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CITY OF RYE Planning Commission

Resolution

No. 03-2015

Application Name: **190 Stuyvesant Avenue**
Approval Type: Modified Wetland and Watercourses Permit
Application Number: WP#358
Project Description: Proposed hot tub and patio area
Street Address: 190 Stuyvesant Avenue
Tax Map Designation: Sheet: 153.14 Block: 1 Lot: 41
Approval Date: February 24, 2015
Expiration Date: February 24, 2016(one year)

WHEREAS, on December 22, 2014, Duncan & Laura Hennes (hereinafter “Applicant”) submitted an application for modified Wetland and Watercourses Permit approval pursuant to Chapter 195, *Wetlands and Watercourses*, of the Rye City Code for a property, located at 190 Stuyvesant Avenue; and

WHEREAS, the drawing submitted in connection with the application is titled, *Wetlands & Watercourses Application Hennes Residence, 190 Stuyvesant Avenue, Rye, NY 10580*, prepared by Hoffman Landscapes and dated November 19, 2014; and

WHEREAS, the application involves modifying a previously approved wetland permit to change the location and size of a hot tub and patio located within a 100-foot wetland buffer; and

WHEREAS, the original application approved by the Planning Commission on September 10, 2013 in Resolution Number 24-2013; and

WHEREAS, the modified application proposes a 542 square-foot increase in impervious area in the wetland buffer as compared to a 349 square-foot increase in impervious area in the wetland buffer approved as part of the original application; and

WHEREAS, the modified application proposed over 1,100 square feet of wetland planting mitigation; and

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WHEREAS, the property is known on the Rye City Tax Map as Sheet 153.14, Block 1, Lot(s) 41, and is located in a R-1 One-Family District , a "C" City of Rye Parking District, and appears to be located in "AE"(elevation 12 NAVD, September 2007, FIRM) Federally designated Flood Insurance Rate Zone(s); and

WHEREAS, the property is located in a coastal zone area as delineated in the City of Rye Local Waterfront Revitalization Program (LWRP); and

WHEREAS, the application complies with the requirements of the City of Rye Zoning Code; and

WHEREAS, the application and plan were referred to the Conservation Commission/Advisory Council (hereinafter "CC/AC") and for their review and recommendations; and

WHEREAS, the CC/AC stated that the application was "Acceptable" in its January 20, 2015 memorandum to the Planning Commission; and

WHEREAS, a public hearing was held on February 24, 2015 and all members of the public wishing to be heard were given the opportunity to be heard; and

WHEREAS, the City Planner has determined that the proposed activity may be subject to regulation under Chapter 195, Wetlands and Watercourses, and

WHEREAS, on January 10, 2015, the Planning Commission inspected the site and vicinity; and

WHEREAS, the Planning Commission determined that the action is a(n) Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA); and

WHEREAS, since the proposed action is a Type II Action it is considered exempt and not subject to the requirements of the SEQRA or Chapter 73, *Coastal Zone Management*, of the Rye City Code;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, as required by §195-5.D of the Rye City Code, *Standards for Permit Decisions*, makes the following findings:

Having evaluated the proposed activity with respect to wetland functions and the role of the wetlands in the hydrologic and ecological system; and having determined the impact of the proposed activity upon public health and safety, rare and endangered species, water quality and additional wetland functions listed in §195-1, the Planning Commission finds that the

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impacts and losses have been avoided to the maximum extent practicable. In making this determination, the Planning Commission has considered the following factors:

- (1) The impact of the proposed activity; and existing and reasonably anticipated similar activities, upon neighboring land uses and wetland functions as set forth in §195-1, including filling of a wetland or other modification of natural topographic contours, disturbance or destruction of natural flora and fauna, influx of sediments or other materials causing increased water turbidity and/or sediment build up, removal or disturbance of wetland soils, reductions in wetland water supply, interference with wetland water circulation, damaging reductions or increases in wetland nutrients, influx of toxic chemicals and/or heavy metals, damaging thermal changes in the wetland water supply; and destruction of natural aesthetic values.
- (2) Existing wetland impacts and the cumulative effect of reasonably anticipated future wetland activities in the wetland subject to the application.
- (3) The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, storm barriers; and water quality.
- (4) The safety of the proposed activity from flooding, erosion, hurricane winds, soil limitations; and other hazards and possible losses to the applicant and subsequent purchasers of the land.
- (5) The adequacy of water supply and waste disposal for the proposed use.
- (6) Consistency with Federal, State; and County comprehensive land use plans and regulations, consistency with the Code of the City of Rye and consistency with the Rye City Development Plan.
- (7) The availability of preferable alternative locations on the subject parcel or, in the case of activity that cannot be undertaken on the property without disturbance to wetlands, the availability of other reasonable locations for the activity.

AND, BE IT FURTHER RESOLVED, that the Rye City Planning Commission hereby approves Modified Wetlands and Watercourses Permit #358 for the improvements shown on the aforementioned plans, subject to the following conditions:

Applicant Signature

Date

A. Conditions to be Completed Prior to the Endorsement of the Plans:

1. Prior to endorsement the site plan drawing(s) shall be revised to include the following endorsement/signature box:

Application No. WP#358 (Modified) approved by Resolution 03-2015 of the Planning Commission of the City of Rye, New York, on February 24, 2015, subject to all requirements and conditions of said Resolution. Any change, erasure, modification or revision of this plan, as approved, shall void this approval.

