and located at 300 Washington Road, Tax Map 16, Lot 183,** request Variances from Section 603.1 for an addition on a non-conforming structure, from Section 203.3B for an addition in the side setback where 5'8" exists, 5'8" is proposed and 20' is required and from Section 203.3B for addition with side setback of 15'3" where 20' is required. **Property is in the Single Residence District. Case #36-2017.**

The applicant was fine with moving forward with a four member Board.

Susan Bressan, applicant, stated that they are proposing an addition to their home at 300 Washington Road. The lot has 75ft of road frontage. The original house is well over both the side setbacks. The pitch of the roof will be changed from a 10 pitch to 12 to give a little more head room. The height of the roof will go from 22ft to 24.8ft. There will be more bulk in the air because of the higher roof. She pointed out that the addition goes over the property line towards the neighbor. It will be a 15.3ft setback where 20ft is needed. On the other side of the house is a paved driveway, concrete ramp and garage. The garage will be taken down and the driveway will be located there and this will give back some space on that side. She noted that the garage will be put around in the back.

The Board reviewed the drawings of the existing structure and the proposed.

Chair Weathersby asked if they are seeking relief for the east elevation and the roof.

Louis Bressan, applicant, confirmed. He explained they are changing the roof structure and adding about 900sf to the back.

Mrs. Bressan stated that they have spoken to all the neighbors and they are in favor.

Chair Weathersby read letters of support from:

- Mike and Jan Carroll, 305 Washington Road

Member Mikolaities stated that there has been discussion all night about septic systems.

Mrs. Bressan stated that they will need a new septic system.

Mr. Bressan explained the house currently has a two bedroom septic. As part of construction a brand new septic system will be put in. Pending this hearing, they are going to engage a septic designer. He continued that they have met with Alex Ross and have showed him the site plan. (He pointed out the location of the current system on the plan for the Board.)

Chair Weathersby opened to the public for comments or questions. Hearing none, she closed the public hearing at 9:50 p.m.

Vice-Chair Crapo stated it is a pretty narrow lot. He thinks they are getting creative by losing that side. It becomes more conforming down the middle.

Chair Weathersby agreed. She thinks it is reasonable and tasteful. She likes that they are going to put a new septic in.

Chair Weathersby called for a vote for relief to Sections 603.1, 203.3B:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo – Yes
Charlie Hoyt – Yes
Gregg Mikolaities – Yes

Patricia Weathersby - Yes

- 6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?**

Shawn Crapo – Yes

Charlie Hoyt – Yes

Gregg Mikolaities – Yes

Patricia Weathersby - Yes

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

Shawn Crapo – Yes

Charlie Hoyt – Yes

Gregg Mikolaities – Yes

Patricia Weathersby - Yes

- 8. Therefore, literal enforcement would result in unnecessary hardship?**

Shawn Crapo – Yes

Charlie Hoyt – Yes

Gregg Mikolaities – Yes

Patricia Weathersby – Yes

Motion by Charles Hoyt to grant the request of Bressan Living Trust, Louis & Susan Bressan, Trustee for property owned and located at 300 Washington Road, for variances from Section 603.1 for an addition on a non-conforming structure, from Section 203.3B for an addition in the side setback where 5'8" exists, 5'8" is proposed and 20' is required and from Section 203.3B for addition with side setback of 15'3" where 20' is required. Seconded by Shawn Crapo. All in favor.

Note: Patrick Driscoll was reseated.

- 11. Russ Bookholz of NH Seacoast Property Maintenance, LLC for The Ocean Sands Condominium Association for property owned and located at 1025-1031 Ocean Blvd, Tax Map 8, Lot 43, requests a Variance from Section 210.3C for installation of a generator and LP tank 7' from the front property line where 15 +/- exists; from Section 210.3A for installation of a generator and LP tank 6' from the rear property line where 12 +/- exists. Property is in the Business and Coastal Overlay Districts. Case #37-2017.**

Russ Bookholz, representing Ocean Sands Condo Association, presented the proposal for the installation of two generators with two small 120 gallon propane tanks at the Ocean Sands

Condominiums. One of the generators is being installed at the front of the building and needs front setback relief. The other generator will be located at the rear of the building. The site is tight and the two locations are the best for the generators. He noted that the tanks will be up against the building in the front and will be located 8ft from the generators. The tanks will be above ground but will be hidden by some landscaping.

