

**NOTES OF JULY 30, 2014 RYE CONSERVATION COMMISSION SITE WALK  
Rye Farm, 561 South Rd.**

Final Revision C – Provided by the Rye Civic League

Present from the Conservation Commission: Chairman Sally King, Jeff Gardner, Mike Garvan.

Present from the Planning Board: Ray Tweedie.

Present from the applicant: Developer Don Cook and his wife Kathy Cook, John Chagnon, Ambit Engineering, and Jim Gove, Gove Environmental Services, Inc.

Abutters and homeowners living within the Aquifer and Wellhead Protection District present: Pat and Tim Losik, Lois Taylor, Kathleen Casey, Bob Svihovec, Oren Sheetreet, Angelo and Amanda Puglisi and family, Deb Dallero, Mary Dallero, and Matt Burke.

Also present: Peter Crawford

*Editor's note: For ease in finding particular sections using the archived video and audio on Vimeo, the elapsed time is indicated. Use the slider and the elapsed time indicated at the bottom of the video window to fast forward to the desired section. The video is available at <https://vimeo.com/102424111/>*

Summary

1. [One parcel of 35 acres is proposed to be subdivided into five parcels, one containing the existing farm house, three containing single family homes and the fifth, requiring a wetlands crossing, containing either a ten unit Retirement Community Development \("RCD"\) or another single family home.](#)
2. [Abutters expressed concerns about the location adjacent to conservation land and within the Aquifer Protection and Wellhead Protection Districts.](#)
3. [Abutters expressed concerns about drainage and flooding and referred to FEMA flood zone maps.](#)
4. [The proposed wetlands crossing was viewed.](#)
5. [The applicant emphasizes that an RCD is only a possibility, but acknowledges that Attorney Tim Phoenix was retained due to his experience in obtaining approval of the RCD at the former Rand Lumber property.](#)

The developer describes his plan and raises the possibility of an RCD (1:50 elapsed)

Don Cook, the applicant/developer, welcomes everybody present and introduces himself, his wife, Kathy Cook, John Chagnon from Ambit Engineering, and Jim Gove as our "environmental guy." He provides a brief description of the property referring to it as sort of a big square and then comes in at the trees. It is one parcel of roughly 35 acres and he offers a look at the tax map.

*(3:00 elapsed)*

Abutter Mary Dallero asks where is the road going to be located to access the lots. Don Cook replies where the tractor is located. Mary Dallero, the abutter, responds by stating “just where we don’t need it ” because there is already a lot of traffic. Another abutter notes, “We have terrible traffic here.” Ms. Dallero then asks how close is the road going to be. Don Cook replies that a 50 feet right-of-way is required, however, in talking to abutters, he is going to try to go for 70 feet in order to create a buffer for planting.

*(4:50 elapsed)*

Don Cook shows the site on the tax map and how it relates to all the abutting properties noting the series of homes on West Road and where the land “chokes in” and states that it is mostly surrounded by stone walls. He refers to the “logging road” or a “woods road” crossing the wetlands and is questioned by an abutter as to the source of his description.

*(5:40 elapsed)*

Conservation Commission member Mike Garvan, asks what the goal is and what is proposed to be built. Mr. Cook replies “five lots, the fifth lot we might or might not try (RCD)...” Mr. Garvan requests clarification. Kathy Cook notes that the farmhouse represents one lot and Mr. Cook explains the location of the cul-de-sac going just into the woods. He states that the farmhouse stays and Lot 2 begins with the mowed grass line to the short trees, Lot 3 is the area of tall trees to the right. Mr. Garvan queries, “and the plan is that these are all single home lots and then you have a cluster of homes in the back lot?” Mr. Cook responds, “We might try to attempt that, we haven’t gotten that far along but that would be my ultimate goal is to do the....there are 10 RCD’s left in the town because you can only have 52 and the place up at the airfield had 22, the Rand project had 20 and that leaves 10 left, so we have a concept of it but we haven’t got that far, we are more concerned with drainage and the road and the water and just trying to get to that point.”

*(7:25 elapsed)*

Jeff Gardner from the Conservation Commission asks whether, if the applicant chose not to develop the land in the back for an RCD, would they still have to cross the wetland. Don Cook replies, “Yes, either way, because that’s where the developable land is there.” Mr. Cook noted that they would not need to test all of the back property. Jeff Gardner asks whether that would also be the case with a single residence house before the Lot 5 wetland? Mr. Cook states that one of his goals is not to disturb any of the property lines to give everybody their privacy. Matt Burke asks whether the map shows 75 by 100 or 150 of developable land (Lot 5) and, if so, whether Mr. Cook would not need to go behind the wetlands crossing. Mr. Cook notes that the test pits are not good right there: the better soil is behind there and a wetlands buffer is needed. Abutter Pat Losik asks Mr. Cook whether he has a possible developable lot (5) without impinging upon the wetlands which are in the Wellhead Protection Area.

