

RYE PLANNING BOARD

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

NOTICE OF DECISION AND FINDINGS OF FACT TOWN OF RYE PLANNING BOARD

Applicant/Owner: Rye General Store & Grill LLC
Robin Wehbe

Addresses: 2203 Ocean Blvd., Tax Map 5.3, Lot 28-00A and 00B

ZONE: Property is in the Business District, General Residence District, Coastal Overlay District and SFHA Zone X and Zone AO (2).

CASE NO: #17-2023

Request: Major Non-Residential Site Development and Condominium Amendment by Robin Wehbe for property located 2203 Ocean Blvd, Tax Map 5.3, Lot 28, Units A & B to raze the existing structures that are currently being used as a yoga business and build two residential units.

Date of Decision: Tuesday, February 20, 2024

The Rye Planning Board issues this Notice of Decision and Findings of Fact in accordance with RSA 676:3. In issuing this Notice of Decision and these Findings of Fact, the Planning Board incorporates such facts and evidence as are reflected in the submittals and meeting minutes associated with this matter that are supportive of the decisions and Findings of Fact contained herein.

WAIVERS

1. LDR §202-3.5.B(1)(a) Final Stormwater Management Plan (including information required by LDR §202-3.3.B(6), 6.9, and Article IX)
2. LDR §202-3.5.B(1)(b) Erosion & Sediment Control Plan
3. LDR §202-3.5.B(1)(c) Landscaping Planting Plan (including information required by LDR §202-11.4)
4. LDR §202-3.5.B(1)(d) Plant Maintenance Plan (including information required by LDR §202-11.5.A)
5. LDR §202-3.5.B(1)(i) Site Impact Analysis by an Environmental Engineer

Motions made by _____, seconded by _____ to grant the Applicant's requests to the aforementioned waivers of Rye's Land Development Regulations. The Board voted _____ to grant the aforementioned waivers, the basis for the waivers granted per Decision #47-#49, and that strict conformity would present an unnecessary hardship and granting a waiver under such circumstances is not contrary to the intent or spirit of the regulations.

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FACTUAL FINDINGS

1. The property is located at 2203 Ocean Boulevard, Tax Map 5.3, Lot 28, Units A and B (“the Property”).
2. The Property is owned by Robin Wehbe (“the Applicant”).
3. The Property is approximately 17,162 square feet (0.39 acres) in size with 175 feet of frontage on Ocean Boulevard.
4. The northern portion of the Property is located in the Business District. The southern portion is located in the General Residence District. The Property is also located in the Coastal Overlay Zone.
5. The existing impervious coverage is 90.6%
6. The Property is presently serviced by Rye sewer system and Aquarion Water Company.
7. The Property consists of two residential condominium units, a yoga studio, an orthodontist office, and a general store/cafe. Unit 1 is an 1,887 square foot, three-bedroom, two-bathroom condominium. Unit 2 is a 604 square foot, one-bedroom, one-bathroom condominium. Units A and B are a yoga studio. Unit A is 636 square feet and Unit B is 640 square feet. Unit C is a 1,337 square foot orthodontist office. Unit D is an 1,810 square foot cafe.
8. On August 8, 2006, the Planning Board reviewed a Conceptual Consultation from the previous owner, Rye Beach Investments, LLC, to convert two commercial and 2 residential units presently existing to a condominium form of ownership.
9. The Technical Review Committee (TRC) of the Planning Board met on August 29, 2006 and November 28, 2006 to further review the proposal.
10. In October 2006, Rye Beach Investments, LLC, presented their case to the Zoning Board of Adjustment for a special exception as provided in Article II, Section 210.2(F) and Article V, Section 503, to convert two existing legal apartment dwelling units into condominiums.
11. On November 8, 2006, the Zoning Board of Adjustment granted the Special Exception with the following conditions:
 - Designate condo owner parking via signage visibly placed on 4 spaces along Powers Ave as per E. Cote site plan dated June 14, 2006, and amended October 12, 2006; and
 - Clearly delineate Powers Ave right of way (for parking spaces)

