

TOWN OF RYE – BOARD OF ADJUSTMENT

Wednesday, March 6, 2024

7:00 p.m. – Rye Town Hall

Members Present: Rob Patten, Chris Piela, Vice-Chair Patrick Driscoll, Chair Shawn Crapo, John Tuttle, Sandra Chororos

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

I. CALL TO ORDER

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

II. BUSINESS

Motion by Chris Piela to continue the applications for 0 Jenness Avenue, 117 Washington Road, 152 Harbor Road, and 39 Parsons Road to the April 3, 2024 meeting. Seconded by Patrick Driscoll.

Vote 6-0-0 (R. Patten, C. Piela, P. Driscoll, S. Crapo, J. Tuttle, S. Chororos in favor)

Chair Crapo outlined meeting procedures.

Planning/Zoning Administrator Reed clarified that Member Tuttle would recuse himself from the application for 0 Jenness Ave. and Member Patten would recuse himself from the applications for 117 Washington Road and 39 Parsons Road.

Approval of Minutes - January 3, 2024

Motion by John Tuttle to approve the January 3, 2024 minutes as presented. Seconded by Patrick Driscoll.

Vote 5-0-1 (R. Patten, P. Driscoll, S. Crapo, J. Tuttle, S. Chororos in favor, C. Piela abstained)

Approval of Minutes - January 17, 2024

- Member Piela requested to review the following statement on page 8: "...the DPW director stated that it couldn't handle water flow"

Motion by Chris Piela to continue the review of the January 17, 2024 minutes to the April 3, 2024 meeting. Seconded by Sandra Chororos.

Vote 5-0-1 (R. Patten, C. Piela, P. Driscoll, S. Crapo, S. Chororos in favor, J. Tuttle abstained)

III. APPLICATIONS

- **Request for rehearing and reconsideration by Brenda P. Murray, property owner of 59 West Atlantic Ave, Rye NH for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 per NHRSA 677:2 and the Rye Zoning Ordinance §190-7.3 of the Board of Adjustment's January 17, 2024 decision granting requested relief from various requirements of the Rye Zoning Ordinance. Public hearing closed during Board discussion on the request.**

Chair Crapo clarified that this request for rehearing and reconsideration is a public meeting but not a public hearing.

Member Tuttle recused himself from the application. Planning/Zoning Administrator Reed clarified who would be seated for this application: Rob Patten, Chris Piela, Patrick Driscoll, Shawn Crapo, and Sandra Chororos.

Chair Crapo reviewed the overall question that would be voted upon by the board: Has there been an error in any order, requirement, decision, or determination by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16?

Planning/Zoning Administrator Reed explained that she and Ms. Murray exchanged emails that document that Ms. Murray requested a rehearing, though her letter states a request for an administrative appeal.

Chair Crapo clarified the question that the board would consider when voting: did the board make an error of law in coming to its decision or was there significant information that has become available since that time that was not available prior that may have bearing on the situation?

Member Piela, referring to page two of Ms. Murray's letter, clarified that the board did request a peer review study for the water survey that was done. He explained that the board received expert testimony, and requested peer review expert testimony (by a source selected by the board and paid for by the applicant) which was in alignment with the first expert's opinion. He stated that the board has to believe those experts. Regarding water and drainage on the lot: without having another expert providing testimony, the board can't go against those two expert opinions.

Chair Crapo agreed and noted that there was input from a member of the public who identified himself as having relevant credentials, but identified that he'd not performed a full analysis. Chair Crapo noted that the board considered his concerns and questions. Chair Crapo stated that

he took exception to the comment regarding a “lack of in-house experts” noting that he’s lived in the town for over 50 years, has been a realtor since 2007, and has expertise in reviewing property values. He added that many on the board have expertise related to the analysis of wetlands, buildings, and property values.

Member Patten wondered if there was any expert testimony suggesting there would be diminishing value of surrounding properties, of which there was none.

Chair Crapo noted that this was a second presentation and hearing for this property and the majority of the board was present to consider questions and concerns that were raised. He also noted that there were modifications to the first application and some concerns were already addressed and didn’t need to be reentered for the record.

Member Piela addressed a concern regarding conditioned variances noting that they are common practice for the ZBA and the town has resources to ensure variances and associated conditions are adhered to.

Chair Crapo agreed; the board has the ability to place conditions and the cost to the town to enforce them wouldn’t hold a legal reason for granting a variance or not. He observed that every variance, with or without conditions, still has to meet the building code and the property would be monitored.

Member Chororos discussed the testimony by Mr. Cappell, a member of the public, observing that his statements show that he wasn’t sure if more specific or granular studies exist. She also observed that the board did state reasons for its actions, which were articulated in the NOD. She encouraged the applicant to listen to the meeting or review pages 9 and 11 of the notes, which have very specific references to the board’s reasoning and why they allowed this application to go forward. She stated that this particular application did state multiple times by multiple members the reasons for the board’s actions.

Chair Crapo referred to page three of the applicant’s letter which stated, “The ZBA failed to consider environmental factors that will likely increase town operating costs.” Noting that this was about flooding and water damage, he observed that the board would have to be able to discern that this project would cause damage and flooding. He observed that in a flood that affects the entire neighborhood, he didn’t know how the board could quantify the effect of this project or property on displaced water.

John Mitchell joined the meeting via Zoom at 7:23 PM.

Chair Crapo commented on the impact that flooding has had on the entire seacoast and that he doesn't know that it would be discernible that this project would have a measurable effect causing the board to vote negatively on the evaluation criteria.

Member Patten observed that this application didn't originally pass on the first try. He added that the law states that they should be able to achieve approval of the requested variances, which is what guided his decision-making process the second time around. Member Chororos agreed. Chair Crapo also noted that changes made to the application helped. Member Patten agreed but noted that the opinion of the town's attorney was that the application should have been approved the way it was presented originally.

Member Chororos noted that the applicant decreased the size of the home, increased distances from structures to both the wetland and lot line, required no relief for coverage requirements, decreased impervious coverage, and provided more space for stormwater management.

Planning/Zoning Administrator Reed reported that Member Mitchell was present via Zoom. Chair Crapo invited Member Mitchell to share his thoughts.

