

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Applicant: Harbor Street Limited Partnership

Property: 421 South Road and properties located at
Tax Map 4, Lots 25, 27, 31 & 32
Single Residence and Aquifer and Wellhead Protection Districts

Case: Case #02-2018

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by Harbor Street Limited Partnership for property owned at 421 South Road and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot subdivision. **Property is in the Single Residence and Aquifer and Wellhead Protection Districts. Case #02-2018.**

Date of Decision: Tuesday, January 9, 2018

Decision: Approved
 Conditionally Approved
 Denied

*The Board voted to accept Jurisdiction over the application.
The Board voted to approve the Conditional Use Permit with conditions
The Board voted to approve the Major Subdivision with Conditions
The Board voted to approve the Lot Line Adjustment.*

See the Attached Conditions:

1. **CONDITIONAL USE PERMIT APPROVAL**
2. **MAJOR SUBDIVISION APPROVAL**

1/11/18
Date



William Epperson, Chairman
Rye Planning Board

CONDITIONS OF APPROVAL

MAJOR SUBDIVISION APPROVAL

1. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the subdivision.
2. The Drainage Study and Drainage Plans and Road Plans shall be reviewed and approved by the planning board engineers who shall certify to the planning board that all requirements of the *Land Development Regulations* have been met.
3. The plans submitted on December 15, 2017 shall be revised as follows:
 - a. The bio-retention pond; its access easement; and the RCP connecting it to the cul-de-sac shall be located on Lot 12.
 - b. The paper street located between Lots 5 and 6 shall be extended to provide access to the open space. The applicant shall relocate the driveway serving Lot 6 onto Lot 6 and adjust the boundaries of Lots 5 and 6 as necessary to accommodate this change. Lot development plans for each lot to be revised accordingly.
 - c. The center of the Stoneleigh Way cul-de-sac shall be part of Lot 5. The center of the Francis Path cul-de-sac shall be part of Lot 11.
 - d. Detail drawings should be added depicting a typical drip edge, rain barrel and rain garden.
 - e. The “Post Development Drainage Information” note on the lot development plans should be revised to reflect the wording of No. 15, *infra*. Wording of this note to be approved by town counsel.
 - f. There shall be a 100 ft. “No Disturb Buffer” on Lot 1 around the vernal pool and a 75 ft. “No Disturb Buffer” on Lot 3 around wetlands, as depicted on the respective Lot Development Plans. This “No Disturb Buffer” should also be depicted on Sheets 5 and 6 of 23. Within the “No Disturb Buffer” no impervious surfaces are permitted, nor is any activity that would result in soil compaction. No live trees or shrubs of any size shall be cut, nor shall there be any disturbance of the natural plant community or disturbance of leaf litter. Deposit of lawn clippings, leaf litter, brush and similar materials is prohibited.

No motor vehicles, snowmobiles, three or four wheelers or similar motorized equipment is permitted. This restriction shall be included in the deeds conveying Lots 1 and 3 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA. Where this restriction is more restrictive than the requirements of the Rye Zoning Ordinance Wetlands Buffer, this restriction shall govern.

- g. There shall be a 100 ft. "Atlantic White Cedar Buffer" on Lots 4 and 5 as depicted on Sheet 5 of 23. This buffer should also be depicted on Sheet 6 of 23 and on the respective Lot Development plans. Within the "Atlantic White Cedar Buffer" No live trees or shrubs of any size shall be cut, nor shall there be any disturbance of the natural plant community or disturbance of leaf litter. Deposit of lawn clippings, leaf litter, brush and similar materials is prohibited. No motor vehicles, snowmobiles, three or four wheelers or similar motorized equipment is permitted. This restriction shall be included in the deeds conveying Lots 4 and 5 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA. Where this restriction is more restrictive than the requirements of the Rye Zoning Ordinance Wetlands Buffer, this restriction shall govern.
- h. There shall be a 50 ft. "No Cut Buffer" along the easterly boundaries of Lots 12 and 13 and along the westerly boundary of Lot 1. The "No Cut Buffer" should be depicted on Sheets 5, 6 and 7 of 23 and on the respective Lot Development Plans. Within the "No Cut Buffer" cutting of live trees greater than 4½ inches in diameter measured at a height of 4½ feet above ground level is prohibited. This restriction shall be included in the deeds conveying Lots 1, 12 and 13 and shall run with the land. It shall also be included in the *Declaration of Covenants, Conditions and Restrictions* of the HOA
- i. The evergreen buffer proposal previously offered to Mr. Siener shall be shown on the plans and shall be established as portrayed in the August 17, 2017 application package, provided that Mr. Seiner agrees to accept conveyance from the applicant of the ±0.24 acres outside of the 50 ft. right-of-way. If Mr. Siener does not agree to the conveyance, there shall be no disturbance of existing trees beyond the area depicted to be filled for ditch construction on the cross-section drawings, Stations 0+00 to 4+00. If Mr. Siener agrees to the conveyance, a Lot Line Adjustment Application must be submitted and approved, but this may happen after the planning board chair signs the major subdivision plat.
- j. The gravel wetland pond; the bio-retention pond; drainage lines lying within the access easements to said ponds; drainage facilities located in the center of cul-de-sacs; and the

36" RCP and plunge pool draining Lot 6 shall be owned, maintained, repaired and replaced (if required) by the HOA. Notes indicating this should be added to the plan.

