

**Rye City Planning Commission Minutes**  
February 24, 2015

**MEETING ATTENDANCE:**

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**Planning Commission Members:**

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Laura Brett
- Barbara Cummings
- Hugh Greechan
- Vacant
- Alfred Vitiello

**Other:**

- Christian K. Miller, AICP, City Planner
  - Carolyn Cunningham, CC/AC Chair
  - Melissa Johannessen, AICP, LEED AP
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**I. HEARINGS**

**1. 190 Stuyvesant Avenue**

- Nick Everett stated that he is recusing himself from this matter and left the hearing room. Mr. Vitiello served as chair for this matter.
  
- The applicant's representative provided an overview of the application. He noted that the applicant is seeking to amend its previously approved wetland permit associated with the removal of an existing residence construction of a new residence. He stated that the project under the approved permit is nearly complete and that the applicant is seeking an amendment to expand the patio and construct a new wall in the wetland buffer. He stated that the previously approved hot tub would also be relocated within the buffer. The applicant would maintain the previously approved mitigation plantings. In addition, the modified application increases the amount of landscape mitigation in the wetland buffer.
  
- There was no public comment.

**ACTION:** Laura Brett made a motion, seconded by Barbara Cummings, to close the public hearing for Wetland Permit application number WP#358, which was carried by the following vote:

Nick Everett, Chair:	Recuse
Martha Monserrate, Vice-Chair:	Absent
Laura Brett:	Aye
Barbara Cummings:	Aye
Hugh Greechan:	Aye
Peter Olsen:	Absent
Alfred Vitiello:	Aye

**2. 77 Wappanocca Avenue**

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- 1 • Nick Everett returned to the hearing room to serve as chair.
- 2
- 3 • David Mooney (applicant's architect) provided an overview of the wetland permit
- 4 application noting that it involved the elevation of an existing residence to comply
- 5 with the requirements of the City's Floodplain Management Law. He stated that
- 6 the project would result in a 160 square-foot increase in impervious area in the
- 7 wetland buffer associated with the construction of a new staircase, required to
- 8 reach the new elevated structure and an expansion of driveway to accommodate
- 9 a second garage on the first floor of the elevated structure. Mr. Mooney stated
- 10 that as mitigation a 3-inch caliper oak tree would be provided in the rear yard.
- 11
- 12 • There was no public comment.
- 13

14 **ACTION:** Barbara Cummings made a motion, seconded by Laura Brett, to close the

15 public hearing for Wetland Permit application number WP#389, which was

16 carried by the following vote:

17

18 Nick Everett, Chair:	Aye
19 Martha Monserrate, Vice-Chair:	Absent
20 Laura Brett:	Aye
21 Barbara Cummings:	Aye
22 Hugh Greechan:	Aye
23 Peter Olsen:	Absent
24 Alfred Vitiello:	Aye

25

26 **II. ITEMS PENDING ACTION**

27

28 **1. 190 Stuyvesant Avenue**

29

- 30 • Nick Everett stated that he is recusing himself from this matter and left the
- 31 meeting room. Mr. Vitiello served as chair for this matter.
- 32
- 33 • The Commission reviewed and found acceptable a draft resolution of approval
- 34 prepared by the City Planner.
- 35

36 **ACTION:** Laura Brett made a motion, seconded by Barbara Cummings, to approve

37 Wetland Permit application number WP#358 which was carried by the

38 following vote:

39

40 Nick Everett, Chair:	Aye
41 Martha Monserrate, Vice-Chair:	Absent
42 Laura Brett:	Aye
43 Barbara Cummings:	Aye
44 Hugh Greechan:	Aye

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1 Peter Olsen: Absent  
2 Alfred Vitiello: Aye  
3

4 **2. 77 Wappanocca Avenue**  
5

- 6 • Nick Everett returned to the meeting room.  
7
- 8 • The Commission reviewed and discussed the comments of the CC/AC, which  
9 found the application unacceptable due to the increase in impervious area in the  
10 wetland buffer.  
11
- 12 • Mr. Mooney stated that the increase was not significant and that the additional  
13 driveway was needed to access the new garage. He noted that the applicant is  
14 maintaining the existing curb-cut on Wappanocca Avenue to avoid potential  
15 permits from Westchester County, which has typically required vehicle turn-  
16 around areas on properties to avoid backing out onto a county roadway.  
17
- 18 • The Commission reviewed the draft resolution of approval prepared by the City  
19 Planner. They requested that it be revised to respond to the objection to the  
20 CC/AC. The Commission noted that it found the application acceptable because  
21 the extent of impervious increase was reduced to the maximum extent practical  
22 and that the project advanced a significant flood mitigation policy of the City by  
23 retrofitting an existing structure to be more resilient to flooding.  
24