Member Mitchell stated that after reading through the packet, looking at opinions from attorneys on both sides, and considering the hearing, rehearing, and reapplication, it doesn't seem that rehearing should be called for at this point. He explained that he's sympathetic to abutters, and had the request been from a direct abutter he might think differently about it, but grounds to call for rehearing aren't there. He noted that RCC and DPW approvals were key factors to build on the property. He also agreed that Mr. Cappell gave a compelling presentation, but it was too late and he didn't think the board could consider it. He stated that he was prepared to vote against a rehearing.

Chair Crapo clarified that the RCC letter didn't approve of either iteration. They gave their conditions in the event the board were to approve. He added that the board shouldn't discount Ms. Murray's request because of her abutter status as she may be a spokesperson for several abutters and took the time to do the legwork. He stated that he wouldn't want the reason for a denial to be her abutter status.

Chair Crapo reminded the board of the question: was there any error of law or outstanding information that would warrant a rehearing?

Member Patten stated there was no error of law and no new information. Member Piela, Vice-Chair Driscoll, Member Chororos, and Chair Crapo agreed. It was determined that Patrick Driscoll would remain seated for this application.

Motion by Chris Piela to deny the request for rehearing by Brenda P. Murray, property owner of 59 West Atlantic Ave, Rye NH. Seconded by Rob Patten.

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

- 1. George (Jordy) & Julie Looser for property owned and located at 750 Long John Road, Tax Map 16, Lot 155 request variances from §190-6.3.A for expansion of nonconforming structure for deck, storage shed and plunge pool; from §190-2.3.C(5) for lot coverage where 22% exists and 29% is proposed and 15% is allowed; from §190-2.3.C.(2) for a pool shed 1.5' from the side boundary where 20' is required; from §190- 2.3.C(2) for a pool 14.7' from the rear boundary where 30' is required; from §190-2.3.C(2) for a deck 18'+/- from side boundary where 20' is required and §190-2.3.C(1) for deck 23' +/- from rear boundary where 30' is required; and from §190-5.7 for a stormwater management plan. The property is located in the Single Residence District. Case #08-2024.**

Member Patten was seated for Member Piela, who recused himself from this application.

Jordy Looser presented the application for variance approval, noting that presented images 1-16 would create an image of what they're trying to do with the property. He gave an overview of the property, using the pictures to illustrate. He pointed out the leach field, back shed, septic tank, original deck that was removed, and updates to the back of the house. He also pointed out locations for the new deck, plunge pool, shed, and property line.

Mr. Looser presented the engineer's site survey, noting the property's non-conforming lot shape. He noted that the property abuts a significant amount of open landscape and that there's no neighboring house directly to the left or rear. He stated that the project would not negatively impact abutting neighbors or create accessibility issues. They'd continue to maintain ample open space and would honor the spirit of the ordinance. He stated that all parties involved would benefit: they would better utilize their outdoor space and wouldn't infringe on the neighbor's ability to enjoy their property. He added that it would improve the property's aesthetics. He stated that the project would be out of sight and abutters wouldn't be able to see it. He stated that curb appeal would improve and the neighbors are in support and have submitted letters of support. He expressed his need for more storage and noted that the tax map shows a prior shed in the same location as the proposed. He also showed example images of the proposed pool.

Chair Crapo asked if the pool has a filter that needs to be backflushed. Mr. Looser stated that a filter system would be contained in the shed. Chair Crapo asked where the water would go when it's backflushed. Mr. Looser stated that it would go back through the system itself and that he was told by the company that it never needs to be drained.

Mr. Looser stated that the biggest positive outcome is the reduction in lot coverage by creating a permeable driveway and walkway. He stated that the engineer calculated current impermeable coverage to be 23.61% and by doing this project lot coverage would improve by 2.2% with a total of 21.38%, making it closer to compliance than it is now.

Mr. Looser stated that the hardships are the non-conforming rear border and lack of storage. He stated that the entire project would be well away from the septic tank, leach field, and neighbors' structures. He stated that it would promote open space, wouldn't be encroaching negatively on the neighbors, there is lots of support, would improve the value of the property, curb appeal would improve, it wouldn't negatively alter the character of the property, and would be a major upgrade.

Member Chororos asked if the pool shed on the site plan is abutting the deck and at the same level. Mr. Looser confirmed that the deck would go up to the shed. Member Chororos asked whether the applicant could add onto the existing shed to avoid the variance.

Alex, the builder, explained that it was designed that way to make the shed accessible to the house and the deck. He stated that the applicant doesn't have any outside storage aside from a small existing shed. He explained the idea of having a deck between the shed and the house for easy access and improved overall usability.

Chair Crapo asked if the existing shed was staying or going away. Mr. Looser stated that it would stay.

Vice-Chair Driscoll asked for drawings of the proposed pool shed. Mr. Looser stated that he doesn't have drawings in addition to the presented plans. Vice-Chair Driscoll asked if there is a sense of heights, door, and roof pitch.

Alex explained that the shed would have a double door and a single shed roof no more than 9'.

Chair Crapo asked if the structure would be a storage shed or a cabana accessory to the pool. Alex explained that it could be used for both. Mr. Looser explained that there would be no power in the shed.

Member Chororos noted that there is no submitted letter of support by abutter David Burdick. Mr. Looser explained that the Burdicks wanted to attend the meeting in person.

Chair Crapo noted that the applicant's presentation didn't include any information about the lack of stormwater management plan but does reference a previous owner's tie into a storm drain and a 9/20/05 letter from Dwight Sharpe regarding gutter drains. He asked about any risks posed by

construction and how this project may affect any of the current functions. He suggested that the laterals and drains going directly into the town waterway may necessitate a stormwater plan.

Mr. Looser stated that the stormwater management plan was required because of the substantial increase in impermeable lot coverage that was originally requested. Now that there is a decrease in lot coverage, it wouldn't trigger the need for a stormwater management plan. He stated that he already has a water management plan from 2005 in place. He stated that the only structure potentially causing water runoff to the neighbors would be the 120-square-foot shed roof, which measures 44' to the edge of the driveway. He noted that there's still a buffer of arborvitaes and a berm between homes and the water would have to travel another 40' to get to the neighbor's driveway.

Chair Crapo asked for a layout showing the location of the piping. Mr. Looser described the drainage system which starts at the back right corner of the house and stated that the gutters tie into that. He stated that there's no piping system in the back where the project would be going.

Vice-Chair Driscoll asked for clarification regarding §190-5.7 and which part Mr. Looser is applying for: A, B, C, or D.

Member Patten asked Mr. Looser if he was addressing the stormwater management plan with the reduction in impervious surface.