Nearby Wellhead and Aquifer Protection land, and conservation land (8:29 elapsed)

In response to Abutter Pat Losik’s remark about the Wellhead Protection District, Don Cook states that hundreds of homes are in this zone, and is he is not sure if it is the

wellhead district. Ms. Losik confirms that the zone in question is in the Aquifer and Wellhead Protection District. Mr. Cook confirms the location of the District on the map and notes that essentially every home “within a mile of here is in that”. Ms. Losik makes reference to the homes on the inside of the “polygon” and notes that Mr. Cook is proposing to increase, if he gets 10 RCD units, what’s on the inside of the Wellhead Protection District by 20%.

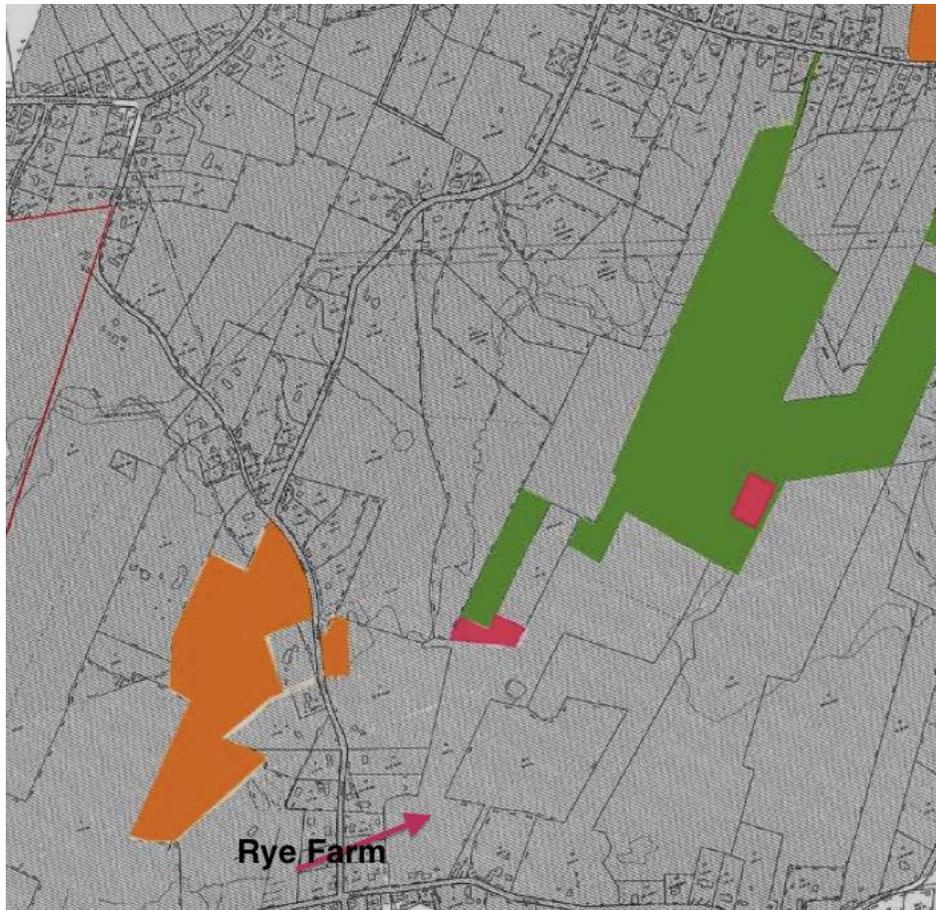
Don Cook replies that he is not sure about what is being referred as a 20% increase. Abutter Tim Losik replies that it represents a 20% increase of homes in the area. Ms. Losik concludes that a 20% increase is a material increase “to our water.”

*(9:20 elapsed)*

In response to the Losik’s comments, Don Cook shows on the tax map all land owned by the Town of Rye (referring to it as TOR) in the area. Abutter Pat Losik replies that the Town of Rye owns and preserves this land for a good reason. *Editor’s Note: See page 49 of the SMP Final Concept Report for Town Hall a portion of which inventoried all town owned lands and conservation easements.*

[http://www.town.rye.nh.us/Pages/RyeNH\\_BComm/TownHallComm/smpfinal.pdf](http://www.town.rye.nh.us/Pages/RyeNH_BComm/TownHallComm/smpfinal.pdf)

*An excerpt of the map is below, illustrating Rye Farm and the contiguous conserved lands related to adjacent well heads and aquifer: Green indicates town-owned land managed by the Conservation Commission. Pink indicates other town-owned land. Orange indicates land subject to a conservation easement for the benefit of the Town of Rye.*



*(9:40 elapsed)*

Abutter Tim Losik asks a question regarding Bailey’s Brook, addressing the many entities responsible for protecting it, specifically mentioning the Water District, the Conservation Commission, and the Planning Board. He states that it is not too far from this property. He also mentions “Brown’s Brook,” as he believes it is commonly called, which ends up flowing into “Brown’s Pond.” His question is if any of that (i.e. the geography of the brooks in relation to this property) has been taken into consideration within the context of this proposed development.