- k. The plunge pool handling the drainage from Lot 6 shall be relocated so as to not be on the open space tract.
 - l. The plunge pool handling the drainage from Lot 6 and the plunge pool for the bio-retention pond shall have level spreaders.
 - m. The drainage at the intersection of South Road and Francis Path shall be revised as agreed at the January 9, 2018 meeting. 2 catch basins shall be installed and connected, with a pipe outlet and rip rap to the ditch on the on the west side of Woodland Road.
 - n. Tonis Park Island to be retained.
 - o. Within the center of the cul-de-sacs vegetative islands shall be created with rip rap aprons and outlet headwalls.
 - p. Lot 1 Development Plan shall be revised so that the cut line aligns with the telephone pole and the 50 ft. "No Cut Buffer" is portrayed.
 - q. Street names shall be submitted to the building department and approved by the building inspector.
4. The revised plans shall be submitted to the town counsel and to the planning board's Technical Review Committee for administrative review of the above changes.
5. A single homeowner's association (HOA) shall be created for the subdivision. Town counsel shall review and approve the *Declaration of Covenants, Conditions and Restrictions* and any other legal instruments required to form the HOA. These shall be recorded with the subdivision plan.
6. An easement deed for the drainage facilities in favor of the Homeowner's Association shall be reviewed and approved by town counsel and recorded with the subdivision plan. The easement shall: (1) require the applicant/HOA to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the applicant or HOA fails to maintain or

repair the facilities, the town, after notice, shall have the right, but not the obligation, to do so. In such case the HOA and the owner of the lot on which the facility is located shall be jointly and severally responsible for reimbursing the town for its expenses. If the town has to commence a legal action to obtain payment, the town shall be entitled to its costs and reasonable attorney's fees.

7. The following additional easements are required. Easement deeds shall be reviewed and approved by town counsel and recorded with the subdivision plan.
 - a. Slope easement granted to town along road sections where the top of the back slope of the ditch lies outside the 50 ft. ROW.
 - b. Sight easements granted to town at intersections with South Rd.
 - c. Flowage easement granted to town allowing road drainage to flow across Lots 4 and 12 in order to be conveyed to the drainage ponds.
8. The above easements should be depicted or noted on the Doucet Easement Plan, which shall be recorded with the subdivision plan.
9. Applicant shall submit a Stormwater Management/BMP Operation and Maintenance Plan for review and approval by the planning board engineer. The HOA shall be responsible for compliance with this plan. Said responsibility to be set forth in the *Declaration of Covenants, Condition and Restrictions*.
10. Surety in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all subdivision improvements, including but not limited to roadway, drainage and improvements to the intersection of Woodland Road.
11. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and Consultant Truslow (for review of conditions).
12. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of subdivision improvements. Amount to be determined by planning board engineer.

13. DES Subdivision and AoT permits shall be obtained.
14. Planning board chair may sign the Subdivision Plan when foregoing conditions Nos. 2-13 have been satisfied.
15. Lot development shall conform to Lot Development Plans submitted to the planning board. Building inspector to be responsible for compliance with this condition.
 - a. Impervious surface not to exceed the area stated in the Post Development Drainage Calculation Table on each Lot Development Plan.
 - b. House, driveway and septic system to be located generally as depicted on the Lot Development Plan.
 - c. Drainage flows to be in same direction as indicated on Lot Development Plan.
 - d. If the building inspector determines that the proposed layout of the house, driveway and septic system or the grading is markedly different than the approved Lot Development Plan, he may request submittal of a new Drainage and Grading Plan per Section 508 of the RZO. The planning board engineer shall review this (at building permit applicant's expense) to determine if the off-lot drainage flow is consistent with the assumptions of the approved subdivision drainage study and does not exceed that depicted on the approved Lot Development Plan.
16. The 57.55 acres of open space shall be conveyed to the Rye Conservation Commission in accordance with the terms of the Settlement Stipulation filed with the Rockingham County Superior Court. The deed shall reserve easements for flowage from the plunge pool draining Lot 6 and from the bio-retention pond.
17. Lot 2 shall be donated to the Rye Conservation Commission in accordance with the terms of the Settlement Stipulation filed with the Rockingham County Superior Court.
18. There shall be no blasting for infrastructure construction or for house construction/lot development. All deeds and the HOA documents shall include this prohibition. The language of the prohibition shall be approved by town counsel.
19. The "No Disturb Buffer", the "Atlantic White Cedar Buffer" and the "No Cut Buffer" shall be marked with metal stakes having a metal emblem acceptable to the Rye Conservation

Commission and spaced not greater than 50 ft. apart. These emblems shall be in place prior to any cutting on a lot.

