

## **TOWN OF RYE – BOARD OF ADJUSTMENT**

**Wednesday, January 3, 2024**

**7:00 p.m. – Rye Town Hall**

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

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

### **I. CALL TO ORDER**

Chair Crapo called the meeting to order, led the Pledge of Allegiance, introduced board members, and outlined meeting procedures.

### **II. BUSINESS**

**Motion by John Tuttle to continue applications for properties located at 125 Wentworth Road, 2203 Ocean Blvd, and 30 Straws Point Road to the February 7, 2024 meeting.**

**Seconded by Patrick Driscoll.**

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

### **III. APPLICATIONS**

- 1. Michael Anderson for property owned and located at 117 Washington Road, Tax Map 17, Lot 20 requests variances from §190-6.3B and from §190-3.1.H.2(a) to raze an existing shed and replace it with new within 75' of a freshwater wetland. Property is in the Single Residence District, Wetlands Conservation District. Case #57-2023.**

**Michael Anderson**, 10 Washington Road, presented his application to the board. He explained that the existing structures include a barn and a 20x50' shed. He stated that the three-car port housed a hay wagon, tractor, and sawmill. He stated that there is an existing slab that he'd like to replace with a 16x20' slab to build a workshop. He explained that his original application was for 19x24', which has been reduced to 16x20'. He stated that the existing slab is 20x24'.

Vice-Chair Driscoll asked if the 16x20' dimension is to the drip edge or the walls of the building. Mr. Anderson stated that the measurement is to the walls of the building. Vice-Chair Driscoll explained that the ZBA measures to the drip edge and suggested that he keep the dimensions he has.

**Patricia Anderson** stated that they used the initial dimensions because of the existing slab but they prefer it to be a bit smaller.

Chair Crapo explained that the applicant would need to submit updated dimensions. He discussed the proposed elevation and expressed concern that the proposed dimensions may limit the applicant and eventually cause issues with the building department. He asked if a roof no larger than 18x24' would cause any issue to the applicant.

The board discussed possible dimensions.

Member Patten asked the applicants if they plan to build on top of the slab or to relocate the structure. Ms. Anderson stated that they're not rigid on that and stated that they could build on the slab or not. Member Patten suggested that they clarify their preference.

Vice-Chair Driscoll asked if they intended to rip up the old slab and replace it with new in the same location. Ms. Anderson explained that the RCC came for a site walk and their suggestion was to relocate the shed further from the buffer and demo the slab. Ms. Anderson noted that it would be a disruption to the area and suggested they leave the slab in place and move the shed back farther to avoid disruption to the area. Ms. Anderson handed out a proposed layout to the board.

Chair Crapo discussed the process of moving the slab out of the buffer.

The board discussed the condition of the existing slab and its removal, and the process that would cause the least disturbance.

Ms. Anderson presented the layout noting the existing slab and explaining that the new structure would be moved 14' across the road to a specific location on Farm Lane. She clarified that it would be moved farther away from the pond.

Member Chororos asked if the barn would use electricity or water. Mr. Anderson stated that it would use electricity, possibly a woodstove, and it would be insulated; it would be a workshop.

The board discussed the delineation from the wetlands and the dimensions of the new structure. The Andersons clarified that the existing slab would remain in its current location and would store equipment. Mr. Anderson explained that the pond was man-made about 100 years ago and noted that the replacement structure is  $\frac{1}{3}$  the size of the original.

Vice-Chair Driscoll expressed concern over the storage of a tractor on a slab and the potential for leakage into the wetlands.

The board discussed the dimensions and Chair Crapo clarified that the agreed-upon dimensions would allow for a roof no larger than 18x24'. The Andersons agreed. Chair Crapo noted that if they eventually move the existing slab, they'd probably need a variance.

Chair Crapo opened to the public at 7:24 PM.

**Dana Truslow**, 215 Garland Road, representing the RCC explained that her comments were included in a submitted letter. She stated that when the RCC spoke with the Andersons they weren't sure if they would use the slab or not, which is the way the letter reads. The RCC had asked them to move it out of the buffer and asked if they moved it so that the RCC have the opportunity to come back and look. She stated that she doesn't have an updated letter since they made the plan to change the location.

Chair Crapo noted that the applicants are moving the structure farther away from the buffer.

Ms. Truslow explained that the code enforcement officer had asked them to move some of their stored items off the slab, so the RCC would ask that those items be moved as well.