Jeff Gardner of the Conservation Commission replies that that this is their first meeting and that it was premature to provide an answer to that question.

Abutters express concerns about drainage (12:00 elapsed)

Abutter Pat Losik talks about the new FEMA maps and regulations in relation to this proposed development. Referencing the location of “Bonnie’s Pond” on the FEMA map, she points out what is now designated as a special flood hazard area. She states that this development is proximate to (FEMA designated SFHA) and is land that does not drain.

Mr. Cook replies that the parcel for the RCD is significantly above the level of that pond.

*(13:00 elapsed)*

In response to the concerns of abutters Pat and Tim Losik, Don Cook replies that they have been concerned about the wellhead district, or whatever they call it, the Aquifer, and John Chagnon of Ambit Engineering noted they were going to do a hydro-geological study to determine the impact.

Abutter Pat Losik replies that they know how the land drains, what happens in significant storms, and how many sump pumps are brought in. When there is high tide, it impacts how the water drains. She mentions the Storm of 2006, concluding that 13 more units is a big impact.

The group views the proposed wetlands crossing (14:00 elapsed)

All present proceeded to walk across the field into the woods. Shortly thereafter, Jim Gove answered questions about the test pits and noted his work with Dennis Plante, consultant to the Town. He noted that Lots 1, 2 and 4 were fine. Lot 3 had to be worked a bit and all were outside the area of the wetlands (referring to wetlands on Lot 3). The Lot 5 test pit did not pass the Town standards so they had to go beyond the wetlands on the other side to find a pit that met the requirements. A Conservation Commission member asked if it was due to ledge or some other reason. Jim Gove responded that it was loose glacial till. He was surprised as he was expecting to find sand and gravel and instead found a little bit of sand over clay, stating that typically when you have all sand over clay, you don't have an aquifer situation at all.

Once they got beyond this, and then noted the drainage that comes from the horse field (West Road resident) and comes across toward the pond, Jim noted this was not a significant drainage but could be seen on the plan. They found two pits, outside the wetland boundaries, which met the standard. Conservation Commission Chairman Sally King confirmed they had to go through the wetland to get the pit test. John Chagnon noted that if the house was placed up near the road you would pump effluent (indicated upward motion) to the suitable receiving area so there would be a temporary crossing impact. The other option, according to John Chagnon, would be to put a driveway through the wetlands and a house in the back.

Mr. Cook noted that if they did not do an RCD they would want to construct a driveway crossing because it's a nice beautiful building lot. Ms. Losik confirmed that it would then be one lot and Don responded, yes, it would still be a lot. The RCD is technically required to have 10 acres, even though you have up to 10 units, it is still considered one building lot.

*(21.09 elapsed)*

Showing the group passing through the narrow section of the lot.

*(24:00 elapsed)*

Don Cook is showing where the wetlands are located, marked by red flags and asks Jim Gove for concurrence that wetlands start on this property. Mr. Gove notes the origins of the wetlands at the stone wall draining toward the pond.

*(25:00 elapsed)*

Abutter Pat Losik asks for the distance from the proposed access road on Lot 5 to her property. John Chagnon noted that it would be a driveway and the public road would end (pointing to the beginning of Lot 5) and so it would be a driveway and would be

where it is now. Don Cook states that he has no intention of making the proposed private road into a Town road for privacy even though it will have to be built according to Town standards.

*Editor's Note: the front four lots through which the RCD will be accessed are proposed to be on a new town road. Access to the RCD will be on a "private road". An RCD must have, in accordance with section 401.4 C of the Zoning Ordinance, entitled "Frontage"*

*"... a minimum contiguous frontage on a Class V Road or better of 150 feet. Each dwelling within an RCD shall face upon either an existing Class V Road or better or on a private way constructed within the RCD. (Amended 2008)*

*(28:00 elapsed)*

Jim Gove shows where the road actually crosses the wetland boundary. His recommendation is that if you are going to cross the wetlands, do it where it has already been disturbed.

*(28:52 elapsed)*

Don Cook stated the intent is to put a driveway not a road crossing the wetlands in response to abutter Pat Losik's concerns.

*(29:20 elapsed)*

Don Cook shows where they have done two test pits and where they will be doing more in the next couple of weeks.