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12. On December 12, 2006, the Planning Board held a Public Hearing for a Conditional Use Permit Application for Rye Beach Investments, LLC to convert five (5) commercial rental units to a condominium form of ownership, per proposed zoning ordinance 2007-03, as well as a Subdivision/Site Plan Review Application to convert five (5) commercial and two (2) residential rental units, presently existing, to a condominium form of ownership.
13. On January 4, 2007, Rye Beach Investments, LLC, presented their case to the Zoning Board of Adjustment for variances from Article V, Sections 500.1, 500.2, 500.3 to permit 16 existing parking spaces that are less than the required dimensions of 10' x 18', 12 said parking spaces are located within 10' of the front yard property line where a 10' setback is required; "Table for Off-Street Parking Requirements" in Section 500 requires 29 spaces and 16 exist. Section 500.2 requires compliance in conjunction with a condominium conversion.
14. On January 4, 2007, the Zoning Board of Adjustment granted the variances.
15. On February 13, 2007, the Planning Board granted the Conditional Use Permit and conditionally approved the Subdivision/Site Plan Review with the following conditions:
 - Applicant to place the BOA decisions on the drawings
 - Retype and submit the Revised Condo Documents
16. A major non-residential site plan application was submitted July 28, 2023, to redevelop Units A and B of the existing building at 2203 Ocean Boulevard into two residential units, which are currently used as a Yoga Studio. Units A and B are to be reconstructed on pilings to meet current Rye Floodplain Ordinance development standards and allow for parking underneath the building whilst keeping them structurally connected to the remaining existing building. The Application included a six page "Project Concept" by TMS Architects Interiors dated September 20, 2017, including site photos, project data, sketches of buildings and site plan, building information, and diagrammatic images, and a Plan of Land Existing Site Conditions dated November 15, 2022 by Millenium Engineering Inc., and FEMA elevation certificates (1st submission).
17. Guidance for construction of the units to comply with the Rye Floodplain Ordinance, Substantial Improvement/Substantial Damage portion was obtained from Jennifer Gilbert, FEMA Representative from the Office of Planning & Development on July 14, 2023 and shared with RPC, Planning Board and the Building Inspector.
18. As part of the application submitted July 28, 2023, the applicant seeks waivers from the following provisions of the Land Development Regulations ("LDR"):
 - a. Erosion & Sediment Control Plan (202-3.5.B(1)(b))
 - b. Landscaping Planting Plan (202-3.5.B(1)(c))
 - c. Plant Maintenance Plan required ((202-3.5.B(1)(d))

- d. The Assessment of Complete Street elements (202-3.5.B(1)(e))
- e. Lighting Plan (202-3.5.B(1)(g))

19. A public hearing on the application was scheduled for August 15, 2023.

20. On August 3, 2023, the Rockingham Planning Commission (“RPC”) provided a “Review of Major Nonresidential Site Plan Application at 2203 Ocean Boulevard (Tax Map 5.3, Lot 28, Unit D); Case # 17-2023.” The RPC’s review recommended submittals in accordance with certain land development regulations including site plans per standards in LDR§202-3.1 Engineering Standards, identified waivers sought, and zoning matters. A permit is required from Rye’s Floodplain Administrator per §60-7 of the Rye Floodplain Management Ordinance. The intent is to elevate units A and B while keeping them structurally connected to the remaining existing building. The determination of substantial improvement may require additional approvals from the town. RPC recommended the Applicant obtain such determination after which RPC can provide further guidance.

21. The Planning and Zoning Administrator sought comments from the Town’s Department Heads on August 8, 2023. Comments were provided by DPW regarding stormwater management plan and NOD regarding parking, delivery, snow storage, dumpster, and site access/egress.

22. On August 15, 2023, the Planning Board found the application was not complete and did not invoke jurisdiction (NOD: August 15, 2023).

23. A public hearing on the application was scheduled for September 19, 2023.

24. On September 19, 2023, the Planning Board received submittals including a TMS Architects Interiors TMS Overlay/Project Concept/Proposed Site Plan dated September 11, 2023 on a Site Plan Existing Site Conditions & Proposed Outdoor Seating by Millenium Engineering dated September 5, 2023, TMS Architects Interiors Proposed Floor and Roof Plans, Proposed Elevations and a Stormwater Management Plan Memo, and waiver requests from Erosion & Sediment Control Plan, Complete Street Elements, and Lighting Plan (2nd submission).

25. On September 19, 2023, the Rockingham Planning Commission (“RPC”) provided a “Review of Major Nonresidential Site Plan Application at 2203 Ocean Boulevard (Tax Map 5.3, Lot 28, Unit D); Case # 17-2023.” The RPC’s review recommended submittals in accordance with certain land development regulations, identified waivers sought, and obtaining a permit from Rye’s Floodplain Administrator (FA) per §60-7 of the Rye Floodplain Management Ordinance. Units A and B are shown to be elevated and remain structurally connected to the existing building. The NH State Floodplain Management Program Director advised this is a “lateral addition” and elevation of the remaining units is dependent upon the determination of substantial improvement per the FA. “Such determination of substantial improvement and subsequent floodplain development permit may be a condition of site approval, however, if it is found that project plans

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must be modified from what was approved by the board, an amended site plan application and public hearing is required.”

