

Rye City Planning Commission Minutes

January 15, 2002

1 **PRESENT:**

2

3 Michael W. Klemens, Chairman

4 Peter Larr, Vice Chairman

5 Joseph P. Cox

6 Lawrence H. Lehman

7 Brian Spillane

8

9 **ABSENT:**

10

11 Philip DeCaro

12 Douglas McKean

13

14 **ALSO PRESENT:**

15

16 Christian K. Miller, AICP, City Planner

17 George J. Mottarella, City Engineer

18 Chantal Detlefs, City Naturalist

19

20 Chairman Klemens called the regular meeting to order in the Council Hearing Room of the
21 City Hall and a quorum was present to conduct official business.

22

23 **I. HEARINGS**

24

25 **1. Rye Wellness Center**

26

27 Chairman Klemens began the public hearing by reading the public notice.

28

29 Jonathan Kraut (applicant's attorney) provided an overview of the application noting the
30 property location and surrounding land uses. Mr. Kraut noted that the property originally
31 received site plan approval from the Commission in 1969 for a mixed-use office and
32 warehouse. The current application would reuse the existing mixed-use building for a
33 wellness center and reduce the total size of the building from 10,600 square feet to 8,400
34 square feet.

35

36 Mr. Kraut suggested that the proposed use was needed in the community and that it would
37 provide a contemporary health concept, mixing nutrition, customized fitness training,
38 physical therapy and sports medicine. Mr. Kraut noted that all clients would be seen by
39 appointment, not on a walk-in basis.

40

41 Gerry Schwalbe (applicant's engineer) provided an overview of the site and the
42 surrounding area. He noted the existing conditions including the existing layout of the
43 property, building size and property easements. Mr. Schwalbe discussed the building

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1 modifications including changes in the parking layout, the removal of a portion of the
2 building roof, the addition of landscaping on the site and the addition of a handicapped
3 accessible ramp on the front of the building.

4
5 Bart Dinardo (resident of 51 Clinton Avenue) noted that he was in favor of the application
6 but questioned the impact the project could have on parking conditions in the area. He
7 noted that the site is currently used for off-street parking on an informal basis, but that in the
8 future parking demand from the site, the adjacent High Street Roadhouse and park will
9 cause an increase in on-street parking on Clinton Avenue. He suggested that additional
10 on-street parking and improved signage be provided in the area.

11
12 The Commission noted the loss of the informal use of parking on the site, but noted that it
13 could not require the applicant to continue to provide such parking given that it is private
14 property. Mr. Kraut further responded by noting that the site plan complies with the parking
15 requirements of the City Zoning Code and that Westchester County Planning Department
16 suggested in its non-binding comments to the Commission that the amount of proposed
17 parking appeared to exceed the maximum anticipated demand and should be landbanked.
18 Mr. Kraut further noted, that the current property owner has continued to keep the site open
19 for informal parking.

20
21 On a motion made by Peter Larr, seconded by Brian Spillane and carried by the following
22 vote:

23
24 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
25 Brian Spillane

26 NAYS: None

27 ABSTAIN: None

28 ABSENT: Philip DeCaro, Douglas McKean

29
30 the Planning Commission took the following action:

31
32 **ACTION:** The Planning Commission closed the public hearing on the modified final
33 site plan application.

34 35 II. ITEMS PENDING ACTION

36 37 1. Rye Wellness Center

38 Chairman Klemens noted the receipt of a petition and letters of support for the application.

39
40 The Commission discussed the applicant's traffic studies and discussed the concept of
41 permitting Clinton Avenue to be changed from one-way to two-way traffic flow from the site
42 access to Central Avenue. The Commission noted that a variety of concerns including that

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1 road widening and a traffic signal at Clinton and Central might be necessary. Some
2 members suggested that such improvements would be a benefit by reducing traffic in the
3 surrounding neighborhood. They noted that similar improvements were contemplated on
4 Mead Place in connection with the YMCA application and that such mid-block changes in
5 traffic flow existed elsewhere in the City. Others members suggested that based on the
6 applicant's traffic study that the site traffic would not be significant and that changes in
7 traffic patterns and roadway geometry could be confusing for motorists if not properly
8 designed.

