

Rye City Planning Commission Minutes
July 18, 2006

MEETING ATTENDANCE:

Planning Commission Members:

- Barbara Cummings, Chair
- Martha Monserrate, Vice-Chair
- Nick Everett
- Hugh Greechan
- Peter Larr
- George Pratt
- Carolyn Cunningham

Other:

- Christian K. Miller, AICP, City Planner
 - George Mottarella, P.E., City Engineer
 - Chantal Detlefs, City Naturalist
 - Joe Murphy, CC/AC Chair
 - Jim Nash, CC/AC member
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I. EXECUTIVE SESSION

- Chair Cummings stated that the Commission was going into executive session to discuss the location of a proposed telecommunications facility near the intersection of Purchase Street and Theodore Fremd Avenue. The Chair stated that the City Council is considering this location as a settlement to on-going litigation relating to the denial of a facility on the roof of the Hansa Building at 150 Purchase Street.

ACTION: Peter Larr made a motion, seconded by Carolyn Cunningham that the Planning Commission convene into executive session, which was carried by the following vote:

Barbara Cummings, Chair:	Aye
Martha Monserrate, Vice- Chair:	Aye
Carolyn Cunningham:	Aye
Nick Everett:	Aye
Hugh Greechan:	Aye
Peter Larr:	Aye
George Pratt:	Aye

- After approximately 40 minutes of discussion the Commission returned to the hearing room. Chair Cummings reported that the Commission agreed in executive session to convey comments to the City Council not supporting the location of a telecommunications facility in this location. The Commission noted that the facility would be highly visible and that disguising the 70-foot pole or relocating the facility elsewhere on the small site could not mitigate this impact. The Chair also stated that the Commission agreed that there may be other more appropriate sites in the area and that improvements in technology might improve the siting of a facility on the Hansa Building at 150 Purchase Street.

II. HEARINGS

1. 279 Purchase Street

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- 1 • Mark Mustacato (applicant's architect) stated that the applicant is proposing to
2 remove a one-story building formerly used as a gas station to construct a two-story
3 building with retail on the first floor and two, two-bedroom apartments on the second
4 floor. Access would be provided to both Wappanocca Avenue and Purchase Street.
5 He provided an overview of the proposed architectural design and proposed building
6 materials. He stated that two pole-mounted lights would be provided in the parking
7 area.
8
- 9 • Sis DeAngelo (110 Wappanocca Avenue resident) questioned whether the air
10 conditioning units would be located on the ground or on the roof. She noted that
11 there was a pit in the former gas station repair bays that may contain contaminates.
12
- 13 • Mr. Mustacato stated that the applicant has retained an environmental consultant
14 (RND) that has conducted monitoring results and provided clean-up
15 recommendations. All reports have been provided to the Commission. He stated
16 that test results have been submitted to Westchester County Department of Health
17 and that they show no groundwater contamination. He noted that testing will occur
18 during the site demolition and excavation process and that if contaminated soils are
19 encountered they will be removed from the site.
20
- 21 • Ms. DeAngelo questioned the location of the property lines and whether the existing
22 sidewalks would be replaced. Mr. Mustacato stated that existing sidewalks
23 surrounding the site would be replaced or repaired.
24
- 25 • Ms. DeAngelo requested that the site plan be modified to eliminate access to
26 Wappanocca Avenue.
27
- 28 • Resident of 135 Wappanocca Avenue stated that the reuse of the dilapidated
29 property was a "godsend".
30
- 31 • Suzanne Adams (15 Hillside Road) and David Cole (134 Wappanocca Avenue)
32 questioned what retail tenant would occupy the building.
33
- 34 • Mr. Mustacato stated that the intended user was an interior designer to occupy the
35 first floor. The City Planner stated that the property is located in the B-1 Business
36 District, which permits retail, personal service and professional offices.
37
- 38 • Mr. Cole noted concern with the height of the building and lighting. Mr. Mustacato
39 stated that the height of the building was lower than the 35 feet permitted by zoning.
40 He stated that the height and intensity of lighting on the site was reduced at the
41 Planning Commission's request. The pole height is ten feet and all light sources
42 would be shielded.
43

