

## NOTES OF JUNE 11, 2013 RYE PLANNING BOARD MEETING

Revised Final Revision C – Provided by the Rye Civic League

Present: Bill Epperson, Mel Low, Priscilla Jenness, Ray Tweedie, Phil Winslow, Jerry Gittlein, Phil Winslow, Keriann Roman (alternate), Anne Crotty (alternate)

Also present: Kim Reed, planning administrator

### Resignation of Curtis Boivin (7:00:30 p.m.)

Chairman Epperson started the meeting by announcing the “very sad news” that Curtis Boivin was moving from Rye to an adjacent community and was, for that reason, resigning. In response to a comment from Phil Winslow, Selectman Jenness indicated that Mr. Boivin had provided “wonderful service” in connection with the Town Hall Committee. *Editor’s note: Both Mr. Winslow and Ms. Jenness served on the 2012 Town Hall Space Needs Committee.*

### Approval of minutes (7:02:05 p.m.)

The minutes of the May 14, 2013 meeting were approved with minor changes by Ray Tweedie and Priscilla Jenness. With respect to the last change relating to signage on the building, Mr. Tweedie expressed concern that changing the minutes would make them inconsistent with the Notice of Decision that had been issued. All voted in favor, except Keriann Roman, who abstained.

### Wentworth-by-the-Sea Country Club (“WBTSCC”), minor site plan (7:10:03 p.m.)

Phil Winslow asked whether the minutes of the site walk would be reviewed. Mr. Epperson stated that these would be reviewed in July. There was some initial confusion as to whether a matter involving Carl Campbell appeared first on the agenda or whether the WBTSCC did. Apparently, two versions of the agenda had been distributed. Ray Tweedie initially indicated that the rules should be suspended if the WBTSCC matter was to go first, however, this was not done.

Chairman Epperson commenced the hearing by reading the agenda item, which refers to a minor site development plan for 60 Wentworth Rd., tax map 24, lots 61-26. It relates to concrete pavers to be placed under a 47 ft. by 130 ft. tent. *Editor’s note: That amounts to 6110 sq. ft., assuming that the tent is rectangular.*

Corey Colwell, MSC Civil Engineers spoke to the application on behalf of WBTSCC. As he opened his presentation, Mr. Colwell referred to the application being for a major site development plan. Mr. Colwell acknowledged that the concrete pavers are already in place, and that they replaced an interlocking rubberized tile floor that had been in place for approximately 10-12 years. The tent had been in the same location for the past 30 years. *Editor’s note: Although not discussed, the tent is removed after each event.* The pavers had been installed in the Spring of 2012, Mr. Colwell said.

Planning Administrator Kim Reed interrupted the presentation, informing the board and the public that she is a member of the WBTSCC. She stated that she does not

have a vote, believes that there is no conflict of interest, and feels that she can do her job representing the board and the Town. Chairman Epperson stated that he appreciated her honesty, but did not believe that her membership had any bearing as she has no vote.

Mr. Colwell continued, stating that the tent is used primarily for weddings, but also for some other functions. Initially, the floor was grass, but the ground became compacted, causing mud to become a problem. The rubberized tiles solved that problem, but there have been a couple of lawsuits due to tripping as people “danced and boogied.” When installed, the pavers are seamless as they interlock. Mr. Colwell asserted that the Club did not realize that site review was necessary. *Editor’s note: Starting in late 2012, the issue of site reviews relating to WBTSCC property became an issue of great importance and attention in the press. A Building Permit was issued on October 15, 2012 for a fence. Shortly thereafter, the WBTSCC installed the fence, landscaping and boulders blocking off access to the beach at Sanders Poynt. The matter was brought up before the Board of Selectmen (see notes for November 14, 2012 meeting) with a large number of disturbed residents of the area in attendance. A lawsuit was filed by Robert Jesurum, a Town resident living nearby. He has asserted that the public has a prescriptive easement to access the beach, and that the fence should not have been constructed. Subsequently, the Town demanded that the WBTSCC file a site plan in connection with the fence (for which the Town had already issued a building permit). After the WBTSCC refused to do so, the Town joined the lawsuit against the WBTSCC, seeking to force the WBTSCC to file a site plan. The Rockingham Superior Court recently denied an injunction that would have forced the WBTSCC to remove the fence pending final resolution of the suit. The court indicated that injunctions are normally granted to preserve the status quo. The suit is in its early stages and the issues remain to be litigated. The WBTSCC may ultimately be ordered to remove the fence.*