20. All requirements of the Rye Water District shall be met.
21. "Monumentation shall be installed as required by the *Land Development Regulations*. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector for the subdivision prior to Occupancy Permits being issued for any of the homes within the subdivision. The grading of lots shall not disturb installed monumentation. If lot development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
22. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of clearing work for roadway construction.
23. As-built plans for roadway and drainage shall be submitted to the planning board (3 sets).
24. Per Section 303.7 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT APPROVAL

1. A single homeowner's association (HOA) shall be created for the subdivision.
2. SeptiTech Septic Systems with an activated denitrification system shall be installed on each lot.
3. Maintain a 4 feet separation distance from the bottom of the leach field to the seasonal high water table.
4. Prior to the establishment of a Homeowner's Association (HOA) the applicant shall designate a qualified entity to conduct inspections and maintenance of all SeptiTech systems in the subdivision. After the establishment of a HOA the HOA shall be responsible for designating the qualified entity. Each lot owner shall have an inspection and maintenance agreement in place with the entity designated by the applicant or the successor HOA for the life of the system.
5. For each system, inspections and maintenance monitoring should be conducted at 6 months from the date of DES operational approval and annually thereafter. As part of this, the effluent tank should be sampled for nitrate-nitrogen (nitrate-N) and Total Kjeldahl Nitrogen (TKN) at each inspection.
6. Effluent levels shall contain less than 15 mg/L nitrate-N. A 15 mg/L or greater concentration of nitrate-N will trigger confirmation sampling and may require septic system maintenance, repair or replacement if issues are not resolved.
7. The subdivision shall be designated a "no salt area", with signage placed along the proposed street (to be depicted on the plans) identifying it as a "no salt area".
8. Nitrogen based fertilizers are prohibited.
9. Irrigation systems will be designed to conserve water use through proper design and programming and will be installed according to industry best management practices.

10. All roofed structures shall have a properly sized drip edge infiltration trench in all locations where eaves drain directly to the ground. Where gutters and down spouts are installed they shall drain to rain barrels, properly designed rain gardens or similar collection devices.
11. Prior to the establishment of the Homeowner's Association (HOA) the applicant shall retain a Designated Oversight Manager (DOM) who shall have the following responsibilities:
 - a. Effectively communicating to lot owners the requirements for the installation, maintenance, monitoring, sampling, and reporting associated with the SeptiTech systems.
 - b. Collecting and keeping on file the required inspection and maintenance agreements for each lot. The DOM shall certify to the planning board and building inspector in January of each year that all required agreements are in place.
 - c. Collecting and keeping on file the required inspection reports and providing them within 15 days of receipt to the building inspector, the planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
 - d. Reviewing the inspection reports. If a report indicates that the standard of No. 6 herein has not been met, the DOM shall notify the homeowner to have the system inspected again and a confirmatory sample collected.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, any deficiencies that were identified and the corrective action taken.
 - f. Distribute annually to lot owners a Fact Sheet to address other environmental Best Management Practices that apply to the subdivision such as the proper use of lawn and garden chemicals, best management practices for domestic irrigation systems, prohibited deicing substances, proper disposal of lawn clippings and plant debris, stormwater management and the protection of wetlands and buffer zones.
 - g. Conduct annual inspections to ensure that required buffer zone sign emblems remain in place and that there are no violations within the buffer zones. Notify the HOA, the

planning board and building inspector of any observed violations. Provide an annual report to the planning board and the conservation commission of the results of the inspections in January of each year.

12. The applicant shall provide the name of the DOM and contact information to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. Upon the establishment of a HOA the responsibility of retaining an oversight manager shall transfer to the HOA. The DOM and any changes of the DOM shall be approved by the planning board's Technical Review Committee.
13. Prior to or concurrently with the recording of a subdivision plat, the applicant shall record a *Declaration of Covenants, Conditions and Restrictions* which shall run with the land and which shall apply to all lots. The Declaration shall be reviewed and approved by town counsel and shall include provisions allowing the HOA and the town to enforce. The restrictions and requirements shall include:
 - a. No use of salt on the lots.
 - b. No use of nitrogen based fertilizers.
 - c. Swimming pools must be chemical free.
 - d. Replacement septic systems shall be SeptiTech systems or other approved denitrifying systems.
 - e. No garbage disposals.
 - f. Requirements for drip edges and/or rain barrels/rain gardens or similar collection devices.
 - g. No home occupations that involve the storage or use of regulated substances as defined by 40 D.F.R. 302.
 - h. Double walled oil storage tanks required.