#### Discussion of the possible RCD (30:00 elapsed)

Abutter Matt Burke asked where the septic system for the RCD would be. Mr. Cook noted the location but said that he didn't want to go for the RCD right away. John Chagnon of Ambit Engineering states that the RCD is a concept, not a plan yet. Abutter Angelo Puglisi replies that most concepts become reality. Mr. Cook notes there are plenty of other suitable places for the septic but needed a start to make sure the soils were suitable. John Chagnon replies that it will have to go through the Planning Board process. Mr. Puglisi states his concerns regarding the RCD "proposed concept," namely because of the increased traffic and that it will impact his property. It will put his house on a peninsula, as there will be a road on three sides of his property. He is not a big fan of the RCD.

*(33:40 elapsed)*

Don Cook stopped walking and put the plans on the ground to show what he calls is a little peninsula where the stone walls are located. He states that there is a significant amount of upland, which in his view would justify crossing the wetlands to access the huge amount of land in the back. He also shows all the different parcels owned by the Town of Rye on the map.

*(34:40 elapsed)*

Abutter Tim Losik states that this roadway passes all the way through to the wellhead. Don Cook does not know where it goes and asks for the name of the area. The Puglisi's mentioned possible names of the area. Conservation Commission Chairman

Sally King asks if they are going to see the Wellhead Protection Area. Don Cook asks if it is an active well. Abutter Tim Losik replies that the town wellheads are there. As they proceed to walk, Don Cook stops and says that he is not comfortable leading a group because this is no longer his property.

*(37:25 elapsed)*

Conservation Commission Chairman Sally King asks John Chagnon if he has any idea about the amount of upland, in terms of acreage of the fifth lot. John Chagnon replies that he has no idea.

*(37:40 elapsed)*

A member of the public asks what they would be doing with the remnant of the land not being built upon. Don Cook figures that it amounts to 15 acres, which he intends to leave alone. Planning Board member Ray Tweedie interjects that it is approximately 20 acres. Ray Tweedie goes on to state that the Planning Board would not approve Lot 5 for the RCD unless 50% of the land would be put into conservation. He shows on the map the piece of land that would go into conservation, which would be well over 50%. He makes a parallel with the recently approved RCD for 20 units at Rand's in terms of the percentage of land going into conservation.

Peter Crawford corrects Ray Tweedie by stating that this would not apply to this RCD because there is a maximum of 10 units that can be built and as a result no bonus can be granted by putting 50% of the land into conservation. Ray Tweedie agrees and states that this would be up to Mr. Cook to do the right thing.

*(39:00 elapsed)*

Abutter Amanda Puglisi asks if the RCD would be similar to the Airfield.  
*Editor's note: This appears to be a reference to the RCD built off of Lafayette Rd. near the Rye Airfield.* Don Cook states that his intent is to put 10 individual capes in the 2000 square feet range if that means anything, something comparable to the RCD at Rand's.

*(39:35 elapsed)*

Conservation Commission Chairman Sally King states that they would like to come back if Don Cook were to proceed with his concept for an RCD. They would like to walk the whole site. Jim Gove notes that the remaining land is a nice mix of upland and wetland.

*(41:00 elapsed)*

In talking to the Conservation Commission members present, Don Cook states that he wants to do his homework with the RCD by hiring a hydrologist. He does not want to come to the Planning Board without being prepared. He states: "...but the five lot we're probably going to present... trying to go to the Planning Board with the five lot and potentially go with the RCD. But this all just a thought, I am working with Tim Phoenix because he is the attorney who did the Rand property and he knows all about the RCD's even though I have never worked with him before."

*(42:00 elapsed)*

In response to abutter Pat Losik's concerns about prior statements made regarding a Town road, Don Cook states that the RCD can be on a private driveway that would be

built to town standard. Ray Tweedie says “your first part would be a town road which is how you would be able to access this by way of RCD.” Mr. Cook agrees and states that in order to have an RCD you have to have a building lot with 150 feet on a Class V road. Mr. Puglisi noted that an Association would be needed to maintain the private road if it’s private and Messrs. Cook and Tweedie agreed.

*(46:00 elapsed)*

Abutter Tim Losik asks for clarification regarding the RCD. He makes the point that Don Cook has been stating that the RCD is not on table, however, the letters sent to the abutters and the plans only show the RCD as the potential proposal not a single family home as described during the walk. Don Cook replies that he is going to ask for a five-lot subdivision. Ultimately he would like to do the RCD. He is going to talk to his attorney on how to approach the Planning Board regarding the RCD. Tim Losik summarized the discussion as follows: the outcome of Lot 5 is unknown at this point; Don Cook has two thoughts in mind: a single family single dwelling as a potential, with a need to cross wetlands or a 10 unit RCD still having a need to cross wetlands. Don Cook agreed. Abutter Pat Losik stated that the RCD (for Lot 5) was not posted on the July 8<sup>th</sup> Planning Board agenda and it was confusing to people. Planning Board member, Ray Tweedie stated that the rules were followed.