Mel Low indicated that he recalled the tent having come before the Planning Board. Mr. Colwell agreed that this had occurred.

Phil Winslow asked whether the area was flat, and what would happen to water flow during a storm. Mr. Colwell indicated that he had not “spot graded” the area, but guessed that the floor was slightly pitched in one direction. Chairman Epperson indicated that he had been down to the area earlier in the day, after it had rained, and noted that there was not a lot of mud, that the area had drained, and that the land sloped towards the club house. Mr. Colwell acknowledged that he was not sure exactly where all of the drainage features under the course in that area actually were. He stated that a whole series of underground drainage pipes were placed under the course “when it was built.” Ray Tweedie had questions about the provision of power and why the surrounding gravel was not shown on the plan. Mr. Colwell replied that electricity, used solely for lighting, was provided above ground. The question about the gravel was not answered.

Mr. Tweedie stated that he and Chairman Epperson had conferred, and did not feel that the application needed to be reviewed by the Technical Review Committee (“TRC”). Thus, the TRC did not review it. *Editor’s note: The Planning Board typically conducts a TRC meeting to review the completeness of applications prior to presenting them to the full board. The TRC is a subcommittee of the Planning Board, chaired by Mr. Tweedie.*

Mr. Tweedie’s motion to take jurisdiction over the minor site plan carried unanimously.

Member Low stated that “because of past meetings,” he wanted to “lead the way” to approve and asked Mr. Colwell to tell Messrs. Binnie and Weeks that he had done so.

Chairman Epperson noted that, before that was done, they needed to take care of the waivers. As Ray Tweedie was making his motion to approve the waivers, Ms. Reed interrupted, and referred to her project summary, which states that it is a minor site development plan. She stated that waivers are not needed for a minor site development plan. Mr. Colwell stated that he had filed it as a major site development plan, as the disturbance is more than 400 sq. ft. in area, as provided by the Land Development Regulations, section 201.2(A)(5). Ms. Reed, stated that, since no subdivision was involved, she viewed it as a minor site development. However, to be prudent, the board should proceed, she said.

Mr. Tweedie then moved that waivers be approved under sections 401.1.C, 401.2, 405.3.A, 405.3.B, 405.3.C and 405.3.D. *Editor’s note: These sections relate to drafting standards, surveying standards, final topographic and soils plan, surface water management, erosion and sediment control and building elevation, respectively.* Chairman Epperson read from RSA 674:36, II(n), indicating that that statute required either that (1) there would be unnecessary hardship, or (2) that there were specific circumstances or conditions of the land such that granting the waivers would carry out the intent of the regulations. Mr. Tweedie’s motion to approve the waiver pursuant to RSA 674:36, II(n)(2) (i.e. specific circumstances) carried unanimously.

Chairman Epperson stated for the record that the development had been done without prior approval, that a mistake had been made, and that in the future, any changes at all “out of curiosity or courtesy” should be done after consultation with the Building Inspector. There was no further discussion or reaction to Mr. Epperson’s statement. Ray Tweedie immediately seconded the “motion” made by Mr. Low, apparently considering Mr. Low’s statement that he wanted to “lead the way” as a motion. The motion carried unanimously.