Chair Crapo asked the applicants if any of their intended storage items would include items they were asked to move by the RCC.

Ms. Anderson stated that she hadn't been aware of any request to remove anything. Member Patten stated that there isn't anything in zoning that would prevent them from storing anything they like there. Vice-Chair Driscoll wondered if that's the case in a wetland setback. The board discussed what's permitted for storage within a wetland setback.

Chair Crapo stated that in the event of approval, a condition may include the submission of a finalized plan.

Vice-Chair Driscoll asked the applicant if they would agree to replace or build an 18x24' structure no closer than 51' from the closest wetland. Ms. Anderson stated that she would need to measure and she couldn't concretely say that it's 51'. The Andersons discussed and determined that they'd like to get more specific measurements for the board.

Chair Crapo agreed that the board would need more accurate measurements and noted that the applicants could submit a better drawing, double-check their numbers, and get the dimensions of the slab and drip edge if the application were continued. He also observed that it would give the applicants time to discuss the storage of items with the town's building inspector.

**Motion by Patrick Driscoll to continue the application to the February 7, 2024 meeting.  
Seconded by Sandra Chororos.**

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

- 2. Torsten & Patricia Schwanbeck for property owned and located at 105 Parsons Road, Tax Map 20.2, Lot 22 request a variance from §190-2.4.C(2) for a generator 15' from the side boundary where 20' is required. Property is in the General Residence, Coastal Overlay District. Case #01-2024.**

**Torsten Schwanbeck** presented the application. He described the property as a very small corner lot and stated that this was the only spot where they could put a generator. He explained they'd like a generator because they're older, want to travel more, and want to have the peace of mind of backup if there's a power outage.

Vice-Chair Driscoll asked if the applicants had spoken with their neighbor. Mr. Schwanbeck stated that he spoke with them and they're in full agreement with putting a generator there. He stated that there is a huge buffer between their house and the neighbor's property and the next building is the garage.

Member Chororos stated that she went to the property to look and agreed that it was the best location for it.

Vice-Chair Driscoll asked the applicants if they've had the generator company come out and make sure that the location works. Mr. Schwanbeck confirmed.

Member Patten asked if the generator would go on a concrete slab. Mr. Schwanbeck stated that a premade slab would be used and it's a little bigger than the generator. He stated that specs show it would be 26x48 and 28 high.

Chair Crapo clarified that the relief requested is for 15' to the edge of the pad, not the sides of the generator.

Member Tuttle discussed the requested relief and observed that it should be 12', 4" from the side. The board agreed.

Chair Crapo asked if it was going to be 5' out from the building, which Mr. Schwanbeck confirmed.

Chair Crapo opened to the public at 7:41 PM. Hearing no comment, the public session was closed.

Member Chororos stated that the proposed appears to be the best location and it doesn't alter the character of the locality, doesn't threaten public health, safety, or welfare, doesn't negatively impact surrounding properties, and doesn't jeopardize light or air. The proposed use is a reasonable one, all the neighbors have generators, and they're far enough away from the nearest abutter that the sound will not impact those neighbors.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. The spirit of the ordinance is observed:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**3. Substantial justice is done:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**4. The values of surrounding properties are not diminished:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by John Tuttle to approve the application by Torsten & Patricia Schwanbeck for property owned and located at 105 Parsons Road, Tax Map 20.2, Lot 22 for a variance from §190-2.4.C(2) for a generator 12' from the side boundary where 20' is required. Seconded by Sandra Chororos.**

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

- 3. Harvey & Joan Bines for property owned and located at 2230 Ocean Blvd, Tax Map 5.3, Lot 66 request variances from §190-2.3.C(2) for a generator 11.9' from the front boundary where 40' is required, from §190-3.4.E for lot coverage of 34.1% where 30% is allowed and 34% exists. Property is in the Single Residence, Coastal Overlay and SFHA, Zone VE(18). Case #02-2024.**

**Attorney Monica Kieser** presented the application on behalf of Stephanie Johnson and Tim Phoenix of Hoefle, Phoenix, Gormley & Roberts, who represent the Bines.

Attorney Kieser explained that a previous 2015 proposal and site plan located a generator on the side of the property in a different location, but utility work associated with the propane tank required the generator to be relocated. She stated that the Bines have been directed to obtain relief for the generator in the front setback. She stated the generator is 11.9' from the front boundary instead of the existing 14.4'. She also clarified that coverage of 34.1 % is correct, but the plan and notes showing it as 36.25 are incorrect. She also noted that the 2015 plan approved coverage of 35.2%.