Planning/Zoning Administrator Reed explained that Mr. Looser did initially meet the requirement of a stormwater management plan since he was increasing coverage. Now that he's revised his plan and is reducing coverage, he doesn't meet that requirement.

The board determined they could strike the request to omit a stormwater management plan.

Member Patten suggested a condition that a pervious paver driveway be installed. Vice-Chair Driscoll agreed that it should be conditioned and added that the board would change their numbers for what's allowable for the proposed.

Member Piela suggested that if a permeable driveway is a condition of approval, it be the final phase of the project so trucks wouldn't drive over a permeable driveway. Vice-Chair Driscoll stated that he didn't think that would be an issue.

Vice-Chair Driscoll discussed the distance of the proposed project to the nearest structures on abutting lots, noting that the distance might not always be the case. He discussed the variance criteria and questioned how much this project is needed. He stated that, without having the

elevations of the shed and deck, it's tough to see if there's a possibility of bringing the deck in a bit.

Alex explained the aim to have access from the pool and deck into the side yard. He noted that the shed is in the least visible spot.

Vice-Chair Driscoll asked if the ridge is running 20' not 12', which Alex confirmed.

Member Tuttle asked if the Southern side was considered for the shed since it's in the majority of the building envelope.

Mr. Looser and Alex explained the reasoning for the shed's location: privacy, aesthetics, and sunlight.

Chair Crapo reported that four letters of support from abutters were submitted to the board.

Chair Crapo opened to the public at 8:12 PM.

David Burdick, 257 Washington Road, stated that he's in favor of the project but has concerns regarding safety and the covering of the pool.

Chair Crapo agreed that's a valid point and noted that a fence is often required. He discussed a property in town with an automatic closing cover which negated the need for the required fence. He asked what the requirement is for a pool of this size.

Mr. Looser explained that he plans to have a \$5000 locking, rolling cover. He stated that, from a liability standpoint, it would be locked when not in use which negates the need for fencing. He stated that he called his insurance company which has no problem providing coverage for this.

Chair Crapo asked if the cover would be automatic. Mr. Looser explained that it's not automatic, they would roll it over and lock it.

Mr. Burdick expressed his concern if the property were to change hands. He observed that the pool is within 15' of his property line and wondered if it could be twisted in another direction so there's more space. He expressed his overall support.

Chair Crapo explained that he had the same question regarding the positioning of the pool.

Mr. Looser and Alex explained the reasoning for the pool's position and confirmed that the pool would be heated.

Funi Burdick, 257 Washington Road, explained that she owns 3 acres of land abutting Mr. Looser's property. She expressed that she uses the land for her gardens and her concern if the property were to change hands. She also expressed her concerns about open water safety.

Chair Crapo asked for the height of the deck. Alex stated that it would be 16-18".

Vice-Chair Driscoll stated that without having the elevations he can't vote in favor of the application. He stated that it would be a much better application if the project were pulled away from the lot lines a little more. He expressed concern about the proximity of the pool shed to the lot line. He also requested more information regarding the 2005 drainage plan, whether that drainage plan would be negatively affected by footings or new rooflines, and how it would be protected during and after construction.

Chair Crapo agreed about the elevations. He also noted that while the applicant may have cooperative neighbors, that could change in the future. He suggested having at least a wheelbarrow width enough to get behind the shed and access it. He also suggested that the lot coverage notes include the official changes with new percentages.

Member Chororos stated that she'd like to see the applicant address the Burdick's concerns and move the pool so there is a little more room. She noted that if the applicant were to adjust the design there may be a more compelling option that's respectful of the Gould's and Burdick's lot lines and would enable the two setbacks to be more in conformance.

Chair Crapo explained that the board's suggestions don't guarantee a "yes" vote; it is still an independent vote. He emphasized the request for elevations and the tweaked lot coverage numbers.

Member Patten asked for the number of spaces between the corner of the shed and the base of the house that would be used as access between the two. Mr. Looser stated that it would be about 4'. Member Patten suggested modifications to the plan.

Vice-Chair Driscoll stated that he's not offering guidance to the applicant, but trying to get the omitted details to better understand the application. He expressed that the plan doesn't need to be done by an architect, it just needs accurate information.

Chair Crapo stated that the board needs specifics regarding elevations, more detail on the drainage plan that's in place and how it may or may not be impacted by construction, and the numbers for the proposed change in lot coverage. All else are design changes.

Member Tuttle stated that he's looking for buy-in from DPW that the project won't adversely affect the town.

Chair Crapo asked Mr. Looser if he'd spoken with DPW. He stated that he hasn't. Chair Crapo explained that they may have some requirements since they're tied into their system.

Motion by Sandra Chororos to continue the application by George (Jordy) & Julie Looser for property owned and located at 750 Long John Road, Tax Map 16, Lot 155 to the April 3, 2024 meeting. Seconded by Patrick Driscoll.

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

- 2. Jonathan Lowell for property owned and located at 114 Harbor Road, Tax Map 9.2, Lot 10 requests variances from §190-2.3.C(2) for mini-split system 6' from the side property line where 20' is required; and from §190-6.2.A for expansion nonconforming use. The property is located in the Single Residence District and Coastal Overlay District. Case #10-2024.**

Jonathan Lowell of 86 Lee Street, Westborough, MA presented the application on behalf of his father, Harry Lowell, who lives at the property. He explained that his father is the owner of the property and a 50% owner of the abutting property along with his nephew. He stated that he's requesting a variance because the heat pump is at the side of the house.

Chair Crapo asked if it's proposed to be at the rear corner of the house, opposite the stairs. Mr. Lowell stated that it's proposed to be on the side of the house and noted that it's not very visible because of the shrubs. He stated that the lot is very small and is about 200' from the marsh and harbor and noted that there is no spot that would have met wetland requirements. He stated that he met with the RCC who suggested that wetland scientist Mark Jacobs visit the property. Mr. Jacobs plotted the wetlands and high water mark; the location is 87' from the harbor and about 180' from the marsh. He stated that the RCC was satisfied and Susan McFarland and the RCC wrote a letter supporting the proposal. He noted that other houses on the street have heat pumps.

Vice-Chair Driscoll commented that the presentation is great and he's in favor either way, and added that there are brackets that would go on the side of the house to avoid another concrete footing. He asked if this was discussed by the contractor. Mr. Lowell stated that someone from the RCC stated that he could use brackets. He stated that he plans to leave it to the contractor. Member Chororos observed that a letter dated August 7th from the Town of Rye states that the proposal for the condenser is 4' from the side boundary but the notes say 6'. Mr. Lowell stated the house is 6' from the boundary and the condenser unit could be as close as 4' from the boundary, maybe less, depending on the contractor's recommendation.