*Editor’s note: A search of the Building Inspector’s records reveals that no building permit was apparently obtained for the new tent floor. Such a permit is required by section 801.1 of the Rye Zoning Ordinance if the value exceeds \$1500.*

Minor site development plan for Bradford Pierce, 39 Colbourn Rd., map 17, lot 8 (7:32:10 p.m.)

Chairman Epperson read the agenda item, which refers to placing a driveway within 100 ft. of a street intersection. Chairman Epperson stated that the driveway permit had been denied by the DPW as the planned driveway was not 100 feet from the intersection.

Bradford Pierce, the applicant, addressed the application. He stated that the property is a corner lot at the southwestern corner of Colbourn and Washington Roads. The prior structure, in place when they bought the property, was uninhabitable and was torn down last July. There is an existing curb cut 100 feet from Washington Rd. that accommodated a driveway to the prior structure. The prior structure was more than 30 feet within the wetlands buffer. The new design moves the structure 50 feet closer to Washington Rd. to accommodate the buffer. He was not aware of the driveway regulation at the time.

Phil Winslow indicated that some driveways in the area are 30-40 feet from intersections. Mr. Tweedie and Chairman Epperson thanked Mr. Pierce for complying with the wetlands buffer and siting the house so that no variance would be needed from the ZBA. Keriann Roman asked that, inasmuch as they have only a drawing, the 60 foot distance be made a condition of the approval, with the applicable driveway width regulation also taken into account.

The motion of Mr. Tweedie to accept jurisdiction over the minor site plan carried unanimously. Mr. Tweedie then moved that the waiver be granted pursuant to LDR 602.2(B)(4) based on the specific circumstances that the waiver would carry out the intent. All were in favor.

Chairman Epperson added that a condition of approval be that the distance be 60 feet or more.

Mr. Tweedie's motion for waiver of the site plan requirements carried unanimously.

Mr. Tweedie moved that the minor site plan be approved, based on the applicant reapplying with the road agent and conditioned upon the driveway being 60 feet from the intersection. The motion carried unanimously.

#### Minor site development plan for Carl Campbell, 137 Lafayette Rd. (7:49:00 p.m.)

Mr. Tweedie moved that the matter be continued to the July 9 meeting.

#### Payment of escrow for Sanctuary Care (7:50:15 p.m.)

The motion to pay \$1066 from the Sanctuary Care Escrow to AMEC carried unanimously. Kim Reed stated that the Certificate of Occupancy for Sanctuary Care had been issued on Friday. The place looks really good, Ms. Reed said, and they're hoping to get their first client.

#### TRC sub-committee (7:51:40 p.m.)

Mr. Tweedie reported that the last meeting was April 30, there was no end-May meeting as the applications were felt to be complete. There may be a meeting at the end of June if there are applications. Ms. Reed spoke of "rumblings," although nothing has come forward.

#### Long Range Planning (7:52:05 p.m.)

Mel Low reported that review of all of the chapters of the Rye Master Plan had been completed. It will be handed out to the membership as soon as it is in type. It is hoped that all will read it. Subsequently, it will be ready for the first public hearing. Mr. Low stated that he likes Mr. Winslow's suggestion that there be a summary of the objectives in each chapter to make the membership aware. Mr. Winslow indicated that quite a few other towns have a synopsis.

There was discussion of the Master Plan going to the full Planning Board at the July 9th meeting. Ms. Reed stated that the document would definitely be completed by

July 9th. The Planning Board would then have the rest of July and August to review. Mr. Tweedie suggested a Planning Board workshop at the end of August, and a public hearing in September. That would give the public plenty of time to engage in a dialog and offer suggestions. It was agreed that the workshop would be August 15<sup>th</sup>.

#### Rules and Regulations (7:59:00 p.m.)

The first Rules and Regs Committee meeting was agreed for August 19, 2013 from 6:00 to 8:00 p.m. Ms. Reed indicated that this meeting would allow for review of the Zoning Ordinance and the Land Development Regulations. Changes would appear in the upcoming warrant. Ms. Reed passed out a document that highlighted the changes that would be considered.