The board discussed the 2015 plan approval.

Attorney Kieser presented the current plan for a generator pad measuring 10 square feet and 17 square feet of temporary impact, all outside of the Rye 100' wetland buffer. She explained that the tidal buffer zone goes through the middle of the house but it's still in the 250' shoreland protection area. A permit is required and has been submitted and accepted, but not yet approved. She offered to discuss each of the variance criteria, noting that all information is also included in a submitted memo.

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

Member Chororos asked if there had been any issues from the abutter, observing that the generator would be close to their property.

Attorney Kieser stated that there is no issue that she's aware of, but they haven't submitted a letter of approval. Attorney Kieser assumed they had been notified and stated that she saw them when she posted the sign.

The board discussed the placement of the generator.

The public session was closed at 7:57 PM.

Member Chororos stated that this location is as far away as possible from the 100' tidal buffer, it's a negligible increase of 0.1% in lot coverage, and overall the variances seem very reasonable: they don't alter the essential character of the locality, they don't threaten public health, safety, or welfare, it doesn't negatively impact surrounding properties because it doesn't jeopardize light and air, nor does it disturb the tidal buffer. Special conditions exist in this lot as it has no frontage and the location of the home and utility dictates the location of the generator.

Chair Crapo observed that this overall property with the modification is less than what was once contemplated at one point. He explained that something larger was reviewed and approved by this board, and this proposal would have less coverage.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. The spirit of the ordinance is observed:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**3. Substantial justice is done:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.



Shawn Crapo - Yes, as stated.

**4. The values of surrounding properties are not diminished:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by John Tuttle to approve the application by Harvey & Joan Bines for property owned and located at 2230 Ocean Blvd, Tax Map 5.3, Lot 66 as advertised and presented. Seconded by Patrick Driscoll.**

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

**4. Paula Mahoney for property owned and located at 32 Fairhill Avenue, Rye, NH, Tax Map 20.2, Lot 149 requests a variance from §190-2.4.C(2) for a generator 16.5' +/- from the side boundary where 20' is required. Property is in the General Residence, Coastal Overlay District. Case #03-2024.**

**Paula Mahoney** presented the application. She clarified that the property is in Rye not Portsmouth. She stated that the only abutter affected, Arthur Dionne of 36 Fairhill Ave, provided a letter of support which was submitted in the packet. Ms. Mahoney stated that she's the only person in the neighborhood without a generator and the proposed location adjacent to the propane tank is the least obtrusive area. She provided pictures for the board and explained that her property limits the possible generator locations.

Member Chororos wondered if the other side of the property might be a better location as there is no nearby abutter. Ms. Mahoney explained that the generator company looked at that area but there wasn't enough space.

Member Patten asked if it could be placed under the porch. The board discussed the possibility and determined that it would need to be farther from the window.

The board discussed the proposed location in relation to the propane tanks.

Chair Crapo discussed the generator and the dimensions of the pad where it would site. He explained that the pad is what triggers the zoning definition of a "structure".

Member Tuttle asked the applicant if they had the dimensions of the generator. The applicant didn't have the specific dimensions. The board discussed the dimensions and whether or not to approve with specific dimensions.

Chair Crapo opened to the public at 8:12 PM; hearing no comment the public session was closed.

Chair Crapo stated that the board is in consensus that they'll modify the request for relief to say no closer than 16'.

Member Patten stated that the application doesn't threaten public health, safety, or welfare, it allows for adequate light and air, the benefits to the applicant are not outweighed by any potential harm to abutters, the values of surrounding properties don't seem to be affected in any way, and the configuration of the property is unique: it's limited in size and the proposed is the only good spot for a generator on this property which does make it unique. It's a reasonable use and it seems that everyone in the neighborhood has a generator.

