

Rye City Planning Commission Minutes
September 10, 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
 - Carolyn Cunningham, CC/AC Chair
 - Melissa Johannessen, AICP, LEED AP
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I. HEARINGS

1. 1 Ford's Lane

- Barbara Cummings recused herself from the discussion of this application.
- Mr. Rob Schaeffer, the applicant's engineer, summarized the application. The Commission asked him to state the top elevation of the wall, and he replied that the wall is at 13.24' in the VE flood zone and steps down to 10' outside of the VE zone on the south side of the property.
- Mr. Tom Ahneman noted that the static water level in Hurricane Sandy was at 11.8' at the property and the wall height of 13.25' gives protection against wave energy in the VE zone. He stated that the armoring at the toe of the wall will help prevent scour during wave action.
- The Commission asked for an update on the status of the DEC violation. Mr. Schaeffer noted that it has been settled and the DEC gave permission to resume building under the general permit. Mr. Schaeffer stated that the applicant just received notice from DEC of approval of the individual permit.
- The City Planner noted that the DEC referenced plans with a different date from what was submitted to the Commission. Mr. Schaeffer stated that the plans are the same except that the survey datum on the NYSDEC plans was changed from NGVD 29 to NAVD 88.
- Ms. Megan Raymond, Senior Ecologist from William Kenny Associates, described the revised mitigation plan. She noted that the DEC was not generally receptive to the original plan to remove the phragmites population and recommended leaving it as is, which is now indicated on the plan. She noted that the phragmites population in this location is occupying a very specific niche and

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 2 of 11

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- The Commission asked about the likelihood of the proposed plantings surviving a typical Nor'easter. Ms. Raymond stated that she believes the likelihood is very good, provided that the plant communities have had a chance to become established. She stated that there is always a chance for erosion with a storm, but planted areas withstand erosion significantly better than denuded areas.
- Mr. Schaeffer noted that the DEC is requiring a 30-year maintenance plan, which includes inspections every other year. Inspections will also be required after storms. Mr. Schaeffer said the applicant has accepted the 30-year maintenance requirement and it has been incorporated into the permit and plans.
- The Commission discussed the requirement of a planting bond. They noted that one will be required, but the specific standards in this case will need to be worked out because of the unique characteristics of the coastal area. The City Planner asked Ms. Raymond if she would research the typical establishment patterns and retention rates for the vegetation that is proposed so that the Commission can be informed as to what kinds of requirements are appropriate for the planting bond. She agreed to do some research and submit her findings to the Commission.
- The City Planner asked for clarification again on the datum used in the plans. Mr. Schaeffer noted that the elevation was 10.7' with the NAVD 88 and 11.8' with the NGVD 29. Mr. Schaeffer also clarified that the height of the wall would be increasing from 10.5' to 13.25'.
- The City Planner noted that he needs to review the plans that the DEC received and all DEC correspondence before any approval can be granted. Mr. Schaeffer commented that he will get the plans and permit to the City for review.
- There were no comments from the public.

ACTION: Peter Olsen made a motion, seconded by Laura Brett, to close the public hearing for Wetland Permit application number WP#358, which was carried by the following vote:

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

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 3 of 11

1
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2. 190 Stuyvesant Avenue

- Barbara Cummings returned to the meeting room.
- Nick Everett recused himself from the discussion of this application. Martha Monserrate assumed the role of chairperson for this item.
- Mr. Mark Mustacato briefly described the application.
- There were no questions from the Commission and no comments from the public.

ACTION: Laura Brett made a motion, seconded by Hugh Greechan, to close the public hearing for Wetland Permit application number WP#358, which was carried by the following vote:

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

3. 20 Island Drive

- Nick Everett returned to the meeting room.
- Mr. Leo Napier, the applicant's attorney, briefly described the application.
- There were no questions from the Commission and no comments from the public.

ACTION: Barbara Cummings made a motion, seconded by Martha Monserrate, to close the public hearing for Wetland Permit application number WP#357, 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

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 4 of 11

1 Peter Larr: Absent
2 Peter Olsen: Aye
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5 **II. ITEMS PENDING ACTION**

6
7 **1. 1 Ford's Lane**

- 8
9 • See discussion of this item under the Hearings section above.
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12 **2. 190 Stuyvesant Avenue**

- 13
14 • Barbara Cummings returned to the meeting room.
15
16 • Nick Everett recused himself from the discussion of this application. Martha
17 Monserrate assumed the role of chairperson for this item.
18
19 • The Commission discussed the draft resolution and made minor modifications. It
20 was noted that the CC/AC found the application unacceptable. The Commission
21 confirmed that specific language had been incorporated into the resolution that
22 provides justification for its decision to approve the application.
23

