

Rye City Planning Commission Minutes
April 20, 2010

MEETING ATTENDANCE:

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

1 **I. HEARINGS**

2
3 **1. 3 Lane Way**

- 4
- 5 • Dan Natchez (applicant’s coastal consultant) stated that the application involved
 - 6 the removal of all but the foundation of the existing residence on the property and
 - 7 the construction of a new residence. He noted that the existing terrace, a portion
 - 8 of which encroaches in the wetland buffer would be preserved. He noted that
 - 9 removing this existing partially vegetated terrace would likely cause more
 - 10 damage to the wetland buffer than keeping it.
 - 11
 - 12 • Mr. Natchez noted that a mitigation plan had been prepared, which includes over
 - 13 1,000 plants in a proposed rain garden. He stated that the net increase in
 - 14 impervious area associated with the project (including all stone paths) is
 - 15 approximately 200 square feet.
 - 16
 - 17 • There was no public comment.
 - 18
 - 19

20 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings that the

21 Planning Commission close the public hearing on wetland permit

22 application number WP281, which was carried by the following vote:

23

24 Barbara Cummings, Chair:	Aye
25 Martha Monserrate, Vice- Chair:	Aye
26 Carolyn Cunningham:	Aye
27 Nick Everett:	Aye
28 Hugh Greechan:	Absent
29 Peter Jovanovich:	Absent
30 Peter Larr:	Aye

31
32

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1 **2. 7 Walden Lane**

- 2
- 3 • Alan Pilch (applicant’s engineer) noted the property size, location, zoning district,
4 surrounding land uses and location of the regulated wetland areas. He noted
5 that the tidal area consists of common reed. Mr. Pilch reviewed the proposed
6 additions to the residence including changes to the size of the existing rear deck
7 and the construction of an addition within the wetland buffer. He noted that the
8 project plans have been revised to reduce the amount of impervious area in the
9 buffer by 95 square feet as compared to existing conditions.

10

 - 11 • Mr. Pilch reviewed the proposed mitigation plan for the project, which would
12 remove existing invasive phragmite from the tidal wetland and provided for 1,700
13 square feet of mitigation plantings. He noted that the mitigation consists of a
14 planting area and a landscaped rain garden, which would treat stormwater runoff
15 from the proposed project up to the 25-year storm event.

16

 - 17 • There was no public comment.

18

19

20 **ACTION:** Peter Larr made a motion, seconded by Nick Everett that the Planning
21 Commission close the public hearing on wetland permit application
22 number WP283, which was carried by the following vote:

23

24	Barbara Cummings, Chair:	Aye
25	Martha Monserrate, Vice- Chair:	Aye
26	Carolyn Cunningham:	Aye
27	Nick Everett:	Aye
28	Hugh Greechan:	Absent
29	Peter Jovanovich:	Absent
30	Peter Larr:	Aye

31

32

33 **3. 131 Kirby Lane**

- 34
- 35 • Billie Cohen (applicant’s landscape designer) stated that the project involved
36 modifications to the steep slope in the rear yard of the property located adjacent
37 to the Mill Pond. She noted that the wetland is the top of the seawall adjacent to
38 the Mill Pond. She stated that the project would install small retaining walls that
39 would soften the slope in the rear yard and make it more useable. The walls
40 would be constructed by hand and would have no footings or foundation.

41

 - 42 • She stated that the project would provide for approximately 3,000 square feet of
43 landscape mitigation for the proposed 422 square-foot increase in impervious
44 area. The additional mitigation was provided since the approved mitigation

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1 plantings from a prior Planning Commission approval only sparsely remained on
2 the site.

3

- 4 • There was no public comment.

5

6

7 **ACTION:** Barbara Cummings made a motion, seconded by Carolyn Cunningham
8 that the Planning Commission close the public hearing on wetland permit
9 application number WP282, which was carried by the following vote:

10

11 Barbara Cummings, Chair: Aye

12 Martha Monserrate, Vice- Chair: Aye

13 Carolyn Cunningham: Aye

14 Nick Everett: Aye

15 Hugh Greechan: Absent

16 Peter Jovanovich: Absent

17 Peter Larr: Aye

18

19

20 **4. 66 Barlow Lane**

21

- 22 • Richard Horsman (applicant's landscape architect) stated that the project
23 involves the construction of a small addition to an existing residence. He noted
24 that the project would preserve existing wetland mitigation plantings on the
25 property that were required in a previously approved wetland permit application.

26

- 27 • There was no public comment.