Member Chororos observed that the abutter has stated in a letter dated 12/15/23 that he's okay with the positioning of a generator this close to his property.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. The spirit of the ordinance is observed:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**3. Substantial justice is done:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**4. The values of surrounding properties are not diminished:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by Patrick Driscoll to approve the application by Paula Mahoney for property owned and located at 32 Fairhill Avenue, Rye, NH for a variance from §190-2.4.C(2) for a generator no closer than 16' from the side boundary where 20' is required. Seconded by John Tuttle.**

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

**5. Frank Goguen for property owned and located at 29 Gray Court, Tax Map 5.2, Lot 87 requests variances from §190-6.3.A for expansion of existing non-conforming structure; from §190-2.4.C(2) for an addition 14.5' from the side boundary where 20' is required; and from §190-2.4.C(5) & §190-3.4.E for dwelling coverage 22% where 15% is allowed, and lot coverage 35% where 30% is allowed. Property is in the General Residence, Coastal Overlay District. Case #04-2024.**

**Chris Crump** of CWC Design, representing the applicant, presented the application to the board and summarized the proposal. He explained that he was before the board six months ago for an addition on the back right, which was approved. He stated that the owner would now like to expand on the left side of the house. He stated that they're looking to extend the exterior rear wall back 3' and the house will not be any closer to the abutter on the left. He stated that the front of the house would expand forward 30" into the deck space. To mitigate lot coverage, the left-hand side deck would be removed. The proposed would also make the structure more conforming by 8-10" on the left-hand side of the house. He stated that it improves the setback on the left and while there is a slight uptick in lot coverage, removing the deck will help mitigate the increase. He stated that it would have a new roof with the same roofline. The owner has a letter of support from the abutters diagonally to the rear of the property and has spoken to the abutters to the left and right, who are in support of the project and have no issues.

Vice-Chair Driscoll asked for a summary of the previous application and what was approved.

Mr. Crump summarized the previous project to remove and replace the second floor. He stated that they are not increasing nonconformity, just extending it and the board unanimously approved their previous application. In response to Chair Crapo's question, Mr. Crump explained that this addition was first considered two months ago after realizing how many people he'd like to have in his house. He added that the owner is considering moving the existing kitchen into the new proposed space.

Chair Crapo observed that the previous approval was for 34.18% lot coverage and 35% is now requested, but more square footage on the small lot increases the percentage calculations. Mr. Crump responded and discussed the removal of the side deck. Chair Crapo and Mr. Crump discussed the overall lot coverage increase

Member Patten asked if the overall coverage considers the woodshed to be razed. Mr. Crump clarified that they're not taking the shed down and it was included in the percentages.

Member Tuttle asked if this is a summer home. Mr. Crump stated that the owner goes back and forth to Wilmington, but he's looking to make this his full-time home. Member Tuttle discussed whether Mr. Crump would be hosting people and how that may affect parking and the classification of a seasonal residence.

Chair Crapo clarified the definition of a seasonal residence.

Member Patten discussed the maximum dwelling coverage requirements and noted that an effort has been made not to exceed the height and that the side setback is improving.

Member Chororos asked if any letters of approval were submitted by the Snodgrass'. Mr. Crump said that they didn't submit a letter but the owner spoke with both abutters and there was no objection. He stated that a letter of support was submitted by the Constantinos.

The board discussed parking and confirmed that the concrete pavers would be removed.

Chair Crapo opened to the public at 8:35 PM.

**Jordan Murphy** of 28 Gray Court stated that he's conflicted about the application. He expressed the need for the board to remain consistent and fair between applications and noted that a similar application for 32 Gray Court, which he spoke out against, was approved; therefore, this application should also be approved for the board to stay consistent.

Chair Crapo closed the public session at 8:37 PM.

Chair Driscoll explained that there is nothing he can see in zoning that allows him to vote against this application with the requirements they've used on other, similar projects. He stated that this project doesn't add to the neighborhood, is a big tax on the lot, but satisfies the requirements for the neighborhood.

Chair Crapo explained that he's wrestling with the fact that it's a project creep. He noted that this appears to be a slight incremental increase, but compared with the original proposal 6 months prior, it's a larger percentage increase from 18.8 to 22. He also noted the sensitivity of the area.

Member Patten agreed with Vice-Chair Driscoll and stated that if he were to vote against the application it could easily be challenged.

Member Chororos observed that it's no closer to the side, rear, or front setbacks.

Chair Crapo noted that it adds more bulk and structure closer to the setbacks but no closer than they would be because of the entries.

Member Tuttle referred to the previous meetings' minutes and stated that dwelling coverage went from 21.3 to 18.6, then up to 22.

The board discussed whether the increase would cause runoff to the neighborhood and the expansion of an existing nonconforming structure.