Vice-Chair Driscoll and Chair Crapo discussed its proximity to the lot line; it was determined it would be no closer than 4' to the lot line.

Mr. Lowell discussed the variance criteria as they relate to his application.

Chair Crapo stated that the reason Mr. Lowell is before the board is for the pad. He asked the applicant whether the garage belonged to the other structure, which he confirmed.

Chair Crapo opened to the public at 8:40 PM; hearing no comment, the public session was closed.

Chair Crapo commented that he's serviced both properties and has never had to access this part. He noted that it sits up high and would be the safest place to put a structure.

The board determined the measurement would be to the edge of the pad, no closer than 3.5' to the lot line.

Member Chororos stated that the spirit of the ordinance is observed as the project places the mini-split in the most desirable location. It does not alter the character of the locality or threaten public health, safety, or welfare. Substantial justice is done as both abutting properties are owned by family members. The value of surrounding properties is not diminished as care has been taken to place this in an area farthest from abutters, out of sight, and farthest from the water on both sides. The proposed use is a reasonable one; other locations were examined and the contractor found them to be infeasible. Literal enforcement of the ordinance would result in unnecessary hardship as installation of this system would be impossible.

Chair Crapo added that, related to substantial justice, it's encouraged to modernize and pad heat pumps are modernized and nothing will tip the lot coverage over.

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

Chris Piela - Yes, for reasons stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to approve the application of Jonathan Lowell for property owned and located at 114 Harbor Road for variances from §190-2.3.C(2) for mini-split system no more than 3.5' from the side property line where 20' is required; and from §190-6.2.A for expansion of a nonconforming use. Seconded by Chris Piela.

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

- 3. Evan Granoff for property owned and located at 973 Ocean Blvd, Tax Map 20.2, Lot 136 requests variances from §190-5.0. C for parking in the front yard boundary.**

**The property is located in the Single Residence District, Coastal Overlay District.
Case #12-2024.**

Evan Granoff presented the application and noted that his legal address is 128 Alpine Road in Franconia, NH and he acquired the property in October 2023. He explained that the property has flooded twice since then and once with the previous owner as a result of the orientation of the driveway. He presented a photo and explained that surrounding properties do not flood; the design of the driveway creates a funnel into the lower level of the split-level ranch. He stated that he'd like to fill in the driveway so it's on grade with the rest of the property, put windows over the foundation wall, and make the structure watertight.

Member Chororos asked for clarification that it's a garage currently. Mr. Granoff explained that it's a garage, but his car won't fit as it's very low. He stated that the lot itself is roughly 10,000 square feet and that the existing structure is nonconforming. He stated that the septic is located in the back and he would need to do modifications to the septic field if he were to make changes to park in the back. He stated that he needs relief now due to flooding as these events put his boiler under water, and he can't move the boiler up because the ceiling is low. He stated that the neighbors on either side are in support; one abutter wrote a letter, and the other is the builder doing the job.

Chair Crapo read a letter of support aloud.

Member Tuttle asked which flood zone this property is within. Mr. Granoff stated that the property is not in a flood zone. He stated that there wouldn't be any change to the property other than the placement of doors and windows and the driveway would be on grade. He would still park the car in the same location. Mr. Granoff discussed the variance criteria as they relate to his application.

Chair Crapo asked if the driveway would remain peastone, Mr. Granoff confirmed. Member Chororos asked if the parking pad would remain peastone, Mr. Granoff confirmed this as well.

Vice-Chair Driscoll asked Mr. Granoff to confirm the location of the two parking spots.

The board discussed the dimensions of the driveway and parking spaces. Mr. Granoff discussed his proposal for the foundation and driveway.

Chair Crapo stated that Mr. Granoff would need to mark up his plan to show the two legal spots and submit it to Planning/Zoning Administrator Reed for the record.

Chair Crapo opened to the public at 9:11 PM.

Paula Mahoney, an abutter, clarified that it isn't uncommon in the neighborhood to have a garage under the house. She stated that she was in favor of the application.

Chair Crapo closed to the public at 9:14 PM.

Vice-Chair Driscoll clarified for the record that the spots are on Mr. Granoff's property, not in the right of way. He stated that nothing in the board's approvals okays any additional work in the right of way; all work would be done on Mr. Granoff's property.

Chair Crapo agreed that all the board is reviewing is the parking. Any building permit for conversion of the inside or storage is not before the board tonight. He also clarified that the house end of the driveway can't be brought up so much that water would shed out to the road.

Chair Crapo expressed that the proposal makes sense, the driveway slopes down and catches water, and he doesn't see any detriment to parking in the proposed location.

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

Chris Piela - Yes, because these are designated spaces and it's common practice to park cars in the driveway.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Chris Piela - Yes, he has two parking space per our ordinance for his house.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Chris Piela - Yes, if we were to deny this he would have a flooded house.

Patrick Driscoll - Yes, with current car sizes and configurations there aren't viable parking spaces in the garage and this would create viable parking spaces.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated, and there's no harm to the general public.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Chris Piela - Yes, it's common practice to park in the driveway.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, the downward sloping driveway is a detriment.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, we have two parking spaces per our ordinance.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

7. The proposed use is a reasonable one.

Chris Piela - Yes, parking in your driveway is reasonable.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, literal enforcement would result in the applicant having a flooded driveway with every rainstorm.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by John Tuttle to approve the application by Evan Granoff for property owned and located at 973 Ocean Blvd, Tax Map 20.2, Lot 136 as presented. Seconded by Chris Piela.

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

- 4. Mark C Epply for property owned and located at 267 Brackett Road, Tax Map 19, Lot 93 requests variances from §190-6.3.A for expansion of nonconforming structure; from §190-3.1.H.(1)(a) for deck 56', and an addition 70' from the wetland, where 100' is required; from §1902.3.C(3) for addition 20' +/- from the front boundary where 40' is required. The property is located in the Single Residence District. Case #11-2024.**

Ann Whitney, the architect for the project, presented the application on behalf of the applicant.

Ms. Whitney described the property as an older residence 20' off the road; off the edge of the driveway is a stream. She observed that any addition would require variances as the property is nonconforming and is within the 100' wetland buffer and the 40' front setback.

