

**Rye City Planning Commission Minutes**  
July 23, 2013

**MEETING ATTENDANCE:**

**Planning Commission Members:**

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Laura Brett
- Barbara Cummings
- Hugh Greechan
- Peter Larr
- Peter Olsen

**Other:**

- Christian K. Miller, AICP, City Planner
- Tracy Stora, CC/AC Representative
- Melissa Johannessen, AICP, LEED AP
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**I. HEARINGS**

**1. 101 Theall Road (continued hearing)**

- Seth Mandelbaum, attorney for the applicant, described changes that were made to the site plan based on comments from the Commission at the June 25<sup>th</sup> meeting. He stated that the plans were revised to include new specifications for 80W energy-efficient LED lighting fixtures with cutoffs, which will prevent light spillage onto adjacent properties in most locations. He also noted that the landscaping plan was revised to show more shrubs in Area A to further fill in the area beneath the existing evergreens. Mr. Mandelbaum stated that the plans were also revised to reflect the changes to Area F that were discussed at the last Commission meeting, which included moving the proposed grasspave spaces from the west side of the loop road to the east side in order to preserve the look of the South Lawn. Mr. Mandelbaum also noted that additional evergreens are now proposed between Boston Post Road and the grasspave spaces to mitigate visual impacts.
  
- There were no questions from the Commission and no comments from the public.

**ACTION:** Peter Larr made a motion, seconded by Martha Monserrate, to close the public hearing on Modified Site Plan application number SP#344, which was carried by the following vote:

Nick Everett, Chair:	Aye
Martha Monserrate, Vice-Chair:	Aye
Laura Brett:	Aye
Barbara Cummings:	Aye
Hugh Greechan:	Aye
Peter Larr:	Aye
Peter Olsen:	Absent

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1 **II. ITEMS PENDING ACTION**

2

3 **1. 101 Theall Road**

4

5 • The Commission discussed the revised landscaping plan. The applicant's  
6 landscape architect from John Meyer Consulting described the additional  
7 landscaping. He noted that Area F includes some balsam firs and spruce trees.  
8 The Commission noted that the main concern about landscaping was that it  
9 should be dense enough to provide screening, and they felt that the revised plan  
10 achieved that goal.

11

12 • The Commission discussed the lighting plan. Mr. Mandelbaum stated that the  
13 applicant intends to phase in the new lighting to include the retrofitting of existing  
14 lights. The Commission directed the City Planner to include in the resolution a  
15 timeframe within which the lighting retrofit should be completed. The Commission  
16 and applicant's representatives agreed to a timeframe of three years. This will be  
17 added to the resolution approving the project.

18

19 **ACTION:** Martha Monserrate made a motion, seconded by Peter Larr, to approve  
20 Modified Site Plan application number SP#344, which was carried by the  
21 following vote:

22

23	Nick Everett, Chair:	Aye
24	Martha Monserrate, Vice-Chair:	Aye
25	Laura Brett:	Aye
26	Barbara Cummings:	Aye
27	Hugh Greechan:	Aye
28	Peter Larr:	Aye
29	Peter Olsen:	Absent

30

31 **2. 50 Kirby Lane**

32

33 • The Commission discussed the applicant's revised proposal to eliminate the  
34 basement and include a crawl space with a clearance height of five feet for  
35 installation of mechanicals and ductwork. Mr. Kraut explained that this change  
36 would minimize the amount of excavation and/or rock removal necessary to  
37 construct the residence.

38

39 • The Commission discussed slab-on-grade construction versus having a  
40 basement. The Commission agreed that some sort of a basement or crawl space  
41 was preferable to slab-on-grade construction.

42

43 • The Commission discussed the floor elevation of the crawl space. After hearing  
44 from the applicant's representatives that the proposed floor elevation of the crawl  
45 space is at 22.75', the Commission directed the City Planner to add a condition

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1 to the resolution that the crawl space slab elevation shall not be below an  
2 elevation of 22.5'.  
3

- 4 • The Commission discussed the width of the driveway, questioning why it  
5 narrowed to 12' in one location and widened to 14' near the road and near the  
6 house. The Commission expressed concern over the ability of emergency  
7 vehicles to navigate down the driveway, especially considering its length. It was  
8 decided to leave the driveway width as proposed.  
9
- 10 • A question was asked by Mr. Richmond in the audience regarding the possibility  
11 of prohibiting blasting as a condition of approval. Mr. Kraut stated that the  
12 applicant would be amenable to having such a condition in the resolution, though  
13 he said it was doubtful that blasting would be required. The City Planner will add  
14 a condition prohibiting blasting on the property.  
15

16 **ACTION:** Peter Larr made a motion, seconded by Laura Brett, to approve Wetland  
17 Permit application number WP#356, which was carried by the following  
18 vote:  
19

