

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: Estate of Jonathan Brown and C/O Marcia Carroll

Addresses: 575 Central Road, Tax Map 5, Lot 14

ZONE: Property is in the Single Residence and General Residence, Aquifer & Wellhead Protection District and in the RBVD.

CASE NO: Case #15-2024

Request: Minor two lot subdivision on behalf of the Estate of Jonathan Brown and C/O Marcia Carroll. 9.152-acre property located at 575 Central Road, Tax Map 5, Lot 14 to subdivide a 9.152 acre parcel with an existing house and accessory building into two lots; one 6,017 acre parcel and the other 3.135 acre parcel separating the existing house from the remaining lot area with no other site developments proposed at this time. Property is in the Single Residence and General Residence, Aquifer & Wellhead Protection District and in the RBVD. Case #15-2024.

FACTUAL FINDINGS

1. The property is located at 575 Central Road, Tax Map 5, Lot 14. (“**the Property**”).
2. Estate of Jonathan Brown and C/O Marcia Carroll. (“**the Applicant**”).
3. The Property is approximately 9.152 acres in size with 343.03 feet of frontage along Central Road and 1,254.55 feet along Love Lane.
4. On November 14, 2024, JVA, Inc submitted a Minor Two Lot subdivision on behalf of the Applicant with a cover letter, site plans and waiver requests.
5. Noticing that the lot was along the Rye Beach Village District, Planning and Zoning Administrator, Reed reached out to Town Attorney, Eric Maher who wrote:

“I’m not sure what was used to establish the location of the Rye Beach Village District in the 2004 Plan, but the Rye Beach Village District Zoning Ordinance says that the District is as reflected in the Zoning Map for the Rye Beach Village District. Looking at that Map, it appears like a rear sliver of the property may be in the Rye Beach Village District.”

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

It may be a distinction without a difference. If the sliver that is arguably in the RBVD is not needed for zoning compliance for any established lot, then the Town can treat the boundary line as being the municipal boundary line. In such instance, the process is the same as is if boundary line simply abutted the RBVD. The Town could provide a copy of the application to the RBVD administrator for commentary on compliance and any regulations which may adversely impact the development, which would be due and owed within the period for the Town to process the application”.

6. The application was emailed to Maddie DiIunno, RPC and the Department Heads on December 4, 2024.

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we know this
SEWER*

- a. Response from Police Chief, Kevin Walsh he has no comments at this time.
- b. Response from Arik Jones, RWD Superintendent that the property is not within the RWD’s jurisdiction.
- c. Response from Jason Rucker, DPW Director that the Public Works Department has no comments at this time.
- d. Response from Maddie DiIunno, RPC on December 10th which states:

Based on review of the application materials submitted, the following comments and recommendations are offered at this time:

- 1. *A waiver request has been submitted with the application for Article III, Section 202-3.4D(4), which requires a stormwater management plan. Given that no development is currently proposed, the waiver request appears reasonable. If the Board approves the waiver, a note reflecting this decision should be included on the final plans.*
- 2. *A waiver request has been submitted with the application for Article VI, Section 202-6.9, which requires applicants to evaluate the proposed project's vulnerability to coastal and freshwater flooding using relevant climate vulnerability assessment data. The proposal lies outside the Coastal Area Overlay District and beyond the extent of projected sea level rise according to Rye’s Tides to Storms Vulnerability Assessment and NH GRANIT’s Sea Level Rise Coastal Viewer. Additionally, no development is proposed at this time. Based on these factors, the waiver request appears to be reasonable. Should the Board approve the waiver, a note reflecting this decision should be included on the final plans.*
- 3. *It is recommended that the total buildable area (i.e., (e.g., area of non-wetland soils, steep slopes, building setback or other area where development is not permitted without permission) be quantified for each proposed lot in accordance with Section 202-3.1(9) of the Rye Land Development Regulations.*

7. On December 17, 2024, the Planning Board conducted a public hearing on the application. The draft conditions of approval were reviewed and agreed upon by the Applicant.

8. On December 17, 2024, The Planning Board issues this Notice of Decision and Findings of Fact.

DECISION

9. After review of all submittals provided and statements made during the record, the Board grants the Applicant's request to the following waivers of the Rye Land Development Regulations.

Motion by _____, seconded by _____ to grant a waiver to Article III, Section 202-3.4.D(4) for a Stormwater Management Plan given that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of these regulations as there is no proposed construction associated with this project at this time. Vote: _____

Motion by _____, seconded by _____ to grant a waiver to Article VI, Section 202-6.9, which requires applicants to evaluate the proposed project's vulnerability to coastal and freshwater flooding using relevant climate vulnerability assessment data. The proposal lies outside the Coastal Area Overlay District and beyond the extent of projected sea level rise according to Rye's Tides to Storms Vulnerability Assessment and NH GRANIT's Sea Level Rise Coastal Viewer.

Motion by _____, seconded by _____ to approve Minor two lot subdivision on behalf of the Estate of Jonathan Brown and C/O Marcia Carroll for property located at 575 Central Road, Tax Map 5, Lot 14 to subdivide a 9.152 acre parcel with an existing house and accessory building into two lots; one 6,017 acre parcel and the other 3.135 acre parcel separating the existing house from the remaining lot area with no other site developments proposed at this time. Property is in the Single Residence and General Residence, Aquifer & Wellhead Protection District and in the RBVD. Case #15-2024.

CONDITIONS OF APPROVAL

1. It is recommended that the total buildable area (i.e., (e.g., area of non-wetland soils, steep slopes, building setback or other area where development is not permitted without permission) be quantified for each proposed lot in accordance with Section 202-3.1(9) of the Rye Land Development Regulations.
2. Per Article VI Section 202-4.4, this conditional approval shall expire in 18 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.

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

3. The Building Inspector shall require a lot development plan prior to issuance of a building permit. Building permit(s) and certificate of occupancy shall not be issued unless the plan complies with the following:
 - a. Any use altering more than 50,000 square feet of natural terrain per §190-3.6 F (1)(a)[2] shall require a hydrogeologic study and a conditional use permit per §190-3.6 from the Planning Board.
 - b. A stormwater management plan per §190-5.7 B and §190-3.6 F(3) shall be submitted and shall be approved by the TRC of the Planning Board, or the planning board engineer at the expense of the building permit applicant.
 - c. A septic plan compliant with §190-3.6 J which requires a high performance, denitrifying septic system, and that all uses must comply with the best management practices set forth in New Hampshire Administrative Regulations Part Env-Wq 401.
 - d. A landscape plan depicting limits of tree removal and the voluntary no cut buffers shall be submitted.
 - e. If an irrigation system is installed on the lot, the system shall comply with §202 Appendix G.
 - f. The lot development plan shall identify the compliance requirements regarding salt and de-icing practices per §190-3.6 F(4), fertilizers per §190-3.6 F(6), and manure per §190-3.6 F(7).
 - g. The lot development plan shall indicate that no structures shall be located within the 90' voluntary setbacks as depicted along the eastern, southern, and western property lines.
4. Written approval from the RFD shall be obtained per Appendix E Driveway Regulations Section 5-E: M.
5. Written approval from the RWD shall be obtained per §202-6.5 Waterline construction.
6. Per §202-4.4 of the Land Development Regulations, this conditional approval shall expire in 18 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.

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.

Date

Patricia Losik, Chairman, Rye Planning Board