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- 1 • Mr. Cole noted he lived adjacent to the site and requested that additional landscape
2 screening or fencing be provided along the site's southern property line. Mr.
3 Mustacato stated that a fence could be provided ranging in height from four to six
4 feet consistent with the City's fence requirements.
5
- 6 • John Dolce (145 Wappanocca Avenue) questioned the proposed landscaping. The
7 applicant's landscape architect provided a review of the proposed landscape plan.
8
- 9 • Melissa Freilich (owner of 128-130 Wappanocca Avenue) stated that her tenants
10 have children and that there are many children on the street. She noted concern
11 that the proposed development would add traffic to an already busy street. She
12 stated that she understands the property and area is located in a business zone, but
13 requested that a "No-Left Turn" restriction be placed on the Wappanocca Avenue
14 exit to reduce traffic on the street.
15
- 16 • Ms. Freilich also stated concern that the potential tenant could involve a food use
17 that could have additional impacts such as traffic and odor and operate into the
18 evening hours. She requested that food-based retail uses not be permitted at this
19 location.
20
- 21 • The Commission stated that it would consider those concerns in work session.
22
- 23 • David Cole (134 Wappanocca Avenue) questioned the traffic flow and the location of
24 the refuse enclosure.
25
- 26 • The Commission agreed that in light of the comments raised in the public hearing
27 that they would keep the hearing open. The Commission noted that it has been
28 working with the site plan application since March and that would continue to
29 address the comments of the public in its work session.
30
31

32 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the
33 Planning Commission keep open the public hearing on site plan
34 application number SP298, which was carried by the following vote:
35

36	Barbara Cummings, Chair:	Aye
37	Martha Monserrate, Vice- Chair:	Aye
38	Carolyn Cunningham:	Aye
39	Nick Everett:	Aye
40	Hugh Greechan:	Aye
41	Peter Larr:	Aye
42	George Pratt:	Aye

43 2. 36 Island Drive

44

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- 1 • Tim Bryant (applicant's architect) stated that the application involves the construction
2 of a kitchen addition in the rear of the residence over an existing wood deck. He
3 stated that the 200 square-foot addition would encroach approximately ten additional
4 feet into the 100-foot wetland buffer. He stated 400 square-feet of wetland plantings
5 along the top of the existing seawall would be provided as mitigation.

- 6
7 • There was no public comment.
8

9 **ACTION:** George Pratt made a motion, seconded by Nick Everett that the Planning
10 Commission close the public hearing on wetland permit application
11 number WP198, which was carried by the following vote:
12

13	Barbara Cummings, Chair:	Aye
14	Martha Monserrate, Vice- Chair:	Aye
15	Carolyn Cunningham:	Aye
16	Nick Everett:	Aye
17	Hugh Greechan:	Aye
18	Peter Larr:	Aye
19	George Pratt:	Aye

20 21 **3. Peter and Robin Jovanovich** 22

- 23 • Chair Cummings recused herself from this matter and Vice-Chair Monserrate served
24 as chair for this agenda item.
25
- 26 • Paul Benowitz (applicant's architect) stated that the application involved the re-
27 subdivision of a property to merge two lots into one. Mr. Benowitz stated that the
28 applicant recently acquired an adjacent 6,000 square-foot lot. The combined
29 building lot will meet the requirements of the R-4 Zoning District.
30
- 31 • Mr. Benowitz explained that the existing dwelling on the property at 643 Milton Road
32 would be removed and the existing garage and basement would remain.
33
- 34 • There was no public comment.
35

36 **ACTION:** Nick Everett made a motion, seconded by Peter Larr that the Planning
37 Commission close the public hearing on re-subdivision application number
38 SUB303, which was carried by the following vote:
39

40	Barbara Cummings, Chair:	Recuse
41	Martha Monserrate, Vice- Chair:	Aye
42	Carolyn Cunningham:	Aye
43	Nick Everett:	Aye
44	Hugh Greechan:	Aye
45	Peter Larr:	Aye

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1 George Pratt: Aye

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3

4 **III. ITEMS PENDING ACTION**

5

6 **1. 279 Purchase Street**

7

8 • The Commission requested that Westchester County Department of Health review
9 and approve before a building permit is issued any remediation plans for the clean-
10 up of potential contaminates on the site. The Commission noted that the County
11 should review the site plans to confirm that there is not a potential conflict with any
12 remediation efforts. The Commission noted that the proposed drywells might
13 promote the migration of contaminants and may therefore not be appropriate in this
14 location. The Commission also requested that there be a final Health Department
15 sign-off before a certificate of occupancy is issued for the building.

