

# RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 379-8081

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

**Applicant:** SAI Builders, LLC

**Addresses:** 49 Jenness Aven, Tax Map 8.4, Lot 48

**ZONE:** Property is in the General Residence, Coastal Overlay Districts and SFHA Zone AE(8)

**CASE NO:** Case #14-2024

**Request:** Driveway application on behalf of SAI Builders, LLC for property located at 49 Jenness Aven, Tax Map 8.4, Lot 48 request a waiver from Appendix Section 5-E: A for a driveway 63' from Surf Lane where a 100' of an intersection is required. Property is in the General Residence, Coastal Overlay Districts and SFHA Zone AE(8). Case #14-2024.

### FACTUAL FINDINGS

1. The property is located at 49 Jenness Ave, Tax Map 8.4, Lot 48. (“**the Property**”).
2. The Property is owned by Leigh L. D’ Andrea. (“**the Applicant**”).
3. The Property is a corner lot that is approximately .23 acres in size with 100 feet of frontage along Jenness Avenue and 100 feet along Surf Lane.
4. On January 17, 2024, the Applicant received Special Exception and Variances from the Board of Adjustment after a year of going through the process with the Board and after several changes.

The Board voted unanimously to grant the following variances of the Rye Zoning Ordinance as advertised and presented:

- §190-2.4.C(1) for rear deck/egress 21.82’ from the rear boundary.
- §190-2.4.C(3) for a bioretention basin 0’ ft (Jenness Avenue side, 9 +/- to road) and bioretention basin 0’ ft (Surf lane > 10ft to road).
- §190-3.1.F, H(2)(a)(e)(f)(g) for tree removal, House 11.24’/26.99’, Overhang 9.87’/26.05’, rear deck +/- 16.69’ and pervious driveway 29.35’ from the wetland.

- §190-6.1.A and from §190-6.1.B(1)(2), (C) for a 9,998 square foot lot area with 200' of frontage on a nonconforming lot.
- §190-5.0C for 1 off-street parking space within the front setback

The Board voted unanimously to grant the following special exceptions of the Rye Zoning Ordinance as advertised and presented:

- §190-3.1.G(2) for a pervious driveway 29.35' in the wetland buffer and from
- §190-3.4.C for a 1,331 s.f. home on a vacant lot in the coast overlay district with criteria per §190-3.4.C(1)-C(8).

The above variances and special exceptions were granted with the following conditions based upon the Rye Conservation Commission's January 14, 2024 letter and the DPW Directors requests as mentioned in the August 30, 2024, minutes:

*Mowland*

*6*

1. The planting plan currently proposed to be implemented.
2. Where the planting plan calls for no mowing *fescue*, the area should not be mowed, except once per year to control the invasives.
3. A survival rate of at least 85% after one year is considered adequate.
4. Pervious pavers to be maintained as required by the manufacturer as pervious.
5. No fertilizer after plantings have been established and fertilizer to be *uses* shall be slow release.
6. Applicant shall provide an easement to the Town of Rye for the storm drain inlet inspection and maintenance.
7. The applicant will review the storm drain inlet and work with the DPW Director to determine what steps to be taken.

5. The Applicant submitted a Driveway application with the Department of Public Works on November 4, 2024 for an administrative denial based on Section 5: Paragraph A of the Planning Board Driveway Regulations which states: ***No driveway shall be constructed within 100' of the nearest intersection.***
6. Attorney Derek Durbin submitted the application on behalf of the Applicant submitted a Planning Board Driveway application on November 14, 2024 with cover letter, copy of DPW denial, Horizon site plans and Horizon memo.
7. The application was emailed to Maddie DiIonno, RPC and the Department Heads on December 4, 2024.
  - a. Response from Police Chief, Kevin Walsh he has no comments at this time.
  - b. Response from DPW Director, Public Works has issued a driveway denial and has no further comments.
8. As part of the application submitted the applicant seeks a waiver from the following provision of the Land Development Regulations ("LDR"):

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

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- a. Appendix E – Section 5-Paragraph A for a driveway approximately 63’ from Surf Lane where 100’ to the nearest intersection is required.
- 9. On December 17, 2024, the Planning Board conducted a public hearing on the application for a waiver for a driveway approximately 63’ from Surf Lane where 100’ to the nearest intersection is required.
- 10. On December 17, 2024, The Planning Board issues this Notice of Decision and Findings of Fact.

DECISION

After review of all submittals provided and statements made during the record, the Board grants the waiver 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.

- a. Motion by \_\_\_\_\_ to grant the waiver from the LDR Appendix E – Section 5-Paragraph A for a driveway approximately 63’ from Surf Lane where 100’ to the nearest intersection is required. Seconded by \_\_\_\_\_ All approved.

*(P)*

The Board grants the Applicants’ request for a waiver from:

- b. Appendix E – Section 5-Paragraph A for a driveway approximately 63’ from Surf Lane where 100’ to the nearest intersection is required.

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