

Rye City Planning Commission Minutes

April 13, 2004

1 **PRESENT:**

2 Barbara Cummings, Chair
3 Martha Monserrate, Vice-Chair
4 Nick Everett
5 Peter Larr
6 Patrick McGunagle
7 H. Gerry Seitz

8

9 **ABSENT:**

10 Hugh Greechan

11

12

13 **ALSO PRESENT:**

14 Christian K. Miller, AICP, City Planner
15 Chantal Detlefs, City Naturalist

16

17 **I. HEARINGS**

18

19 **1. Fabricant Residence**

20

21 Chair Cummings read the public notice.

22

23 Alan Pilch (Applicant's Landscape Architect) provided an overview of the application
24 noting that it involved an addition to an existing single-family dwelling. Mr. Pilch stated
25 that the existing residence has a footprint of approximately 2,028 square feet and that
26 the 22,184 square-foot property is located at 17 John Jay Place. Mr. Pilch noted that
27 the property is located within an R-2 Residence Zoning District and that the surrounding
28 land use is single-family residential. Mr. Pilch noted that the rear property line abuts the
29 Westchester County Marshlands Conservancy. The existing driveway access to the
30 property on John Jay Place would not be modified by the proposed project.

31

32 Mr. Pilch stated that his firm conducted wetland delineation on December 29, 2003 and
33 located 5 flags on the adjacent Marshlands property to delineate the edge of the
34 existing wetland. Mr. Pilch stated that the Fabricant rear property line is located
35 approximately 25 feet from the off-site wetlands. Mr. Pilch noted that nearly all of the
36 proposed addition would be located within the 100-foot wetland buffer. Currently, the
37 buffer consists of residential lawn and impervious surfaces including a portion of the
38 existing residence, driveway and flagstone patio. Mr. Pilch stated that the proposed
39 plan would remove some of the existing residence and patio and result in an additional
40 647 square-feet of impervious area for a total of 1,450 square-feet of impervious area
41 within the 100-foot wetland buffer. Mr. Pilch stated that a new wood deck would be
42 provided in the rear yard and it would be located approximately 1.5 feet above existing
43 grade. Pursuant to the Planning Commission's recommendation crushed stone would
44 be provided under the proposed deck to provide a porous material for stormwater
45 drainage infiltration.

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1
2 Mr. Pilch provided an overview of the proposed wetland mitigation noting that 1,650
3 square feet of landscape mitigation planting would be provided along the rear property
4 line. The proposed plants would consist of native material and would provide a
5 demarcation between the rear property line of the Fabricant property and the adjacent
6 Marshlands Conservancy. The proposed mitigation would also remove existing
7 managed lawn with more appropriate wetland plantings.

8
9 To address additional stormwater runoff Mr. Pilch noted that subsurface pipes would be
10 provided for the proposed addition, which could connect to 6 subsurface cul-tech
11 recharger units. Mr. Pilch noted that the system was designed to treat the stormwater
12 quality volume per the Phase II regulations. Mr. Pilch noted that the proposed system
13 would be located north of the existing driveway.

14
15 Joan Merdinger (19 John Jay resident) noted concern with the potential off-site
16 drainage impact of the proposed addition. Ms. Merdinger noted that there is currently
17 standing water on her property for extended periods throughout the year. She noted
18 that this area can be a habitat for mosquitoes. Ms. Merdinger stated that the proposed
19 project may contribute to additional stormwater on her property. She questioned what
20 would happen if the proposed system did not work as stated by the applicant.

21
22 Ms. Merdinger added that the previous submission to the Board of Architectural Review
23 included plantings along the shared property line with the Fabricant property. Ms.
24 Merdinger noted that the additional plants would provide a screening of the proposed
25 addition that would also help absorb stormwater along the side property line.

