

**Rye City Planning Commission Minutes**  
September 29, 2009

**MEETING ATTENDANCE:**

<b>Planning Commission Members:</b>	<b>Other:</b>
<input checked="" type="checkbox"/> Barbara Cummings, Chair (arrived late)	<input checked="" type="checkbox"/> Christian K. Miller, AICP, City Planner
<input checked="" type="checkbox"/> Martha Monserrate, Vice-Chair	<input type="checkbox"/> JoAnn Rispoli, Secretary
<input checked="" type="checkbox"/> Carolyn Cunningham	<input type="checkbox"/>
<input checked="" type="checkbox"/> Mack Cunningham	<input type="checkbox"/>
<input checked="" type="checkbox"/> Nick Everett	<input checked="" type="checkbox"/> Lori DeCaro, CC/AC Chair
<input checked="" type="checkbox"/> Hugh Greechan	<input type="checkbox"/>
<input checked="" type="checkbox"/> Peter Larr	<input type="checkbox"/>

- 1    **I.    HEARINGS**
- 2
- 3    **1.    40 Kirby Lane**
- 4
- 5    • Bryan Smith (applicant's Engineer) stated that the applicant is seeking to install
  - 6    766 linear feet of black PVC-coated fence on the perimeter of his property at 40
  - 7    Kirby Lane. Mr. Smith stated that 115 linear feet of fence would be located within
  - 8    a wetland buffer. He noted that the plan was revised to change the fence
  - 9    material from steel to PVC-coated material. He stated that within the buffer
  - 10    landscape planting would be provided as mitigation. He noted that the fence
  - 11    would not fully enclose the property. A portion of fence was not extended
  - 12    through the wetland buffer. He stated that less than three cubic feet of concrete
  - 13    was required for the fence footings in the wetland buffer.
  - 14
  - 15    • There was no public comment.
  - 16
  - 17
- 18    **ACTION:** Carolyn Cunningham made a motion, seconded by Mack Cunningham
- 19    that the Planning Commission close the public hearing on wetland permit
- 20    application number WP269, which was carried by the following vote:
- 21
- |                                       |        |
|---------------------------------------|--------|
| 22    Barbara Cummings, Chair:        | Absent |
| 23    Martha Monserrate, Vice- Chair: | Aye    |
| 24    Carolyn Cunningham:             | Aye    |
| 25    Mack Cunningham:                | Aye    |
| 26    Nick Everett:                   | Aye    |
| 27    Hugh Greechan:                  | Aye    |
| 28    Peter Larr:                     | Aye    |
- 29
- 30

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1 **II. ITEMS PENDING ACTION**

2

3 **1. 40 Kirby Lane**

4

5 • The Commission questioned whether any fill would be placed in the buffer and  
6 whether deer fencing would be installed. Mr. Smith responded that no fill or deer  
7 fencing would be installed.

8

9 • The Commission requested that the catch basin in Kirby Lane be protected with  
10 erosion controls in connection with the construction of a wall in the front of the  
11 property. Mr. Smith noted that the project was outside the wetland buffer and not  
12 subject to the application, but that he would advise the contractor to install  
13 erosion controls immediately.

14

15 • The Commission questioned whether any landscape lighting would be provided  
16 on the property. Mr. Smith stated that he was not aware of any.

17

18 • The Commission noted that there were no objections from the CC/AC.

19

20

21 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the  
22 Planning Commission approve wetland permit application number WP269,  
23 which was carried by the following vote:

24

25 Barbara Cummings, Chair: Absent

26 Martha Monserrate, Vice- Chair: Aye

27 Carolyn Cunningham: Aye

28 Mack Cunningham: Aye

29 Nick Everett: Aye

30 Hugh Greechan: Aye

31 Peter Larr: Aye

32

33

34 **2. 27 1/2 Beck Avenue**

35

36 • The Commission noted that the application appeared complete. The  
37 Commission requested that Corporation Counsel review the construction  
38 easement before it is recorded.