Chair Weathersby asked if they have spoken to the neighbors to the west.

Mr. Bookholz stated that they are hardly ever at their property and he has not spoken with them. The generator in the rear will be 7ft from their house. The overhang of their house is a foot onto the property line. He noted that the generators will have a pad and will be fully automatic generators.

Member Hoyt asked the size of the pad.

Mr. Bookholz replied 4ft by 2.5ft.

There was review and discussion on the location of the proposed generators.

Chair Weathersby opened to the public for comments or questions. Hearing no comments, she closed the public hearing at 10:03 p.m.

Member Driscoll commented that it is really close to the neighbor's house.

Chair Weathersby stated the house is on the property line. She pointed out that they are not present to object. She noted that her struggle is with the second generator in the rear. She would like it to go somewhere else but she understands the difficulties. She is fine with the one in the front.

Member Hoyt asked if the one in the rear could be located in the front.

Mr. Bookholz explained that there is not an area that is big enough for the second generator. The propane tanks could not go in the front of the building so the driveways would have to be ripped up for the tanks to go underground.

Member Driscoll stated that every generator does that test that happens once a week or once a month. He is okay with the proposal, as long as, it is only going on when needed and for that test run. There is nothing to say that this generator is not going to run more often.

Chair Weathersby noted that it has been represented that this is the case; however, it can certainly be put in as a condition.

Chair Weathersby opened the public hearing.

Mr. Bookholz stated that he has installed probably ten or fifteen of these units. The generators are usually set to run at noon time. They will run for thirty minutes once per week. Other than

that, the generators will not run unless the power is out. He reiterated that the only time they will run is during their test cycle to recharge the battery and during a power outage. Chair Weathersby reclosed the public hearing at 10:11 p.m. She asked the Board if they feel a need to attach any conditions regarding the testing cycle.

The Board did not feel conditions were necessary.

Chair Weathersby called for a vote for relief to Sections 210.3C and 210.3A:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby – Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby – Yes

Motion by Shawn Crapo to grant the relief requested for Ocean Sands Condominium located at 1025-1031 Ocean Blvd, from Section 210.3C for installation of a generator 7ft from the front property line where 15 +/- exists and from Section 210.3A for installation of a generator 6ft from the rear property line where 12 +/- exists. Seconded by Patrick Driscoll. All in favor.

- 12. Peggy Arend of Granite State Home Improvements, Inc for James & Sally Sanderson for property owned and located at 1373 Ocean Blvd, Tax Map 17.4, Lot 14,** requests Variances from 603.1 for expansion of a non-conforming structure and from Section 204.3B for the addition of a second story 8'x8' deck with a proposed side setback of 6' +/- where 1' +/- exists and 20' is required. **Property is in the General and Coastal Overlay Districts. Case #38-2017.**

Peggy Arend, representing the applicants, presented the proposal for an 8'x8' deck on the second story off the front of the house. The boundary line is 1.4ft from the existing structure. The proposed deck would be 6ft in from that same boundary. On the south side, it is 58ft from Philbrick's cottages. She noted that there are letters in the packets from Dan Philbrick and the Drapeus indicating that they are in support of the proposed deck.

Chair Weathersby read the letters from:

- Joan and Bill Drapeau
- Dan Philbrick

Chair Weathersby asked if the proposed side setback is 5ft or 6ft.

Ms. Arend replied that it is 6ft from the marker but 5ft from the existing foundation. It is 6ft to the boundary line.

Vice-Chair Crapo asked what the closest point is to the boundary.