Member Chororos stated that she doesn't believe it's contrary to the public interest as the requested addition is virtually in the same footprint as what exists. It's no closer to the side, rear, or front setback than what currently exists. The values of surrounding properties will be enhanced as it's similar in size, scale, and character to other homes in the neighborhood as per Mr. Murphy's suggestion. The proposed use is a reasonable one. It's currently a single-family residence and will remain the same.

Member Patten stated that substantial justice would be done, and there's no potential harm to the public that would outweigh the benefit to the applicant. The spirit of the ordinance would be observed for the same reasons as it's not contrary to the public interest: it doesn't threaten health, safety, or welfare and doesn't alter the character of the neighborhood.

Chair Crapo noted that the area has already been disturbed, the impervious is in a different form, and it's coming back to the original coverage with a small increase, which doesn't produce any overwhelmingly negative effects.

Member Patten stated that literal enforcement would result in unnecessary hardship.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. The spirit of the ordinance is observed:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**3. Substantial justice is done:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**4. The values of surrounding properties are not diminished:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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?**

John Tuttle - Yes, as stated.



Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by Patrick Driscoll to approve the variance requests for property owned and located at 29 Gray Court for variances from §190-6.3.A for expansion of existing non-conforming structure; from §190-2.4.C(2) for an addition 14.5' from the side boundary where 20' is required; and from §190-2.4.C(5) & §190-3.4.E for dwelling coverage 22% where 15% is allowed, and lot coverage 35% where 30% is allowed. Seconded by Sandra Chororos.**

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

- 6. Shaun & Sara McCarthy for property owned and located at 53 Spring Road, Tax Map 8.1, Lot 21 request variances from §190-6.3.A for expansion of a nonconforming structure on a nonconforming lot; from §190-2.3.C(2) for expansion on the west side boundary 12.24', 13.23' and 17.38' where 20' is required; and from §190-3.1.F(7) & H(2)(a)(g) for a porous walkway 58.5', porous driveway 52.04' & 56.7', retaining wall 48.1', granite steps 58.4', east overhang 23.5', southeast overhang 34.6', addition 42.5', porous patio 22.92', deck expansion 36.3', south overhang 37.4' & 51.5' where 75' is required. Property is in the Single Residence, Coastal Overlay District. Case #05a-2024.**
- 7. Shaun & Sara McCarthy for property owned and located at 53 Spring Road, Tax Map 8.1, Lot 21 request a special exception from §190-3.1.G(2); H.2(f) for a porous driveway 52.04' where 75' is required. Property is in the Single Residence, Coastal Overlay District. Case #05b-2024.**

Attorney Kieser, speaking on behalf of the applicant and Attorney Phoenix, introduced the applicant, **Shaun McCarthy, Paige Libbey** of Jones and Beach Engineering, and **Rob Carty** of TMS Architects. She clarified that the property is in the Single Residence and Wetland Conservation District, not the Coastal Overlay District. In response to Chair Crapo's question about the nonconforming lot, Attorney Kieser explained that the applicant is expanding a house in the wetland buffer, which is why it's considered nonconforming. She described the property and noted the dimensions provided within the plans. She explained that the lot is already developed and surrounded by wetlands. She described the plan to shrink the driveway which encroaches on the lot next door and the reorientation of the garage and patio area. She noted that impervious areas are to be ripped up and replaced with pervious material and the concrete will become an elevated deck with a hot tub.

Chair Crapo observed that the plan still uses the side door with a walkway up to it. Ms. Libbey explained that the plan uses red existing and shows the old walkway.

Vice-Chair Driscoll asked if there was an emailed compound letter. Attorney Kieser confirmed that Kara could provide the letter. She stated that the RCC saw the presentation at their meeting, had a site walk, and made recommendations, which Ms. Libbey is fine with. Ms. Libbey stated that the letter is dated 12/29/23.

Attorney Kieser discussed the walkway area and Chair Crapo wondered if the DPW director had any issues with the second curb cut. Attorney Kieser stated that it's a Planning Board issue and

they would go before them next. The board discussed accessibility, the location and placement of the driveway, the likelihood of approval, and a possible condition on Planning Board approval.

Vice Chair Driscoll wondered about the elevation of the back side of the property and discussed water runoff and stormwater management. Ms. Libbey stated that the pervious driveway will help with runoff as would the reduction in impervious surface.

Vice-Chair Driscoll discussed the compound letter and wondered if the RCC has a good understanding of the project and whether the applicant is in agreement with their recommendations. Attorney Kieser stated that Ms. Libbey viewed their recommendations and is in agreement as their in line with what was discussed at the site walk.