Chairman Epperson asked about prohibited uses. Mr. Tweedie responded that "11" had already been defeated and he wondered why that was being brought back up. Ms. Reed indicated that there had been a suggestion that it be brought up again while everyone was here in the summertime. It was never really defeated as written, she said. Keriann Roman suggested that, since the Town has e-mail addresses, (for example for car registrations), that notices could be sent out using these addresses. Ms. Reed indicated that there were restrictions on using these. "You just post an agenda," she said. Ms. Roman stated that nobody would come based on seeing an agenda.

Ms. Roman stated that she did not want to get into a situation where they had done a lot of work and the public gets upset that they were not part of it.

Mr. Tweedie asked about deadlines for public hearings. Ms. Reed responded that agendas need to be posted 24 hours in advance, but public hearings require 20 days notice. She explained that the public is always welcome to come to meetings, however it is up to the Chairman as to whether input is allowed.

Chairman Epperson asked whether it would be a burden to find a way to put this kind of stuff on the website.

Phil Winslow asked whether the intention was to discuss the footprint based on the actual buildable portion of the lot, as had been discussed in the past few months. Chairman Epperson and Ms. Reed both stated that that was exactly what they were talking about. "That's the one, I remember it well," Chairman Epperson said.

#### Mission Statement (8:05:50 p.m.)

Phil Winslow indicated that the Planning Board's mission statement currently on the website was unacceptable, and he had proposed a new one. Mr. Low stated that he did not recall reading or approving that mission statement. Mr. Winslow indicated that, with regard to Summer Sessions, the language relating to assisting applicants was read by them to indicate that the Planning Board would do their application for them. Mr. Winslow indicated that they would help or guide the applicant, but not do their work for them.

Mr. Low cautioned that there is a Master Plan. The mission statement is just another way for a developer to take them to court.

Mr. Tweedie indicated that there is an assistance role, particularly as provided by Ms. Reed.

Ms. Reed suggested that what is on the web site should be removed.

Ann Crotty indicated that there are legal requirements relating to assistance. She referred to a Hampton case.

Ms. Reed stated that she would take the mission statement off of the web site and then ask the Town Attorney about it. She indicated that Keene and Stratham had mission statements.

#### Rockingham Planning Commission ("RPC") (8:12:20 p.m.)

Chairman Epperson stated that, in order to better understand what the RPC could do for us, he arranged to have a meeting with Cliff Senate on Monday, June 17th. Phil and he would go over there to chat.

Ms. Roman suggested that they attend a meeting. Referring to the membership fee paid by the Town, she said it's money that it's not necessary to spend. There might be an occasion where they could be used, she said. However, there's not much that could be beneficial to Rye, given that the Town is small.

Mr. Tweedie cautioned against Rye giving up its autonomy. Federal money comes with strings attached. We need to worry about our planning and zoning, not what other towns are doing, Mr. Tweedie said. The money should be kept in the budget, for example to hire experts to assist with the Master Plan.

Mr. Low stated that he had been to regional meetings, for example on water supply. Towns looked ahead and proved that there was going to be a shortage. Chairman Epperson noted the need to "protect our own assets." There's no one other than RPC, Mr. Low said. Mr. Tweedie noted that there are experts other than the RPC.

A discussion arose as to the cost. Nobody was able to provide a figure. Ms. Roman indicated that it was probably around \$5000. Chairman Epperson stated that the retainer for an engineer would be more than that.

Chairman Epperson said that things should not be done in a vacuum. Decisions should be based on facts.

Mr. Low indicated that people work for Rockingham Planning. They have expertise far beyond ours, he said.

Chairman Epperson stated that his disclosure of the meeting was for information purposes only.

#### Adjournment (8:17:40 p.m.)

Ms. Reed asked whether a motion to adjourn was in order. A motion to adjourn was made and carried unanimously.