Ms. Arend replied 5ft.

The Board reviewed the proposal.

Chair Weathersby noted that she had questioned the Building Inspector as to why they did not need front setback relief. The deck just meets the requirement, even though the house is fairly close to the road.

Chair Weathersby opened to the public for comments or questions. Hearing none, she closed the public hearing at 10:25 p.m.

Chair Weathersby called for a vote for relief to Sections 603.1 and 204.3B:

1. Granting the variances would not be contrary to the public interest?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes

Patricia Weathersby - Yes

2. The spirit of the ordinance is observed?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

3. Substantial justice is done?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

4. The values of surrounding properties are not diminished?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

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

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby – Yes

6. There is no fair and substantial relationship between the general purpose of the ordinance provisions and the specific application of those provisions to the property?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

7. The proposed use is a reasonable one?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby - Yes

8. Therefore, literal enforcement would result in unnecessary hardship?

Shawn Crapo – Yes
Charlie Hoyt – Yes
Patrick Driscoll - Yes
Gregg Mikolaities – Yes
Patricia Weathersby – Yes

Motion by Patricia Weathersby to grant the relief requested by James and Sally Sanderson, represented by Peggy Arend, for property owned and located at 1373 Ocean Blvd, for variances to Section 603.1 for expansion of a non-conforming structure and from Section 204.3B for the addition of a second story 8'x8' deck with a proposed side setback of 5ft. Seconded by Shawn Crapo. All in favor.

Adjournment

Motion by Charles Hoyt to adjourn at 10:30 p.m. Seconded by Shawn Crapo. All in favor.

Respectfully Submitted,
Dyana F. Ledger

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant: Sarah Baybutt, 10 Berry Brook Lane, Map 22, Lot 48

Owner: Thomas J. Aspinwall

Property: 236 Sagamore Road, Tax Map 22, Lot 53
Property is in the Single Residence District

Application case: Case # 24-2017

Date of decision: September 6, 2017

Decision: The Board voted 4-0 to deny the Applicant's request for a Rehearing and Reconsideration of the Rye Board of Adjustment's August 2, 2017 approval of Thomas J. Aspinwall 236 Sagamore Road, Tax Map 22, Lot 53 Variance from Section 203.1 to allow a pest control business office with materials, equipment and vehicle storage within the existing barn on the property the reason that the applicant's request did not merit a rehearing.


Shawn Crapo
Vice-Chairman

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

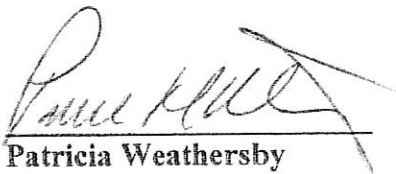
Applicant/Owner: Dan & Diane Conway

Property: 2 West Road, Tax Map 7, Lot 37
Property is in the Single Residence District

Application case: Case # 25-2017

Date of decision: September 6, 2017

Decision: The Board voted 5-0 to grant the applicants a Variance from Section 203.3 C for a front portico located 24' from the front property boundary.



Patricia Weathersby
Chairman

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: CWO Rev Trust, Carrie Webb Olson Trustee

Property: 610 Central Road, Tax Map 5.2, Lot 190
Property is in the General Residence

Application case: Case # 28-2017

Date of decision: September 6, 2017

Decision: The Board voted to 4 to 0 to grant the applicant's request from Section 603.1 for expansion of a non-conforming building; from Section 204.3 for construction of a deck 3.4' within the side property boundary; and from Section 304.5 for lot coverage of 37.4%.


Shawn Crapo
Vice-Chairman

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

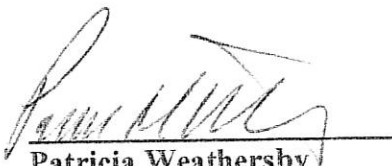
Applicant/Owner: Stacey Smith Rev. Trust, Stacey Smith Trustee

Property: 51 Central Road, Tax Map 12, Lot 36
Property is in the Single Residence District

Application case: Case # 29-2017

Date of decision: September 6, 2017

Decision: The Board voted 5-0 to grant the applicant Variances from Section 603.1 for the expansion of a non-conforming building and from Section 203.3 B for an addition located 18' from the side property boundary.