Signed this _____ day of _____, 20_____

Chairman

City Planner/Secretary

2. Prior to endorsement of the plans by the Secretary of the Planning Commission, the applicant shall sign and return one copy of the approved resolution to the Planning Commission indicating acceptance of all conditions of approval. Failure to sign this resolution of conditional approval within sixty (60) days will deem this approval null and void.
3. Prior to endorsement of the plans by the Secretary of the Planning Commission, the applicant shall submit to the City Planner one (1) digital version of the plans in Adobe Acrobat .pdf format **and** two (2) assembled paper copy sets of the plans to the City Planner.
4. The applicant shall post security with the City in an amount determined sufficient by the City Planner to cover the cost of all wetland plantings and their installation. The City shall hold the security for a period of not less than two (2) full growing season(s) from the date of the completion of the wetland improvements and plantings shown on the approved drawings to ensure their viability and replacement if not maintained in a healthy condition.

Applicant Signature

Date

B. Conditions to be Completed Prior to the Issuance of a Building Permit:

1. The City Planner shall notify in writing the Building Inspector and City Engineer of the applicant's satisfactory completion of those conditions noted in Section A immediately above.
2. The applicant shall obtain and provided copies to the City of all necessary Federal, State and County permits and approvals.

C. Conditions to be Completed Prior to the Commencement of Any Construction:

1. Prior to the start of any work conducted under this permit, erosion and sedimentation control devices in accordance with *Westchester County, N.Y. Best Management Practices for Sediment and Erosion Control* (dated December 1991 or as amended, whichever is later) shall be installed to the satisfaction of the City Engineer and City Building Inspector and, thereafter, be maintained, repaired and replaced as necessary until they authorize their removal.
2. The Applicant shall notify in writing the Planning Commission, the City Planner and the City Engineer of the date on which the work is to begin, at least five (5) days in advance of such date.
3. Prior to the start of any construction an anti-tracking pad and erosion control measures shall be installed, as required and approved by City Staff. All anti-tracking pads and erosion control measures shall be properly maintained throughout the duration of construction to the satisfaction of the City Staff.

D. Conditions to be Completed Prior to the Issuance of a Certificate of Occupancy:

1. Prior to the issuance of the certificate of occupancy, all sidewalks, walkways, curbing, curb cuts, driveways and paved areas shall be installed, repaired or replaced to the satisfaction of the City Engineer.
2. No certificate of occupancy shall be issued until all improvements shown on the approved plans have been provided and applicable conditions of this approval have been complied with to the satisfaction of the City Planner, Building Inspector and Engineer.
3. The City Building department shall add the following note on the applicant's Certificate of Occupancy:

Applicant Signature

Date

“This property is subject to the restrictions and conditions of Wetland Permit No. WP#358, approved by the Rye City Planning Commission on February 24, 2015, in Resolution No.03 -2015.”

E. General Permit Conditions:

1. Work conducted under this permit shall be open to inspection at any time, including weekends and holidays, by the Planning Commission, Building Inspector, City Engineer and the City Planner, or their designated representative(s).
2. The applicant shall notify the City Planner in writing of the completion of the wetland improvements and plantings shown on the approved drawing(s). After such written notification, a member of the Planning Commission, City Planner and/or their designated representative(s) shall inspect all work authorized by this permit for its satisfactory implementation consistent with the approved drawing(s).
3. The applicant shall comply with the requirements of Chapter 174, *Stormwater Management*, of the Rye City Code. The applicant shall provide to the satisfaction of the City Engineer information demonstrating that the proposed drainage system is properly sized to accommodate anticipated stormwater runoff and that the soil conditions on the property can support the proposed drainage measures without adversely impacting neighboring properties. No sub-surface system shall be installed without an inspection and approval by the City Engineering Department. The applicant shall notify the City Engineering Department in writing at least five (5) days prior to the installation of any drainage system to afford the Department sufficient opportunity to inspect soil conditions and the system installation.
4. Prior to the transfer of any interest or title in or to the land subject to this permit, the permit holder shall notify the City in writing of the name and address of such transferee and such transferee shall endorse and submit to the City Planner a copy of this resolution indicating acceptance of all conditions of approval. This paragraph shall not apply to the transfer if improvements have been completed in conformity with this approval.
5. Notwithstanding paragraph E.3 above, there shall be no deviation from the approved plans and City specifications and, further, no modification may be made unless plans for the modification, prepared by the applicant, and a new application has been approved by the Planning Commission.

Applicant Signature

Date

6. All other applicable provisions of Chapter 195, Wetlands and Watercourses, of the Code of the City of Rye and all other applicable City, County and State regulations shall be complied with.
7. This Wetlands and Watercourses Permit and Planning Commission Resolution, shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.

AND, BE IT FURTHER RESOLVED, that this permit and the right to undertake work under this permit shall expire one (1) year after the date of the approval of this resolution. In the event that the work permitted by this permit can not be substantially completed within one year after the date of the approval of this resolution, a one (1) year extension of the original permit may be granted by the Planning Commission upon written request by the original permit holder or his/her legal agent at least 90 days prior to the expiration date of the original permit. The Planning Commission may require new hearings if, in its judgment, the original scope of the permit is altered or extended by the renewal, or if the Applicant has failed to abide by the terms of the original permit in any way. The request for renewal of a permit shall follow the same form and procedure as the original application except that the Planning Commission shall have the option of not holding a hearing if the original scope of the permit is not altered or extended in any significant way;

I certify that the foregoing resolution is a correct copy of Planning Commission Resolution #03-2015, which was duly adopted on February 24, 2015.



Christian K. Miller, AICP
City Planner

2/25/15

Date

Applicant Signature

Date