20	Nick Everett, Chair:	Aye
21	Martha Monserrate, Vice-Chair:	Aye
22	Laura Brett:	Aye
23	Barbara Cummings:	Abstain
24	Hugh Greechan:	Aye
25	Peter Larr:	Aye
26	Peter Olsen:	Absent

### 27 28 **3. 1 Boston Post Road** 29

- 30 • Mr. Chris Tartaglia, representing the applicant, discussed the two main issues  
31 that were raised at the June 25<sup>th</sup> Commission meeting: lighting and landscaping.  
32 He noted that the proposed canopy lighting and poles as well as the light on the  
33 side of the building have been shown on the site plan, and the landscaping plan  
34 has been enhanced to include more ground cover and taller species at the rear  
35 of the property.  
36
- 37 • There was a discussion about the ongoing concern of vehicle storage on the site.  
38 The applicant's representative stated that BP has had discussions with the site  
39 operator and put him on notice about the parking problem. He said that he would  
40 get a copy of the notice to the Commission. He also stated that per the operator,  
41 the majority of the cars parked on the site during a recent visit were waiting to be  
42 picked up after undergoing service, waiting to be serviced, or waiting for a part to  
43 come in. A few of the cars were employees' vehicles. He confirmed that BP does  
44 not have any set standards for parking at its facilities.  
45

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- 1       • The Commission discussed the importance of pedestrian safety around the site,  
2       given its proximity to a school where many children walk to and from home. The  
3       Commission stressed the need to keep sidewalks clear and also to maintain  
4       adequate sight distances for vehicles exiting the site. The Commission also noted  
5       that the type and location of landscaping is important so that it does not block  
6       sight lines for vehicles, and that the applicant must ensure that the school sign  
7       remains visible. The City Planner recommended that the applicant prepare a  
8       sight distance analysis, being sure to take into account anything on the site that  
9       is proposed to remain.
- 10
- 11       • The Commission noted a small trash enclosure and asked if any other fencing is  
12       proposed. The applicant's representative stated that a stockade fence is located  
13       along the northern and eastern property lines and the applicant would like to  
14       replace it. He also noted that there is a small white fence along the Hornidge  
15       Road property line, but he is not sure whose property it is on.
- 16
- 17       • The Commission stated that some trash has been noted in the rear of the  
18       property. The applicant's representative stated that a fence is proposed to keep  
19       people out of the rear of the lot. He stated that an 8-9" curb could also be  
20       installed as a deterrent to people going back there. The Commission agreed that  
21       it was ok to leave the stockade fence along the rear property line.
- 22
- 23       • The City Planner noted that all curbing should be replaced as part of the  
24       application. The applicant's representative said that would be added to the plans.

25

26   **ACTION:**   Peter Larr made a motion, seconded by Martha Monserrate, to set the  
27                public hearing for Site Plan application number SP#345, which was carried  
28                by the following vote:

29

30                Nick Everett, Chair:	Aye
31                Martha Monserrate, Vice-Chair:	Aye
32                Laura Brett:	Aye
33                Barbara Cummings:	Aye
34                Hugh Greechan:	Aye
35                Peter Larr:	Aye
36                Peter Olsen:	Absent

## 37

### 38   **4.   67 Purchase Street**

- 39
- 40       • The Commission noted that the site walk on July 13<sup>th</sup> was helpful because they  
41       were able to observe the trash area. It was noted that the site does not provide  
42       ideal access to the trash area, but there is no other option. The Commission  
43       noted the benefit of the proposed sidewalk improvements on Purchase Street.
- 44

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- 1       • The Commission discussed including a condition in the resolution to prohibit  
2 trash being carried outside during hours in which the public was present. It was  
3 noted that enforcement of such a condition would be difficult, but the applicant  
4 was amenable to its inclusion and it was agreed that it would be added.  
5
- 6       • The Commission asked about the material of the proposed fence at the rear of  
7 the property. The applicant stated it would match the front façade of the building.  
8 The City Planner stated that it should be consistent with what was recently  
9 approved at 30 Elm Place. The Commission directed the applicant to visit that  
10 site to observe the fence and be prepared to discuss the fencing at the next  
11 meeting.

