

**NOTES OF DECEMBER 16, 2013 SPECIAL  
RYE PLANNING BOARD MEETING TO SCHEDULE PUBLIC HEARING**  
Final Revision B – Provided by the Rye Civic League

Present from Planning Board: Ray Tweedie, Selectman Priscilla Jenness (arrived slightly late), Mel Low (arrived slightly late), Bill Epperson, Phil Winslow, Jeff Quinn. Also present: Planning Administrator Kim Reed,

Persons present from the public: Peter Crawford, Sam Winebaum, and Dominique Winebaum.

The meeting was called to order at approximately 8:00 a.m.

*Although this was a regular Planning Board meeting held in the Town Hall courtroom, there is no video, apparently because the appropriate scheduling had not been entered into the system beforehand to cause the video to be streamed.*

The Board votes to schedule a public hearing on petitioned warrant articles on January 14, 2014

Kim Reed stated that the purpose of the meeting was to schedule a date certain for a public hearing. She stated that she wanted to make sure that it was known that this was a meeting, not a public hearing. *Editor's note: The three members of the public noted above, who had submitted the two petitioned warrant articles for which a hearing was to be scheduled, were present in the audience.*

Chairman Epperson stated that they would need to seat Mr. Quinn for the open seat.

Mr. Crawford asked whether the video would be turned on. Chairman Epperson stated that he had not planned on it, and asked why. Dominique Winebaum stated that it was a meeting of the Planning Board. Kim Reed said that it had not been scheduled. Mr. Epperson told Mr. Quinn to turn on the video. *Editor's note: No video was captured, apparently because the appropriate information was not entered into the video provider's computer system. There is no exception in 2013 Warrant Article 9 for special meetings. That warrant article refers to video streaming of Board of Selectmen, ZBA and Planning Board meetings.*

Ms. Reed stated that, on the 11<sup>th</sup>, two petitioned warrant articles had been turned in to the Selectmen. They were given to her on the 12<sup>th</sup>. She stated that she had been back and forth with Attorney Donovan who stated that they would have to be scheduled for a date certain, and that a special meeting would be needed in order to do that if they were to be heard on January 14. If the warrant articles had come in on the 10<sup>th</sup>, the issue could have been scheduled for the 11<sup>th</sup>, she said. *Editor's note: Presumably she meant the regular Planning Board meeting on December 10. In fact, this is incorrect. N.H. Rev. Stat. Ann. ("RSA") 675:4, II states that the Planning Board's meeting to schedule the public hearing occurs after the end of the 120 to 90 day window before the election. The 90<sup>th</sup> day before the March 11, 2014 was December 11, 2013. An earlier submission would not have changed anything.* Ms. Reed stated that, if they had waited until the

regular meeting on January 14, and scheduled it for a hearing then, the earliest that it could have been scheduled for a hearing was January 28, but the warrant articles are due January 27. *Editor's note: It is of course the Planning Board's fault that it did not consider the possibility of a petitioned warrant article and schedule its meetings accordingly to avoid a special meeting.*

Ms. Reed stated that today they should read the warrant articles and vote on whether to schedule them for a hearing. Chairman Epperson stated that he understood that they did not have a choice. Ms. Reed stated that that was correct.

Mr. Tweedie moved that they be moved to the January 14 hearing. Phil Winslow seconded the motion. All were in favor.

Chairman Epperson asked Mr. Crawford to explain what the articles were, why, and what the rationale was. Mr. Crawford deferred to Sam Winebaum on the first warrant article as he had done a lot more work on the impervious definition.

First warrant article: New definition of "impervious" mirroring the RSAs

Sam Winebaum stated that there a number of places in the Zoning Ordinance that talk about impervious and impermeable, referring to areas, surfaces, and coverages. The impervious coverage definition is related to the aquifer district, the one that is struck through. *Editor's note: He is referring to the prior definition, as it appears on the petition.*

Mr. Winebaum stated that the idea is to have a single, consistent definition of impervious and impermeable. The language comes from RSA 483-B:4. Mr. Winebaum read from the proposed definition "...and paved, gravel, or crushed stone driveways, parking areas, and walkways." "...unless designed to effectively absorb or infiltrate water..." There are several reasons to update the definition, Mr. Winebaum said.