16

17 • The Commission noted that the lighting plan was acceptable and did not want to
18 require the lights to be turned-off in the event there was a need to keep them on for
19 security reasons and neighborhood safety.

20

21 • The Commission requested that a fence be provided along the southern property
22 line and that the plant material be changed to holly or some other evergreen
23 species.

24

25 • The Commission stated that it would include a condition in the resolution to indicate
26 that a "No Left-Turn" restriction at the Wappanocca Avenue access drive may be
27 required in the event one is deemed necessary by the Commission.

28

29 • The Commission discussed with the applicant a restriction to prohibit a future food
30 related retail use at the site. The Commission noted that if a food-based retail
31 establishment were proposed there may be changes required to the site plan
32 including larger refuse area, more parking and mitigation measures to address
33 cooking odors. Mr. Mustacato stated that he would review the Commission's request
34 with his client.

35

36 **2. 36 Island Drive**

37

38 • The Commission found the revised plans acceptable.

39

40

41 **ACTION:** Carolyn Cunningham made a motion, seconded by Peter Larr that the
42 Planning Commission conditionally approve wetland permit application
43 number WP198, which was carried by the following vote:

44

45 Barbara Cummings, Chair: Aye

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1	Martha Monserrate, Vice- Chair:	Aye
2	Carolyn Cunningham:	Aye
3	Nick Everett:	Aye
4	Hugh Greechan:	Aye
5	Peter Larr:	Aye
6	George Pratt:	Aye

7
8

3. Peter and Robin Jovanovich

- 9
10
- 11 • Chair Cummings recused herself from this matter and Vice-Chair Monserrate served
12 as chair for this agenda item.
 - 13
 - 14 • The Commission found the application acceptable.

15
16

17 **ACTION:** Peter Larr made a motion, seconded by George Pratt that the Planning
18 Commission conditionally approve on re-subdivision application number
19 SUB303, which was carried by the following vote:

20
21

Barbara Cummings, Chair:	Recuse
22 Martha Monserrate, Vice- Chair:	Aye
23 Carolyn Cunningham:	Aye
24 Nick Everett:	Aye
25 Hugh Greechan:	Aye
26 Peter Larr:	Aye
27 George Pratt:	Aye

28
29

4. Rye 911 Memorial

- 30
31
- 32 • The Commission noted that the application is considered a Type I Action under
33 SEQRA and declared its intent to be Lead Agency.
 - 34
 - 35 • The City Engineer requested that the trench drain at the base of the path of the foot
36 bridge be eliminated.
 - 37
 - 38 • The Commission discussed the elevation of the bridge and its relationship to the
39 100-year flood zone. The Commission noted that a Board of Appeals flood variance
40 is required.
 - 41
 - 42 • The Commission recommended that the existing brick path on the Village Green not
43 be relocated. The existing path and its alignment works well with the proposed
44 memorial. The Commission noted that retaining the path would save money.

45

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- 1 • The Commission suggested that the bank of Blind Brook be cleaned-up as an
2 additional wetland mitigation measure.
3
- 4 • Barbara Anderson (applicant's architect) stated that she would revise the plans
5 consistent with the Commission's recommendations.
6

7 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the
8 Planning Commission set the public hearing for its next meeting on
9 wetland permit application number WP200, which was carried by the
10 following vote:
11

12	Barbara Cummings, Chair:	Aye
13	Martha Monserrate, Vice- Chair:	Aye
14	Carolyn Cunningham:	Aye
15	Nick Everett:	Aye
16	Hugh Greechan:	Aye
17	Peter Larr:	Aye
18	George Pratt:	Aye