12

13 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings, to set the  
14 public hearing for Site Plan application number SP#346, which was carried  
15 by the following vote:

16

17	Nick Everett, Chair:	Aye
18	Martha Monserrate, Vice-Chair:	Aye
19	Laura Brett:	Aye
20	Barbara Cummings:	Aye
21	Hugh Greechan:	Aye
22	Peter Larr:	Aye
23	Peter Olsen:	Absent

### 24

### 25 **5. 20 Island Drive**

### 26

- 27       • Jonathan Kraut, attorney for the applicant, described several alternatives for the  
28 pool location, as the Commission requested at the June 25<sup>th</sup> meeting. He stated  
29 that the first alternate location was directly behind the house; however, there are  
30 geothermal wells in this location, which allows for the shortest distance to the  
31 mechanical room inside the house for the piping. The second alternate location  
32 he described was between the house and the tennis court, but Mr. Kraut stated  
33 that this location would disrupt the flow of the backyard and require additional  
34 grading for the infinity-edge pool that the applicant desires.  
35
- 36       • The last alternative Mr. Kraut described was modification of the proposal to  
37 reduce the incursion into the wetland buffer. The applicant had prepared a site  
38 plan illustrating this alternative, which was shown to the Commission. Mr. Kraut  
39 explained that the wooden deck between the tennis court and the pool would be  
40 reduced, as would the planting strip, which would pull the pool more out of the  
41 buffer. He also stated that the wooden decks on both sides of the pool would be  
42 eliminated and these changes would reduce the area of disturbance by 300'. Mr.  
43 Kraut noted that there would be a fence on either side of the property to the  
44 seawall.

45

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- 1 • The Commission asked about the mitigation plantings, and Mr. Kraut responded  
2 that the amount of mitigation would be reduced because of the reduction in  
3 impervious surface area proposed. Mr. Kraut also noted that the applicant is  
4 considering a rain garden or some other feature along the seawall to filter  
5 nutrients from runoff before it enters the Sound.  
6
- 7 • The Commission directed the applicant to submit plans showing the third  
8 alternative and the mitigation plantings for the next meeting.  
9

### 10 **6. 190 Stuyvesant Avenue**

- 11 • Nick Everett recused himself from the discussion of this application.  
12  
13
- 14 • Mr. Mark Mustacato, the applicant's architect, described the application. He  
15 stated that the applicant intends to demolish the existing house, which is entirely  
16 within the wetland buffer, and build a new one that would be largely outside of  
17 the wetland buffer. Mr. Mustacato noted that the application also involves the  
18 elimination of the existing septic system and connection to the City's sewer  
19 system. He stated that the applicant is proposing mitigation planting along the  
20 shoreline.  
21
- 22 • The Commission questioned why the house could not be moved entirely outside  
23 of the wetland buffer, as was suggested by the CC/AC in its memo. Mr.  
24 Mustacato noted that due to the elevation change of the property, views are lost  
25 as you move away from the water. He also stated that moving it back would  
26 increase the amount of ground disturbance required because you would have to  
27 build into the hillside. The Commission commented that increasing the setback  
28 from the wetland was an improvement over the existing condition.  
29
- 30 • Mr. Richard Horsman, the applicant's landscape architect, stated that ornamental  
31 and native grasses would be planted along the shoreline to intercept the water  
32 before it flows into the harbor from the property, which would provide some water  
33 quality benefits. He noted that a fair amount of seagrass already exists, so the  
34 new plantings will complement what is there currently.  
35
- 36 • The Commission commented on the proposed change in the driveway from  
37 gravel to asphalt. It was noted that the driveway is entirely outside of the buffer  
38 and that asphalt works better on such long driveways.  
39
- 40 • The Commission noted that it would give the applicant the CC/AC comments to  
41 address for the next meeting.  
42  
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1 **ACTION:** Barbara Cummings made a motion, seconded by Peter Larr, to set the  
2 public hearing for Wetland Permit application number WP#358, which was  
3 carried by the following vote:  
4

5	Nick Everett, Chair:	Recuse
6	Martha Monserrate, Vice-Chair:	Aye
7	Laura Brett:	Aye
8	Barbara Cummings:	Aye
9	Hugh Greechan:	Aye
10	Peter Larr:	Aye
11	Peter Olsen:	Absent

12  
13 **7. 13 Park Street**  
14

- 15 • Mr. Richard Horsman, applicant's landscape architect, described the application.  
16 It includes the rerouting of an existing sump pump discharge pipe from the house  
17 basement. It will be rerouted to the adjacent Oakdale Avenue right-of-way and  
18 empty into the stream. The Commission noted that the applicant needs to make  
19 sure the neighbors are aware of the work to be done. The Commission  
20 acknowledged that there is no other option available for discharge of the sump  
21 pump.  
22

23 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings, to set the  
24 public hearing for Wetland Permit application number WP#359, which was  
25 carried by the following vote:  
26

27	Nick Everett, Chair:	Aye
28	Martha Monserrate, Vice-Chair:	Aye
29	Laura Brett:	Aye
30	Barbara Cummings:	Aye
31	Hugh Greechan:	Aye
32	Peter Larr:	Aye
33	Peter Olsen:	Absent

34  
35 **8. Review of Westchester County Development Standards and Design**  
36 **Guidelines and Draft Local Law Amending the City's Stormwater**  
37 **Management Laws**  
38

- 39 • The Commission discussed both of the items and submitted minor edits to the  
40 City Planner.  
41

42 **9. Minutes**  
43

- 44 • The Commission reviewed the minutes from June 25, 2013 and made minor  
45 revisions.