9
10 Gerry Schwalbe (applicant's engineer) provided an overview of a plan showing the
11 improvements that would be necessary to accommodate two-way traffic flow on Clinton
12 Avenue. He noted that a small turn-around area would be necessary and that pavement
13 striping and signage would be necessary to create a more channelized one-way traffic flow
14 and safely provide for a mid-block change in traffic direction. Mr. Schwalbe noted that the
15 improvements provided on the plan would result in the loss of approximately three on-street
16 parking spaces.

17
18 The Commission discussed the merits of the plan. Bart Dinardo noted that concern with
19 the loss of parking and suggested that from his perspective that parking was more of a
20 concern in the area than vehicle traffic. The Commission suggested that the plan be
21 submitted to the Traffic and Transportation Committee for their review and comment.

22
23 Mr. Kraut clarified for the record that the applicant was willing to contribute to the roadway
24 improvements since it would provide an added convenience to Wellness Center clients but
25 that it was not formally proposing such public improvements as part of its application.

26
27 The Commission discussed the yard encroachments of the abutting residences fronting on
28 Central Avenue. The Chairman noted the receipt of letters from the abutting property
29 owners supporting of the application. The Commission noted that this area was
30 designated on the 1969 approval to be a landscaped buffer area, presumably to provide a
31 screen of the commercial site from adjacent residential properties. Those abutting
32 residence now support the current application. The Commission recommended that given
33 the change in conditions the resolution of approval for the current application eliminate this
34 prior restriction, but that the applicant should replace many of the existing hemlocks on the
35 western property line that are dying. The Commission also requested that the
36 encroachments be shown on the site plan.

37
38 The Commission discussed the proposed parking, noting that the applicant's analysis
39 suggests that only 31 spaces would be necessary for the site during peak periods. The
40 Commission discussed parking concerns in the area and possible solutions. Mr. Kraut
41 agreed that the applicant would be willing to continue to allow for the informal use the
42 parking on his property by the adjacent High Street Roadhouse restaurant during off-peak

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1 hours. He noted however that such an agreement should not be a condition of any
2 approval and that it could change based on liability, parking need or other considerations.

3
4 The Commission discussed the condition of sidewalks along the property frontage and
5 agreed that any sidewalks damaged by City trees should be replaced.

6
7 The Commission requested that a refuse enclosure be provided on the plan and
8 questioned whether medical waste would be on the property. Mr. Kraut indicated that such
9 waste was possible, but that it would be disposed off in accordance with all applicable
10 laws.

11
12 The Commission returned to the issue of making Clinton Avenue a two-way road. Mr.
13 Kraut noted that the proposed change would be a benefit to the wellness center but that the
14 application did not require the roadway improvement. The City Planner noted that any
15 change in traffic patterns would require the approval of the City Council, which could take
16 months to implement. Mr. Kraut agreed that the applicant would provide a financial
17 contribution towards any roadway improvements the City may choose to implement. Such
18 agreement would not be open-ended and have appropriate time restrictions. The
19 applicant's engineer would provide a cost estimate of the roadway improvements for the
20 City Engineer's review.

21
22 The Commission agreed that the City Planner prepare a draft resolution of approval for its
23 next meeting.

25 **2. Julia B. Fee Renovation**

26
27 The City Planner provided a brief overview of the draft resolution of approval.

28
29 On a motion made by Peter Larr, seconded by Joseph P. Cox and carried by the following
30 vote:

31
32 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
33 Brian Spillane

34 NAYS: None

35 ABSTAIN: None

36 ABSENT: Philip DeCaro, Douglas McKean

37
38 the Planning Commission took the following action:

39
40 **ACTION:** The Planning Commission adopted a resolution approving Modified Final
41 Site Plan application number SP182A.

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3. Rye Free Reading Room

Jonathan Kraut (applicant's attorney) noted that the applicant met with the City Planner and addressed his remaining technical comments. Mr. Kraut acknowledged that he was unable to have the plan reviewed by the City Fire Inspector, but that such a requirement could be made a condition of Planning Commission approval.

The Commission discussed the wetland permit issues related to the plan and noted that mitigation was not necessary for wetland buffer losses. The Commission noted that landscape mitigation plantings would be inconsistent with the urban design character of the Village Green and that mitigation would provide no ecological value given the urban character of the Blind Brook in this location.

The applicant noted that that any required rock removal would be accomplished with chipping rather than blasting.

The City Planner reviewed the draft resolution of approval and its conditions with the Commission.