26
27 Mr. Pilch responded that he noted standing water on the applicant's and Ms.
28 Merdinger's property at the Planning Commission's site walk. He stated that he is
29 familiar with the drainage conditions in the area and that it was his professional
30 judgment that the proposed plan would not adversely impact drainage conditions on
31 adjacent properties. Mr. Pilch stated that all drainage would be conveyed away from
32 the Merdinger residence and directed to subsurface stormwater infiltrator units located
33 on the opposite side of the applicant's property. The Planning Commission added that
34 the proposed subsurface stormwater system was relocated to that location at the
35 Commission's request.

36
37
38 On a motion made by Peter Larr, seconded by Nick Everett and carried by the following
39 vote:

40
41 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
42 McGunagle, H. Gerry Seitz

43 NAYS: None

44 ABSENT: Hugh Greechan

45

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1 the Planning Commission took the following action:

2

3 **ACTION:** The Planning Commission closed a public hearing on wetland permit
4 application number WP#150.

5

6 **2. Hancock Residence**

7

8 Chair Cummings read the public notice. The City Planner acknowledged the receipt of
9 an affidavit of mailing by the applicant indicating compliance with the City's public
10 notification requirements.

11

12 David Mooney (Applicant's Architect) provided an overview of the application noting that
13 it involved maintaining an existing 3-foot by 4-foot concrete pad that is used to attach a
14 seasonal floating dock. Mr. Mooney noted that the proposed seasonal dock would be
15 in-lieu of a previously approved fixed dock for the property approved by the Planning
16 Commission in 2003. Mr. Mooney noted that the previously approved 56 square feet of
17 wetland plantings would be provided in connection with the seasonal floating dock. Mr.
18 Mooney noted that the proposed seasonal floating dock would not extend as far into
19 Long Island Sound as the previously approved fixed dock. Mr. Mooney concluded his
20 remarks by noting that no other approvals are required for the proposed project.

21

22 Steven Gaines noted that he represents Barbara Hancock an adjacent property owner.
23 Mr. Gaines stated that out of fairness this application should be denied. Mr. Gaines
24 noted that the applicant is being rewarded for maintaining a structure that was not
25 approved by the Rye City Planning Commission. Mr. Gaines noted two objections to
26 the application.

27

28 Mr. Gaines also stated that the application should be denied because the applicant has
29 no right to submit the application for the seasonal dock. Mr. Gaines noted that the
30 applicant's property is owned by a corporation in which Mr. & Mrs. Hancock each own
31 50% of that corporation. Mr. Gaines stated that Mr. Hancock is not authorized pursuant
32 to the corporation agreement to submit an application to the Rye City Planning
33 Commission. Mr. Gaines stated that the pending application was not approved by Mrs.
34 Hancock and was submitted to the Planning Commission without her prior knowledge.
35 Mr. Gaines stated that Mrs. Hancock objects to the temporary dock since it is located
36 20 feet from her property line in a location close to a large tree that is frequented by
37 egrets. The previously approved fixed dock application was approved by both Mr. and
38 Mrs. Hancock and would not obstruct her view of Long Island Sound.

39

40 Mr. Gaines noted that the resolution regarding the corporate structure of the property
41 ownership is provided in the application file. His interpretation of that agreement is that
42 it does not permit Mr. Hancock to submit an application to the Rye City Planning
43 Commission.

44

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1 The Planning Commission agreed to keep the hearing open and to have this legal
2 concern reviewed by Corporation Counsel before any decision by the Rye City Planning
3 Commission.

4

5

6 On a motion made by Martha Monserrate, seconded by Peter Larr and carried by the
7 following vote:

8

9 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
10 McGunagle, H. Gerry Seitz

11 NAYS: None

12 ABSENT: Hugh Greechan

13

14 the Planning Commission took the following action:

15

16 **ACTION:** The Planning Commission kept open the public hearing on wetland permit
17 application number WP#148.

18

19 **II. ITEMS PENDING ACTION**

20

21 **1. Fabricant Residence**

22

23 The Planning Commission reviewed the comments of the CC/AC, which noted a
24 reduction in the proposed amount of landscape mitigation plantings. The Planning
25 Commission noted that the proposed reduction still exceeded the Commission's
26 practice of requiring two square feet of landscape plantings for every one square foot of
27 increased impervious area within the 100-foot buffer.