She stated that they're proposing a two-story addition with the addition of a porch in the rear. The existing structure has a ship's ladder stairway to the second floor and the addition would be living space and code-compliant stairs for a chair lift.

Ms. Whitney discussed the variance criteria as they relate to the application.

Member Tuttle asked if the existing structure is 20' from the front. Ms. Whitney explained that the existing residence is 20' from the property line at its closest point. The closest point of the addition is 26' from the property line. Member Tuttle clarified that a variance is needed but the structure would be getting farther away. Vice-Chair Driscoll noted that 26' is more conforming than the existing.

Ms. Whitney noted that the current porch wraps around and behind that is a deck. She explained they'd remove it all and would replace part of the deck within the same footprint.

Vice-Chair Driscoll commented that it's difficult to see the proposed septic. Ms. Whitney referred to page two and stated that a full-sized copy is in the Building Department. Vice-Chair Driscoll commented that the septic looks to be dated 2000 and installed in 2001. Ms. Whitney agreed and stated that it's a pump system and is sized appropriately.

Vice-Chair Driscoll invited Ms. Whitney to discuss the RCC's letter. Ms. Whitney stated that they had wetlands delineated and mapped out and the RCC reviewed the plan. She stated that after her updates to the plan the RCC reviewed it and were in support. Vice-Chair Driscoll asked Ms. Whitney if she would agree to a motion of approval conditioned on the RCC's recommendations. She stated that she would agree to the conditions and discussed the gutters for the addition and porch.

Chair Crapo noted that condition #3 would be struck and discussed condition #. Ms. Whitney explained that the condition is regarding the lilacs. Mr. Epply explained that he'd like to keep the lilacs and that no other trees would be removed. Chair Crapo stated that a condition included a generic reference to remove all plants and he didn't want that to later cause a dispute with the building inspector.

Chair Crapo opened to the public at 9:41 PM.

Paula Mahoney, RCC, explained that they didn't discuss trees, just replacing the native plantings with native plantings, and that invasive plants should be disposed of properly. The RCC also discussed Chair Crapo's comments regarding mulch and now has a statement regarding mulch that's more specific. She noted that they also made the recommendation regarding an 85% survival rate.

Chair Crapo closed to the public at 9:42 PM.

Member Tuttle stated that the project is reasonable: it's an expansion of a structure, is no closer to the roadway, and the expansion will be set back further than the current structure, 50' away from the wetlands. He stated that he has no major concerns. Member Chororos agreed. Member Piela also agreed and noted that the addition is the correct size for the house, the applicant made every effort to protect the wetlands and keep the addition away from the street as far as possible, and the driveway, barn, and house are all between the addition and the wetlands.

Vice-Chair Driscoll stated that the variance is not contrary to the public interest because they've put the addition in a more conforming location and a well-placed spot. The spirit of the ordinance is observed as they're trying to make the house more code-compliant, livable, and safe without a negative effect on the abutters, neighborhood, or public. Substantial justice is done because it's a well-thought-out plan where the benefit to the applicant won't be outweighed by any hardship to the public. The values of surrounding properties will not be diminished because a tasteful, well-designed house will likely raise the value of surrounding properties. There are special conditions of the property that distinguish it from other properties in that area as they're working with an existing cape and trying to add square footage and safety while working with the layout of the lot and home. There is no fair and substantial relationship between the general purposes of the ordinance provision and the specific application of that provision to the property because, as stated, it's an existing residence that they're modifying. The proposed use is a reasonable one because they're not adding substantial bulk and the size increase and locations are reasonable. Literal enforcement of the ordinances would result in unnecessary hardship because no expansion to the existing residence would be allowed.

Chair Crapo added that the uniqueness of the structure is due to being surrounded on three sides by wetlands; it's the only place you could expand.

Vice-Chair Driscoll clarified that the board would vote on the variances with the condition that they conform with recommendations 1, 2, and 4 in the RCC letter dated 12/20/23.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

2. The spirit of the ordinance is observed:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

3. Substantial justice is done:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

4. The values of surrounding properties are not diminished:

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

Chris Piela - Yes, as stated.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, as stated.

Motion by Patrick Driscoll to approve the requests for variances for property owned and located at 267 Brackett Road from §190-6.3.A for expansion of a nonconforming structure; and from §190-3.1.H.(1)(a) for a deck 56', and an addition 70' from the wetland, where 100' is required; from §190-2.3.C(3) for addition 20' +/- from the front boundary where 40' is required with the condition that the applicant abide by the recommendations made in the RCC's letter numbered 1, 2, and 4, dated 12/20/2023. Seconded by Chris Piela.

Chair Crapo observed that the notice lists a deck 56' away, but the plans list +/- 55'. He asked if the 56' provides enough for the deck. Ms. Whitney agreed that 56' is fine.

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

- 5. Rye General Store & Grille, LLC for property owned and located at 2203 Ocean Blvd, Tax Map 5.3, Lot 028-00A and Tax Map 5.3, Lot 028-00B requests variances from §190-6.3.B to raze Units A and B and replace with new; from §190-2.2.D(1) for no more than one principal building on one lot; from §190-3.4.D for dwelling coverage 32.2% where 30.4% exists and 15% is required; from §190-5.0.C for parking along the Gray Court boundary where 10' is required; and from §190-2.10.C(3) for structure 10.5' from the rear boundary where 10.5' exists and rear yard depth of ¼ of the depth or 30' from the rear boundary whichever is less; Property is in the General Residence/Business District, Coastal Overlay and SFHA, Zone AO, Depth 2'. Case #61-2023.**

Robin Wehbe presented the application to the board, explaining that this is phase two of a two-phase project. He stated that he's modified phase two to address concerns, improve the property, and make it more compliant. He outlined his three aims in requesting the variances and discussed separating two buildings to meet FEMA regulations, adding pervious pavers and landscaping to address coverage and drainage, and improving safety in the parking lot by improving traffic flow, parking, and limiting access from route 1A. He stated that he's met with TRC twice, has had meetings with the Planning Board, and has had police and fire sign off on this. He stated that he was waiting to hear from the state but worked with their guidance.

Vice-Chair Driscoll clarified that nothing has changed with the plan since before it was continued. Mr. Wehbe confirmed that the plan is identical.

Member Piela asked if the stated crosswalk was ever resolved. Mr. Wehbe stated that he's still working with the state on this.

