

RYE PLANNING BOARD

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

Notice of Decision

Applicant: Tuck Realty Corporation

Owner: Joseph Goss

Property: 0 Ocean Blvd, Tax Map 8 Lots 58 & 59
Single Residence District

Case: Case #11-2018

Application: **Major Subdivision** by Tuck Realty Corporation for property owned by Robert Goss and located at 0 Ocean Blvd, Tax Map 8 Lots 58 & 59 for a 5-lot subdivision. **Property is in the Single Residence District. Case #11-2018.**

Date of Decision: Tuesday May 14, 2019

Decisions:

The Board Voted 6-1-0 to re-open the Major Subdivision by Tuck Realty Corporation for Property owned by Joseph Goss and located at 0 Ocean Blvd., Tax Map 8, Lots 58 & 59 for a subdivision (revised to 4 lots). Property is in the Single Residence District. Case # 11-2018.

Motion by Bill Epperson to grant the waiver request from Section 602.2 A-7b to allow a “T” turn around in lieu of a cul-de-sac configuration 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. This waiver allows for less impervious surface coverage on the property while still providing a safe and efficient roadway for the three homes and there will be fill and less impact to the meadow. Seconded by JM Lord. Approve in a 6-0-1 vote.

Motion by Bill Epperson to grant the waiver request from Section 602.2 B-1a to allow for a right of way width of 40 feet 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. The relatively short roadway with a reduced pavement width allows for a narrower right of way while still proving suitable area for grading and drainage. This allows the proposed homes and septic systems to be located more distant from the wetland and tidal marsh. Seconded by JM Lord. Approved in a 6-0-1 vote.

Motion by Tim Durkin to grant the waiver request from Section 602.2 B-1b to allow for a pavement width of 20 feet servicing the three homes 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. The narrower pavement results in less fill, less pavement and less impact to the meadow and property and narrow roadways tend to result in traffic calming. Seconded by JM Lord. Approved in a unanimous vote.

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

Motion by JM Lord to grant the waiver request from Section 602.2 B-1b to allow a super elevated roadway rather than a center crown 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. The roadway will be constructed in a fashion which sheets rainwater from the roadway away from the meadow and marsh and towards the rain gardens depicted on the plan and results in a better less impactful project, a benefit to the public and environment by directing stormwater. Seconded by JM Lord. Approved in a unanimous vote.

Motion by JM Lord to grant the waiver request from Section 603.3 to omit the 4000 s.f. DLA on the topographic plans 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. The DLA's are depicted on the subdivision plans and unnecessary to also include them on the topographic plans. The pretreatment systems will result in greater environmental protection with a reduced overall impact. Seconded by Bill Epperson. Approved in a 6-1-0 vote.

Motion by JM Lord to conditionally approve the 4-lot subdivision by Tuck Realty Corporation for property owned by Robert Goss and located at 0 Ocean Blvd, Tax Map 8 Lots 58 & 59.

Attached, please find seven (7) pages labeled "Goss's Grant Conditions of Approval"

5-17-2019
Date



Patricia Losik, Chairman
Planning Board

GOSS'S GRANT CONDITIONS OF APPROVAL

1. A homeowner's association (HOA) shall be created for the development for Lots 59, 59-1, 59-2. Town counsel shall review and approve the Declaration, Bylaws and other legal instruments required to form the association. Declaration and Bylaws recorded with subdivision plan.
2. The applicant shall grant the town an easement relative to maintenance and repair of the rain garden, swale and rain garden outlet pipe. The easement shall: (1) require the HOA to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the association 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 association shall be 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. This easement shall be reviewed and approved by town counsel and recorded with the approved subdivision plan.
3. An easement deed shall be prepared granting the HOA an easement over Lots 59 and 59-1 for the outlet drainage from the rain garden. To be reviewed and approved by town counsel and recorded with the subdivision plan.
4. DES Shoreland Act Permit shall be updated.
5. DES Subdivision approval shall be updated.
6. Street name to be approved by building inspector per town procedures and added to plans.
7. Water line plans to be approved by RWD.
8. Planning board engineer to certify approval of the drainage and road plans.
9. Planning board engineer to certify approval of the Stormwater Operations and Maintenance Manual.
10. The restrictions of the Voluntary Buffer Areas shall be included in the Declaration.



11. Surety in the amount of \$ 125,000 and in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all infrastructure and landscaping.
12. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and other board consultants.
13. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of infrastructure improvements. Amount to be determined by planning board engineer.
14. On Shts. A1, A3 add another wetlands buffer emblem to the middle of Lot 59. Add a detail drawing depicting how the emblems will be mounted.
15. Sheet A2 should have the same labeling of the voluntary buffer as Sht. A1 and also the ties depicted on Sht. A1 at the corner of the stone wall.
16. Remove the street light from Sht. C7.
17. Label the drip edges on Shts. C4, C5, C6.
18. Put drainage flow arrows on Shts. C4, C5, C6.
19. Add the 4000 sf DLA's to Sht. C3.
20. A description and delineation of the meadow to be preserved shall be depicted on the Landscaping Plans. This shall be reviewed and approved by the Technical Review Committee. Restrictions regarding the preservation of the meadow shall be included in the Homeowners Association documents.
21. Applicant to provide a plan sheet which color codes the boundaries of the several buffers/setbacks.
22. Planning board chair shall sign plans when foregoing Conditions Nos. 1- 21 are fulfilled.
23. The use of nitrogen based fertilizer in the subdivision is prohibited.
24. Garbage disposals are prohibited.

