

May 22, 2020

To: Board of Selectmen  
Town of Rye, NH

From: Board of Trustees  
Rye Public Library

Cc: Planning Board  
Town of Rye, NH

The Rye Public Library (RPL) Board of Trustees received the "Maintenance Agreement" approved by the Board of Selectmen at your meeting of May 19, 2020, which covers the "Area Subject to Maintenance Agreement."

The Area starts at the edge of the RPL sidewalks that run to the Library's doors from both Old Parish Road and Washington Road and extends six feet, entirely encompassing the plantings that separate the Parsonage from the Library on the Washington Road entranceway and extending to a point within the current plantings maintained by the Library along its entranceway from Old Parish Road. This Area, which has been in the custody and control of the Library since 1995, is to be conveyed in fee simple out of the existing Library premises, subject only to the "Maintenance Agreement."

As you know, the Library was not involved in placing the lot lines at the edge of its walkways. The first version of the Maintenance Agreement that was ultimately approved by the BOS referred to a Plan that was not provided to the Library at the time and in any event, was produced without Trustee input or advocacy on the Library's behalf. Faced with the BOS position that the property lines would be at the edge of the RPL sidewalks, effecting a loss of Library property, the Trustees attempted to protect RPL's interests by weighing in on the Maintenance Agreement, at the BOS invitation beginning at a meeting of the BOS on April 9, 2020. In fairness, Select Board member Keriann Roman did start the discussion with the Trustees with a concept that the Trustees were willing to consider, that of a property line whereby RPL would keep ownership of the land under the light bollards along the entranceway from Old Parish Road and own an easement for the remainder of the Library property the BOS planned to convey to the private party.

The Trustees reviewed the Maintenance Agreement at its meeting of May 20, 2020 and unanimously approved a motion stating that the agreement does not sufficiently protect the interests of the Rye Public Library, its patrons and the town residents who fund it.

If this agreement or any other materials related to the BOS application for the subdivision of the Parsonage are submitted to the Planning Board, the Trustees request they be notified by the BOS in writing. Please also advise if there are any other actions being taken or planned to be taken to implement the swap as currently configured.

The interests of the Library advocated for by the Trustees but ignored in the agreement approved by the Select Board include:

1. The Trustees requested to be a party to the agreement. The Select Board declined the request. No legal reason was given, only that the private party named in the agreement wanted to deal only with the BOS. There was a signature blank for RPL's "acknowledgement" on earlier versions of the agreement that was removed when it became apparent that RPL would not approve it. Once it was determined that it did not matter whether RPL's acknowledgment was included on the agreement, the town attorney gave the Trustees the option to decide whether the agreement should include the Trustees' acknowledgment. The Trustees' declined.
2. The Trustees requested that they be allowed to approve the initial landscape plan for the maintenance area. That request was denied. The Trustees may only review the initial plan with final decision-making going to the BOS.
3. The Trustees requested that unresolved differences related to the landscape plan be subject to arbitration by the Planning Board, rather than the BOS. That request was denied. The private party wants to deal only with the BOS, the party that voted to approve the agreement despite Trustee objections to its key elements.
4. The Trustees requested they be allowed to seek to amend the agreement. That request was denied. Only the BOS and the private party may amend the agreement.
5. The Trustees requested that RPL's right to repair the walkways, remove snow and control the lighting along them, all things the Library conducted freely when it owned the property, not be subject to the control of the private party. That request "remains to be determined" according to the Maintenance Agreement approved by the BOS." The initial agreement drafted and provided to the Trustees by the BOS did not address control of the lighting along the walkway from Old Parish Road to the library entrance even though the private party would own them after the swap. Subsequent versions gave control of the lighting to the private party and gave RPL the ability to request that the lights be on at preset times. The Trustees have no reason to believe that the BOS or the private party will agree to give decision-making power to RPL as to its lighting in an agreement that, in any event, does not include RPL as a party.

The Trustees are all but removed from participation in the process once it reviews the initial landscape plan. The private party could submit a plan, have it arbitrated in its favor by the BOS over the Trustees objection, then seek to amend the agreement at any time in the future with no need to involve the Trustees in any way. We would be derelict in our duties as Trustees if we allowed the agreement to go unchallenged.

The Trustees continue to seek responses to their questions regarding property lines and surveys posed to the BOS in an earlier communication, topics the Trustees cited as of great importance to the RPL since our participation in a public meeting on March 4, 2020 and our letter to the BOS of March 11, 2020, to which we have yet to receive a response.

Those questions were and are:

1. Property Lines:
  - What was basis for the property lines for the Parsonage being shown as up to the Library walkways when the "swap" was made public?
  - If these lines were not subject to RPL input for whatever reason, why did the BOS lead us to believe they were?
  - What is the reason?

- What actions by the BOS produced Mr. Philbrick's understanding that the property lines for the land to be conveyed to him goes up to the walkways?
- What is the basis for the Board being advised at its May 1 meeting with the BOS that "the lot lines were voted on by the voters" in March when the survey to establish the lot lines ostensibly did not exist?
- Why has the Board not been engaged in a discussion of the property lines, as it requested in its March 11 letter to BOS?

## 2. Surveys:

- By what process did the drawings of the Parsonage lot given to the Board and submitted to the Planning Board by the BOS become surveyed drawings?
- Were those drawings or any others the result of survey work done in November, 2019 acknowledged by the BOS at our May 19, 2020 meeting? When was the contract for that work made and how was it paid for? When will the Parsonage lot be surveyed per Article 8 passed in March?
- Why was the public told at the March 4 meeting of the BOS, in direct response to questions about the property lines that, "There is no contract for a survey, the survey won't be done unless Article 7 were to pass?"

New Hampshire law provides that "library trustees shall have the entire custody and management of the public library and of all the property of the town relating thereto." RSA 202-A:6. The BOS's actions that appear to have obfuscated the process and which have marginalized the involvement of the Trustees contradicts the word and spirit of this New Hampshire statute. We would be remiss of our obligations to the people of the Town of Rye if we sat silently on the sidelines instead of seeking the right to protect the Library, its property, and our patrons.

Jeff Ross  
Chair  
Board of Trustees  
Rye Public Library