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1  
2 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings, to approve  
3 as amended the minutes of June 25, 2013, which was carried by the  
4 following vote:

5  
6 Nick Everett, Chair: Aye  
7 Martha Monserrate, Vice-Chair: Aye  
8 Laura Brett: Aye  
9 Barbara Cummings: Aye  
10 Hugh Greechan: Aye  
11 Peter Larr: Aye  
12 Peter Olsen: Absent  
13

### 14 **10. 1 Ford's Lane**

- 15
- 16 • Barbara Cummings recused herself from the discussion of this application and  
17 left the meeting.
  - 18
  - 19 • Mr. Bill Kenny, applicant's landscape architect, described the landscaping plan.  
20 He stated that there were three primary components to the proposed coastal  
21 habitat enhancement plan. He began with the middle section (moving from the  
22 house to the water), which would be a dune grass community above the high tide  
23 line primarily consisting of American beachgrass. Mr. Kenny stated that this  
24 community does very well and works well to stabilize soils.
  - 25
  - 26 • Mr. Kenny stated that on the landward side of the wall would be a rain garden, a  
27 depressed area planted with native perennials, which would capture runoff along  
28 the seawall. The last area Mr. Kenny described was on the seaward side of the  
29 dune grass community. He stated that this is a marshy transition area where  
30 phragmites, an invasive species, borders a large spartina community. The  
31 applicant is proposing to remove the phragmites and lower the elevation in that  
32 area by 0.5-1' to allow spartina to flourish. Mr. Kenny stated that some additional  
33 spartina would be planted to enhance what is there.
  - 34
  - 35 • The Commission asked about the permits that would be necessary to do the  
36 work in this area. Mr. Schaeffer replied that a DEC permit is necessary and the  
37 DEC has the plans. The City Planner commented that the DEC may not want the  
38 phragmites to be removed.
  - 39
  - 40 • The Commission asked Mr. Ahneman, the applicant's civil engineer, to address  
41 the concerns about scour. Mr. Ahneman stated that a stone berm is proposed at  
42 the corners along with toe armoring at the base of the wall under sand and  
43 plantings. He stated that this would withstand a 25-year storm well. In a 50-year  
44 storm, he stated that there would be 2.7' of standing water with 1.5' waves. He

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1 noted that there would be no adverse impact to spartina because it would already  
2 be under 4.4' of water.  
3

- 4 • The Commission asked about the benefit of the additional length of the return  
5 walls above the 10' that DEC allows. Mr. Kenny stated that at the north end of  
6 the site, one benefit is that it may constrain the bamboo. The Commission asked  
7 if the applicant had considered removing the bamboo and Mr. Kenny said they  
8 had not.  
9
- 10 • The Commission asked if the house would be protected in the case of another  
11 storm similar to Hurricane Sandy, and Mr. Ahneman replied that it would be  
12 better protected. He said that the homeowners have experienced the destructive  
13 force of waves on their house before and have had water surround the house  
14 three times. He said that static water is a lot less destructive than wave energy,  
15 and the walls will reduce the wave energy.  
16
- 17 • The Commission discussed the benefit of the walls outside of the VE flood zone.  
18 There was a discussion about eliminating the return wall past the VE zone and  
19 lowering the wall to 10' or 9.5' where it meets the ground. The Commission again  
20 discussed the benefit of the wall height at 13.3'. Mr. Ahneman stated that 13.3'  
21 provides wave energy protection for a 50-year storm, and Hurricane Sandy was a  
22 50-year storm.  
23
- 24 • The Commission discussed that there was no precedent for an increase in wall  
25 height of this amount, but the Commission noted that in this case, there is an  
26 argument to support the additional height because it provides additional  
27 mitigation.  
28
- 29 • It was recommended that the applicant be allowed a wall height of 13.25" and  
30 drop the return walls to 10' at the end of the VE zone.  
31

32 **ACTION:** Martha Monserrate made a motion, seconded by Hugh Greechan, to set  
33 the public heading for Wetland Permit application WP#355, which was  
34 carried by the following vote:  
35

36 Nick Everett, Chair:	Aye
37 Martha Monserrate, Vice-Chair:	Aye
38 Laura Brett:	Aye
39 Barbara Cummings:	Absent
40 Hugh Greechan:	Aye
41 Peter Larr:	Aye
42 Peter Olsen:	Absent
43	