39

40 **ACTION:** Carolyn Cunningham made a motion, seconded by Nick Everett that the  
41 Planning Commission approve subdivision application number SUB312,  
42 which was carried by the following vote:

43

44 Barbara Cummings, Chair: Absent

45 Martha Monserrate, Vice- Chair: Aye

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1	Carolyn Cunningham:	Aye
2	Mack Cunningham:	Aye
3	Nick Everett:	Aye
4	Hugh Greechan:	Aye
5	Peter Larr:	Aye

6  
7  
8 **3. Rye-Cottage Holdings**

- 9
- 10 • Chair Cummings arrived at the meeting.
  - 11
  - 12 • The Commission questioned the height of the retaining walls and requested that  
13 the plan be revised to show fencing on top of the walls. Lou Larizza (applicant)  
14 stated that the plan would be revised to show the location of fences including the  
15 sound barrier that would be provided along the rear property line adjacent to the  
16 interstate.
  - 17
  - 18 • The Commission requested that the plan be revised to reduce the size/length of  
19 the turn around area to extend no further than the face of the adjacent building.  
20 At the end of the turn around a trash enclosure should be provided.
  - 21
  - 22 • The Commission noted that the plan provides additional subsurface drainage  
23 measures.
  - 24
  - 25 • The Commission questioned the location of the electrical distribution box. Mr.  
26 Larizza stated that ConEd would determine the location, which would likely be in  
27 the front yard.
  - 28
  - 29 • The Commission questioned the location of the HVAC equipment. Mr. Larizza  
30 stated that each unit would have its own system with direct venting.

31  
32  
33 **ACTION:** Carolyn Cunningham made a motion, seconded by Peter Larr that the  
34 Planning Commission set the public hearing on site plan application  
35 number SP313, which was carried by the following vote:

36		
37	Barbara Cummings, Chair:	Aye
38	Martha Monserrate, Vice- Chair:	Aye
39	Carolyn Cunningham:	Aye
40	Mack Cunningham:	Aye
41	Nick Everett:	Aye
42	Hugh Greechan:	Aye
43	Peter Larr:	Aye
44		

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### 4. 30 Elm Place

- Jonathan Kraut (applicant's attorney) stated that the applicant met with the adjacent neighbor at 32 Elm Place and that a number of revisions to the plan were made. He stated that the proposed building was shifted two feet from the western property line and that the existing walkway and trees on 32 Elm (which would be impacted by construction) would be replaced.
- John Slaker (applicant's landscape architect) discussed the landscape plan noting that existing tree canopies from the adjacent property would be compromised by construction. Proposed trees would be more appropriate and would not interfere with existing and proposed buildings.
- The Commission discussed whether there were affordable housing opportunities on the site. The Commission agreed that opportunities would be limited at this site, but requested that the City Planner prepare some strategies for expanding affordable housing opportunities in the City that the Commission could consider.
- The Commission noted that the plan should be revised to change the proposed vinyl fence to wood.
- The City Planner requested that the applicant provide appropriate legal agreements from the abutting property owner consenting to the improvements shown on the adjacent 32 Elm property.
- The Commission discussed the timing of the off-site parking lot improvements. Mr. Kraut stated that his client would accept as a condition of approval construction beyond the building foundation would not be permitted until the parking lot improvements had been completed. The City Planner noted that appropriate performance bonds and security would also be required to insure completion.
- The Commission requested that the parking lot plan be amended to provide low maintenance plantings within the proposed island.
- The Commission requested that the location of the handicapped parking spaces be reconsidered.
- The Commission noted that the construction should be coordinated to the maximum extent practical in order to minimize impacts on area businesses.

**ACTION:** Nick Everett made a motion, seconded by Carolyn Cunningham that the Planning Commission set the public hearing for its next meeting on

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1 site plan application number SP312 and wetland permit application  
2 number WP255, which was carried by the following vote:

3		
4	Barbara Cummings, Chair:	Aye
5	Martha Monserrate, Vice- Chair:	Aye
6	Carolyn Cunningham:	Aye
7	Mack Cunningham:	Aye
8	Nick Everett:	Aye
9	Hugh Greechan:	Aye
10	Peter Larr:	Aye
11		
12		