Patricia Weathersby
Chairman

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:

Sean Maxwell

Property:

24 Park Ridge Ave, Tax Map 19,4, Lot 11

Property is in the General Residence and Coastal Overlay District

Application case:

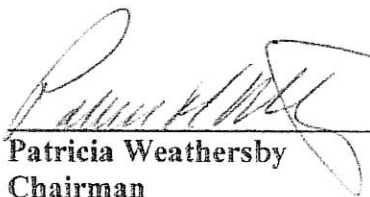
Case # 30-2017

Date of decision:

September 6, 2017

Decision:

The Board voted 5-0 to grant the applicant Variances from Section 204.3 B for a shed located 8.5" from the side property boundaries and from Section 304.5 for lot coverage of 36% .



Patricia Weathersby
Chairman

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:

Karl & Andrea Swanson

Property:

320 Brackett Road, Tax Map 19, Lot 137
Property is in the Single Residence District

Application case:

Cases # 31-2017 and #32-2017

Date of decision:

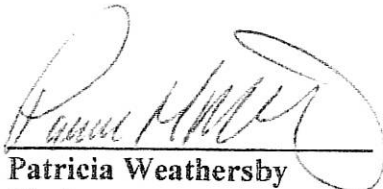
September 6, 2017

Decision:

The Board voted 5-0 to grant the applicants Variances from Zoning Ordinance Sections 506.3 D, M and N relative to a detached accessory dwelling unit.

Note: The Applicant withdrew the following requests, without prejudice:

- Variance from Section 203.1A
- Relief from Building Code Section 7.9.1.2; and
- Administrative Appeal of the Building Inspector's letter of March 9, 2017.



Patricia Weathersby
Chairman

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:

Whittemore Family Exempt Trust, Galye Whittemore, Alexandra Glickman, Trustees of 4091 Camellia Ave, Studio City, CA

Property:

48 Straw's Point, Tax Map 8.4, Lot 89
Property is in the Single Residence District and Coastal Overlay District

Application case:

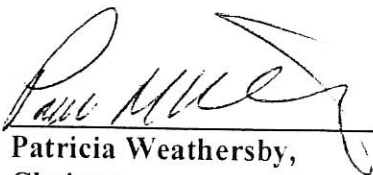
Case # 33-2017

Date of decision:

September 6, 2017

Decision:

The Board voted unanimously to continue the applicant's request for Variances from Section 603.1 for expansion of a non-conforming building; from Section 203.3 C for expansion of garage and porch within the front setback 11.1' where 30' is required; from Section 203.3B for construction on a connector within the passageway side setback of 16.9' for the house and +/- 2' for a patio where 20' is required; from Section 203.3 B for construction within the Straw's Point side setback of 25.1' where 20' is required; from Section 203.3E for building coverage of 25% where 15% is allowed and lot coverage of 38.9% where 15% is allowed and from Building Code Relief Section 7.9.2.5 for septic system 5' from the front property line where 10' is required to the November 1, 2017 meeting.



Patricia Weathersby,
Chairman

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 C. Appe, Trustee, Michael C. Appe Family Trust

Property:

5 Libbey Lane, Tax Map 16, Lot 162-3
Property is in the Single Residence District

Application case:

Cases # 34-2017 and \$35-2017


Date of decision:

September 6, 2017

Decision:

The Board Voted Unanimously to continue the Applicant's request for an Equitable Waiver of Dimensional Requirements from Section 203.3A for an inground swimming pool and related improvements in the rear setback; Sections 203.3 E for lot coverage of 15.9% where 15% is allowed and from Section 301.8B (1) & (7) for swimming pool within the wetland buffer to the October 4, 2017 meeting.