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23 5. Nivelle-Gamache Residence

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- 25 • The Commission requested that the mitigation plan be revised to relocate the
26 plantings closer to the wetland area located near the corner of the Brevoort Lane
27 and Lake Road. The Commission noted that this would provide more of an
28 environmental benefit.
29
- 30 • Jim Nash (CC/AC member) noted that previously approved mitigation areas should
31 not be counted as mitigation for the patio and wall.
32
33

34 **ACTION:** Peter Larr made a motion, seconded by George Pratt that the Planning
35 Commission set the public hearing for its next meeting on modified
36 wetland permit application number WP195, which was carried by the
37 following vote:
38

39	Barbara Cummings, Chair:	Aye
40	Martha Monserrate, Vice- Chair:	Aye
41	Carolyn Cunningham:	Aye
42	Nick Everett:	Aye
43	Hugh Greechan:	Aye
44	Peter Larr:	Aye
45	George Pratt:	Aye

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6. Greenhaven Beach

- The Commission did not object to Lori Dickson's (applicant's attorney) request to process the required variance application with the Board of Appeals.
- The Commission noted that the additional information on the plans addressed their concerns and agreed to set a public hearing for its next meeting.

ACTION: George Pratt made a motion, seconded by Nick Everett that the Planning Commission set the public hearing for its next meeting on modified wetland permit application number WP196, which was carried by the following vote:

Barbara Cummings, Chair:	Aye
Martha Monserrate, Vice- Chair:	Aye
Carolyn Cunningham:	Aye
Nick Everett:	Aye
Hugh Greechan:	Aye
Peter Larr:	Aye
George Pratt:	Aye

7. Van De Voort Residence

- The Commission noted that it conducted a site walk of the property and that it continued to remain concerned regarding the extent of development within the wetland buffer on the property. The Commission requested that the applicant consider a redesign of the project that reduces the extent of impervious area, tree loss and steep slope disturbance. The Commission also noted concern with the proposed location of cultec stormwater infilltrators on sloped portions of the site where there appeared to be a large amount of exposed rock ledge.
- The Commission also questioned the need for the swimming pool and house addition and noted that the City Wetlands Law requires it to approve only those applications that involve disturbances that are necessary and unavoidable. The Commission noted that the property is adjacent to the same wetland system that the City Council is considering to preserve a portion of with a conservation easement on a property at 55 Drake Smith.
- Aleksandra Moch (applicant's environmental consultant) stated that alternative designs to locate the addition or pool in front of the residence were not practical

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1 given the existing configuration of house. In addition an existing rock outcropping in
2 the front of the residence would need to be excavated, which would be prohibitively
3 expensive. She stated that the applicant has provided a mitigation plan that
4 provides plant material. She also stated that impacts could be further reduced if the
5 City were to relax its stormwater management requirements. Ms. Moch stated that
6 the culvert units are required to manage the volume associated with a 25-year storm
7 event. She stated that a level spreader system would be less invasive and provide
8 appropriate water quality benefit.
9

- 10 • Brad De Motte (applicant's architect) stated that it's not practical to have a pool in
11 the front yard and that the existing residence already encroaches approximately 25
12 feet into the wetland buffer.
- 13
- 14 • The Commission reiterated its desire for a revised plan and requested that the plan
15 include a calculation of the increase in impervious area within the 100-foot wetland
16 buffer.
- 17
- 18

19 **8. 2 Barlow Lane**

- 20
- 21 • The Commission noted that it received a memorandum from Corporation Counsel
22 regarding whether Section 197-40 of the City Zoning Code applied to the application.
23 The Commission stated it was Corporation Counsel's opinion that questions of
24 interpretation should be referred to the Board of Appeals and that Section 197-80 of
25 the City Zoning Code gives the Planning Commission such authority to seek such an
26 interpretation.
27
- 28 • Jonathan Kraut (applicant's attorney) objected and disagreed with this opinion. He
29 stated that the Building Inspector is responsible for interpreting the requirements of
30 the Zoning Code. He stated that the Building Inspector has found that the
31 application complies by virtue of issuing a building permit for the construction of one
32 residence on the applicant's property. He also stated that Section 197-40 does not
33 apply since the applicant's lot was created prior to the effective date of this section.
34 He stated that referring such a matter to the Board of Appeals is inappropriate and
35 set a bad procedural precedent for the City.
36
- 37 • The Commission stated that it was not prepared to rebut Mr. Kraut's position and
38 requested that he convey his comments directly to Corporation Counsel.
39
- 40 • There was no decision by the Commission to pursue an interpretation of Section
41 197-40 from the Board of Appeals.
42
- 43