26. On September 19, 2023, the Planning Board found the application was not complete and did not invoke jurisdiction (NOD: September 19, 2023).
27. A public hearing on the application was scheduled for October 17, 2023.
28. On October 2, 2023, the Applicant requested to be heard at the November 21st meeting. On October 17, 2023, the Board voted to reschedule the public hearing to November 21, 2023.
29. Site Plans drafted by Millenium Engineering, Inc. (dated October 24, 2023) for the proposed redevelopment of Units A and B reflecting Existing Site Conditions Site Plan (sheet 1 of 2) and Proposed Site Conditions Site Plan (sheet 2 of 2), and by TMS Architects Interiors (dated 10/24/23): Proposed Landscape Plan, Proposed Lighting & Street Elements Plan, Proposed Floor Plans, and Proposed Elevations (pp.3-6) were submitted by the Applicant on October 24, 2023 (3rd submission).

30. Applicant met with Land Use Assistant, RPC Circuit Rider and Planning and Zoning Administrator on October 27, 2023 to go over the requirements for completion. On October 30, 2023 RPC issued a follow up email summarizing information requirements and due dates for the Applicant.

31. New waivers were submitted on November 1, 2023 and sent to Sebago Technics for review along with 3rd submission dated October 24, 2023 including:

- A. October 31, 2023 Applications for Waivers:
 - i. Stormwater Management (LDR §202-6.9, 202-3.3, B(6), and Article IX, specifically 202-9.2B)
 - ii. Erosion & Sediment Control Plan (LDR 202-3.5.B(1)(b))
 - iii. Landscaping Planting Plan (LDR §202-11.4)
 - iv. Complete Street elements (LDR §202-3.5.B(1)(e));
- B. October 24, 2023 submissions: Site Plans drafted by Millenium Engineering, Inc. (dated October 24, 2023) for the proposed redevelopment of Units A and B reflecting Existing Site Conditions Site Plan (sheet 1 of 2) and Proposed Site Conditions Site Plan (sheet 2 of 2), and by TMS Architects Interiors (dated October 24, 2023): Proposed Landscape Plan, Proposed Lighting & Street Elements Plan, Proposed Floor Plans, and Proposed Elevations (pp.3-6)

32. On November 14, 2023, Sebago Technics (“Sebago”) issued a review memorandum providing input on the revised waiver requests included in the application.
 - i. Stormwater Management, Sebago expressed: “This reduction in impervious surface is noted to be reduced from 90.6% to 80.8% which should reduce the runoff generated from the site. If the existing site does not exhibit existing stormwater management issues that should be

addressed with this new application, we support this stormwater management plan waiver request.”

- ii. Erosion and Sediment Control Plan, Sebago noted: “...the Proposed Conditions Site Plan provides an erosion control silt sock be placed around the limits of disturbance for construction,” and “Given that no grass vegetation is proposed to be established and all the construction activity is within relatively flat existing impervious surfaces, we support the waiver regarding the submission requirement for erosion and sediment control plan.”
- iii. Landscaping Planting Plan, Sebago opined: “...believe that it is reasonable for the Planning Board to waive the submission for a landscape planting plan...given the small areas of landscaping and the minimal impact of these two areas will have on the overall site’s design or appearance.”
- iv. Complete Street Elements, Sebago noted: “While we believe that it would be acceptable for the Planning Board to waive this submission requirement for the assessment of complete street elements based on the limited opportunities available to the applicant, it would also be reasonable for the Board to request that the applicant provide a narrative and explain the improvements to vehicular, pedestrian, and bicycle safety that the proposed plan presents which would demonstrate meeting the complete streets requirements.”

33. A package dated November 10, 2023 including Existing Site Conditions Site Plan (sheet 1 of 2, 10/24/23) and Proposed Site Conditions Site Plan (sheet 2 of 2, 10/24/23), and TMS Architects (11/10/23) Interiors Proposed Landscape Plan, Proposed Lighting & Street Elements Plan, Proposed Floor Plans, Proposed Elevations, Sea Level Rise elevations, and Independent Buildings for FEMA (pp.3-9) and Third Amendment to Condominium Declaration were submitted on November 14, 2023 (4th submission).