28

29

30 **ACTION:** Barbara Cummings made a motion, seconded by Carolyn Cunningham
31 that the Planning Commission close the public hearing on wetland permit
32 application number WP285, which was carried by the following vote:

33

34 Barbara Cummings, Chair: Aye

35 Martha Monserrate, Vice- Chair: Aye

36 Carolyn Cunningham: Aye

37 Nick Everett: Aye

38 Hugh Greechan: Absent

39 Peter Jovanovich: Absent

40 Peter Larr: Aye

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42

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1 **II. ITEMS PENDING ACTION**

2

3 **1. 3 Lane Way**

4

5 • The Commission requested that the final plans be revised to show the types and
6 size of trees that are intended to be preserved within the wetland buffer. The
7 Commission noted that this information will be helpful in indentifying future tree
8 removal and compliance with the approved plans.

9

10 • The Commission questioned whether any federal or state permits were involved.
11 Mr. Natchez stated that the project did not require such permits.

12

13

14 **ACTION:** Carolyn Cunningham made a motion, seconded by Nick Everett that the
15 Planning Commission approve wetland permit application number WP281,
16 which was carried by the following vote:

17

18 Barbara Cummings, Chair: Aye

19 Martha Monserrate, Vice- Chair: Aye

20 Carolyn Cunningham: Aye

21 Nick Everett: Aye

22 Hugh Greechan: Absent

23 Peter Jovanovich: Absent

24 Peter Larr: Aye

25

26

27 **2. 40 Island Drive**

28

29 • Dan Natchez (applicant's coastal consultant) noted that the project is
30 approximately 80% complete, but that it would not be completed within one year
31 of the Commission's approval date. He noted that the project has been delayed
32 by rain over the last year, which has resulted in a loss of 45 construction days.

33

34 **ACTION:** Barbara Cummings made a motion, seconded by Carolyn Cunningham
35 that the Planning Commission approve the one-year extension of time for
36 Wetland Permit application number WP257, 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: Absent

44 Peter Jovanovich: Absent

45 Peter Larr: Aye

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3. 36 Island Drive

- Dan Natchez (applicant’s coastal consultant) noted that the project is approximately 80% complete, but that it would not be completed within one year of the Commission’s approval date. He noted that the project has been delayed by rain over the last year, which has resulted in a loss of 45 construction days.

ACTION: Barbara Cummings made a motion, seconded by Carolyn Cunningham that the Planning Commission approve the one-year extension of time for Wetland Permit application number WP258, which was carried by the following vote:

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

4. 96 Rye Road

- Dan Natchez (applicant’s coastal consultant) noted that the project is under construction, but that it would not be completed within one year of the Commission’s approval date. He noted that the project has been delayed by rain over the last year, which has resulted in a loss of 45 construction days.

ACTION: Barbara Cummings made a motion, seconded by Carolyn Cunningham that the Planning Commission approve the one-year extension of time for Wetland Permit application number WP256, which was carried by the following vote:

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

5. 7 Walden Lane

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- 1 • The Commission reviewed the comments of the CC/AC, which requested that the
2 house addition be relocated outside the wetland buffer.
3
4 • Mr. Pilch stated that the existing configuration of the residence makes relocating
5 the addition impractical. He noted that the prior plan approved for the property
6 involved the complete removal of the structure thereby giving the applicant more
7 flexibility to relocate more structure outside the wetland buffer. Mr. Pilch stated
8 that the current plan has been revised to reduce the amount of calculated
9 impervious area by 95 square feet from existing conditions.
10
11 • The Commission considered additional modifications to the plan to improve the
12 extent of proposed mitigation. The City Planner noted that the previously
13 approved plan for the property (for which approval expired) had a greater
14 reduction in impervious area in the wetland buffer than the current plan, but that
15 the previously approved plan also had less mitigation area.
16
17 • The Commission discussed converting the existing driveway, located
18 immediately outside the wetland buffer, to a pervious pavement. Mr. Pilch noted
19 that there will be little benefit of a pervious pavement since much of the area
20 under the existing driveway consists of rock. The Commission agreed that an
21 additional environmental benefit could be achieved if stormwater runoff from a
22 portion of the existing driveway were directed to the proposed rain garden in the
23 rear yard. The Commission agreed that the plan should be revised to direct
24 stormwater runoff from the portion of the driveway located in the front of the
25 residence to approximately elevation 29. The Commission requested that this
26 plan modification be noted in the draft resolution of approval as a response to the
27 CC/AC's comments.
28

29 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings that the
30 Planning Commission approve wetland permit application number WP283,
31 which was carried by the following vote:
32

33	Barbara Cummings, Chair:	Aye
34	Martha Monserrate, Vice- Chair:	Aye
35	Carolyn Cunningham:	Aye
36	Nick Everett:	Aye
37	Hugh Greechan:	Aye
38	Peter Jovanovich:	Absent
39	Peter Larr:	Aye