On a motion made by Michael W. Klemens, seconded by Peter Larr and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
Brian Spillane

NAYS: None

ABSTAIN: None

ABSENT: Philip DeCaro, Douglas McKean

the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution approving Final Subdivision Plat, Final Site Plan, Use Permitted Subject to Additional Standards and Requirements and Modified Wetland Permit application numbers SUB267A, SP252A and WP58A.

4. McGuire Residence

Richard Horsman (applicant's landscape architect) discussed the application noting that the plan had been revised to reduce the height of the proposed seawall extension and that the drainage has also been improved with the proposed installation of a sub-surface stormwater system.

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1 On a motion made by Peter Larr, seconded by Brian Spillane and carried by the following
2 vote:

3
4 There were no comments from the public.

5
6 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
7 Brian Spillane

8 NAYS: None

9 ABSTAIN: None

10 ABSENT: Philip DeCaro, Douglas McKean

11
12 the Planning Commission took the following action:

13
14 **ACTION:** The Planning Commission set a public hearing on Wetland Permit
15 application number WP100 and requested that the City Planner prepare a
16 draft resolution of approval for its consideration at its next meeting on
17 February 12, 2002.

18
19 **5. Barber Residence**

20
21 Chairman Klemens provided an overview of a site walk conducted by he and the City
22 Planner. The Commission reviewed the photos of the site walk, which have been
23 incorporated into the official record. The Chairman noted the relationship of the site to the
24 adjacent Water's Edge Condominium development. He also discussed the rear yard
25 character of properties to the south fronting on Long Island Sound.

26
27 Pam Lester (applicant's landscape architect) noted that other properties in the Bird Lane
28 community did not have as large a rear yard as the applicant. She noted the location of
29 landscape plantings and reiterated that the need for the fence was to protect the
30 applicant's children from falling off the approximately nine-foot-high seawall.

31
32 The Commission discussed the type and location of the fencing. Ms. Lester noted that the
33 fencing would be a split rail to minimize view obstructions and would not be a stockade-
34 type fence. The location of the fencing would be located on the landward side of the
35 existing seawall, not along its top.

36
37 The Commission noted that the application would not result in any loss of wetland buffer.

38
39 On a motion made by Brian Spillane, seconded by Peter Larr and carried by the following
40 vote:

41

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1 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
2 Brian Spillane
3 NAYS: None
4 ABSTAIN: None
5 ABSENT: Philip DeCaro, Douglas McKean

6

7 the Planning Commission took the following action:

8

9 **ACTION:** The Planning Commission set a public hearing on Wetland Permit
10 application number WP101 and requested that the City Planner prepare a
11 draft resolution of approval for its consideration at its next meeting on
12 February 12, 2002.

13

14 **6. Drago Residence**

15

16 Chairman Klemens provided an overview of a site walk conducted by he and the City
17 Planner. The Commission reviewed the photos of the site walk, which have been
18 incorporated into the official record. The Commission asked the applicant to discuss the
19 status of its discussions with the Bird Lane Home Owners Association (HOA) regarding
20 the installation of wetland mitigation plantings along the waters edge within the common
21 area.

22

23 Bob Chamberlain (applicant's landscape architect) responded that his client is the former
24 HOA president and that the HOA would likely not permit such planting within the common
25 area. In addition his client noted that he did not want to set a precedent for future
26 improvements within the common area.

27

28 The Commission noted that the extent of improvements within the wetland buffer is minor
29 and that the proposed terrace and wall it is located a significant distance from the adjacent
30 wetland, which appears to be a tidal pond created as part of the original development. The
31 Commission noted, however, while not the responsibility of the applicant, the quality of the
32 existing wetland buffer could be significantly improved. In its current condition the buffer
33 consists of managed lawn and is heavily used by geese.

34

35 Mr. Chamberlain discussed that mitigation plantings at a ratio of 2:1 has been provided
36 and that low-maintenance wetland sensitive plantings have been selected. The
37 Commission requested that the applicant provide a table showing the existing of wetland
38 buffer losses.

39

40 On a motion made by Joseph P. Cox, seconded by Peter Larr and carried by the following
41 vote:

42

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- 1 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
- 2 Brian Spillane
- 3 NAYS: None
- 4 ABSTAIN: None
- 5 ABSENT: Philip DeCaro, Douglas McKean

6

7 the Planning Commission took the following action:

8

- 9 **ACTION:** The Planning Commission set a public hearing on Wetland Permit
- 10 application number WP102 and requested that the City Planner prepare a
- 11 draft resolution of approval for its consideration at its next meeting on
- 12 February 12, 2002.

