

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, March 19, 2024 – 6:00 p.m.
Rye Public Library**

***Members Present:* Don Cavallaro, Peter Moynahan, Bob Eberhart, Chair Patricia Losik, Vice-Chair JM Lord, Selectmen's Rep. Bill Epperson, Steven Borne, Bill MacLeod**

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

I. Call to Order

Chair Losik called the meeting to order and invited all board and staff members to introduce themselves.

II. Appointment of:

a. Chair, Vice-Chair, and Clerk.

**Motion by Steven Borne to appoint Patricia Losik to Chair of the Planning Board.
Seconded by Bill Epperson.**

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

**Motion by Bill Epperson to appoint JM Lord to Vice-Chair of the Planning Board.
Seconded by Steven Borne.**

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

**Motion by Bill Epperson to appoint Steven Borne to Clerk of the Planning Board.
Seconded by JM Lord.**

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

b. Alternates to the Planning Board for Consideration

Motion by Steven Borne to appoint Kevin Brandon and John Shaw as alternates for the Planning Board. Seconded by JM Lord.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

John Shaw was sworn in by Planning/Zoning Administrator Reed.

Chair Losik noted that Alternates, Katie Sherman and Jim Finn, and former Clerk, Steve Carter, are taking a break from their service on the board.

c. Board Members and Alternates to Committees

i. TRC (3 Members)

Motion by Steven Borne to appoint Bill MacLeod, Don Cavallaro, and JM Lord to the Technical Review Committee. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Patricia Losik to appoint JM Lord to Chair of the TRC. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

ii. Rules and Regulations (3 Members)

Chair Losik discussed the responsibilities of the Rules and Regulations Committee, noting that substantive updates to the Land Development Regulations were approved in September 2022. She also discussed the significant work on zoning ordinances in 2022. She discussed the Master Plan and stated that the board may receive the NHHOP Grant.

The board discussed members' interest in serving on the Rules and Regulations Committee. Members Moynahan and Shaw expressed interest; Chair Losik suggested that Member Moynahan may be a good candidate to serve on the Master Plan Steering Committee.

Motion by JM Lord to appoint Patricia Losik, Don Cavallaro, and John Shaw to the Rules and Regulations Committee. Seconded by Steven Borne.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Steven Borne to appoint Patricia Losik to Chair of the Rules and Regulations Committee. Seconded by JM Lord.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

The board discussed the role of the Chair for the Master Plan Steering Committee, the need for Planning Board members on that Committee, and the different responsibilities of the Master Plan Steering Committee and the Long-Range Planning Committee.

Motion by Steven Borne to appoint Peter Moynahan to the Master Plan Steering Committee. Seconded by Don Cavallaro.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

iii. Long-Range Planning (3 Members)

Motion by JM Lord to appoint Patricia Losik, Steven Borne, and Bob Eberhart to the Long-Range Planning Committee. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Patricia Losik to appoint Steven Borne to Chair of the Long-Range Planning Committee. Seconded by JM Lord.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

iv. CIP (1 Member)

Motion by Steven Borne to appoint Kevin Brandon as representative for the Planning Board on the Capital Improvement Plan. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Motion by Steven Borne to appoint Peter Moynahan as Chair of the Master Plan Steering Committee. Seconded by Patricia Losik.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

Chair Losik clarified that Rob Wright would continue as a member, Peter Moynahan would continue as Chair, and she would continue as an ad-hok member. She also noted that Joe Persechino was named as an adhok member, but has functioned as a regular member of the public group of five.

Planning/Zoning Administrator Reed stated that all five members of the public are committed through 12/2024.

Motion by Steven Borne to appoint Patricia Losik to the Master Plan Steering Committee. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, P. Moynahan, D. Cavallaro in favor)

III. Determination of Completeness:

- a. Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance. Property is in the Single Residence District. Case #02-2024.**

Shannon Alther of TMS Architects outlined the project. He explained the plan to renovate the house and create an ADU for the applicant's mother. Mr. Alther presented existing and proposed conditions, including the proposed 3-bay garage and ADU. He addressed comments in the application regarding parking, water, and septic. Millennium Engineering helped with the septic design and suggested that this would be a part of the conditions of approval. He noted that information exists in the town folder from 20 years prior; there is language in the record regarding the septic location. The proposed plan would clean it up officially and be submitted to the town as a part of the approval and building permit process. He discussed the criteria and stated that they would aim to use similar architecture to keep the appearance cohesive.

Member Cavallaro asked about the rough locations of the leach field. Mr. Alther stated that the proposed unit would have its own tank and liquids would be pumped up. He stated that they're working with Brian Kennison on the design as well as Millennium Engineering.