40 41 **6. 131 Kirby Lane** 42

- 43 • The Commission discussed the comments of the CC/AC regarding the loss of
44 previously approved mitigation plantings. The City Planner responded that the
45 current application acknowledges that the 2005 approved mitigation plantings are

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1 incomplete. He also noted that the current application also provides for
2 additional mitigation for the loss of approximately 13 maple trees shown on the
3 2005 approved plan and are no longer on the property. He noted that the current
4 application includes mitigation for both the previously approved and currently
5 proposed improvements. He stated that the existing plan provides an additional
6 3,000 square feet of mitigation, which has been delineated on the plan.
7

- 8 • The Commission agreed that this information should be included in the draft
9 resolution of approval as a response to the CC/AC's comments.

10
11
12 **ACTION:** Nick Everett made a motion, seconded by Peter Larr that the Planning
13 Commission approve wetland permit application number WP282, which
14 was carried by the following vote:

15		
16	Barbara Cummings, Chair:	Aye
17	Martha Monserrate, Vice- Chair:	Aye
18	Carolyn Cunningham:	Aye
19	Nick Everett:	Aye
20	Hugh Greechan:	Aye
21	Peter Jovanovich:	Absent
22	Peter Larr:	Aye
23		

24 7. 66 Barlow Lane

- 25
- 26 • The Commission discussed the CC/AC's comments that the current plan does
27 not propose any additional mitigation. They noted the concern with the
28 precedent of not requiring additional mitigation.
29
- 30 • Richard Horsman (applicant's landscape architect) explained that the previous
31 plan proposed 292 square feet of impervious area. The current plan proposes an
32 additional 345 square feet. He noted that the previous approval provided 2,600
33 square feet of mitigation plantings and that the applicant has installed additional
34 plant material on the site. The Commission and City Planner confirmed that the
35 plant material is on the property and that additional mitigation did not appear
36 necessary. The Commission requested that this information be included in the
37 draft resolution of approval as a response to the CC/AC's comments.
38

39 **ACTION:** Carolyn Cunningham made a motion, seconded by Barbara Cummings
40 that the Planning Commission approve wetland permit application number
41 WP285, which was carried by the following vote:

42		
43	Barbara Cummings, Chair:	Aye
44	Martha Monserrate, Vice- Chair:	Aye
45	Carolyn Cunningham:	Aye

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1	Nick Everett:	Aye
2	Hugh Greechan:	Aye
3	Peter Jovanovich:	Absent
4	Peter Larr:	Aye

8. 424 Park Avenue

- Seth Mandelbaum (applicant's attorney) stated that the application received all required variances from the City's Board of Appeals at their March 18 meeting. He noted that the drainage plan has been revised and that the City engineer finds the revised plan acceptable.
- The Commission discussed the proposed drainage plan and that because of existing elevations there was not a way to connect LaSalle Avenue drainage through the site to existing drainage in Park Avenue. The applicant's engineer reviewed the proposed drainage plan. The Commission discussed the impact the proposed drainage line would have on existing trees and the tree protection measures that would be required. The Commission agreed that the applicant should be required to adhere to the tree protection measures and protocols noted by the applicant's landscape architect. The City Planner noted that this could be added as a note on the approved subdivision plan and resolution. The City Planner noted that the large evergreen tree near the driveway will be significantly impacted by construction and will require adherence to the tree protection measures if it is expected to survive.
- The Commission noted that the application is an Unlisted Action under SEQRA. The Commission agreed that the proposed two-lot subdivision is located on level property with few environmental constraints and that the project would have no significant adverse environmental impacts. The Planning Commission unanimously adopted a Negative Declaration under SEQRA.
- The City Planner noted that the application requires referral to Westchester County prior to conducting the required public hearing.

ACTION: Peter Larr made a motion, seconded by Carolyn Cunningham that the Planning Commission set a public hearing for its May 18, 2010 meeting on Final Subdivision application number SUB314, which was carried by the following vote:

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

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1 Peter Jovanovich: Absent
2 Peter Larr: Aye
3

4 **9. 15 Bradford Avenue**

- 5
- 6 • The Commission noted that the landscape plan had been revised to provide
7 three additional hardwood trees along the Morris Court property line.
8
 - 9 • The Commission discussed relocating the proposed driveway for proposed Lot 2
10 in response to a letter submitted by a neighbor at 2 Morris Court. The
11 Commission agreed that the proposed driveway was in the proper location and
12 should not be located closer to Bradford Avenue. Jonathan Kraut (applicant's
13 attorney) noted that the neighbor wanted the proposed driveway to be located
14 opposite his driveway and not the front door of his residence. He stated his
15 opinion that specifying the location of driveways for such reasons would set an
16 undesirable precedent in the review of a subdivision application. He also noted
17 many instances in the City where driveways were located opposite residences.
18