Member Chororos asked for clarification of the parking location for the existing condo residents. Mr. Wehbe pointed to the designated spots. Member Chororos asked if that would limit parking to nine spots for his business. Mr. Wehbe confirmed and explained that while there are fewer spots for business parking, there are more overall spots available as four spots underneath the units are designated for resident parking.

The board discussed parking requirements.

Vice-Chair Driscoll asked how many residential and commercial units exist. Mr. Wehbe stated that the number of units is unchanged; four are commercial, and two are residential.

Chair Crapo asked about the annex. Mr. Wehbe explained that it's for storage and belongs to residents of units A and B. He stated that units A and B would remain separate but convert to residential.

Shannon Alther, TMS Architects, stated that the original parking calculation was for 16 and they're proposing 18, an increase of two parking spots.

Chair Crapo, Mr. Wehbe, and Mr. Alther discussed the flow and turning room in the parking lot. Mr. Wehbe stated the Fire Department's protocol wouldn't change and that the Fire and Police Departments have spent time reviewing this project.

Vice-Chair Driscoll clarified that the only restriction is for height because of the overhang. Mr. Wehbe confirmed and explained that he doesn't use box trucks and takes deliveries in the side door. Mr. Alther noted that the Fire Department would park by the curb.

Member Chororos asked whether NHDOT has given their approval. Mr. Wehbe stated that he's still waiting to hear back from the state. Member Chororos asked if the state opposed the crosswalk moving across the curb. Mr. Wehbe explained that they proposed a solid barrier. Member Chororos expressed her concerns regarding the curb. Mr. Wehbe pointed to the fog line noting that there was space and stated that pedestrians would hopefully cross in that location. Chair Crapo expressed his doubt.

Vice-Chair Driscoll asked for the height of the curb island. Mr. Wehbe stated that it would be 6". In response to Vice-Chair Driscoll's question, Mr. Wehbe stated that the Planning Board is okay with the plan if the DOT is okay.

Chair Crapo asked for clarification regarding the increase in building coverage, which Mr. Wehbe explained.

Member Chororos discussed the parking lot on Gray Court and asked if anything would be there. Mr. Wehbe stated there would be a planter, two parking spots, and striping to show which way to enter.

Chair Crapo opened to the public at 10:13 PM.

Vice-Chair Driscoll asked if the other commercial space would be office space. Mr. Wehbe explained that the remaining commercial space, which he doesn't own, is being used as an orthodontist office, the other is being sublet as office space.

Planning/Zoning Administrator Reed explained that the property is in the business district, not the commercial. The board discussed differences between districts.

Chair Crapo closed to the public at 10:15 PM.

Vice-Chair Driscoll commented that the more organized parking lot would be beneficial and an improvement. He stated that it's a well-laid-out plan and compared it to other, similar commercial spaces in the area. He stated that this looks like a creative solution that makes it safer. He stated that his biggest concern is regarding the overhang. He stated that he's in favor of the application because it makes use of the lot and creates safer parking, pedestrian, and general use of the area. Member Piela and Member Tuttle agreed.

Member Chororos asked how many seats were in the cafe. Mr. Wehbe stated there are 24 seats.

Chair Crapo stated that he has the opposite view; if the applicant is going to rip off part of the building, they have the license to change the angles to allow more access in the front parking area. He expressed concern that this plan would create a bottleneck issue and an issue for Gray Court.

Vice-Chair Driscoll asked Chair Crapo for clarification: if they were to go closer to the rear lot line, what benefit would it provide to the parking area.

Chair Crapo pointed out that resident parking is now taking up more spaces in the footprint than it used to.

Member Chororos expressed her concern over the number of parking spaces. She stated that there won't be parking available for businesses.

Vice-Chair Driscoll noted that this lot will be busiest when the beach is in use and that not all patrons will park there.

Chair Crapo stated there isn't enough parking to conduct a business. He stated that the town has parking requirements for businesses for a reason. He stated that he doesn't see hardship when considering the reliance on parking by Gray Court and the increase in lot coverage. He stated that the existing business has gotten variances and it's being set up for further failure.

Chair Crapo opened to the public at 10:23 PM.

Chair Crapo and Member Chororos discussed the different residences and businesses on the property and the associated requirements.

Chair Crapo closed to the public at 10:23 PM.

Vice-Chair Driscoll commented that the parking lot will be safer than it was and an improvement. Member Piela agreed but expressed his concern regarding increased traffic to Gray Court.

Chair Crapo expressed his opposition. He stated that he doesn't believe the curbing or this configuration will work in this area. He also noted that snow removal would be nearly impossible. Member Chororos asked if it would make a difference if the curb island weren't there. Chair Crapo commented that it would work better, but the Planning Board and DOT are not always practical.

Member Chororos stated that she's struggling with parking.

The board determined that they would vote on all variances together as a package, conditioned on DOT approval.

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

Chris Piela - Yes, because the curb will increase the safety for the public around the corner of Gray Court and reduce traffic onto and off Ocean Boulevard.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, because the proposed use will not threaten the health, safety, or welfare through the expert approval of our town department heads for Fire, Police, and the Department of Public Works.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, for reasons previously stated.

2. The spirit of the ordinance is observed:

Chris Piela - Yes, because of the one building on one lot, we're having a 1" difference for FEMA reasons. Regarding lot coverage, it's a 2% increase. Yes, for parking along the Gray Court boundary because there's currently parking on the Gray Court boundary and it's a continued use of what they're currently doing. Yes, for the boundary because they've stayed within the boundary of the existing structures.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated. Also, it's not going to threaten the health, safety, or welfare of the public as per the town's department heads.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, for reasons previously stated.

3. Substantial justice is done:

Chris Piela - Yes, for reasons stated; specifically, the evaluation of this plan by the HOA and the town's safety personnel.

Patrick Driscoll - Yes, as stated, and per FEMA regulations.

John Tuttle - Yes, through the application that's been presented I do not see any benefit to the public that's outweighed by the potential harm to the applicant.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, for reasons previously stated. The combined layout of the project and compiling variances to achieve parking that's not sufficient for the current uses while trying to maintain a mixed-use, I don't see that substantial justice is done.

4. The values of surrounding properties are not diminished:

Chris Piela - Yes, it seems like an attractive new construction project and the betterment of that corner lot will not diminish the property values of existing abutters.

Patrick Driscoll - Yes, as stated. Though there may be a small increase in traffic on Gray Court, it will be a safer egress from the property.