28

29 The Planning Commission discussed the changes in the plant material on the revised
30 plans. The CC/AC had noted this change in its letter to the Planning Commission. Mr.
31 Pilch responded that the change in plant material was do to his inability to find such
32 plant material at local nurseries. The Planning Commission found the proposed plant
33 material acceptable.

34

35 The Planning Commission encouraged the applicant to provide additional plantings
36 along the side property line adjacent to 19 John Jay Place. Mr. Pilch indicated that
37 such plantings would be provided.

38

39 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the
40 following vote:

41

42 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
43 McGunagle, H. Gerry Seitz

44 NAYS: None

45 ABSENT: Hugh Greechan

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1
2 the Planning Commission took the following action:

3
4 **ACTION:** The Planning Commission adopted a resolution of conditional approval for
5 wetland permit application number WP#150.
6

7 **2. Hancock Residence**

8
9 The Planning Commission discussed the legal issues raised by Mr. Gaines in the public
10 hearing. The Commission agreed that Mr. Gaine's comments relate to the applicant's
11 standing and that it is a legal issue that should be reviewed by Corporation Counsel.
12 The Planning Commission encouraged Mr. Gaines to provide any opinions to
13 Corporation Counsel to assist him in the review of this matter. The Commission noted,
14 however, that it was relying upon the representations of the applicant in processing the
15 applications.
16

17 The City Planner advised the Planning Commission and applicant that the previously
18 approved fixed-dock application expired in March 2003 but that the Planning
19 Commission granted a 3-month extension to that prior approval. The City Planner
20 noted that if the applicant requests an additional extension of time to this prior approval
21 that it would require careful review. In particular, the City Planner noted that the
22 applicant's most recent submission for a seasonal dock would appear to contradict the
23 Planning Commission's previous findings that the fixed dock is the alternative that
24 avoids wetland impacts to the maximum extent practical. That previous assessment
25 would no longer appear be applicable given that the applicant has submitted a new
26 application for a seasonal dock that appears to have less wetland impacts yet still
27 meets the applicant's needs.
28

29 The Commission agreed that it would wait for Corporation Counsel to provide an
30 opinion relating to the applicant's standing and encouraged Mr. Gaines to provide
31 Corporation Counsel with any relevant legal information as soon as possible.
32

33 **3. Gingrich Residence**

34
35 The Planning Commission reviewed the applicant's proposed drainage plan noting that
36 the proposed overflow from the pre-treatment facility would extend into the bank of
37 Blind Brook. The Planning Commission questioned whether the outlet structure would
38 be above the flood level for a 25-year storm event. Mr. Horsman responded that the
39 flood elevation would not extend over the outfall structure noting that the existing brook
40 bank during storm conditions has at least 3 to 4 feet of freeboard available.
41

42 The Planning Commission discussed the proposed blue stone patio noting that it had
43 previously discussed this structure being replaced with a pervious wood structure closer
44 to the existing residence. Mr. Horsman noted that the earth mound associated with the

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1 patio had been removed but that the applicant wanted to maintain a patio in a location
2 away from the north side of the residence so that it could be exposed to sunlight.

3
4 The City Planner discussed the implications of locating impervious areas within a
5 designated flood zone. The City Planner added that the net increase in impervious
6 area was approximately 10% over existing conditions, which he considered a
7 reasonable increase. The Planning Commission agreed to direct stormwater runoff
8 from the patio to the proposed subsurface drainage system to address stormwater
9 runoff impacts.

10

11

12 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the
13 following vote:

14

15 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
16 McGunagle, H. Gerry Seitz

17 NAYS: None

18 ABSENT: Hugh Greechan

19

20 the Planning Commission took the following action:

21

22 **ACTION:** The Planning Commission set a public on wetland permit application
23 number WP#144A for its next meeting on April 27, 2004.

24

25 4. McGuire Residence

26

27 The Planning Commission reviewed the applicant's revised submission, which included
28 all landscape mitigation plantings on the applicant's property. No off-site mitigation
29 plantings are proposed. The Planning Commission reviewed the comments of the
30 CC/AC, which found the application acceptable but preferred the alternative that
31 included offsite wetland plantings.