### 13 5. Howard Place

- 14
- 15 • The City Planner stated that the applicant had received a letter from the Building  
16 Inspector stating that a permit could not be issued for the construction of a  
17 residence on a vacant lot at 36 Howard Place because the roadway is not  
18 suitably improved. He noted that the property is currently pending before the  
19 Commission for a wetland permit. He stated that Mr. Messina had submitted a  
20 letter to the Commission requesting that the wetland permit review be held in  
21 abeyance until such time as the issue of the suitable improvement of the road is  
22 addressed by the Commission. The City Planner noted that the road did not  
23 comply with the Planning Commission's adopted standards for private streets.  
24
- 25 • John Messina (applicant's attorney) stated that the applicant is seeking a  
26 determination from the Planning Commission that Howard Place is a "suitably  
27 improved" roadway pursuant to section 197-23 of the Rye City Code for the  
28 purpose of obtaining a building permit for the construction of a new residence on  
29 an undeveloped lot located at the end of the private roadway. He noted that the  
30 existing roadway does not comply with the requirements of the Planning  
31 Commission's standards for private streets adopted in 1968. He acknowledged  
32 the receipt of two petitions from area neighbors expressing opposition to the  
33 project due to flooding and drainage concerns and widening Howard Place.  
34
- 35 • Mr. Messina noted that Howard Place cannot be widened beyond the width of the  
36 existing 12-foot right-of-way. He noted that the applicant proposes to modify the  
37 grade of a portion of the road, which will improve emergency vehicle access.  
38
- 39 • Mr. Messina stated that there is no deed of conveyance to anyone for the  
40 ownership of the road. The only rights to the road are right-of-way rights.  
41
- 42 • Mr. Messina stated that the applicant proposes to improve the road and improve  
43 existing conditions, but that it is not possible to meet the Commission's standards  
44 for private streets.  
45

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- 1       • Larry Nardecchia (applicant's engineer) provided an overview of existing  
2 conditions noting that the three houses currently have their sole access from  
3 Howard Place and that there are two additional building lots on the street. The  
4 existing road is 480 feet long and has a paved width that varies between nine  
5 and ten feet. There is one private sewer line in the road right-of-way. Two other  
6 residences are currently on septic. There is no drainage system on Howard  
7 Place. All existing residences have water service. Fire truck access on Howard  
8 Place is difficult due to the narrow width of the road and an existing steep grade.  
9
- 10       • Mr. Nardecchia noted that the applicant is seeking to construct a new residence  
11 on an undeveloped lot having an area of 15,342 square feet. The applicant also  
12 owns the immediately abutting lot at the end of Howard Place (i.e. 35 Howard  
13 Place), which has an area of 7,478 square feet.  
14
- 15       • Mr. Nardecchia stated that the applicant proposes to modify Howard Place to  
16 reduce the grade by 15 to 18 inches near the Grace Church Street intersection.  
17 He noted that by removing the rock and reducing the grade the street will be  
18 more accessible to emergency service vehicles. He stated that based on his  
19 conversations with the City Fire Department that they are pleased with the  
20 proposed improvement. He also noted that a fire hydrant would be provided,  
21 which does not exist today.  
22
- 23       • Mr. Nardecchia stated that a 40-foot diameter turn-around would be provided at  
24 the end of Howard Place.  
25
- 26       • Mr. Nardecchia stated that new sewer service would be provided on the street.  
27 A common City-owned sewer line would be extended down Howard Place and  
28 each lot would require sewer ejector pumps to connect to the new line from  
29 existing and proposed residences. The City Planner noted that if a common  
30 sewer line is not provided each lot on Howard Place would require individual  
31 private sewer lines running down the road to connect to the existing sewer line in  
32 Grace Church Street.  
33
- 34       • Mr. Nardecchia stated that currently there is no drainage system on Howard  
35 Place and stormwater runoff drains to the Loudon Woods neighborhood. He  
36 stated that his plan would provide for seven drywells, which would provide for a  
37 slight reduction in stormwater runoff from existing conditions.  
38
- 39       • Mr. Nardecchia discussed the construction process, noting that there is rock  
40 underlying the entire road bed, which will be required to be removed to improve  
41 the road and install utilities. Steel plates would need to be installed during  
42 construction to provide for access to existing homes.  
43
- 44       • A resident of 11 Howard Place noted that steps to his residence immediately  
45 abut the existing road and could be lost by any road widening. He also noted