13

14 **7. Howard Residence**

15

16 Chairman Klemens provided an overview of a site walk conducted by he and the City
17 Planner. The Commission reviewed the photos of the site walk, which have been
18 incorporated into the official record. The Chairman noted the presence of large rocks on
19 the property, which appear to have once been part of an existing stone wall located on the
20 rear of the property. The Chairman further noted that the wetland drained to an existing
21 culvert located on the adjacent property.

22

23 On a motion made by Michael Klemens, seconded by Peter Larr and carried by the
24 following vote:

25

- 26 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
- 27 Brian Spillane
- 28 NAYS: None
- 29 ABSTAIN: None
- 30 ABSENT: Philip DeCaro, Douglas McKean

31

32 the Planning Commission took the following action:

33

- 34 **ACTION:** The Commission requested that the City Wetlands and Watercourses map
- 35 be revised to reflect the location of the wetland on the property.

36

37 The Commission noted the approximate 10-foot width of the proposed wetland buffer. The
38 Commission discussed increasing the width of the buffer to include the upland portion of
39 the site located to the south of the wetland extending to the existing stone wall, a portion of
40 which is in disrepair.

41

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1 Beth Evans (applicant's environmental consultant) explained that the applicant had no
2 intention at this time to modify the existing stonewall along the southern property line.

3
4 The Commission inquired about the number of large rocks on the site. Jennifer Howard
5 explained that most of the rocks were from the existing stone wall, others were brought to
6 the site to construct new retaining walls. The Commission noted that the site plan should
7 be updated to reflect that the stone wall in the rear yard has been removed.

8
9 The Commission discussed the proposed sewer extension and force main. The City
10 Engineer noted that the proposed design was acceptable and that the sewer line would run
11 to an existing connection in Grace Church Street. The Commission noted that the removal
12 of the existing septic system currently located within the wetland buffer would be an
13 environmental benefit.

14
15 The Commission requested that the extent of wetland buffering be increased to the 47-
16 contour elevation and that appropriate markers be placed in the field to prevent wetland
17 buffer encroachment. Ms. Evans requested that the Commission reconsider the request
18 and allow the applicant the flexibility to adjust the extent of buffering. The Commission
19 agreed that it would consider such a modified proposal provided that the landscaped
20 buffer achieved the same environmental objectives.

21
22 Ms. Evans provided an overview of the amount of buffer disturbance noting that a 2:1 ratio
23 of landscaping planting to buffer loss was being provided.

24
25 The Commission discussed relocating the proposed residence further from the existing
26 wetland. It was noted, however that moving the residence closer to Grace Church Street
27 would result in the loss of existing large trees and would be inconsistent with the
28 recommendations of the Board of Architectural Review.

29
30 The Commission discussed the proposed terraces and requested that they be modified to
31 include one rather than two to reduce wetland buffer impacts. The applicant agreed to the
32 request.

33
34 The Commission reviewed the drainage plan and asked the applicant to confirm that the
35 proposed stormwater system on the property would not result in the de-watering of the
36 wetland. Ms. Evans confirmed that it would not.

37
38 The Commission requested that the applicant revise the plan for its review at its next
39 meeting before they schedule a public hearing on the application.

40
41 **8. Simmons Residence**

42

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1 Kurt Dapson (applicant's landscape architect) explained that the project involves a 17-foot
2 by 25-foot addition on the rear of an existing residence located along the Blind Brook. The
3 application also involves the replacement of an existing bluestone patio. There would be a
4 200 to 300 square-foot reduction in impervious surface on the site.

5
6 The Commission requested that the plan be revised to show the amount of imperviousness
7 in the 100-foot buffer and requested that the 50-foot buffer reference be eliminated from the
8 plan. The Commission reviewed the comments of the CC/AC and questioned whether the
9 applicant proposed to remove the existing concrete pad behind the garage. Mr. Dapson
10 explained that it was not the applicant's intent but that he would discuss it with his client.

11
12 The Commission questioned whether the proposed addition was permitted in the 100-year
13 flood zone. The City Planner explained that just additions are permitted, but that he would
14 review it with the City Building Inspector.

15
16 The Commission concluded their discussion by agreeing to set a site walk of the property.

