

RYE PLANNING BOARD

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

Notice of Decision on waivers

Applicant/Owner: Jak Nadeau Revocable Trust, Jay and Karen Nadeau Trustees

Property: 711 Long John Road, Tax Map 16, Lot 136
Property is in the Single Residence District

Case: Case #07-2020

Application: Minor 3-lot subdivision by Jak Nadeau Revocable Trust for property owned and located at 711 Long John Road, Tax Map 16, Lot 136 to subdivide the existing lot into three single family residential lots with access via a 50'-wide right of way. Property is in the Single Residence District. Case #07-2020

Date of Decision: Tuesday April 13, 2021

Decision:

Motion by JM Lord, seconded by Pat Losik to accept the applicant's request for a waiver to the Rye Land Development Regulations Section 202-4.4 for the expiration of a conditional approval for two years (24 months). The reasons for granting are: (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; and (2) Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations. Motion passed 6-0-0.

4-16-21

Date



Patricia Losik, Chairman
Rye Planning Board

**LAND DEVELOPMENT REGULATIONS
2020 ATTACHEMENT 2**

APPENDIX B

**APPLICATION FOR WAIVER OF SUBDIVISION/SITE PLAN REVIEW
REQUIREMENT**

(Complete one form for each waiver request)

To the Chairman and Members of the Rye Planning Board:

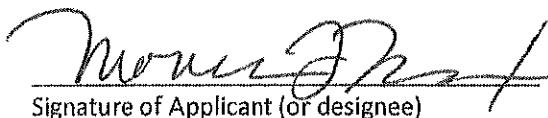
On February 19, 2021, I submit a plan for (subdivision/site plan review) approval to the Board, entitled Proposed 3-Lot Subdivision - 711 Long John Road prepared by TFMoran and hereby request a waiver from Article IV Section 4.4 of the Rye Land Development Regulations.

A. The Planning Board may waive requirements of these regulations in accordance with RSA 674:36, II(n) (1), and RSA 674:44, III(e) (1).

B. RSA 674:36, II(n), for subdivision applications and RSA 674:44, III(e), for site plan review applications require that the basis for any waiver granted by the Planning Board shall be recorded in the minutes of the Board. The Planning Board may only grant a waiver if the Board finds, by majority vote, that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of these regulations. Requests for waivers shall be submitted in writing at least 10 days before the meeting at which the Board considers the waiver request. A written waiver request shall describe how compliance with the regulations for which a waiver is requested would pose an unnecessary hardship to the applicant and why the waiver would not be contrary to the spirit and intent of the regulations.

Explanation for Wavler Request: LDR 4.4 requires the expiration of a conditional approval after 18 months. When Nadeaus originally began this process, they intended to complete the subdivision process in several years. Given the time and expense involved with addressing the next phase of the project, the bond requirement, and the two year period permitted by RSA 674:39 I(a), an 18-month expiration presents an unnecessary hardship. Nadeaus requests a 24 month expiration for their conditional approval. This will allow them to move the project forward in the short term while allowing sufficient time to market the subdivision.

The purpose of the regulation is to both protect the Applicant from subsequent regulatory changes and to guard against projects that may begin but languish, or are built to outdated and substandard regulations. The additional 6 months will not undermine these purposes, but will afford Nadeaus the necessary breathing room to sustainably move forward with the Project.


Signature of Applicant (or designee)

4/7/2021
Date

R. Timothy Phoenix