*(at this point Selectman Jenness and Mel Low walked in)*

Mr. Winebaum referred to national and in New Hampshire standards. He stated that, unless so designed, gravel and crushed stone driveways are not permeable. The intent is to assist in decreasing impermeable areas for watershed protection. As of 2005, Rye was at 12% impermeable coverage. Above 10% will start to raise water quality issues.

Particularly closer to the beach, Mr. Winebaum said, with high water tables and intense development on small lots, there has been a tendency to swap pavement for crushed stone and gravel. There has not been any real way for the Building Inspector to take a closer look at the impact.

Mr. Winebaum gave the example of the lot next to him, which was below the 30 percent coverage limit of the current ordinance because the gravel was excluded. Once, after considerable effort by Mr. Winebaum, section 507 was applied by the Building Inspector, and a drainage plan done, it turned out that the mitigation to keep the water on the lot was substantial. *Editor's note: Section 507 of the Zoning Ordinance allows the Building Inspector to require a drainage plan, but only where there is a question of whether the water draining off of a lot, following construction, could be greater than what it was. It does not permit this simply to ensure that the lot is sufficiently pervious.*

If people have gravel taking the coverage over 30 percent, a highly engineered study is not necessarily required, Mr. Winebaum said. A lot of it is common sense, such as rain gardens, swales and deeper under layers of gravel. It gives the Building Inspector and the Town a way to start to get a handle on impervious issues for water, flooding and aesthetic reasons.

Jeff Quinn started to ask a question, but Chairman Epperson interrupted, saying that the issue should be vetted on the 14<sup>th</sup>.

The second warrant article: Business District lot coverage to include impervious areas

Mr. Crawford discussed the second warrant article. He stated that it was intended to have the Business District mirror what is done in the General Residence District. In the latter there is a restriction of 30 percent building coverage, but the 30 percent also applies to impervious coverage. The Business District has a 40 percent building coverage limit, but there is no comparable provision for impervious coverage. This adds that in, limiting it to 40 percent, he said.

The other thing that it does is along the lines of what the Planning Board had previously considered three or four months earlier. That plan was to restrict the denominator of the calculation to the buildable area. Chairman Epperson stated that there had been a problem defining the buildable area. There had also been public opposition to the change, he said. Mr. Crawford continued, stating that there was a problem with using the buildable area as the setbacks would technically not be available as part of the denominator.

Mr. Crawford stated that he tried to make this less onerous by excluding from the denominator anything that is submerged at high tide and any part of the lot that is wetlands. The rationale is that the ground in those cases is already saturated. So this puts everyone on an equal basis, he said. It also avoids the problem of a huge amount of asphalt covering a lot and preventing the water from infiltrating.

Mr. Crawford stated that he had gone through the Business District lots based on vision appraisal and came up with only two or three that are over 40 percent, although he was not able to take into account submerged lands or wetlands because that is not on vision appraisal. He stated that he looked at the tax card to determine the footprint of the building and any pavement area. *Editor's note: visionappraisal.com is a website which permits access to tax card information for properties in Rye and a number of other cities and towns.*

Chairman Epperson asked which properties were over 40 percent. Mr. Crawford stated that the Dunes is at exactly 40 percent, 566 Washington, an office building, is 52 percent. That one is a small lot. The third one is the Rye Water District, which is at 44 percent.

Chairman Epperson thanked Mr. Crawford.

Dominique Winebaum stated that she had a role in drafting the amendment and referred to the Master Plan and the Vision Statement. The issue has not really been addressed for many years, she said.

Chairman Epperson stated that there would be an opportunity to talk about that on the 14<sup>th</sup>.

Mel Low stated that there were a lot of signatures from members of one of the political parties. Dominique Winebaum stated that there were 41 signatures and he did not have many of them.

Chairman Epperson called for a second on the motion to adjourn. Kim Reed explained the action taken before Selectman Jenness and Mel Low arrived. The motion to adjourn carried unanimously and the meeting adjourned at approximately 8:18 a.m.