The Board Voted Unanimously to continue the Applicant's request for Variances from Section 203.3A for an inground swimming pool and related improvements where 29.1 +/- exists 27.7' is proposed and 30' is allowed from the rear lot line; from Section 203.3 E for lot coverage where 14.9% exists 15.9% is proposed and 15% is allowed; and from Section 301.8B(1) & (7) for surface alteration and structure (a) 69.6 ft. (alteration), 80.8 ft. (structure) from marsh where 94.0 ft. to deck exists and 100 ft. is required and (b) 35.1 ft. (alteration), 48.3 ft. (structure) from poorly drained soils where 55.9 ft. to decks exists and 75 is required to the October 4, 2017 meeting.



Patricia Weathersby,
Chairman

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:

Bressan Living Trust, Louis & Susan Bressan, Trustees

Property:

300 Washington Road, Tax Map 16, Lot 183
Property is in the Single Residence District

Application case:

Case # 36-2017

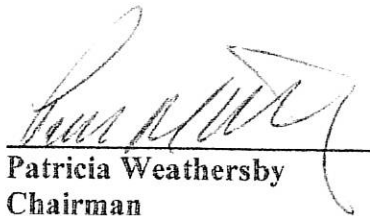
Date of decision:

September 6, 2017

Decision:

The Board voted 4-0 to grant the Applicants Variances from the following Sections of the Zoning Ordinance:

- 603.1 for an addition to a non-conforming structure;
- 203.3B for an addition raising the height of the roof where the building is located 5'8" from the side property boundary; and
- 203.3B for an addition located 15'3" from the side property boundary.



Patricia Weathersby
Chairman

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:

Russ Bookholz of NH Seacoast Prop. Maintenance, LLC (on behalf of owner)

Owner:

The Ocean Sands Condominium Association
Tax Map 8, Lot 43

Property:

1025-1031 Ocean Blvd, Tax Map 8, Lot 43
Property is in the Business and Coastal Overlay District

Application case:

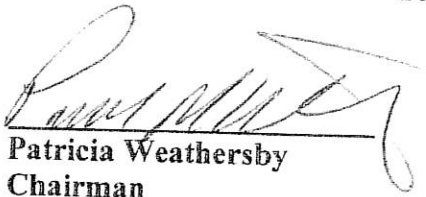
Case # 37-2017

Date of decision:

September 6, 2017

Decision:

The Board voted 5-0 to grant the Applicant Variances from Section 210.3C for a generator located 7' from the front property boundary and from Section 210.3A for a generator 6' from the rear property boundary.



Patricia Weathersby
Chairman

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:

Peggy Arend of Granite State Home Improvements, Inc.(on behalf of owner)

Owner:

James and Sally Sanderson of 1373 Ocean Blvd
Tax Map 17.4, Lot 14

Property:

1373 Ocean Blvd, Tax Map 17.4, Lot 14
Property is in the General Residence and Coastal Overlay

Application case:

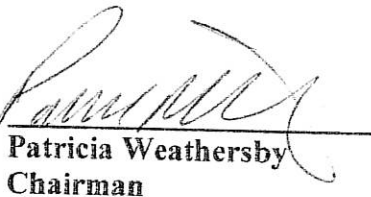
Case # 38-2017

Date of decision:

September 6, 2017

Decision:

The Board voted 5-0 to grant the Applicant Variances from Section 603.1 for the expansion of a non-conforming structure and from Section 204.3 B for an addition of a second-story 8' x 8' deck located 5' from the side boundary.



Patricia Weathersby
Chairman

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.