25 **ACTION:** Barbara Cummings made a motion, seconded by Laura Brett, to approve  
26 Wetland Permit application number WP#389 which was carried by the  
27 following vote:  
28

29 Nick Everett, Chair:	Aye
30 Martha Monserrate, Vice-Chair:	Absent
31 Laura Brett:	Aye
32 Barbara Cummings:	Aye
33 Hugh Greechan:	Aye
34 Peter Olsen:	Absent
35 Alfred Vitiello:	Aye

36

37 **3. 12 Pine Island Road**  
38

- 39 • Leo Napior (applicant's attorney) provided a summary of the review of the  
40 application to date. He stated that the plan originally proposed a residence  
41 located in the center of the building lot with an approximately 2,000 square-foot  
42 increase in impervious area in the wetland buffer. The setbacks for that plan  
43 included a 40-foot front yard, a 75-foot setback from the wetland located in the  
44 side yard and a 50-foot rear yard setback. He stated that the relief from the

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1 City's zoning setbacks were necessary since an as-of-right building envelope  
2 was impractically small to construct a new residence.  
3

- 4 • Mr. Napior stated that the plans were revised to address comments of area  
5 neighbors. The revised plans shifted the residence closer to Pine Island Road,  
6 which reduced the front yard setback, but allowed for a zoning-compliant rear  
7 yard setback. The revised plan resulted in a 900 square foot increase in  
8 impervious area in the wetland buffer. Based on the comments of the Planning  
9 Commission, Mr. Napior stated that the plan was further revised to change the  
10 location of the driveway resulting in a plan that had a 200 square-foot increase in  
11 impervious area in the buffer. The Commission requested a no-net increase in  
12 impervious area. Mr. Napior stated that the current plan pending before the  
13 Commission effectively achieves that request by proposing only a one square  
14 foot increase in impervious area in the wetland buffer.  
15
- 16 • The Planning Commission requested that the plan be revised to eliminate the  
17 encroachment of the steps in the rear yard setback. The Commission requested  
18 that the angle of the driveway be modified so that it's straight (i.e. not angled) to  
19 make the driveway more accessible to vehicles. The Commission noted that the  
20 driveway would not be functional, which would encourage future owners to alter  
21 the driveway to increase its size. The Commission stated that if increasing the  
22 size of the driveway increased the amount of impervious area in the buffer, then  
23 the size of the residence would need to be reduced.  
24
- 25 • The Commission agreed that the applicant should return to the Commission with  
26 a revised plan reflecting its requested changes before proceeding to the Board of  
27 Appeals for its continued consideration of the required zoning code variances.  
28
- 29 • Dan Richmond (attorney for the 14 Pine Island Road property owners) stated that  
30 the plan lacks a detailed drainage plan based on proper percolation tests. He  
31 stated that this information should be provided given the neighbors drainage  
32 concerns before the application is considered by the Board of Appeals.  
33
- 34 • The Commission responded that the information requested by Mr. Richmond  
35 would be provided as part of the Commission's continued review of the wetland  
36 permit application after the Board of Appeals has concluded its review of the  
37 required variances.  
38
- 39 • Representatives from Daniel S. Natchez's office representing the property  
40 owners of 14 Pine Island Road noted that there was a 58 square-foot increase in  
41 impervious area outside the wetland buffer and that the drainage information was  
42 necessary to understand potential wetland impacts.  
43

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- 1       • Margaret O’Callaghan (14 Pine Island Road property owner) noted concern with  
2       the poor drainage conditions on the property and that the proposed development  
3       would exacerbate those problems and cause off-site drainage impacts. She  
4       requested that the application be revised to propose a smaller residence with  
5       less impervious area that was located closer to Pine Island Road.  
6

7       **4. 99 Greenhaven Road**  
8

- 9       • Dan Hilt (applicant’s representative) stated that the project involved a  
10       replacement in-kind of an existing pier and dock damaged by Super Storm  
11       Sandy. He stated that the pier has existed since the 1950s. He stated that the  
12       replacement dock would be set at a high elevation to be more resilient to future  
13       storm events. The elevated pier would be accessible via an open-grid ramp. Mr.  
14       Hilt stated that all work would be done by barge.  
15
- 16       • The Commission agreed that the application was complete for the setting of a  
17       public hearing.  
18

