

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: Paris Wallace & Kristen Lynch
Addresses: 446 Central Road, Tax Map 8.1, Lot 11
ZONE: Property is in the General Residence District & Aquifer & Wellhead Protection District.
CASE NO: #06-2024

Request: Conditional Use Permit Application for an Accessory Dwelling Unit by Paris Wallace & Kristen Lynch for property owned and located at 446 Central Road, Tax Map 8.1, Lot 11 per Section 5.6 of the Rye Zoning Ordinance. Property is in the General Residence District and Aquifer & Wellhead Protection District.

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.

FACTUAL FINDINGS

1. The property is located at 446 Central Road, Tax Map 8.1, Lot 11 (“**the Property**”).
2. The Property is owned by Kristen J. Lynch Revocable Trust, Kristen J Lynch, Trustee (“**the Applicant**”).
3. The Property is approximately 1.99 Acres in size with 110’ with 20’ frontage on Central Rd.
4. The Applicant submitted a Conditional Use Permit Application for an Accessory Dwelling Unit on September 8, 2024. Included in the application are: ADU Conditional Use Permit, Abutter list, Cover Letter, Square footage calculations, vision appraisal card, NHDES approval for construction on septic system, Septic Design by Septic Designs of NH, LLC, Plat of Land by Millennum Engineering Inc. dated October 20, 2020, Architectural plans by Living Spaces, Inc sheets 3 and 4 dated January 12, 2022.
5. The application was emailed to Maddie DiIonno, RPC on September 20, 2024.
6. Department Head requests were emailed to all departments on October 4, 2024.
 - a. Received email from Arik Jones, RWD 10-7-2024 that property is outside the RWD jurisdiction. Confirmed with applicant they have a well.
 - b. Received email response from Kevin Walsh, Police Chief who had no comments
 - c. Received email from Kevin Wunderly, Deputy Fire Chief and they had three concerns:

- Fire separation materials and their ratings for the area between the existing garage and living spaces.
 - Adequate hardwired smoke, carbon monoxide, and heat detection.
 - Egress window sizes where required.
7. On Wednesday, October 9, 2024, Maddie DiIonno, RPC Circuit Rider reached out to the applicant for clarification on square footage calculations.
8. The applicant replied to Ms.DiIonno on same day with a copy of the ADU Floor Plan.
9. The applicant replied to Deputy Chief Wunderly's concerns in an email on 10-9-2024 with pictures stating "The ADU is not new construction, rather it is designating an existing part of the house into an ADU. Therefore, there is no work being done and no contractor as part of the project. Presumably, the property was inspected for fire safety before the CO was originally issued and passed all subsequent inspections during renovations. I thought that this might be an important context. -Fire separation materials and their ratings for the area between the existing garage and living spaces. Unknown as this was preexisting our purchase date. Assume that it passed inspection and meets code requirements. -Adequate hardwired smoke, carbon monoxide, and heat detection. There are two smoke/carbon monoxide detectors in the unit. One is the bedroom and one in the main room adjacent to the kitchen. Please see pictures of both attached. - Egress window sizes where required. These windows have not been changed and I believe that all windows meet egress standards."
10. A memorandum was issued October 9, 2024, by Maddie Dilonno, RPC Circuit Rider with the following message:
- "Rockingham Planning Commission has reviewed a Conditional Use Permit application submitted by Paris Wallace and Kristen Lynch for an accessory dwelling unit (ADU) at 446 Central Road (Tax Map 81 Lot 11), located in the General Residential District. The proposal is to establish an accessory dwelling unit on the second floor of an existing single-family home. There is no new construction or changes proposed to the exterior of the existing dwelling. Based on review of the application materials submitted, the following comments and recommendations are offered at this time:
1. The accessory dwelling unit (ADU) has a total floor area of 1,278.7 square feet, which exceeds the maximum permitted size of 1,200 square feet as specified in Article 190-5.C (1) of the Rye Zoning Ordinance. However, it appears that a deduction of 107.1 square feet was applied based on the minimum height requirements for habitable spaces under the 2018 International Building Code. This adjustment brings the effective size of the ADU to 1,171.6 square feet. Given that the ADU will be inside the existing dwelling and the floor area being excluded does not contribute to the living space's usability, the adjusted size appears to be a more appropriate representation of the ADU's true scale. It is recommended that the planning board carefully review this aspect of the proposal to ensure that the size calculation aligns with both the technical requirements and the spirit and intent of the ordinance.

2. It is recommended that approval from the Rye Fire Chief regarding access/egress be obtained prior to any occupancy permit being issued in accordance with Article 190-5.6D (5).
 3. It is recommended that a note be added to the final drawings stating that every two years after approval and when the dwelling is sold, the owner of the dwelling and all adult occupants of the accessory dwelling unit shall file an affidavit with the Building Inspector certifying that the owner lives on the premises and that the occupancy of the accessory dwelling unit complies with § 190- 5.6C(2) in accordance with § 190-5.6G”
11. Ms. Reed recommends that the Planning Board condition it upon the applicant work with the Deputy Fire Chief on the Life Safety requirements and that a note be added to the final drawings per RPC request #2.
 12. On October 15, 2024, the Planning Board conducted a public hearing on the application for an accessory dwelling unit. For 446 Central Road, Rye NH. The draft conditions of approval were reviewed and agreed upon by the Applicant.
 13. On October 15, 2024, The Planning Board issues this Notice of Decision and Findings of Fact.

DECISION

14. The Board finds that, the Applicants’ proposal satisfies all other pertinent provisions of Section 5.6 of the Rye Zoning Ordinance. The Conditional Use Permit Findings of Fact and Conditions of Approval shall be recorded at the Rockingham County Registry of Deeds.

After review of all submittals provided and statements made during the record, the Board grants the Conditional Use Permit Application for an Accessory Dwelling Unit for Paris Wallace and Kristen Lynch for property owned and located at 446 Central Road, Tax Map 8.1, Lot 11 per Section 5.6 of the Rye Zoning Ordinance, subject to the conditions of approval. Seconded by Donald Cavallaro. Vote 7-0-0.

CONDITIONS OF APPROVAL

The following conditions:

1. The applicant shall work with the Deputy Fire Chief, Kevin Wunderly to get approval regarding access/egress and life safety requirements prior to any occupancy permit being issued in accordance with Article 190-5.6D (5).
2. A note shall be added to the final drawings stating that every two years after approval and when the dwelling is sold, the owner of the dwelling and all adult occupants of the accessory dwelling unit shall file an affidavit with the Building Inspector certifying that the owner lives on the premises and that the occupancy of the accessory dwelling unit complies with § 190- 5.6C(2) in accordance with § 190-5.6G.

3. The applicant shall obtain certification that the existing private well is of adequate capacity and quality per 190-5.6.C(8).
4. The applicant shall provide two additional off-street parking spaces which satisfies Rye Zoning Ordinance 190-5.0.
5. If the ADU is rented, it shall not be more than 3 months.
6. Town of Rye NH Building Permit is required if construction is required.
7. Final Plans, Septic Design are attached as Appendix A to the Conditional Use Permit Findings of Fact, Decision and Conditions of Approval and shall be recorded at the Rockingham County Registry of Deeds (RCRD).

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 or the Housing Appeals Board (HAB) 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.

10-17-2024
Date


Patricia Losik, Chairman, Rye Planning Board