**HOEFLE
PHOENIX
GORMLEY &
ROBERTS, P.A.**

ATTORNEYS AT LAW

127 Parrott Avenue, Post Office Box 4480
Portsmouth, New Hampshire, 03802-4480

Telephone: (603) 436-0666

Facsimile: (603) 431-0879

September 6, 2017

**VIA EMAIL (kreed@town.rye.nh.us) &
HAND DELIVERED**

Rye Zoning Board of Adjustment
Town of Rye
10 Central Avenue
Rye, NH 03870

Re: Objection to Motion for Rehearing
236 Sagamore Road
Tax Map 22, Lot 53

Dear Members of the Board of Adjustment:

On behalf of Thomas J. Aspinwall, please accept the following in objection to the Request for Rehearing in the above-referenced case submitted by Sarah Baybutt on September 1, 2017.

The New Hampshire Supreme Court has clearly stated that a "rehearing is not a matter of right" and "in the interest of finality of decisions by zoning boards, rehearings should not lightly be granted." McDonald v. Town of Effingham Zoning Bd. Of Adjustment, 152 N.H. 171 (2005). Rehearing is proper only where the affected party can show technical error or produce new evidence that was not available at the time of the first hearing. Loughlin, 15 New Hampshire Practice, Land Use Planning and Zoning, Section 21.08 (4th Ed. 2010). Moreover, according to The Board of Adjustment in New Hampshire: A Handbook for Local Officials (NH Office of Energy and Planning, November, 2015, p. IV-4):

DANIEL C. HOEFLE
dhoefle@hpgrlaw.com
also admitted in Massachusetts and New York
R. TIMOTHY PHOENIX
tphoenix@hpgrlaw.com
also admitted in Maine
LAWRENCE B. GORMLEY
lgormley@hpgrlaw.com
also admitted in New York
STEPHEN H. ROBERTS
sroberts@hpgrlaw.com
also admitted in Virginia
R. PETER TAYLOR
ptaylor@hpgrlaw.com
also admitted in Maine
JOHN AHLGREN
jahlgren@hpgrlaw.com
also admitted in Maine and California
KIMBERLY J. H. MEMMESHEIMER
kmemmesheimer@hpgrlaw.com
also admitted in Maine
MATTHEW G. STACHOWSKI
mstachowski@hpgrlaw.com
also admitted in Massachusetts
KEVIN M. BAUM
kbaum@hpgrlaw.com
MONICA F. KIESER
mikieser@hpgrlaw.com
also admitted in Massachusetts

Of Counsel:
SAMUEL R. REID
sreid@hpgrlaw.com
also admitted in Maine

It is assumed that every case will be decided, originally, only after careful consideration of all the evidence on hand and on the best possible judgment of the individual members. Therefore, no purpose is served by granting a rehearing unless the petitioner claims a technical error has been made to his detriment or he can produce new evidence that was not available to him at the time of the first hearing...

No Technical error exists nor has any new evidence been produced to justify a rehearing. The filing is merely a restatement of the claims made in Ms. Baybutt's original letter. As such, the request must be denied.

Notwithstanding the lack of new evidence or errors of law, Mr. Aspinwall is compelled to address several of the statements raised in the Rehearing Request. There was no error in the ZBA's decision not to read the entirety of Ms. Baybutt's lengthy letter into the record. Despite the fact that it was submitted to the ZBA the day of the hearing, the ZBA members read and fully considered the letter before making its decision.

As for the claim that "unnecessary hardship" was never explained, this criteria was addressed in detail at the hearing and in Mr. Aspinwall's Variance Application. See Variance Application cover letter pp. 8-9. That Ms. Baybutt disagrees with the ZBA's decision does not constitute error or new evidence and is not proper grounds for rehearing.

Ms. Baybutt's request addresses several provisions of Section 203.2k of the Ordinance. These provisions relate to home occupations and do not apply to Mr. Aspinwall's requested relief. While Mr. Aspinwall indicated that the use was similar to permitted Home Occupation uses, he was clear in stating that he was seeking a variance for his use, not approval as a home occupation.

The claim that zoning compliance has been "disregarded" is entirely meritless and unfair to both Mr. Aspinwall and the Town. Mr. Aspinwall has responded to and addressed all inquiries by the Town in both 2001 and 2017.