34. On November 20th, Rockingham Planning Commission (RPC) issued a review of application materials submitted November 14, 2023. The revised application depicted the detachment of Units A and B from the existing building and elevating them in accordance with Rye Floodplain Ordinance Development standards. The revised application requires 3 variances from Article §190-2.2. D (1), Article §190-3.4. E and Article § 190-5.0.C of the Rye Zoning Ordinance. RPC commented that a waiver request for a written site impact analysis by an environmental engineer appears reasonable due to redevelopment nature of the site. Consultation with the Rye Fire Chief was recommended to ensure development adequately provides for fire safety per LDR §202-6.3G. Noted: “...the Rye Floodplain Administrator and Applicant are working with the NH State Floodplain Coordinator and the Federal Emergency Management Agency (FEMA) to ensure the proposed detachment and reconstruction of Units A and B complies with federal floodplain development approvals. The Planning Board may grant site approval conditioned upon receipt of such permit and approvals. If such permit or approvals results in a material change to the application approved by the Planning Board, an amended application to the Planning Board will be required. (LDR §202-4.1).”

35. On November 21, 2023, the Board voted to accept the Application and open the public hearing. The board scheduled a site walk for December 4, 2023, and a Technical Review Committee meeting on December 5, 2023.

36. On December 4, 2023, the Planning Board held a site walk at 2203 Ocean Boulevard to discuss the subject application.

37. On December 5, 2023, the Technical Review Committee convened to discuss the subject application.

38. On January 5, 2024, the applicant submitted revised plans to the Planning Board, TRC and RPC for review including: Existing Site Conditions Site Plan (sheet 1 of 2, rev. 12/12/23) and Proposed Site Conditions Site Plan (sheet 2 of 2, rev. 12/12/23), and TMS Architects Interiors (1/5/24) Proposed Landscape Plan, Proposed Lighting & Street Elements Plan, Proposed Floor Plans, Proposed Elevations, Sea Level Rise elevations, and Independent Buildings for FEMA (pp.1-9) (5th submission).

39. On January 11, 2024, the Rockingham Planning Commission (RPC) issued a review memorandum on the revised application materials. The revised application depicted the detachment of Units A and B from the existing building and elevating them in accordance with Rye Floodplain Ordinance Development standards. The revised application requires 3 variances from Article §190-2.2, D (3), Article §190-3.4, B and Article §190-5.0, C of the Rye Zoning Ordinance. RPC commented that a waiver request for a written site impact analysis by an environmental engineer appears reasonable due to redevelopment nature of the site. Recommends RPD review revised parking and circulation layout for driver/pedestrian safety given access/egress from Gray Court and 3.5' wide curbed island separating the parking lot from Ocean Boulevard. The RFD should review the site for adequate fire and emergency vehicles access per LDR §202-6.3G. Noted: "...the Rye Floodplain Administrator and Applicant are working with the NH State Floodplain Coordinator and the Federal Emergency Management Agency (FEMA) to ensure the proposed detachment and reconstruction of Units A and B complies with federal floodplain development approvals. The Planning Board may grant site approval conditioned upon receipt of such permit and approvals. If such permit or approvals results in a material change to the application approved by the Planning Board, an amended application to the Planning Board will be required. (LDR §202-4.1)."

40. On January 13, 2024, Sebago Technics issued a review memorandum on the revised application materials including the following submissions: December 12, 2023: Existing Site Conditions Site Plan and Proposed Site Conditions Site Plan prepared by Millenium Engineering, and January 5, 2024 Proposed Landscape Plan exhibit, Proposed Lighting & Street Elements Plan, Proposed Floor Plans exhibit, Proposed Elevations exhibit, Independent Buildings for FEMA exhibit, all by TMS Architects Interiors. Due to the minimal nature of the following site plan elements and steps taken

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by the Applicant to reduce related impacts, Sebago reiterated its support of the waivers for: stormwater management (202-6.9, 202-3.3.B(6)) and Article IX (202-9.2B), erosion and sediment control (202-3.5.B(1)(b)), and landscaping planting plan (202-11.4). Discussions between the Applicant, Planning Board, TRC, and Town staff, regarding complete streets (202-6.2.B(8)(d)) resulted in proposed improvements of vehicular, pedestrian, and bicyclist safety. Site changes include: improved circulation and access issues for vehicles within the site, front of the building has been moved back 2' for both users of parking along Ocean Boulevard and residential garage parking. A raised 3.5' wide island along Ocean Boulevard eliminates direct access/egress from the site to/from the Boulevard, and parking directly accessed from Gray Court is eliminated. Sebago recommended the RPD and RFD weigh in on the proposed improvements and noted the Planning Board should determine whether such steps would satisfy the complete streets requirements. The Planning Board should discuss the Site Impact Analysis (1/8/24) that has been prepared by the Applicant to address the requirements in lieu of a waiver. Bollards were suggested to address minimal clearance at ramp location.