John Tuttle - Yes, the property is zoned and used as a residential and business zone.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, I feel the use is going to cause more overflow to the surrounding neighborhood causing more congestion, and decreasing safety.

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

Chris Piela - Yes, it's a corner lot with a split residential/business district line through the middle. For these reasons it's unique.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - Yes, it's business and commercial.

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

Chris Piela - Yes, they're trying to adhere as best they can to the ordinances as they already have variances for the existing conditions.

Patrick Driscoll - Yes, as stated. They're trying to balance the load on the lot as well as the safety of the area; that has been satisfied with the application.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, the ordinances are designed to create a safer and more harmonious use within the property and in the neighborhood. I don't feel that's being achieved.

7. The proposed use is a reasonable one.

Chris Piela - Yes, it's putting residential in a residential zone and keeping the business largely in the business zone.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No, as stated.

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

Chris Piela - Yes, if we were to literally enforce the ordinances the applicant couldn't do much with this lot or would have to significantly modify his plan.

Patrick Driscoll - Yes, as stated.

John Tuttle - Yes, as stated.

Sandra Chororos - Yes, as stated.

Shawn Crapo - No.

Motion by Patrick Driscoll to approve the request for variances for Rye General Store & Grille, LLC for property owned and located at 2203 Ocean Blvd. for variances from §190-6.3.B to raze Units A and B and replace with new; from §190-2.2.D(1) for no more than one principal building on one lot; from §190-3.4.D for dwelling coverage 32.2% where 30.4% exists and 15% is required; from §190-5.0.C for parking along the Gray Court boundary

where 10' is required as presented and advertised with the one condition that it receives DOT approval. Seconded by Chris Piela.

Vote 4-1-0 (C. Piela, P. Driscoll, J. Tuttle, S. Chororos in favor; S. Crapo opposed)

6. **Peter & Mary LeSaffre** for property owned and located at 30 Straws Point Road, Tax Map 8.4, Lot 93 request variances from §190-2.2.E for a proposed septic tank 19.3' from the side boundary where 20' is required; from §190-2.3.C(2) for a retaining wall 9.1', a generator 9.2' and service court 10.4' from the side boundary where 20' is required; from §190-2.3.C(5) for lot coverage 28.5% where 15% is allowed; from §1903.1.H(2)(a)(f) & (g) for yard drain 45', stormwater chambers 48.8'/46.7' and terraced steps 75' from the wetlands where 100' is required and from §190-3.4.D for height 32.85' where 30' is required. The applicant requests waiver relief from the Building Code §190-35-14.C(2) for sepiTech system 3.5' to the ESHWT where 4ft separation is required. Property is in the Single Residence, Coastal Overlay, Wetland Conservation District and SFHA, Zones AO (3), VE (19). Case #07-2024.

Attorney **Tim Phoenix** of Hoefle, Phoenix, Gormley, and Roberts discussed the fact that this application had been continued twice already, that two of the six attending professionals had flown in for the meeting, and requested that the board hear their application.

Chair Crapo voiced his concerns regarding an email from the Building Department to Mr. Caldwell which stated that this application would require further review.

Attorney Phoenix expressed that his clients shouldn't be penalized because the application hadn't been reviewed by the Building Department.

The board discussed whether to hear the application and agreed to go past 11:00 PM.

presented on behalf of the applicants, **Peter and Mary LeSaffre**, who were also present.

Attorney Phoenix introduced the applicants and their team: **David Soloman** and **Roger Seifter** (architects), **Corey Colwell** of TF Moran, **Jeff Fritz** (landscape architect), **Chris Albert** of CSA Environmental, and **Brian White** (appraiser).

Attorney Phoenix stated that he provided a supplemental memo dated 2/23/24 in order to address issues raised at the board's previous meeting. He explained that in reviewing the project, the team made changes that reduced the number of requested variances from six to three. Referring to the standard zoning chart provided in the memo, he stated that the septic has been moved within the building envelope, the height has been reduced to under 30', the Rye Building Code regarding seasonal high water has been addressed, and the generator was moved within the side yard setback. They also changed the lot coverage by making the circular driveway all pervious making the total lot coverage 21.9% where 29% exists today. He stated that Straws Point Road is part of that lot so they included it, but questioned whether a variance is needed. He stated that a variance for the side yard setback, lot coverage, and wetland buffer relief is needed. He listed the benefits of the project including an advanced treatment septic system, landscape and stormwater features and facilities, and terraced green steps.

David Solomon of Robert Stern Architects presented the architectural changes and the reasons why the prior variance request for height above grade is no longer necessary. He explained that the finished floor of the proposed house is 21.4' above sea level to comply with FEMA regulations and with the Town of Rye Flood Plain Management ordinance. He stated that the motor court has been brought within 18" of the finished floor.

Jeff Fritz, landscape architect, discussed changes to grade and the grade relationship. In response to Chair Crapo's question, he clarified that the wall associated with the requested relief is 5' at its tallest and 6" at its shortest. He also addressed the flow of water and hydrology and the resulting benefits.

Vice-Chair Driscoll noted that the diagram didn't show the pipe and stone storage system.

Mr. Fritz explained that Mr. Colwell has a detailed plan and an exhibit showing the contours of the property. He stated that they're maintaining as much of the vegetation as they possibly can including a red pine and Bald Eagle perch. He stated that they would add 50 new canopy and evergreen trees, 20 new understory trees, 300 shrub plantings, 14000 square feet of ground cover plantings, 9000 of which are native coastal grass plantings, and 4500 are within the 100' buffer.

Member Chororos asked if they could remove some of the landscaped steps to be further from the 100' buffer. Mr. Fritz stated that if they were to reduce the number, the steps would be taller. Member Chororos asked where the water would go if it hit the steps. Mr. Fritz stated that they're improving water flow by improving the infiltration of soils, making the landform move more with pitch, and adding yard drains to wick water faster.

Mr. Colwell discussed the reduction in requested variances and outlined 5 changes to the plans: the septic would be relocated outside the buffer; the generator pad and propane tanks would be relocated outside of the setback; there would be a reduction in overall impervious coverage; there would be revised grading to improve the stormwater runoff; and the terraced steps would be slightly revised. He also addressed comments regarding fill from board members at the previous meeting and discussed factors driving the fill. He stated that they presented this plan to the RCC, had a site walk, submitted the requested information, and a memo was issued from the RCC that supports the project.

Chair Crapo asked for clarification regarding the requested variances and whether a special exception was being requested.