17 18 **9. Lindemann Residence**

19
20 Jim Bajeck and Jim DeStefano (applicant's coastal engineers) provided an overview of the
21 application noting that it involved the construction of a dock approximately 200 feet into
22 Long Island Sound. Mr. Bajeck noted that the applicant purchased the property with the
23 intent of constructing a boat dock. Mr. Bajeck explained that the dock was sensitively
24 designed to respect both aesthetic and environmental concerns. He noted the property
25 had a dock at one time but that replacing the current dock in that location would involve
26 disturbances to a coastal marsh.

27 Mr. Bajeck indicated that the dock was in the best location since it would not be in
28 navigable waters, would be located between the coast and Flat Rock Island and that it
29 would have minimal impacts on coastal vegetation.

30
31 The Commission questioned the design of the dock and whether it could be reduced in
32 length. Mr. Bajeck responded that the proposed dock length would allow for access to the
33 deepest waters possible, but that even in that location the dock was only accessible by a
34 large boat in mid and high tides. During low tides the applicant's boat would be moored in
35 deeper waters.

36
37 The Commission questioned whether Mr. Bajeck's firm was licensed to practice in New
38 York State. Mr. Bajeck noted that the professional engineers in the firm held New York
39 State licenses, but that the firm itself may not be. Mr. Destefano noted that they would
40 review the licensing requirements and return to the Commission with a more complete
41 response.

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1 In response to an inquiry by the City Engineer, Mr. DeStefano confirmed that all sounding
2 data shown on the plan was taken recently as part of the application.

3
4 Mr. DeStefano noted that permits would be required from NYSDEC, the Army Corps of
5 Engineers and the City Building Department for a Building Permit and the Planning
6 Commission for a Wetlands Permit. Mr. Bajeck noted that no approval is required from the
7 United States Coast Guard. The Commission noted that since the project is likely a Type II
8 action under SEQRA that the application would not be subject to the City's Local
9 Waterfront Revitalization Program.

10
11 The Commission discussed the comments of the CC/AC and Board of Architectural
12 Review, noting some of its negative remarks. The Commission unanimously agreed to
13 release the comments of these boards to the applicant for their review.

14
15 The Commission questioned the need for the dock given that it would not be useable for
16 large boats during low tide.

17
18 The Commission questioned the stability of the dock to withstand storm events and the
19 impact of the structure on the wetlands. Mr. DeStefano noted that the dock was designed
20 to withstand a 100-year storm event and that the footprint of the dock piers was relatively
21 small and would not have a significant impact on the wetlands. He further explained that
22 the number of pilings was increased to improve the structural stability of the dock.

23
24 **10. Adoption of Planning Commission 2002 Meeting and Site Walk Schedule**

25
26 The Commission reviewed the proposed 2002 meeting and site walk schedule prepared
27 by the City Planner. The Commission found the meeting schedule acceptable. The
28 Commission agreed that it would set monthly site walks but that it would defer the
29 discussion of the schedule to its next meeting so that newly appointed Commission
30 members would have an opportunity to comment.

31
32 On a motion made by Peter Larr, seconded by Brian Spillane and carried by the following
33 vote:

- 34
35 AYES: Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
36 Brian Spillane
37 NAYS: None
38 ABSTAIN: None
39 ABSENT: Philip DeCaro, Douglas McKean

40
41 the Planning Commission took the following action:

42

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1 **ACTION:** The Planning Commission approved the 2002 Meeting Schedule.

2

3 **11. Review of Planning Department 2001 Annual Report**

4

5 The Commission reviewed and suggested minor revisions to the draft Planning
6 Department and Commission 2001 Annual Report.

7

8 On a motion made by Brian Spillane, seconded by Peter Larr and carried by the following
9 vote:

10

11 **AYES:** Michael W. Klemens, Peter Larr, Joseph P. Cox, Lawrence H. Lehman,
12 Brian Spillane

13 **NAYS:** None

14 **ABSTAIN:** None

15 **ABSENT:** Philip DeCaro, Douglas McKean

16

17 the Planning Commission took the following action:

18

19 **ACTION:** The Planning Commission approved the 2001 Annual Report.

20

21

22 **12. Minutes**

23

24 The Planning Commission reviewed and approved with minor modifications the minutes of
25 its December 11, 2001 meeting.

26

27

28 There being no further business the Commission unanimously adopted a motion to adjourn
29 the meeting at approximately 11:05 p.m.

30

31

32

Christian K. Miller, AICP
City Planner