41. On January 16, 2024, the Planning Board conducted a continued public hearing on the matter. The Planning Board voted to schedule a Technical Review Committee meeting on January 30, 2024, to discuss the application. (NOD: January 16, 2024)

42. Applicant submitted revised plans to the Planning Board, TRC and RPC for review including: Existing Site Conditions Site Plan (sheet 1 of 2, rev. 1/22/24) and Proposed Site Conditions Site Plan (sheet 2 of 2, rev. 1/22/24), and TMS Architects Interiors (1/23/24) Proposed Landscape Plan, Proposed Lighting & Street Elements Plan, Proposed Floor Plans, Proposed Elevations, Sea Level Rise elevations, and Independent Buildings for FEMA (pp.1-7) (6th submission).

43. On January 30, 2024, the Technical Review Committee convened to discuss the subject application.

44. The applicant appeared before the Zoning Board of Adjustment on February 7, 2024 on the variance requests and the application was continued to the March 6, 2024 meeting.

45. On February 20, 2024, the Planning Board conducted a further public hearing on the matter, reviewing the Plan Set dated _____, and _____. The draft conditions of approval were reviewed and agreed by the Applicant, waivers from _____ (dates) were discussed and approved by the Board and the NOD was discussed, edited, and approved. [INSERT SUMMARY OF FEBRUARY 20, 2024 MEETING].

Motion by _____ to approve Factual Findings, seconded by _____, (vote results).

DECISION

46. After review of all submittals provided and statements made during the record, the Board grants the waivers sought by the Applicants because the planning board found that: (1) strict conformity would pose an unnecessary hardship to the Applicants and waiver would not be contrary to the spirit and intent of the regulations.
47. The Board grants the Applicant's request for a waiver from LDR §202-3.4.B(1), §202-3.3.B(6), §202-6.9, and Article IX of the LDRs related to the submission of Stormwater Management Plan because the Applicant's proposal seeks to reconstruct Units A & B of the existing building in accordance with Rye Floodplain Management Ordinance (Chapter §60-7) to meet federal floodplain standards within the general developed footprint of the property with minimal increase in proposed structure coverage, a reduction of impervious surface from 90.6% to 80.8%, and two vegetated areas planted with native plantings. The existing site does not exhibit stormwater management issues per current use of Town stormwater systems structures as confirmed by DPW Director. Given the specific circumstances associated with the proposal, the spirit and intent of the regulations, which is to ensure capture and treat stormwater runoff, is satisfied. For the same reasons, the Board grants the Applicant's waiver to LDR §202-3.5(1)(j) related to a Site Impact Analysis prepared by an Environmental Engineer.
48. The Board grants the Applicant's request for a waiver from LDR §202-3.5.B(1)(c), LDR §202-3.5.B(1)(d), LDR §202-11.4, and LDR §202-11.5A for a Landscaping Planting Plan and Plant Maintenance Plan given that the site plan given the small areas of landscaping and the minimal impact these two areas will have on the overall site's design or appearance.
49. The Board grants the Applicant's request for a waiver from LDR §202-3.5.B(1)(b) for an Erosion & Sediment Control Plan because the Applicant's strict conformity is unnecessary as no grass vegetation is proposed to be established and all construction activity is within relatively flat existing impervious surfaces, Applicant has agreed, per the Proposed Conditions Site Plan to provide an erosion control silt sock be placed around the limits of disturbance for construction.
50. The Board finds that, with the conditions of approval set forth below, the Applicants' proposal satisfies all other pertinent provisions of the LDRs.
- 51.** The Applicants' proposal reflects that suitable steps will be taken to protect significant existing features on the Property. **[PB should discuss – does §202-6.8(1) have applicability?]**
52. The Applicants' proposal to redevelop a portion of an existing commercial building in the GR zone into a multi-story building of two residential condominium units with

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garage parking on the ground level with minimal increase in proposed structure coverage, to reconfigure the existing paved drive and parking areas around the building to support the redevelopment including the installation of a permeable paver surface treatment behind the building, and to install two landscaped areas planted with native plantings appropriate for the site, will reduce impervious surface from 90.6% to 80.8%. The existing site does not exhibit stormwater management issues per current use of Town stormwater systems structures as confirmed by DPW Director. The redevelopment will incrementally lessen the amount and rate of runoff from the site and will not materially impact stormwater management.