Vice-Chair Driscoll expressed his surprise that the RCC didn't have more to say and asked if there was a discussion of how to keep the wetland preserved. Ms. Libbey explained that there was no discussion of time frame but the RCC mentioned erosion control and the use of best practices.

Attorney Kieser discussed the variance and special exception criteria related to this application.

Chair Crapo asked for clarification of the special exception request and a discrepancy between the dimensions of the driveway in the most recent agenda and the packet.

Attorney Kieser and Ms. Libbey discussed the proposed dimensions with the board. It was determined that a driveway measuring 70' was being requested.

Attorney Kieser continued discussing the variance criteria.

Member Chororos asked if the applicant had had any conversations with the abutters.

**Shaun McCarthy** stated that he spoke with the neighbors closest to the driveway and they are fully supportive. He explained that he hasn't spoken with his other neighbors who are much farther away. Vice-Chair Driscoll asked Mr. McCarthy if he'd communicated that they'd need to do work on their lot. Mr. McCarthy said he told them he'd be removing a piece of driveway on their lot.

Chair Crapo wondered if the board needs to grant relief to the neighboring lot for excavation, dredge, and fill in the buffer. The board discussed this.

Attorney Kieser reported that no easements were found. The board discussed the second curb cut in the public right of way and discussed the other proposed dimensions, some of which needed

correcting. The board discussed the accuracy of the proposed dimensions and the RCC's recommendations.

**Dana Truslow** of the Rye Conservation Commission stated that she was present for the presentation to the RCC but didn't go to the site walk. She stated that the notes were prepared by Susan Shepcaro, who put the dimensions together. She stated that if there are errors, they are happy to make them right. She stated that substantially the RCC understands the project and the site walk with Ms. Libbey had a good interchange with the RCC.

Chair Crapo, referring to a recommendation in the RCC letter, complained that the RCC recommendations for mulch have been taken out of context and used in incorrect applications. He stated that these requirements are not intended for planting beds but for reseeding lawns. He stated that he'd like to strike recommendation #2.

Vice-Chair Driscoll asked the applicant if he would agree to use best practices to eliminate invasive species. Mr. McCarthy agreed.

Vice-Chair Driscoll explained that an approval would include a condition to abide by the recommendations of the compound letter using language similar to best construction practices to preserve wetlands including continuous silt fencing between affected areas, the house, and the wetlands.

Hearing no other comment, the public session was closed at 9:52 PM.

Vice-Chair Driscoll stated that it's a good project, there's a lot of landscaping and hardscaping that makes sense, and as long as they are working to keep water away from the other lot, it's a net positive. He stated that it's an attractive house and fits the neighborhood well.

Chair Crapo discussed the history of the land and the remaining wetlands, noting that all homes in the area deal with water. He stated that he doesn't see the development of this lot posing any negative detriment. He noted that the driveway closest to the abutter has swale and will become pervious. He stated that it's a reasonable project.

Member Chororos agreed with all that's been stated. Specifically, the proposed use is reasonable as it's a minimal home expansion, includes a net reduction in impervious surfaces, and cures an encroachment on abutters. Denial of the variances does result in unnecessary hardship due to the irregular shape, the burden of wetlands on three sides, and the existing home drives the location of any expansion and is not possible without requesting relief. These factors all combine to create special conditions.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. The spirit of the ordinance is observed:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

- Shawn Crapo - Yes, as stated.

**3. Substantial justice is done:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**4. The values of surrounding properties are not diminished:**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - 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.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

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

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by Patrick Driscoll to approve the variance requests for property owned and located at 53 Spring Road for variances from §190-6.3.A for expansion of a nonconforming structure on a nonconforming lot; from §190-2.3.C(2) for expansion on the west side boundary 12.24', 13.23' and 17.38' where 20' is required; and from §190-3.1.F(7) & H(2)(a)(g) for a porous walkway 58.5', a porous driveway 52.04' & 56.7', a paved driveway 70', a retaining wall 48.1', granite steps 58.4', an east overhang 23.5', southeast overhang**

**34.6', addition 42.5', porous patio 22.92', deck expansion 36.3', south overhang 37.4' & 51.5' where 75' is required with the following conditions:**