19       **ACTION:** Laura Brett made a motion, seconded by Alfred Vitiello, to set the public  
20       hearing for Wetland permit application number WP#388, which was  
21       carried by the following vote:  
22

23       Nick Everett, Chair:	Aye
24       Martha Monserrate, Vice-Chair:	Absent
25       Laura Brett:	Aye
26       Barbara Cummings:	Aye
27       Hugh Greechan:	Aye
28       Peter Olsen:	Absent
29       Alfred Vitiello:	Aye

30

31       **5. 12 Philips Lane**  
32

- 33       • The Commission reviewed the request for a one-year extension of time for the  
34       approved wetland permit to construct a new residence within the wetland buffer.  
35       There have been no change in circumstances, change in the project or new  
36       information that warrant a denial of the request for a one-year extension of time.  
37

38       **ACTION:** Laura Brett made a motion, seconded by Alfred Vitiello, approve a one-  
39       year extension of time for Wetland permit application number WP#368,  
40       which was carried by the following vote:  
41

42       Nick Everett, Chair:	Aye
43       Martha Monserrate, Vice-Chair:	Absent
44       Laura Brett:	Aye
45       Barbara Cummings:	Aye

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1                    Hugh Greechan:                    Aye  
2                    Peter Olsen:                        Absent  
3                    Alfred Vitiello:                    Aye  
4

## 5    **6.     85 Brevoort Lane**

- 6
- 7        • David Mooney (applicant's architect) stated that the application involved the  
8        expansion of an existing patio and construction of a new stone terrace within the  
9        wetland buffer to the rear of the existing residence.
  - 10
  - 11       • Blyth Yost (applicant's landscape architect) stated that the terrace would consist  
12       of dry-laid blue stone set in stone dust to allow for the percolation of stormwater  
13       runoff. The stepping stones would be stones set in the ground with grass joints.  
14       She noted that the new terrace would include a new retaining wall to reduce  
15       slope disturbance. Ms. Yost showed the location of new sub-surface drainage  
16       measures to capture runoff from the proposed terrace.
  - 17
  - 18       • Ms. Yost confirmed for the Commission that the project was located outside the  
19       FEMA-designated 100-year flood zone.
  - 20
  - 21       • Ms. Yost stated that the project would result in 707 square-foot increase in  
22       impervious area in the wetland buffer. Existing trees would be preserved and  
23       new landscape plant material and trees would be provided as mitigation.
  - 24
  - 25       • The Commission requested that the plan be revised to show the project site and  
26       its relationship to the larger property. The noted that semi-pervious paving  
27       systems, such as the terrace, can be counted as 50% their imperviousness  
28       pursuant to the Commission's guidelines for assessing wetland buffer impacts.  
29       The Commission requested that the plan include more detail on the existing and  
30       proposed trees in the wetland buffer.
  - 31
  - 32       • The Commission agreed it would not set a public hearing until after it conducted  
33       a site walk.

## 34    **7.     Theodore Fremd Affordable Housing**

- 35
- 36
  - 37       • Clark Neuringer (applicant's architect) provided a history of the application and a  
38       summary of the project's review by the City Council. He stated that the  
39       application was originally proposed as a 58-unit affordable senior development,  
40       which was reduced to 41 units as part of the City Council's approval of the  
41       change in zoning of the property to the RA-5 District. He stated that the plan  
42       proposes three stories of residential units elevated over at-grade parking. The  
43       ground flood would also include a lobby, two elevators and mechanical rooms.

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1           The third floor would include a community room and outdoor terrace. He stated  
2           that building elevations can be provided for the Commission's review.  
3

- 4           • The Commission noted concern with the approximately seven to nine feet of fill in  
5           the rear of the property. The Commission stated that the extent of fill seemed  
6           unnecessary and raised concerns about the increased height and mass of the  
7           building. Mr. Neuringer explained that the rear portion of the site is lower than  
8           surrounding properties and would be prone to flooding. Mr. Larizza explained  
9           that he needed the fill to prevent stormwater runoff from draining into the ground  
10          floor lobby. He stated that the proposed fill would increase the elevation of the  
11          site to be consistent with surrounding properties. He stated that it would be  
12          difficult to reduce the elevation, but that he would consult with his engineer to see  
13          if the plans could be revised. The Commission stated that it appeared that the  
14          proposed grade elevation under the building could be reduced from 67 to 62. If  
15          this reduction could not be made the Commission noted that it would need to  
16          consider an alternative of a three-story (albeit a longer building) as compared to  
17          the four-story building currently proposed.