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1 that other structures such as fences immediately abut the road. Mr. Messina  
2 responded that surveys and deeds would show the relationship between the  
3 edge of the road and adjacent property boundaries. He noted that the applicant  
4 would not widen the road.  
5

- 6 • The Commission noted concern with the project. The Commission noted that the  
7 street would serve potentially five residences and would remain one of the  
8 narrowest streets in the City with the smallest right-of-way width. Approving such  
9 reductions would establish an undesirable precedent. The Commission noted  
10 that additional right-of-way could be acquired if adjacent neighbors were willing to  
11 work together. The Commission noted that other infrastructure improvements in  
12 the City have been implemented in this manner. Additional right-of-way would  
13 improve access to a more acceptable standard, particularly given the size of  
14 today's vehicles including sanitation, emergency, delivery and passenger  
15 vehicles. The City Planner noted that the benefits of the improvements  
16 suggested by the applicant are offset by the impact of additional development of  
17 potentially two building lots on the street that would be induced by the project.  
18

- 19 • Mr. Messina stated that the benefits of the road improvements outweigh the  
20 impacts associated with new development, especially with respect to fire vehicle  
21 access. Mr. Nardecchia added that the project would eliminate existing old  
22 septic systems, which would provide water quality benefits. Mr. Messina stated  
23 that the applicant only has the right to make improvements within the existing 12-  
24 foot right-of-way and this is a special circumstance that warrants relief from the  
25 Planning Commission. He stated that the applicant proposes improvements to  
26 the road that will provide fire safety and drainage benefits.  
27

- 28 • The Commission agreed that it would consult with Corporation Counsel regarding  
29 the matter.  
30

### 31 32 **6. 8 Parsonage Point Place** 33

- 34 • Linda Whitehead (applicant's attorney) stated that the applicant obtained a new  
35 tree survey of the property and compared it to the original tree preservation plan  
36 approved by the Planning Commission in 1998. She noted that some preserved  
37 trees on the property have been lost due to storms and that some new trees  
38 appear on the current survey that were formerly unregulated since they were  
39 undersized (i.e. less than 8 inches in caliper). She noted that the Commission  
40 authorized the removal of additional trees in 2004.  
41

- 42 • The Commission requested that the plan be revised to indicate the type and  
43 condition of each tree shown on the updated tree survey.  
44

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- 1       • The Commission reviewed the comments of the CC/AC, which indicated that the  
2 amount of regulated wetland/wetland buffer area is larger than that shown on the  
3 applicant's plan. Ms. Whitehead responded that the wetland boundary shown on  
4 the plan is that shown on the approved subdivision drawing and relied upon by  
5 multiple buyers of the property. She added that the applicant is seeking to  
6 amend the tree preservation plan. Wetland boundary determinations are done at  
7 the time the applicant seeks a building permit. The City Planner stated that he  
8 would require the applicant to obtain an updated wetland delineation report for  
9 the property prior to the issuance of a building permit.

10  
11 **ACTION:** Carolyn Cunningham made a motion, seconded by Peter Larr that the  
12 Planning Commission set the public hearing on modified tree preservation  
13 plan application number SUB178, which was carried by the following vote:  
14

15	Barbara Cummings, Chair:	Aye
16	Martha Monserrate, Vice- Chair:	Aye
17	Carolyn Cunningham:	Aye
18	Mack Cunningham:	Aye
19	Nick Everett:	Aye
20	Hugh Greechan:	Aye
21	Peter Larr:	Aye

### 22 23 24 **7. 183 Forest Avenue**

- 25  
26       • Richard Horsman (applicant's landscape architect) stated that during the course  
27 of construction the applicant cleared vegetation within restricted areas. He  
28 stated that a remediation plan has been prepared for the Commission's  
29 consideration. The City Planner reviewed the terms and location of the restricted  
30 areas required by the Planning Commission's 2002 approval. Mr. Castaldi  
31 (applicant) stated that he removed a great deal of trash and debris from the area.  
32  
33       • The Commission agreed that it would conduct a site inspection of the property.  
34  
35

### 36 **8. Minutes**

- 37  
38       • The Commission approved with minor modifications the draft meeting minutes  
39 of its August 11, 2009 meeting.  
40