In summary, the request for rehearing raises no new facts or issues of law not considered by the ZBA at its August 2, 2017 meeting. The ZBA acted reasonably and properly in granting Mr. Aspinwall's Variance Application. The ZBA committed no error in making its determination nor has Ms. Baybutt provided any new evidence to

justify rehearing. Ms. Baybutt's disagreement with the outcome is not adequate grounds. Accordingly, we respectfully request that the ZBA deny Ms. Baybutt's Request for Rehearing of its August 2, 2017 decision.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Kevin M. Baum', with a stylized flourish at the end.

Kevin M. Baum

KMB/dmw

cc: Thomas J. Aspinwall

Sept 1, 2017

3:48 pm

~~Aug 31, 2017~~

Town of Rye- Zoning Board

From Sarah Baybutt

10 Berry Brook Lane MAP 22 BLOCK 048

Re: Case 24-2017 Application of variance to allow business in residential district

I am writing to ask that the board grant a re-hearing for the above case in regards to Rye zoning ordinance 203.1.

I feel the decision of the board to allow this variance is in error due to omission of consideration of the cited facts of non-compliance.

I was unable to attend the meeting, so I provided a letter explaining my objections to the variance. Although the letter was put "on the record", it was not read out loud and only one point was discussed. I respectfully request that you take the time to read this letter.

This case started at 1:51:00 into the meeting and concluded at 2:50:00. During these 59 minutes, the applicant's lawyer reviewed and discussed his client's case for 54 minutes, while my concerns were discussed for 5 minutes. (And 2 minutes of the discussion of my concerns was the applicant's lawyer making comments about my letter to fit his argument in favor of the variance. (2:36:00 - 2:38:30))

In addition, at 2:35:00 - when the applicant's lawyer was finished, the vice-chair stated that due to its length, my letter would not be read.

And yet another letter was read out loud. (2:37) (Was my letter not read due to its dissent?)

There were no explanations as to why the following ordinances were not upheld other than the business has been operating for 28 years and not granting the variance would cause "unnecessary hardship" What hardship? This was also never explained.

203.2k3 *"not more than 3 persons in addition to the proprietor shall be employed in the business."* There are now 5

203.2K5 *"there shall be no more than 2 commercial vehicles kept at the premises".* There are 4 trucks and 2 trailers. Not only did you agree with this exception but you are allowing one additional truck (2:42 - 2:44 - discussion of allowing one more truck due to growth in the business)

203.2K6 *"All parking associated with the business use shall be screened from adjacent properties."* The vehicles and trailers are clearly visible.

203.2K7 *"The following business uses are prohibited: uses which involve the storage of hazardous materials"* Current storage of flammable, toxic pesticides are on the property. (possible bias towards pesticide use as vice chair has license 2:36)

203.2K10 "the business shall not detract from the residential character of the neighborhood or the abutting properties." The existence of all the other non-compliant issues above point to loss of residential character as well as the following: Two potential buyers withdrew their interest in purchasing an abutting residential property due to the presence of the business and evidence there of. This could happen to me or any of the other owners on Berry's Brook Lane. This affects property value in that the properties are less desirable to the market. (2:06 their real estate agent says there is not negative effect, my real estate agent says there is)

disregarded
This is the **fourth** time that these ordinances have been brought to the town's attention and ~~ignored~~ *disregarded*. (As stated at the meeting: in 2001, by the building inspector; in early 2017 by an abutter, in June 2017 by the current building inspector and in Aug 2017 by another abutter.)

I would like to know why the zoning board disregards these issues? Why does the zoning board disregard my concerns? Why does the zoning board disregard the building inspector's concerns? Why does the zoning board allow the lawyer of the applicant to set the conditions under which the variance is accepted? (2:02 and 2:23)

The point of these regulations regarding a business in a residential area relate to the size of the business, which if too large will impact the "residential character of the neighborhood" (203.2K10)

When Tom's business started in 1989 there was one truck and one employee...28 years later, there are 4 trucks, 2 trailers and 5 ½ employees. This type of growth is healthy and a positive thing for any owner. But it also makes his business not appropriate for a residential neighborhood any more. Tom's business had grown to the point that even HE decided to move it off-site to a commercial property in Newington in 2009.