Member Cavallaro noted that the added load would require a bigger leach field. Mr. Alther agreed and stated that the leach field would be replaced to accommodate the existing house and the proposed one-bedroom. He confirmed that it would be an advanced system.

Member Moynahan recused himself as he is an abutter to the property, John Shaw was seated for the application.

Motion by JM Lord to determine the Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance to be complete and to move it to a public hearing. Seconded by Bill Epperson.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, J. Shaw, D. Cavallaro in favor)

IV. Public Hearings on Applications:

- a. Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central**

Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance. Property is in the Single Residence District. Case #02-2024.

Mr. Alther discussed the elevations for the ADU, stating that the aim is to be in keeping with the scale and style of the house. He outlined the project, the existing house, and the proposed new pieces to the existing.

Chair Losik asked if the exterior wall would be clapboard. Mr. Alther stated that it would be cedar shingle or clapboard.

Chair Losik asked about the interior door and the garage. Mr. Alther discussed the proposed door and the existing main house door into the garage. He'd discussed this with Planning/Zoning Administrator Reed, Ms. Dilonno, and the Fire Department and agreed to fire rate the entire existing garage and new garage. The new door will connect the two living spaces and the garage. He clarified that the garage is not heated, but is insulated.

Mr. Cavallaro asked if the 13.8% included the change in pavement to pervious. Mr. Alther confirmed and explained that the revision of the driveway and the two new additions represent the updated percentage coverage.

Chair Losik opened to the public at 7:01 PM.

Member Borne noted a typo in the fee form; where it states 9x8, should be corrected to 9+8.

Chair Losik closed to the public at 7:02 PM.

Chair Losik stated that the board has Findings of Fact drafted by Planning/Zoning Administrator Reed with input by Ms. Dilonno.

Planning/Zoning Administrator Reed stated that the only change to the packet was the addition of Ms. Dilonno's memo with the condition that they get septic plans in the conditions of approval.

Chair Losik suggested corrections:

- Page 2, 8B should say 2/16/24
- #10 should state the date of the email: 3/13/24
- #11 should state Shannon Alther, AIA, responded on 3/13/24
- In the second sentence, "had" should be changed to "provided", as he provided a detailed image.

Chair Losik discussed the legislative requirement to provide Findings of Fact.

Member Cavallaro asked how the ADU checklist feeds into the Conditions of Approval. Chair Losik explained that the ADU checklist presented follows the ADU checklist in 5.6 of the ordinance. She stated that the Rules and Regulations Committee would have more discussion of the ADU checklist.

Motion by JM Lord to approve the Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance subject to the following conditions:

- a. That receipt of NHDES approval relative to the adequacy of such system be received.
- b. That receipt is acknowledged on the cover sheet of the final drawings.
- c. The driveway is at least 10' back for the parking from the side line boundary and shown on the plan.

Seconded by Bob Eberhart.

Vote: 7-0-0 (S. Borne, B. Epperson, J. Lord, P. Losik, B. Eberhart, J. Shaw, D. Cavallaro in favor)

Selectmen's Rep. Epperson commented that this is one of the better applications the board has seen. Chair Losik agreed and complimented the creative design.

V. New Business:

- **TAC Committee two candidates to consider: re-appoint Dania Seigle or John Moynahan**

Planning/Zoning Administrator Reed explained that the Planning Board has never appointed a TAC representative, but the Select Board has requested that the Planning Board make the appointment.

The board discussed the activities of the TAC. Ms. Dilonno explained that they handle all things related to transportation.

Member Moynahan remained recused from the discussion.

Member MacLeod stated that if the Planning Board makes an appointment, he would need more information about the applicants. Member Shaw agreed that the board should hear from the incumbent. Member Borne agreed that it would be helpful to know more about the role. Selectmen's Rep. Epperson stated that he received communication from Dania Seigle regarding TAC, which has been fine. Vice-Chair Lord agreed that the board needs more information about the candidates and the role.

Chair Losik asked Planning/Zoning Administrator to reach out to the candidates to invite them to the next meeting or to submit some additional information about their interest and/or current involvement.

- **NHHOP Grant Phase II**

Chair Losik stated that Planning/Zoning Administrator Reed provided the board with the original copy of the Phase II application, submitted in June 2023. She explained that the board did complete and receive funding for Phase I. She stated that she, Ms. Reed, and Ms. Rowden would attend a Zoom meeting to discuss this work. She also noted that Ms. Rowden may write the grant for the Planning Board. Chair Losik discussed the Phase II application and noted page four, where the tasks are outlined.

Chair Losik explained that the board would work on the grant in tandem with the Master Plan; it will be informed by the maturity of the Master Plan information.

Selectmen's Rep. Epperson and Ms. Dilonno discussed the communities that have applied for this grant.