44 **9. 2 Central Avenue**

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- 1 • The Commission noted that Joe Latwin (applicant's attorney) provided a copy of an
2 oral stipulation between the former owners of 2 Central Avenue and the owners of
3 the abutting property at 997 Boston Post Road. The Commission noted that the oral
4 stipulation was never finalized and therefore cannot be interpreted to give the
5 applicant the right to cross the neighboring property to access parking spaces on the
6 applicant's property. The Commission noted that without this formal agreement that
7 access could be denied and the proposed parking spaces would not be accessible,
8 leaving the application without suitable and zoning-compliant parking.
9
- 10 • Mr. Latwin stated that the oral stipulation is acceptable. He noted that it was only
11 through a serendipitous search that he uncovered the stipulation and that it was
12 doubtful that a finalized agreement could be produced. The Commission stated that
13 it needed some proof of legal access to approve the site plan.
14
- 15 • Mr. Latwin stated that he has prepared a license agreement for Corporation
16 Counsel's review to legalize the encroachment of the building and parking spaces
17 within the City's right-of-way. He stated that he has not yet heard from Corporation
18 Counsel. The Commission stated that the applicant and City Planner follow-up with
19 Counsel's office.
20
- 21 • The Commission discussed the structural integrity of the building with the project
22 architect (Rex Gedney). The Commission stated that it did not want to permit the
23 continued encroachment of the building if it was structurally un-sound and required
24 significant enhancements. Mr. Gedney stated that the building is structurally sound
25 and will not require a major renovation to convert the building to the proposed retail
26 use. He stated there is some water damage in the building that will require the
27 replacement of some drywall.
28
- 29 • The Commission noted that it recognized an additional parking space was required
30 by the Zoning Code, but that it did not support creating an additional space adjacent
31 to Blind Brook. The City Planner recommended that rather than seeking a variance
32 that this parking space could be "landbanked". It would be shown on the plan for
33 zoning compliance, but not improved until such time as deemed appropriate by the
34 City. The Commission agreed with this strategy.
35
- 36 • The Commission requested that the plan be revised to show exterior lighting and the
37 refuse area.
38
- 39 • The Commission recommended that the existing paved area from Central Avenue
40 be replaced with landscape material.
41
- 42 • The Commission noted that if any exterior doors are proposed that provide a new
43 means of access to the building they should be shown on the plan.
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1 **10. Westchester Country Club**

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3 • Mike Kolba (applicant's engineer) stated that the applicant was cited with a violation
4 for the placement of fill within a 100-foot wetland buffer. He reviewed the proposed
5 remediation plan, which involved the removal of the soil stockpile, site restoration
6 and the planting of a seed mix. He stated that the wetlands were flagged by the
7 applicant's consultant (Beth Evans).

8

9 • The Commission questioned if the fill was used in this location with the intent of the
10 creating a ballfield. Bob James (Club representative) stated that the club needs
11 additional fields, but it was not clear whether that was the purpose. He stated that
12 the Club accepted the fill after it was approached by a neighbor down the street. He
13 stated that the fill would be removed and taken to the Main Club in Harrison.

14

15 • The City Naturalist requested that more shrubs be provided in addition to the
16 proposed seed mix.

17

18 • The Commission stated that this area should be properly demarcated to prevent
19 future encroachment in area that historically has been used as a dumping area.

20

21 • Jim Nash (CC/AC member) stated that based on the site inspection that additional
22 fill and that there may have been encroachment into the wetland, not just the
23 wetland buffer. The Commission agreed that it would have its wetland consultant
24 review the site with respect to the wetland delineation and to provide other
25 recommendations on the application.

26

27