32

33 On a motion made by Nick Everett, seconded by Patrick McGunagle and carried by the
34 following vote:

35

36 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
37 McGunagle, H. Gerry Seitz

38 NAYS: None

39 ABSENT: Hugh Greechan

40

41 the Planning Commission took the following action:

42

43 **ACTION:** The Planning Commission set a public on wetland permit application
44 number WP#149 for its next meeting on April 27, 2004.

45

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1 **5. Coveleigh Club**

2
3 Linda Whitehead (Applicant's Attorney) provided an overview of the application noting
4 that it involved the rehabilitation and reconstruction of a section of cabanas located on
5 the Coveleigh Club property. Ms. Whitehead noted that the reconstruction activities
6 would occur outside of the 100-foot zoning setback. Ms. Whitehead added that there
7 were no regulated activities within the 100-foot wetland buffer of Long Island Sound.

8
9 The Planning Commission requested that the surveyor's name and date of the survey
10 be provided on the site plan. The Commission also requested that elevation data at the
11 base of each tree be provided for its review. The elevation of the proposed deck should
12 also be shown on the plan. Ms. Whitehead responded that it was her recollection that
13 the deck height would be approximately 9.5 feet above sea level but that she would
14 provide in the information requested by the Commission.

15
16 The City Planner noted that the site drainage would need to be reviewed by the City
17 Engineer. The City Planner also noted that the application was being reviewed by the
18 City Building Inspector to determine the extent of compliance with the City's Floodplain
19 Management Law was required.

20
21 The Commission agreed to set a public hearing but noted that it may keep the hearing
22 open depending on the additional information provided in advance of that meeting.

23
24 On a motion made by Nick Everett, seconded by Patrick McGunagle and carried by the
25 following vote:

26
27 AYES: Barbara Cummings, Martha Monserrate, Nick Everett, Peter Larr, Patrick
28 McGunagle, H. Gerry Seitz
29 NAYS: None
30 ABSENT: Hugh Greechan

31
32 the Planning Commission took the following action:

33
34 **ACTION:** The Planning Commission set a public on final site plan application
35 number SP#280 for its next meeting on April 27, 2004.

36 37 **6. Parisot Residence**

38
39 Richard Horsman (Applicant's Landscape Architect) noted that he staked out the
40 proposed wall and wall height on the property so that it could be viewed by Commission
41 members. The Commission agreed that it would conduct a second site walk on
42 Saturday, April 17, 2004 to review the proposed application and extent of grading
43 proposed in the rear yard. The Commission noted that the proposed wall height and fill
44 in the rear yard would require careful review.

45

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1 The Planning Commission discussed the proposed plantings plan and the extent of
2 fencing on the property.

3

4 7. Retail Tenant Space Division (The Gap)

5

6 John Mitchell (Property Owner's Representative) noted that the application involved the
7 division of the existing Gap retail store into two tenant spaces. He noted that the
8 building consists of 12 tenants. Mr. Mitchell noted that the property owner does not
9 have any proposed tenants.

10

11 The Planning Commission noted that the applicant has a surface water control permit
12 under review by the City Engineering Department. Mr. Mitchell noted that the permit
13 involved providing new drainage, paving and wall rehabilitation in the rear of the
14 property. The Planning Commission requested that this information be included as part
15 of its site plan submission. The Commission also noted that it appeared that the
16 proposed drainage system would cross an abutting property. The applicant would need
17 to provide evidence that it has the right to extend such drainage lines across an
18 abutting property. The Planning Commission also noted that parking in the rear would
19 need to be designated on the plan and that there should be an adequate refuse
20 disposal plan for existing and proposed tenant spaces.

21

22 Mr. Mitchell agreed to re-submit the site plan application including the proposed
23 improvements in the rear of the property.

24

25 8. Minutes

26

27 The Commission reviewed and approved the minutes of its March 9, 2004 meeting.