

RYE PLANNING BOARD

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

Notice of Decision

- 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:** **The Board voted 6-0-0 to conditionally approve the subdivision.**

CONDITIONS OF APPROVAL

1. The February 19, 2021 plans shall be revised as follows:
 - a. Change waiver table on cover sheet to indicate date of approval of waivers. Same for Sheet C-6. See Sebago 2/28/2021 letter.
 - b. February 2021 Stormwater Management Report should be signed by a PE and submitted along with its supporting calculations as one complete document as a record of the final stormwater report. See Sebago 2/28/2021 letter.
 - c. Plans and Stormwater Maintenance and Inspection Report should be changed to address the last four bulleted recommendations of Truslow Resource Consulting March 2, 2021 report. All 5 bio-retention areas shall be grassed.
 - d. In order to be consistent with Zoning Table Note 3 on Sht. C-6, where the drawings indicate "Prop. Treeline, typ." that should be changed to "Prop. Treeline, typ. – i.e. Undisturbed Woodland Area. See Zoning Table Note 3, Sht. 6." Additionally, there should be several more locations of the tree line so labeled on Sht. C-6 and all sheets which depict the tree line.
 - e. Add a note to Sht. C-6 indicating that the driveway, house and bio-retention area located on Lot B shall be generally located as depicted and in no case closer to the northerly and westerly property lines than depicted.

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

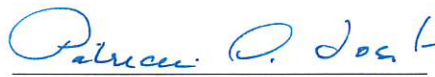
- f. Note 2 on Shts. C-13 and C-7 shall be changed to indicate that the homeowner's association will be responsible for maintaining all bio-retention areas and all other drainage facilities.
 - g. A note shall be added to Sht. C-3 describing the 10 ft. wide tree cutting restriction as prohibiting the cutting of live trees greater than 4 ½ inches diameter measured at a height of 4 ½ feet above ground level. This restriction shall be placed in the Declaration.
 - h. Add a note to Sht. C-6 indicating that the build out of Lots A and B shall be generally as depicted on the plan and in accordance with the note referenced in 1f of these conditions. Impervious coverage and undisturbed woodlands shall not exceed the amounts indicated in the Zoning Table and Notes 2 and 3. Wording of note to be approved by town counsel.
2. A homeowners association ("HOA") shall be created for the subdivision. The HOA shall own the private right-of-way ("ROW") and all drainage facilities within the ROW as depicted on the approved plans and shall be responsible for the maintenance and repair of same. Additionally, the HOA shall be responsible for the maintenance and repair of the bio-retention areas and swales or parts thereof located on Lots A, B and C.
3. Town counsel shall review and approve the Declaration, Bylaws and other HOA instruments and any other legal instruments required to form the HOA. Town counsel's review shall be limited to assuring that the HOA instruments are consistent with the approved plans and the board's conditions of approval.
4. The applicant shall grant the town an easement relative to maintenance and repair of the bio-retention ponds, forebays and drainage swales. The easement shall: (1) require the applicant/homeowners association to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the applicant or 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.

5. There shall be a drainage and flowage easement over Lot B granted to the HOA and Lot C for the swale located on Lot B. This easement shall be reviewed and approved by town counsel.
6. There shall be a drainage and flowage easement over Lots A and B granted to the HOA association for the swales located on said lots. This easement shall be reviewed and approved by town counsel.
7. Compliance with the Stormwater Inspection and Maintenance Plan approved by the planning board engineer shall be the responsibility of the HOA. Said responsibility to be set forth in the Declaration.
8. Surety in the amount of \$ 365,444 and in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of the private drive, all drainage facilities, water lines and landscaping. Surety to be approved by town counsel.
9. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer and town counsel.
10. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
11. NH DES subdivision approval shall be obtained.
12. Street name to be approved by building inspector per town procedures and added to plans (if different than Fire Trail Lane).
13. Planning board chair may sign plans when foregoing conditions Nos. 1-12 are met.
14. The easements required by Conditions Nos. 4, 5 and 6 shall be recorded with the subdivision plan.
15. The Declaration, Bylaws and other legal instruments required to form the HOA shall be recorded with the subdivision plan.
16. The building inspector shall require a lot development plan prior to issuance of a building permit. Building permits (and certificate of occupancy) shall not be issued for any development which does not comply with the approved subdivision plan and Condition No. 1.h above. If necessary, the building inspector may retain the planning board engineer to assist in determine compliance with these conditions, at the expense of the building permit applicant.
17. The build out of the development shall comply with the Growth Management Ordinance.

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18. The homeowners association shall retain one qualified contractor to inspect and maintain all of the bio-retention areas and other drainage facilities in accordance with the Stormwater Inspection and Maintenance Plan. The Declaration shall include this requirement.
19. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
20. Lot C shall be connected to the water line not later than the date of water line connection to the latter of the other two lots.
21. Monumentation shall be installed as required by the *Land Development Regulations* for the 3.64 acre parcel. 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.
22. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for street construction.
23. As-built plans for all site improvements shall be submitted to the planning board (3 sets).
24. Per LDR § 202-4.4, this conditional approval shall expire in 24 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.
25. The executed conditions of approval shall be appended to and recorded with the HOA Declaration.

4.14.21
Date


Patricia Losik, Chairman
Rye Planning Board