

# BOARD OF ADJUSTMENT

-Rye, New Hampshire-

## NOTICE OF DECISION

**Applicant/Owner:** Paul R. Bacon

**Property:** 200 Parsons Road, Tax Map 19, Lot 115  
Property is in the General Residence, Coastal Overlay and Wetlands Conservation Overlay Districts.

**Application case:** Case #33-2019

**Date of decision:** November 6, 2019

**Decision:** The Board voted 5-0 to grant variances from the following sections of the Rye Zoning Ordinance:

- Section 204.3 C for a retaining wall 1' from the front boundary;
- Section 204.3 B for a retaining wall 10' from the left side boundary and the front retaining wall 1' from the left side boundary;
- Section 204.3B for a gravel patio 10' from the left side boundary;
- Section 301.8 B (1) and 308.B(7) for a gravel patio 30.47' from the wetlands;
- Section 301.8 B (1) for fill in the front setback within the wetlands buffer;
- Section 301.8 B (7) for a boardwalk 16.21' from the wetlands; and
- Section 301.8 B (7) for a greenhouse 34.5' from the wetlands.

The Board voted 5-0 to deny variances from the following sections of the Rye Zoning Ordinance:

- Section 204.3C for a canvas garage 7' from the front boundary;
- Section 301.8 B (1) and 301.8 (B) (7) for a canvas garage 10' from the wetlands.

Each variance was granted upon continued compliance with the following conditions:

1. The area beyond 16' from the paved drive is to be cleaned up and restored. The woodpile, stone pile, kayaks, ladders and other items are to be removed from that area. The area beyond 16' is to be restored with native plantings and nothing should be stored there. The assorted items 16 feet and beyond the paved drive in the southwestern corner is

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to be removed by December 31, 2019. That area is to be restored by July 15, 2020.

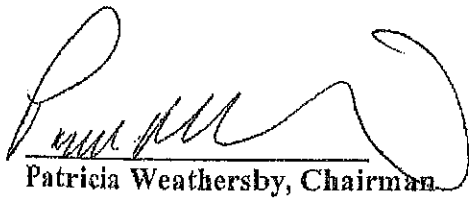
2. The retaining wall and patio be constructed according to the plan provided that the edge of the patio is no closer to the marsh than the edge of the current greenhouse.
3. The greenhouse must be in the same footprint and extend no further toward the marsh than it currently sits.
4. The fill that has been recently added along the south edge of the property where the table and chairs exist is to be removed since it was added in the marsh buffer without permit and it endangering the trees there. This is to be accomplished by December 31, 2019.
5. No further fill should be added to the lawn area. The lawn isn't completely level but nor is it particularly steep. The lawn is in the buffer and borders the marsh and it would be detrimental to add further material.
6. The entire edge of the property where it borders the marsh is to be planted to a depth of 5 feet with native plantings. This vegetative buffer will delineate the lawn/marsh edge and will serve to slow down and filter any contaminants from the lawn before they can enter the marsh. This should be accomplished by July 15, 2020.
7. The RCC has permission to photograph the completion of each stage of the project for its records.

The Board found that the requests concerning the canvas garage failed to satisfy the criteria for granting variances -- the specific reasons include:

- (1) The Applicant represented that motorized yard maintenance equipment was and will be stored in the garage and the Board saw pictures of gasoline cans and other items inside the garage. Placing these items in the wetlands buffer and 10' from the wetland itself could potentially result in environmental harm to the wetlands.
- (2) Locating the handmade canvas garage 7' from the front property line would likely result in a diminution in property values despite being partially screened.
- (3) Adequate alternative storage for yard equipment exists on the property including a 2-car garage, storage room and greenhouse and thus the denial does not result in an unnecessary hardship to the applicant.

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- (4) Granting the variance would be contrary to the public interest of protecting wetlands;
- (5) The use of a canvas storage building in the proposed location is not reasonable.
- (6) The loss to the applicant by denying the variance (loss of storage space) is not outweighed by the gain to the general public of protecting its wetlands and neighborhood.



Patricia Weathersby, Chairman

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