19

20 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the
21 Planning Commission approve Final Subdivision application number
22 SUB315, which was carried by the following vote:

23

24 Barbara Cummings, Chair:	Aye
25 Martha Monserrate, Vice- Chair:	Aye
26 Carolyn Cunningham:	Aye
27 Nick Everett:	Aye
28 Hugh Greechan:	Aye
29 Peter Jovanovich:	Absent
30 Peter Larr:	Aye

31

32 **10. Ruby's Oyster Bar & Bistro-Outdoor Dining Permit**

- 33
- 34 • The Commission noted that the application would be located on private property.
35 The City Planner noted that he knew of no complaints in connection with last
36 year's outdoor dining permit for the property.
37

38 **ACTION:** Barbara Cummings made a motion, seconded by Peter Larr that the
39 Planning Commission approve outdoor seasonal customer seating permit
40 number OD#01-02, which was carried by the following vote:

41

42 Barbara Cummings, Chair:	Aye
43 Martha Monserrate, Vice- Chair:	Aye
44 Carolyn Cunningham:	Aye
45 Nick Everett:	Aye

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1 Hugh Greechan: Aye
2 Peter Jovanovich: Absent
3 Peter Larr: Aye
4

5 **11. Rye Grill and Bar Outdoor Dining Permit**
6

- 7 • The Commission noted that the application would be located on private property.
8 The City Planner noted that he knew of no complaints in connection with last
9 years outdoor dining permit for the property.

10
11 **ACTION:** Barbara Cummings made a motion, seconded by Peter Larr that the
12 Planning Commission approve outdoor seasonal customer seating permit
13 number OD#02-02, which was carried by the following vote:
14

15 Barbara Cummings, Chair: Aye
16 Martha Monserrate, Vice- Chair: Aye
17 Carolyn Cunningham: Aye
18 Nick Everett: Aye
19 Hugh Greechan: Aye
20 Peter Jovanovich: Absent
21 Peter Larr: Aye
22

23 **12. Frankie & Johnnie's Steakhouse Outdoor Dining Permit**
24

- 25 • The City Planner provided an overview of the property including pictures. He
26 stated that he confirmed the dimensions provided on the applicant's plan and that
27 the application complied with the requirements of the City Code.
28
29 • The applicant requested that he be allowed to provide umbrellas over the tables.
30 The Commission agreed that umbrellas were acceptable, but should be reviewed
31 by the City Building Inspector.
32

33 **ACTION:** Barbara Cummings made a motion, seconded by Peter Larr that the
34 Planning Commission approve outdoor seasonal customer seating permit
35 number OD#03-01, which was carried by the following vote:
36

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

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1 13. 40 Kirby Lane

2

3 • The City Planner explained that the application is in response to his discovery of
4 a stormwater pipe on the property within the regulated wetland buffer. He noted
5 that this pipe was not approved and appears to have been installed in
6 connection with the implementation of a stormwater system installed outside the
7 wetland buffer in connection with the residence a few years ago.

8

9 • Brian Smith (applicant's engineer) stated that the pipe in question appears to
10 pre-date 1997. He stated that when new the sub-surface stormwater system
11 was installed outside the buffer that the overflow to this system was connected
12 to this pre-existing pipe. He stated that the stormwater system requires this
13 overflow pipe to function properly. He stated that the system provides for the
14 drainage needs of 40 Kirby and the adjacent neighbor at 30 Kirby. He noted
15 that a previously approved stormwater system consisting of an open basin was
16 not constructed. An alternative system was installed that caused backflow
17 problems on 30 Kirby. Mr. Smith stated that the current system is functioning
18 properly and the applicant would like to keep it.

19

20 • Mr. Smith provided an overview of the proposed mitigation plan, which included
21 a biofilter at the pipe discharge. He noted the water quality benefits of the
22 system and that it would preserve existing drainage patterns.

23

24 • The Commission questioned the size and design of the system and agreed they
25 would review it at the site walk.

26

27 14. Discussion of Zoning Text Amendment to Add Child Day Care as a 28 Permitted Use in the B-1 Neighborhood Business District

29

30 • The Commission reviewed the draft memorandum prepared by the City
31 Planner. They offered additional comments on the document and requested
32 that it be forwarded to the City Council in advance of the May 5 public hearing.

33

34

35 15. Minutes

36

37 • The Commission approved with minor modifications the draft meeting minutes
38 of its February 23, March 9, March 23 and April 6, 2010 meetings.

39