Attorney Phoenix clarified that they don't need a special exception and he would make the correction.

Motion by John Tuttle to continue the application by Peter & Mary LeSaffre for property owned and located at 30 Straws Point Road to the April 3, 2024 meeting. Seconded by Chris Piela.

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

Motion by John Tuttle to adjourn at 11:41 PM. Seconded by Chris Piela. All in favor.

Respectfully Submitted,

Emilie Durgin

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant: Brenda P. Murray, property owner of 59 West Atlantic Ave,

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

Application case: Cases #: request from rehearing

Date of decision: March 6, 2024

Decision: The Board voted unanimously to deny the Request for rehearing and reconsideration by Brenda P. Murray, property owner of 59 West Atlantic Ave, Rye NH for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 per NHRSA 677:2 and the Rye Zoning Ordinance §190-7.3 of the Board of Adjustment's January 17, 2024 decision granting requested relief from various requirements of the Rye Zoning Ordinance


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Leigh & Darren D'Andrea

Property:

0 Jenness Avenue, Tax Map 8.4, Lot 48

Property is in the General Residence and Coastal Overlay Districts, and SFHA Zone AE(8).

Application case:


Cases #: request from rehearing

Date of decision:

March 6, 2024

Decision:

The Board voted unanimously to continue the Request for rehearing and reconsideration by Leigh and Daren D'Andrea by and through their attorneys, Hoefle, Phoenix, Gormley & Roberts, PLLC for property owned and located at 0 Jenness Avenue, Tax Map 8.4, Lot 48 per NHRSA 677:2 and the Rye Zoning Ordinance §190-7.3 of the Board of Adjustment's August 30, 2023 decision denying requested relief from various requirements of the Rye Zoning Ordinance to the April 3, 2024 meeting.



Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: George (Jordy) & Julie Looser

Property: 750 Long John Road, Tax Map 16, Lot 155
Property is in the Single Residence District.

Application case: Case #08-2024

Date of decision: March 6, 2024

Decision: The Board voted unanimously to continue the application to the April 3, 2024 meeting.


Shawn Grapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Jonathan Lowell

Property: 114 Harbor Road, Tax Map 9.2, Lot10
The property is located in the Single Residence District and Coastal Overlay District.

Application case: Case #10-2024

Date of decision: March 6, 2024

Decision: The Board voted unanimously to grant the following variances from the Rye Zoning Ordinance as Presented and advertised:

- §190-2.3.C(2) for mini-split system 6' from the side boundary;
- §190-6.2.A for expansion nonconforming use.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Evan Granoff

Property: 973 Ocean Blvd, Tax Map 20.2, Lot 136
The property is located in the Single Residence District, Coastal Overlay District.

Application case: Case #12-2024

Date of decision: March 6, 2024

Decision: The Board voted unanimously to grant the following variances from the Rye Zoning Ordinance as Presented and advertised

- §190-5.0. C for parking in the front yard boundary.


Shawn Chapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Mark C. Epply

Property:

267 Brackett Road, Tax Map 19, Lot 93
Property is in the Single Residence District,

Application case:

Case #11-2024

Date of decision:

March 6, 2024

Decision:

The Board voted to grant the following variances requested from the Rye Zoning Ordinance as presented:

- §190-6.3.A for expansion of nonconforming structure.
- §190-3.1.H.(1)(a) for deck 56', and an addition 70' from the wetland, where 100' is required;
- §1902.3.C(3) for addition 20' +/- from the front boundary

The recommendations made by the Rye Conservation Commission in their 12-20-2023 letter as follows:

- 1) Any existing plantings that are removed or damaged during construction to be replanted or replaced with native plantings after construction is completed.
- 2) Any invasive plants currently in the construction area to be removed and properly disposed of.
- 4) The RCC believes that an 85% or greater survival rate of the planted vegetation after one year is adequate.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Rye General Store & Grille, LLC

Property: 2203 Ocean Boulevard, Tax Map 5.3, Lots 028-00A and 028-00B
Property is in the General Residence/Business District, Coastal Overlay
and SFHA Zone AO, Depth 2'

Application case: Case #61-2023

Date of decision: March 6, 2024

Decision: The Board voted in a 4-1-0 vote to grant the following variances requested from the Rye Zoning Ordinance as presented:

- §190-6.3. B to raze Units A and B and replace with new.
- §190-2.10.C(3) for structure 10.5' from the rear boundary.
- §190-2.2.D(1) for no more than one principal building on one lot.
- §190-3.4.D for dwelling coverage 32.2%.

The above variances were granted with the condition that the applicant receive NHDOT Approval.


Shawn Crapo, Chair

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BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Michael Anderson

Property: 117 Washington Road, Tax Map 17, Lot 20
Property is in the Single Residence District, Wetlands Conservation District

Application case: Case #57-2023

Date of decision: February 7, 2024

Decision: The Board voted unanimously to continue the application to the April 3, 2024 meeting for an updated plan with dimensions of slab, dimensions of workshop, and distances to wetland.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Peter & Mary LeSaffre

Property:

30 Straws Point Road, Tax Map 8.4, Lot 93
Property is in the Single Residence, Coastal Overlay, Wetland
Conservation District and SFHA, Zones AO (3), VE (19).

Application case:

Case #07-2024

Date of decision:

March 6, 2024

Decision:

The Board heard the majority of the applicant's proposal and due to the
late hour voted to continue the hearing to the April 3, 2024, meeting.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner:

Peter G. Hamill 2007 Revocable Trust
owns property at 152 Harbor Road, Tax Map 9.2, Lot 17

Property:

140 Harbor Road
Properties are in the Single Residence Districts, Coastal Overlay Districts
and SFHA, Zone AE.

Application case:

Case #13-2024

Date of decision:

March 6, 2024

Decision:

The Board voted unanimously to continue the application to the April 3,
2024 meeting.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

BOARD OF ADJUSTMENT

-Rye, New Hampshire-

NOTICE OF DECISION

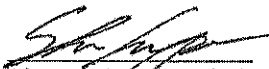
Applicant/Owner: Stephen and Kelly Colen

Property: 39 Parsons Road, Tax Map 20.2, Lot 45
Properties are in the General Residence Districts, Coastal Overlay Districts

Application case: Case #14-2024

Date of decision: March 6, 2024

Decision: The Board voted unanimously to continue the application to the April 3, 2024 meeting.


Shawn Crapo, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII. Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.