53. The Applicants' proposal to redevelop a portion of an existing commercial building in the GR zone into a multi-story building with two residential condominium units with garage parking on the ground level with minimal increase in proposed structure coverage, and the reconfiguration of the existing paved drive and parking areas around the building to support the redevelopment will not adversely impact the neighborhood, will not materially increase traffic generation, and will not otherwise alter the surrounding neighborhood. **[Incorporate input from RPD/RFD re impact of revised parking and circulation layout to ensure the site adequately provides for driver and pedestrian safety and adequate access for fire and emergency per 1/30/24 TRC?]**

Motion by _____ to approve Decision, seconded by _____,
(vote results).

CONDITIONS OF APPROVAL

1. The following revisions to be made to the site plan:
 - a. Name, address, license number and seal of all licensed professionals shall be shown on the approved plans.
 - b. Directional arrows at the entrance to the site off Gray Court to be more prominently displayed.
 - c. All required state and local permits numbers shall be noted on the approved plans.
2. All required state and local permits are received, and permit numbers noted on the approved plans.
3. The Applicant shall apply for and obtain variances from the following Articles of the Rye Zoning Ordinance:
 - a. ~~Article 190-2.2, D (1)~~ – No more than one principal building on one lot in the Single Residence and General Residence Districts.
 - b. ~~Article 190-3.4.~~ – No dwelling shall occupy more than 15% of its lot in the Coastal Area District.
 - c. ~~Article 190-5.0.C~~ - No off-street parking shall be located within the required front yard area nor within 10 feet of any lot line in any district of the Rye Zoning Ordinance for a reduction in the amount of required parking spaces.
4. All lighting fixtures shall be fully shielded to produce no light above a horizontal plane through the lowest direct-light-emitting part of the luminaire in accordance with LDR 202-10.2.
5. All required plant materials shall be tended and maintained in a healthy growing condition, replaced as necessary, and kept free of weeds, invasive plants, refuse and debris.
6. All signage shall conform to the Town of Rye Zoning Ordinance and Land Development Regulations.
7. The Applicants shall submit a revised Condominium Declaration and Bylaws to the Planning Board reflecting the revisions to the Condominium Association necessitated by the Applicants' proposal. The revised Condominium Declaration and Bylaws shall be subject to the satisfactory review of Town Counsel.
8. The executed conditions of approval shall be appended to and recorded with the Condominium Declaration.

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9. No blasting shall be permitted on the Property. Note to be placed on plan, no blasting.
10. The applicant shall supply an estimate of the costs for the construction, inspection and disposition of all stormwater management infrastructure of the Property. Applicant shall further supply a performance bond or Letter of Credit in an amount sufficient to ensure the adequate construction, The form of such performance bond or other surety shall be subject to review and approval of town counsel.
11. Applicant shall provide the Town with sufficient funds to be placed into escrow to pay final statements of the Town's engineer and town counsel.
12. Applicant shall sign an Escrow Agreement and post escrow for the Planning Board engineer's monitoring of site improvements. Said amount shall be determined by the Planning Board engineer.
13. Notes shall be added to the Site Plan reflecting Variances per Condition #3.
14. For the purposes of RSA 674:39, active and substantial development or building shall be the earlier of: (a) the demolition of existing structures on the property or (2) the excavation or disturbance of land for access way construction.
15. As-built plans for all site improvements shall be submitted to the Planning Board within days of the completion of construction (3 sets).
16. 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.
17. The Planning Board chair may sign the Plans when the foregoing conditions Nos. 1, 7 and 13 are met.

Any party aggrieved by this decision has the right to seek judicial review of this decision by filing an appeal to the Rockingham County Superior Court within thirty (30) days of the date of the hearing at which the Board voted to take the action set forth herein, unless such decision related to the application, construction, or interpretation of the Rye Zoning Ordinance, in which case, an aggrieved party may appeal such decision to the Rye Zoning Board of Adjustment in accordance with RSA 676:5 and the Zoning Board of Adjustment Rules of Procedure.

Date

Patricia Losik, Chairman
Rye Planning Board