VI. Other Business:

- **Master Plan Update**

Chair Losik explained that the Master Plan Survey closed on 3/15. Planning/Zoning Administrator Reed stated that there were close to 300 respondents.

Chair Losik reported that Nate Burnitz from UNH came to the last MPSC meeting and gave a one-hour training on focus groups. She stated that the committee would review the outreach report and decide if any groups are not being heard from. Draft outreach and engagement information was open for input and will be available to the MPSC on 3/26. On 4/2/23, the committee will review the input, discuss focus groups, and consider two alternate scenarios for the buildout analysis.

Member Borne commented that the buildout analysis shows what the land can support, not what we can support for water or sewer; it's the size of the tank that's the limiting factor. Chair Losik encouraged Member Borne to attend the May or June meeting as it would be a good opportunity to share that information. Selectmen's Rep. Epperson commented that the buildout analysis is regarding land that can be built on, not infrastructure.

Member Borne raised questions regarding the ADU Rules of Procedure and the demolition of 665-667 Wallis Road. Regarding the ADU checklist, he suggested that it would be more efficient to use Google Docs. He discussed §190-5.6.C9 and what would happen if an ADU were on Portsmouth sewer. He also discussed the process of ADU recertification and how it is communicated and documented. Member MacLeod explained that the decision is recorded at the Registry of Deeds and it's the responsibility of the owner. The board discussed the process.

Chair Losik explained that these questions are for the Rules and Regulations Committee and suggested the Building Inspector could give recommendations since it's dealing with his department.

Chair Losik reseated Member Moynahan.

Member Borne discussed the Planning Board's Rules of Procedure, noting that the most recent edition includes more revisions that should be recorded. The board discussed the Planning Board's Rules of Procedure and new laws.

Member Borne noted the changed order of the review of meeting minutes.

The board discussed the demolition of 665-667 Wallis Road and their plans to add a 3rd floor. Planning/Zoning Administrator Reed explained that the building inspector would bring it to the board's attention if a project didn't follow what was approved by the board. She reported that, thus far, there have been no problems.

The board discussed the RSA policy on select board representative substitution.

Selectmen's Rep. Epperson left the meeting at 7:40 PM.

VII. Minutes and Escrows

- **February meeting minutes**

The board agreed to review the February meeting minutes at the next meeting.

- **Escrows**

There were no escrows to be paid.

The board discussed the New Hampshire Housing Partnership.

The board discussed the Clerk's responsibilities.

Ms. Dilonno provided a summary of the Technical Review Committee's work. She explained that they're restructuring the TRC, working on draft Rules of Procedure and subsections to go in the LDR to codify the structure of the TRC and its process for reviewing applications. She explained that she has some questions to review with the board to get an idea of how the board would like to see the TRC structured. She would also talk with town staff as department heads are a part of the TRC.

Member Borne discussed 420 South Road and wondered what lessons were learned from that case. Chair Losik stated that the settlement is still on the Planning Board's website. She noted that, regarding post-approval and non-compliant activities, the TRC dealt with it and allowed remediation to take place, which has been successful.

Planning/Zoning Administrator Reed discussed the lawsuit and the resulting revision of processes. She also discussed the changed legislation regarding permits, noting that many issues dealt with overbuilding and over-clearing.

Chair Losik returned to the discussion of TRC, noting that Ms. Dilonno would like to pose questions to the board before the April meeting, at which point they would discuss as a board.

Ms. Dilonno stated that she had a conversation with the Farmington Planning Director regarding their town's TRC structure, which she could write up or present at the April meeting.

Ms. Dilonno discussed the housing appeals board, noting that it only deals with land use decisions around housing. Instead of applications going to the New Hampshire Superior Court, they go to the Housing Appeals Court.

Motion by JM Lord to adjourn at 8:04 PM. Seconded by Peter Moynahan. All in favor.

Respectfully Submitted,
Emilie Durgin

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

NOTICE OF DECISION AND FINDINGS OF FACT TOWN OF RYE PLANNING BOARD

Applicant/Owner: Sverge & Catie Gupta

Addresses: 80 Central Road, Tax Map 12, Lot 58

ZONE: Property is in the Single Residence District

CASE NO: #02-2024

Request: Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance. Property is in the Single Residence District. Case #02-2024.

The Rye Planning Board issues this Notice of Decision and Findings of Fact in accordance with RSA 676:3. In issuing this Notice of Decision and these Findings of Fact, the Planning Board incorporates such facts and evidence as are reflected in the submittals and meeting minutes associated with this matter that are supportive of the decisions and Findings of Fact contained herein.