**The recommendations made by the Rye Conservation Commission in their 12/29/23 letter are as follows:**

- 1. An undulating buffer of native plants to a depth of 2-3' be thickly planted along the freshwater wetland in the rear yard starting as the Buddha statue continues to the hydrangeas, then on the other side of the hydrangeas continuing for 30' near the low pine trees."**
- 2. No lawn debris shall be dumped in the wetland or the wetland buffer.**
- 3. An 85% or greater survival rate of the planted vegetation after one year.**
- 4. Best construction practices to preserve wetlands including continuous silt fencing between the affected areas of the house and the wetlands.**

**Seconded by Rob Patten.**

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

**1. Is it injurious or detrimental to the neighborhood?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**2. Is it in harmony with the general purpose and intent of the zoning ordinance and is it in accordance with the general or specific rules contained therein?**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**3. Due to existing conditions, no alternative is feasible.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**4. It is essential to the productive use of land not so zoned.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**5. Unless it can be shown by a New Hampshire certified wetland scientist that to the maximum extent practical such construction shall have the least possible detrimental impact on the wetland.**

John Tuttle - Yes.

Patrick Driscoll - Yes.

Sandra Chororos - Yes.

Rob Patten - Yes.

Shawn Crapo - Yes.

**6. Unless disputed by a New Hampshire-certified wetland scientist, no alternative feasible route or area exists that does not cross or alter a wetland.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, as stated.

Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**7. Economic advantage alone shall not be deemed a sufficient reason for the above-mentioned exceptions.**

John Tuttle - Yes, as stated.

Patrick Driscoll - Yes, as stated.

Sandra Chororos - Yes, the project reduces the existing driveway, reduces encroachment, and provides a circular driveway on a large lot.



Rob Patten - Yes, as stated.

Shawn Crapo - Yes, as stated.

**Motion by Patrick Driscoll to approve the request for a special exception from §190-3.1.G(2); H.2(f) for a porous driveway 52.04' and a paved driveway 70' where 75' is required with the same conditions as the variance. Seconded by John Tuttle.**

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

**Motion by John Tuttle to adjourn at 10:11 PM. Seconded by Sandra Chororos. All in favor.**

Respectfully Submitted,  
Emilie Durgin

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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:**

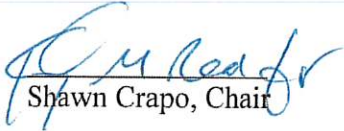
Case #57-2023

**Date of decision:**

January 3, 2024

**Decision:**

The Board voted unanimously to continue the application to the February 7, 2024 meeting for an updated plan with dimensions of slab, dimensions of workshop, and distance 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

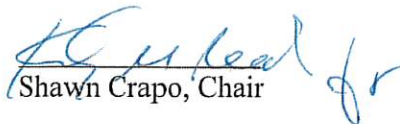
**Applicant/Owner:** Lone Star LLC/Matthew & Martha Masiello

**Property:** 125 Wentworth Road, Tax Map 24, Lot 34  
Property is in the Single Residence District, Wetlands Conservation District and SFHA Zone AE (8)

**Application case:** Case #58-2023

**Date of decision:** January 3, 2024

**Decision:** The Board voted unanimously to continue the application to the February 7, 2024 meeting at the request of the applicant.

  
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:** January 3, 2024

**Decision:** The Board unanimously to continue the application to the February 7, 2024 meeting at the request of the applicant.

  
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:** Torsten & Patricia Schwanbeck

**Property:** 105 Parson Road, Tax Map 20.2, Lot 22  
Property is in the General Residence District, Coastal Overlay District

**Application case:** Case #01-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant the following variance requested from the Rye Zoning Ordinance

- §190-2.4.C(2) for a generator 12' from the side boundary where 20' is required.

  
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:** Harvey & Joan Bines

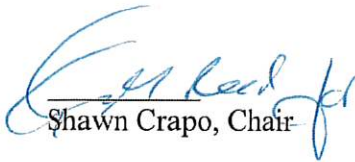
**Property:** 2230 Ocean Blvd, Tax Map 5.3, Lot 66  
Property is in the Single Residence, Coastal Overlay and SFHA, Zone VE(18)

**Application case:** Case #02-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant the variances requested from the Rye Zoning Ordinance as presented and as advertised:

- §190-2.3.C(2) for a generator 11.9' from the front boundary where 40' is required;
- §190-3.4.E for lot coverage of 34.1% where 30% is allowed and 34% exists.

