

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: Carson Walker 10 Eagle Rock Rd, Tax Map 20.2 Lot 98 and Laurence Whitely of 17 Fairhill Avenue, Tax Map 20.2, Lot 97
ZONES: **Property is in the General Residence and Coastal Overlay District**
CASE NO: **#10-2024**

Request: Lot Line Adjustment between Carson Walker 10 Eagle Rock Rd, Tax Map 20.2 Lot 98 and Laurence Whitely of 17 Fairhill Avenue, Tax Map 20.2, Lot 97 to correct a tile defect. Both properties in the General Residence, Coastal Overlay Districts. Case #10-2024.

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.

FACTUAL FINDINGS

1. The properties are located at 10 Eagle Rock Rd, Tax Map 20.2 Lot 98 and 17 Fairhill Avenue, Tax Map 20.2, Lot 97 (“**the Properties**”).
2. The Properties are owned by Carson Walker 10 Eagle Rock Road and Laurence Whitely of 17 Fairhill Avenue. Dyan J. Lowman, Esq. filed the application on behalf of Carson Walker (“**the Applicant**”).
3. On January 26, 2024, Attorney Dyan Lowman sent by First Class Mail a letter to the Planning & Zoning Administrator enquiring about the lot line adjustment if the Town had any objections.
4. Ms. Reed reached out to Town Attorney, Eric Maher who stated his firm had a conflict and that I reach out to Keri Roman. Ms. Roman was out of the office and her out of office reply directed me to Patty Frechette. Upon return to her office, Ms. Roman replied that she had a conflict and could not assist the Town on this matter.
5. On February 28, 2024, Ms. Reed, Planning & Zoning Administrator reached out to Attorney Laura Spector-Morgan for assistance with the request. Attorney Spector-Morgan replied via email on March 1, 2024 “Believe it or not, this makes perfect sense to me.”
6. On August 5, 2024 Attorney Lowman emailed Kara Campbell, Land Use Assistant the Boundary Adjustment plan and follow up email of a conversation with Kimberly Reed. Ms. Campbell forwarded the emails to Kimberly Reed, Planning & Zoning Administrator.
7. The application was emailed to Maddie DiIonno, RPC on September 20, 2024.

8. Department Head requests were emailed to all departments on October 4, 2024.
9. On October 1, 2024, Ms. DiIunno sent an email to Ms. Reed asking if they received a variance for making one lot more nonconforming. Ms. Reed replied to Ms. DiIunno during a meeting on Monday, 10-6-2024, that they had not and Ms. Reed forwarded Ms. DiIunno the emails from earlier in the year.
10. On October 9, 2024, Ms. DiIunno emailed Attorney Lowman stating the following: "I am the contracted town planner for the Town of Rye, and I have reviewed the Lot Line Adjustment application for 10 Eagle Rock Road, scheduled for the October 15th Planning Board meeting. Upon review, it appears this application requires two variances from the Zoning Ordinance: one for increasing the nonconformity of Lot 97 in terms of size, and another for reducing the frontage of Lot 97 on Eagle Rock Road. I have included these observations in my memo to the Planning Board but wanted to bring them to your attention in advance of the meeting."
11. A memorandum was issued on October 9, 2024 in the email to Attorney Lowman by Maddie Dilonno, RPC.
12. On October 9, 2024, Attorney Lowman emailed Ms. DiIunno and Ms. Reed asking if the variance could be part of the same application.
13. Ms. Reed replied to Attorney Lowman about the application for the Zoning Board of Adjustment and explained the process.
14. Ms. Reed, Planning & Zoning Administrator recommends that the Planning Board approve the application for a lot line adjustment on the condition that the applicant(s) go before the Zoning Board of Adjustment for two variances per RPC Circuit Rider Memo: "The proposed lot line adjustment reduces the size of Lot 97 from 0.39 acres to 0.31 acres, further increasing its non-conformity, thereby necessitating a variance. Additionally, the frontage of Lot 97 will be reduced from 133 feet to 108 feet on Eagle Rock Road, where 150 feet is required, also requiring a variance."
15. On October 15, 2024, the Planning Board conducted a public hearing on the Lot Line Adjustment between Carson Walker 10 Eagle Rock Rd, Tax Map 20.2 Lot 98 and Laurence Whitely of 17 Fairhill Avenue, Tax Map 20.2, Lot 97 to correct a tile defect. The draft conditions of approval were reviewed and agreed upon by the Applicant.
16. On October 15, 2024, The Planning Board issues this Notice of Decision and Findings of Fact.

DECISION

17. After review of all submittals provided and statements made during the record, the Board grants the Lot Line Adjustment between Carson Walker 10 Eagle Rock Rd, Tax Map 20.2 Lot 98 and Laurence Whitely of 17 Fairhill Avenue, Tax Map 20.2, Lot 97 to correct a title defect.
18. The Findings of Fact and Conditions of Approval shall be recorded at the Rockingham County Registry of Deeds.

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

Motion by JM Lord to grant the Lot Line Adjustment between Carson Walker 10 Eagle Rock Road, Tax Map 20.2, Lot 98 and Laurence Whitely of 17 Fairhill Avenue, Tax Map 20.2, Lot 97 to correct a title defect subject to the Conditions of Approval.

CONDITIONS OF APPROVAL

The following conditions:

1. The proposed lot line adjustment reduces the size of Lot 97 from 0.39 acres to 0.31 acres, further increasing its non-conformity, thereby necessitating a variance. Additionally, the frontage of Lot 97 will be reduced from 133 feet to 108 feet on Eagle Rock Road, where 150 feet is required, also requiring a variance.”

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