FACTUAL FINDINGS

1. The property is located at 80 Central Road, Tax Map 12, Lot 58 ("**the Property**").
2. The Property is owned by Sverge & Catie Gupta ("**the Applicant**").
3. The Property is approximately 1.01 acres in size with 159.01 feet of frontage on Central Rd.
4. The Applicant submitted a Conditional Use Permit Application for an Accessory Dwelling Unit on February 15, 20, 2024. Included in the application is an ADU completed checklist, set of plans from TMS dated 1-26-2024, first floor plans A101 dated 1-23-2024, RCP & Roof Plan A103 dated 1-23-2024, Building Elevations Plan A200 dated 1-23-2024 and Building Sections Plan A300 dated 1-23-2024.
5. Email from Deputy Fire Chief, Kevin Wunderly received on February 14, 2024, which states that they find no issues with the project.
6. The application was emailed to Maddie Dilonno, RPC on February 16, 2024.
7. Email to Shannon Alther, Principal for TMS Architects on February 15, 2024, confirming that Rye Water District's initials on checklist.

❖ *Planning Board Approvals do not include building permits; please check with the Building Inspector's office before any and all construction.*

8. Department Head requests were emailed to all departments on February 16, 2024 and then again on February 20, 2024 had wrong reply date on the original Dept Head form.
 - a. Received an email from Deputy Fire Chief 2-14-2024, he had no concerns.
 - b. Received an email from Police Chief, 2-16-24, comments about driveway entrance and exit, see department head form.
 - c. Received email from Arik Jones, RWD 2-22-24. see attached form.
 - d. Received Dept Head report from DPW 2-27-24. See attached form.
9. Abutter notices were sent on February 28, 2024, and legal notice was posted and sent to Portsmouth Herald and ran on February 29, 2024.
10. On March 13, 2024, Maddie Dilonno, RPC inquired about an interior door.
11. Shannon Alther, AIA responded on March 13, 2024, that an interior door at the right side of the 3rd bay (new bay.) He provided a detailed image for the ADU garage door in the "red line."
12. A memorandum was issued March 14, 2024 by Maddie Dilonno, RPC with the following message: *Rockingham Planning Commission has reviewed a Conditional Use Permit Application submitted by TMS Architects on behalf of Sverge & Catie Gupta for an Accessory Dwelling Unit at 80 Central Road, Tax Map 12, Lot 58, located in the Single Residence District. Based on review of the application materials submitted, and in accordance with Article 190-5.6.D of the Rye Zoning Ordinance, it appears the application is complete, and it is recommended the Board invoke jurisdiction. It is understood that plans for an on-site wastewater disposal system are being prepared. It is recommended that receipt of NHDES approval relative to the adequacy of such system be received as a condition of application approval with receipt acknowledged on the cover sheet of the final drawings.*
13. On March 19, 2024, the Planning Board conducted a public hearing on the application for an accessory dwelling unit. For 80 Central Road, Rye NH. The draft conditions of approval were reviewed and agreed upon by the Applicant.
14. On March 19, 2024, The Planning Board issues this Notice of Decision and Findings of Fact.

DECISION

15. After review of all submittals provided and statements made during the record, the Board grants the Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance. Property is in the Single Residence District. Case #02-2024.
16. The Board finds that, the Applicants' proposal satisfies all other pertinent provisions of Section 5.6 of the Rye Zoning Ordinance

❖ *Planning Board Approvals do not include building permits; please check with the Building Inspector's office before any and all construction.*

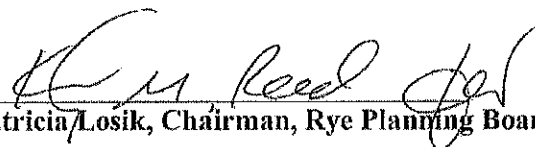
Motion by JM Lord to approved the Conditional Use Permit Application for an Accessory Dwelling Unit by TMS Architects for Sverge & Catie Gupta for property owned and located at 80 Central Road, Tax Map 12, Lot 58 per Section 5.6 of the Rye Zoning Ordinance and seconded by Bob Eberhart. Motion unanimously approved with the following conditions.

CONDITION OF APPROVAL

1. The following conditions:
 - a. That receipt of NHDES approval relative to the adequacy of such system be received.
 - b. That receipt is acknowledged on the cover sheet of the final drawings.
 - c. The driveway is at least 10' back for the parking from the side line boundary and shown on the plan.

Any party aggrieved by this decision has the right to seek judicial review of this decision by filing an appeal to the Rockingham County Superior Court within thirty (30) days of the date of the hearing at which the Board voted to take the action set forth herein, unless such decision related to the application, construction, or interpretation of the Rye Zoning Ordinance, in which case, an aggrieved party may appeal such decision to the Rye Zoning Board of Adjustment in accordance with RSA 676:5 and the Zoning Board of Adjustment Rules of Procedure.

3/20/2024
Date


Patricia Losik, Chairman, Rye Planning Board