- 18
- 19          • The Commission requested that the amount of imperious area on the site would  
20          be reduced, particularly the parking lot area in front of the proposed porte-  
21          cochere. The Commission noted that the turn-around area could be reduced.  
22

- 23          • The Commission requested that the columns for the building be shown so that  
24          their potential impact on the at-grade parking could be assessed.  
25

- 26          • The Commission requested that the tree plan be revised to show the location,  
27          type, size and condition of all proposed trees greater than 8-inches in caliper.  
28

29   **8. Planning Commission's Review of the Petition of Old Post Road**  
30   **Associates, LLC to amend the City Zoning Code and Zoning Map to Change**  
31   **the Zoning Designation of a property at 120 Old Post Road from the B-4,**  
32   **Office Building, District to a New RA-6, Active Senior Residence, District.**  
33

- 34          • Leo Napior (applicant's attorney) stated that the applicant is seeking to change  
35          the zoning on a 7-acre property on the corner of Old Post Road and Playland  
36          Parkway Access Drive. He stated that zoning petition was referred to the  
37          Planning Commission from the City Council for their comments and  
38          recommendation. Mr. Napior stated that the current zoning petition follows a  
39          previous request by the property owner to amend the zoning to allow for the  
40          construction of a hotel on the property. That request was not viewed favorably  
41          by the City.

- 42
- 43          • Mr. Napior stated that the applicant is seeking to amend the zoning to allow for  
44          an age-restricted multi-family development. The existing 75,000 square foot

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1 office building has remained vacant for four years and successfully secured tax  
2 reductions from the City. Mr. Napior stated that it is difficult to find tenants for the  
3 building given the challenges of the office market in the area.  
4

- 5 • Gerry Schwalbe (applicant's engineer) provided an overview of the site and  
6 surrounding area. He stated that the applicant's re-purposing of a vacant office  
7 building to an alternative use is consistent with proposals and projects in office  
8 parks in the neighboring communities of Harrison and Rye Brook. Mr. Schwalbe  
9 stated that the new RA-6 District applies only to the 120 Old Post Road property  
10 and allows only one use – age-restricted housing.  
11

- 12 • Mr. Schwalbe provided an overview of the proposed development noting the  
13 topographic conditions of the site and details of the proposed development. He  
14 noted that a significant requirement of the zoning is that below grade parking be  
15 provided. This required amenity results in a project under the proposed zoning  
16 district that has less impervious area than the existing office building development  
17 on the property.  
18

- 19 • The Commission noted the change in grade on the site and discussed with the  
20 applicant how the proposed four-story building would be integrated into the site.  
21 The Commission agreed that its focus should be on the use and intensity of  
22 development permitted under the proposed zoning rather than the details of any  
23 specific site development proposal.  
24

- 25 • The Commission discussed the compatibility of the proposed use with  
26 surrounding uses. The Commission noted concern with the increase in building  
27 bulk and mass permitted under the proposed zoning as compared to the existing  
28 zoning. Gerry Schwalbe provided a review of the proposed development as  
29 compared to the existing office building. The Commission stated that the proper  
30 analysis should be a comparison of the maximum development under the  
31 proposed zoning and existing zoning rather than any specific development  
32 proposal, which could change if the zoning were adopted by the City Council.  
33

- 34 • Michael Galante (applicant's traffic consultant) provided an overview of his traffic  
35 analysis. He noted traffic capacity issues at some area intersections. He stated  
36 that the proposed zoning would yield less traffic than a fully occupied office  
37 building at the applicant's property. He stated that the intersection of Old Post  
38 Road and Playland Parkway has been studied over the years for the possible  
39 installation of a traffic signal. He stated that a signal at this intersection does not  
40 meet the required warrant analysis. He stated that there does not appear to be  
41 an effective traffic measure to improve traffic conditions, but that the applicant's  
42 proposed zoning would result in less peak hour traffic than the current fully  
43 occupied office building.  
44

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- 1       • The Commission requested that the applicant's analysis be revised to be based  
2       on full build out under existing and proposed zoning. They agreed to consider  
3       this matter at its next meeting.

4

5