- i. Restrictions applicable to “No Disturb Buffers”, “Atlantic White Cedar Buffers”, and “No-Cut Buffers”.

14. The responsibilities of the HOA shall include:

- a. Assuring that the required inspection and maintenance agreements for the SeptiTech systems are in place.
- b. Assuring that the required inspections of SeptiTech Systems have been done.
- c. Assuring that any required maintenance, repair or replacement of SeptiTech systems has been done.
- d. Monitoring the use of snow removal substances and fertilizers in the subdivision.
- e. Maintenance, repair and replacement (if required) of all drainage facilities owned by the HOA.
- f. Assuring that there are no violations of buffer restrictions.

15. The HOA shall certify annually in January of each year to the planning board (with copies to the building inspector and planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board) that:

- a. All required SeptiTech inspection and maintenance agreements are in place.
- b. All required septic system inspections have been conducted and the reports provided to all required parties.
- c. Any required maintenance, repair or replacement of SeptiTech systems has been completed or will be completed by a time certain.
- d. Nitrogen based fertilizers are not being used in the subdivision.
- e. Salt is not being used in the subdivision.
- f. There are no garbage disposals in the subdivision.
- g. Any swimming pools in the subdivision are chemical free.

- h. All drainage basins have been inspected by a qualified professional engineer and maintained in accordance with these conditions and are functioning properly.
 - i. All individual drainage systems are in place and operational.
 - j. There are no violations of buffer restrictions.
- 16. The requirements of Condition No. 11 allow the HOA to assign the responsibilities set forth in Conditions Nos. 14 and 15 to a Designated Oversight Manager (DOM). Notwithstanding this, the HOA has the ultimate responsibility for complying with Conditions Nos. 14 and 15.
- 17. Four monitoring wells will be maintained for future monitoring use including downgradient wells MW-2, MW-3 and MW-4 and an upgradient well selected by the applicant. The remaining monitoring wells will be properly abandoned according to NHDES requirements and the abandonment report submitted to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
- 18. Remaining wells will be monitored by the DOM two times per year for water level, field parameters, nitrate-N and TKN, starting in 2018. Results will be submitted within one month of sampling to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. This monitoring will be continued for five years, and then reviewed by the planning board to determine if additional sampling is required.
- 19. In December following the issuance of the first building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic systems and the annual certification of the HOA and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage facilities. When the escrow is depleted the HOA shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the lots in the subdivision.
- 20. All Conditions of Major Subdivision Approval are incorporated herein by reference.

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

WAIVERS Notice of Decision

Applicant: Harbor Street Limited Partnership

Property: 421 South Road and properties located at
Tax Map 4, Lots 25, 27, 31 & 32
Single Residence and Aquifer and Wellhead Protection Districts

Case: Case #02-2018

Application: Major Subdivision, Lot Line Adjustment and Conditional Use Permit by
Harbor Street Limited Partnership for property owned at 421 South Road
and properties located at Tax Map 4, Lots 25, 27, 31 & 32 for a 13-lot
subdivision. **Property is in the Single Residence and Aquifer and
Wellhead Protection Districts. Case #02-2018.**

Date of Decision: Tuesday, January 9, 2018

Decision: X Approved

Motion by JM Lord on the waiver request from Section 603.3A for the Designated Leachfield Area for Lot 9 to be 3400 sf where 4000 sf is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by Pat Losik. All in favor.

Motion by Phil Winslow to accept the waiver request from Section 602.2 A. 7 to accept the road length of Stoneleigh Way to be 840' and Frances Path to be 800' where 600' is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by JM Lord. All in favor.

Motion by Steve Carter to accept the waiver request from Section 602.2. A7. a for the road width to be 22 ft where 24 ft. is required because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by JM Lord. All in favor.

Motion by Phil Winslow to accept the waiver request from Section 403.1E to waive the topographic and soils plan for the entire lot because specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out spirit and intent of the regulations. Seconded by Mel Low. All in favor.

1/11/18
Date



William Epperson, Chairman
Rye Planning Board

❖ *Planning Board Approvals do not include building permits; please check with the Building Inspector's office before any and all construction.*

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800


Notice of Decision

Applicant: Cellco Partnership d/b/a Verizon Wireless
Owner: Dolores F. Lintz
Property: 120 Brackett Road, Tax Map 22, Lot 95-A
Single Residence District
Case: Case #03-2018
Application: Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. Property is in the Single Residence District. Case #03-2018.

Date of Decision: Tuesday, January 9, 2018

Decision: _____ Approved
_____ Conditionally Approved
_____ Denied
 X **Continued to the February Meeting**

1/11/18
Date



William Epperson, Chairman
Rye Planning Board