It is the board's job to treat each party fairly and to represent both parties equally. As many of you may know, I have spent 15 years volunteering hundreds of hours teaching Rye Girls Scouts- including some of your daughters - that we need to treat people fairly. I would like the opportunity to state my case, and for this as well as the other reasons stated herein, I respectfully request a re-hearing.

Respectfully Submitted

Sarah R Baybutt
Sarah R Baybutt

10 Berry Brook Lane
603 433 9062

Zoning Board of Adjustment
Town of Rye
10 Central Road
Rye, NH 03870-0429

July 8th, 2017

Re: Olson, Carrie Webb – 610 Central Road - Application for Variance

Dear Sirs:

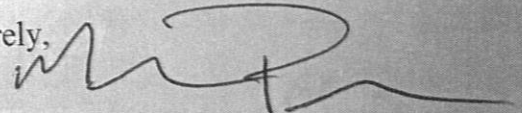
My family and I live at 166 Perkins Road, directly alongside the rear property line of Carrie Webb Olson, where the proposed deck construction and privacy fence would be erected.

Ms. Olson has shared the architectural drawings for the proposed deck construction and accompanying privacy fence with me. I have had an opportunity to review these materials and ask questions about the plan.

In my opinion, the proposed deck addition will be an upgrade to the existing landscape, improve the privacy of both property owners and will enhance the appearance of the neighborhood.

Please feel free to call me or my wife Helena Papoutsy if you have any questions or would like to discuss this letter.

Sincerely,



Mikel C. Papoutsy
166 Perkins Road
Rye, NH 03870
Mobile: (603) 770-2146

Kim Reed

From: Dan Philbrick <danphilbrick@icloud.com>
Sent: Wednesday, September 6, 2017 9:02 AM
To: Kim Reed
Subject: Variances for 1373 Ocean Blvd

Good morning Kim,

It has come to our attention through your certified mail notice that our direct neighbors at 1373 Ocean Blvd are requesting variances to install an 8x8 deck.

We are in full support of our neighbor's request and hope that their application for variances are approved. They are respectful and responsible neighbors and we are confident that any changes they make will be esthetically pleasing. We are also confident that this minor expansion will have no adverse effect to our property or the neighborhood.

Respectfully,
Dan Philbrick

Sent from my iPad

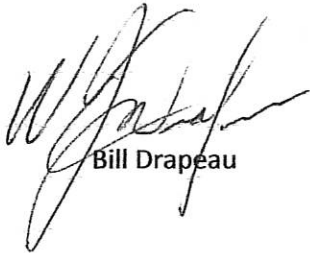
August 31, 2017

Dear Members of the ZBA,

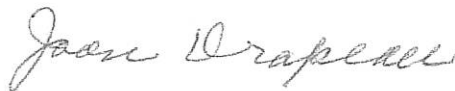
We reside at 1369 Ocean Boulevard, and are longstanding neighbors of the Sandersons at 1373 Ocean Boulevard.

We are in full support of their proposed deck, its location, and design.

Respectfully,



Bill Drapeau



Joan Drapeau



From: Susan Vogelsang [<mailto:susanvogelsang@gmail.com>]

Sent: Monday, July 31, 2017 6:33 PM

To: ssmith@jjwpr.com

Cc: dad

Subject: Nice meeting you - addition

Hi, Stacey,

It was great to meet you in July. Thanks for your kindness to Beth, our daughter.

We got the Rye Town notice of your addition. While 3 grandkids and a big family and a job hunt prevent me from writing directly to the town in an articulate way to support the request, please feel free to tell the town that we ENDORSE your addition request without reservation. If they contact us, we will so state.

Hope this helps.

With kind regards,

Susan & Paul, your neighbors at 59 Central