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25. Advanced treatment septic systems shall be installed on each lot. The HOA shall choose the vendor/manufacturer, which shall be the same for all lots. The building inspector and planning board shall be provided with information about the selected manufacturer; the inspection and maintenance recommendations of the manufacturer; and the performance standards which the system will achieve prior to the issuance of the first building permit in the subdivision.
26. The HOA shall designate a qualified entity to conduct inspections and maintenance of the advanced treatment septic systems.
27. Inspection and maintenance agreements with the qualified entity shall be executed by each lot owner for the life of the system.
28. Inspection and sampling frequencies shall be as recommended by the manufacturer. All systems shall be maintained so as to comply with the performance standards set forth by the manufacturer.
29. Pumping frequency shall be as recommended by the manufacturer.
30. The responsibilities of the HOA shall include:
 - a. Assuring that the required inspection and maintenance agreements for the septic systems are in place.
 - b. Assuring that the required inspections and sampling of the septic systems have been done and that the performance standards are met.
 - c. Assuring that any required maintenance, repair or replacement of septic systems has been done.
 - d. Assuring that all required pumping of chambers has been done.
 - e. Monitoring the use of fertilizers in the subdivision.



- f. Maintenance, repair and replacement (if required) of all drainage facilities owned by the association. Inspections and maintenance shall comply with the approved Stormwater Operations and Maintenance Manual.
- g. Assuring that there are no violations of wetlands buffer restrictions.

31. The association shall certify annually in January of each year to the planning board that:

- a. All required septic system 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 septic systems has been completed or will be completed by a time certain.
- d. All required pumping of chambers has been done.
- e. Nitrogen based fertilizers are not being used in the subdivision.
- f. There are no garbage disposals in the subdivision.
- g. All drainage basins have been inspected by a qualified professional engineer and maintained in accordance with the approved Stormwater Operations and Maintenance Manual and are functioning properly.
- h. There are no violations of buffer restrictions.

32. A Designated Oversight Manager (DOM) shall be retained by the HOA with the following responsibilities:

- a. Collecting and keeping on file the required inspection and maintenance agreements for the septic systems. The DOM shall certify to the planning board and building inspector in January of each year that the required agreements are in place.

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- b. 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 any consultant as may be identified by the planning board.
 - c. Reviewing the inspection reports. If a report indicates that the standards have not been met, the DOM shall notify the association to have the system inspected again and a confirmatory sample collected.
 - d. Keeping records of the pumping.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, the pumping of chambers and tanks and any deficiencies that were identified and the corrective action taken.
 - f. Conduct annual inspections to ensure that required no cut buffer zone emblems remain in place and that there are no violations within the buffer area. Notify the association, planning board and building inspector of any observed violations. Provide an annual report to the planning board of the results of the inspections in January of each year.
33. Prior to the issuance of a building permit the owner of Lot 58 shall provide the building inspector and planning board with information about the manufacturer of the advanced treatment septic system; the inspection and maintenance recommendations of the manufacturer; and the performance standards which the system will achieve.
34. The owner of Lot 58 shall have an inspection and maintenance agreement with a qualified entity for the life of the advanced treatment septic system. Copies of this agreement shall be filed with the planning board and building inspector.
35. The advanced treatment septic system on Lot 58 shall comply with all performance standards.
36. The owner of Lot 58 shall have inspections of the advanced treatment septic system performed in accordance with the manufacturer's recommendations and shall provide copies of all inspection reports to the planning board and building inspector.

37. The owner of Lot 58 shall perform all maintenance and repairs recommended by the inspection reports.
38. The owner of Lot 58 shall certify to the planning board and building inspector in January of each year that: a) all required septic system inspection and maintenance agreements are in place; b) all inspections of the advanced treatment septic system have been conducted; c) all recommended maintenance and repairs (if any) have been completed or will be completed by a time certain; d) all required pumping has been done; e) the system is operating in accordance with performance standards. The planning board or the building inspector may require documentation to support the certification.
39. Although final house styles and layouts are to be determined by the lot owners, lot development shall generally conform to Conceptual Grading 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 table on the Conceptual Grading Plan.
 - b. House, driveway and septic system to be located generally as depicted on the Lot Development Plan, but septic systems may be located in the front yard.
 - 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 Conceptual Grading 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 Conceptual Grading Plan.
40. Emblems marking the "No Cut Area" with language approved by the building inspector shall be placed in the locations depicted on Sht. A-1 prior to the issuance of building permits.
41. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
42. There shall be no height variances applied for in this subdivision.

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43. The voluntary buffer is a condition of planning board approval. The ZBA has no authority to grant variances to it.
44. Construction of the road and drainage infrastructure and excavation of house foundations shall be limited to 7:00 am to 5:00 pm, Monday to Friday. No weekends.
45. 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 association 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 association shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the association and the units.
46. "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 prior to the first occupancy permit being issued. Grading of lots shall not disturb installed monumentation. If development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
47. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for street construction.
48. As-built plans for roadway, drainage and other infrastructure shall be submitted to the planning board (3 sets).

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