  
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:** Paula Mahoney

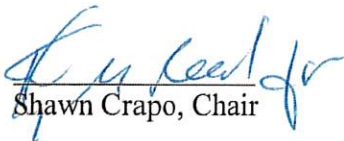
**Property:** 32 Fairhill Avenue, Tax Map 20.2, Lot 149  
Property is in the Single Residence, Coastal Overlay and SFHA, Zone VE(18)

**Application case:** Case #03-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant the following variance requested from the Rye Zoning Ordinance:

- §190-2.4.C(2) for a generator no closer than 16' from the side boundary where 20' is required.

  
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:** Frank Goguen

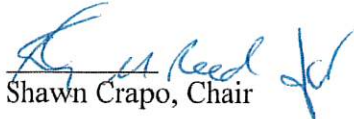
**Property:** 29 Gray Court, Tax Map 5.2, Lot 87  
Property is in the General Residence District, Coastal Overlay District

**Application case:** Case #04-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant the variances requested from the Rye Zoning Ordinance as presented and as advertised:

- §190-6.3.A for expansion of existing non-conforming structure;
- §190-2.4.C(2) for an addition 14.5' from the side boundary where 20' is required;
- §190-2.4C(5) & 190-3.4.E for dwelling coverage 22% where 15% is allowed and lot coverage 35% where 30% is allowed.

  
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:** Shaun & Sara McCarthy

**Property:** 53 Spring Road, Tax Map 8.1, Lot 21  
Property is in the Single Residence and Wetlands Conservation District

**Application case:** Case #05a-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant a special exception from §190-3.1.G.(2); H.2(f) for a porous driveway 52.04' and paved driveway 70' where 75' is required.

The variances were granted with the following conditions:

- 1) The recommendations made by the Rye Conservation Commission in their 12/29/23 letter as follows:
  - a. An undulating buffer of native plantings, to a depth of 2 to 3 feet, be thickly planted along the freshwater wetland in the rear yard. Starting at the Buddha statue continuing to the hydrangeas, then on the other side of the hydrangeas continuing for 30 feet to near the little pine tree.
  - b. No lawn debris to be dumped in the wetland or the wetland buffer.
  - c. The RCC believes that an 85% or greater survival rate of the planted vegetation after one year is adequate.
- 2) Best construction practices to preserve wetlands including continuous silt fencing between the affected area of the house and the wetlands.

  
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:** Shaun & Sara McCarthy

**Property:** 53 Spring Road, Tax Map 8.1, Lot 21  
Property is in the Single Residence and Wetlands Conservation District

**Application case:** Case #05a-2024

**Date of decision:** January 3, 2024

**Decision:** The Board voted to grant the following variances requested from the Rye Zoning Ordinance:

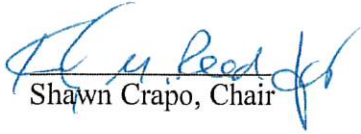
- §190-6.3.A for expansion of a nonconforming structure on a nonconforming lot;
- §190-2.3.C(2) for expansion on the west side boundary 12.24', 13.23' and 17.38' where 20' is required;
- §190-3.1.F(7) & H(2)(a)(g) for a porous walkway 58.5', porous driveway 52.04' & 56.7', paved driveway 70', retaining wall 48.1', granite steps 58.4', east overhang 23.5', southeast overhang 34.6', addition 42.5', porous patio 22.92', deck expansion 36.3', south overhang 37.4' & 51.5' where 75' is required.

The variances were granted with the following conditions:

- 1) The recommendations made by the Rye Conservation Commission in their 12/29/23 letter as follows:
  - a. An undulating buffer of native plantings, to a depth of 2 to 3 feet, be thickly planted along the freshwater wetland in the rear yard. Starting at the Buddha statue continuing to the hydrangeas, then on the other side of the hydrangeas continuing for 30 feet to near the little pine tree.
  - b. No lawn debris to be dumped in the wetland or the wetland buffer.

**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.

- c. The RCC believes that an 85% or greater survival rate of the planted vegetation after one year is adequate.
- 2) Best construction practices to preserve wetlands including continuous silt fencing between the affected area of the house and the wetlands.

  
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

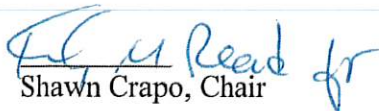
**Applicant/Owner:** Peter & Mary LeSaffre

**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:** January 3, 2024

**Decision:** The Board voted unanimously to continue the application to the February 7, 2024 meeting at the request of the applicant.

  
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.