24 **ACTION:** Barbara Cummings made a motion, seconded by Laura Brett, to approve
25 Wetland Permit application number WP#358, which was carried by the
26 following vote:
27

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

36
37 **3. 20 Island Drive**

- 38
39 • Nick Everett returned to the meeting room.
40
41 • The Commission discussed the draft resolution and made minor modifications.
42

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 5 of 11

1 **ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to
2 approve Wetland Permit application number WP#357, which was carried
3 by the following vote:
4
5 Nick Everett, Chair: Aye
6 Martha Monserrate, Vice-Chair: Aye
7 Laura Brett: Aye
8 Barbara Cummings: Aye
9 Hugh Greechan: Aye
10 Peter Larr: Absent
11 Peter Olsen: Aye
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14 **4. Kuder Island Shoreline Wall**
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- 16 • Mr. Daniel Natchez, the applicant's representative, informed the Commission that
17 the requested investigation at the top of the wall has been performed. He
18 reported on the findings of the investigation. Mr. Natchez stated that based on
19 the transects, the pre-existing soil elevations are very similar to today's
20 conditions except for within a few feet of the top of the wall. He stated that
21 mature root structures were visible and there seems to be very little fill behind the
22 wall. He stated that it is his opinion that the wall height could be reduced up to 1'
23 if that is what the Commission desired, but he does not recommend it because of
24 erosion and safety concerns.
25
- 26 • The Commission asked if any changes to the plan have been proposed based on
27 the results of the investigation. Mr. Natchez said no, but indicated that he would
28 follow the recommendation of the Commission if changes are desired.
29
- 30 • Mr. Natchez noted that the DEC has indicated the design meets their
31 requirements, but they are awaiting a SEQR determination from the Commission.
32 He also noted that the ACOE finds it acceptable as well but will defer to the City.
33
- 34 • The City Planner noted that if you lower the height of the wall too much, the slope
35 will be exposed to erosion. He stated the wall can be extended to maintain the
36 slope.
37
- 38 • The Commission noted that it would be nice to keep the trees and removing the
39 wall has a negative impact on the trees. The Commission noted that there is a
40 fine line between balancing the needs of the property and those of the
41 environment. Mr. Natchez stated that the problem is that all of the trees do not
42 have the same amount of fill and are not in the same location.
43
- 44 • Mr. Natchez stated that the height of the wall corresponds with FEMA flood
45 elevations and he confirmed that they are surveyed elevations. The City Planner

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 6 of 11

1 said that the height of the wall could be reduced from 19' to 18'. Mr. Natchez said
2 that a 1.5' decrease could affect the trees.
3

- 4 • The Commission stated that the goal is to get as close to existing conditions as
5 possible, and also to construct a properly engineered wall with appropriate
6 drainage behind it. The City Planner noted that the Commission's evaluation
7 needs to consider whether the application is reasonable and appropriate given
8 the wetlands regulations. The City Planner said that a flatter slope at the top of
9 the wall is preferable to a steep slope because of concern about clogging the
10 drainage. Mr. Natchez noted that the design criteria called for a 5% slope. The
11 Commission suggested that the wall height be no more than 19'.
12

13 **ACTION:** Barbara Cummings made a motion, seconded by Martha Monserrate, to
14 set the public hearing for Wetland Permit WP#350, which was carried by
15 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:	Absent
23	Peter Olsen:	Aye

24
25

26 **5. 38 Highland Road**
27

- 28 • Mr. Alan Pilch, the applicant's representative, summarized the application. Mr.
29 Pilch stated that the first floor of the house is at an elevation of 26.6' and the 100-
30 year flood plain elevation is at 31' according to FEMA mapping. The applicant
31 proposes raising the first floor elevation of the house to 35.3'.
32
- 33 • Mr. Pilch confirmed that the existing patio at the rear of the house would be
34 completely removed and replaced by a wood deck. The City Planner noted that
35 this would slightly reduce the amount of fill in the flood plain.
36
- 37 • The Commission determined that there was no need for wetland mitigation, given
38 the reduction in the amount of impervious surface area.
39

40 **ACTION:** Barbara Cummings made a motion, seconded by Martha Monserrate, to
41 set the public hearing for Wetland Permit WP#360, which was carried by
42 the following vote:
43

44	Nick Everett, Chair:	Aye
45	Martha Monserrate, Vice-Chair:	Aye

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 7 of 11

1	Laura Brett:	Aye
2	Barbara Cummings:	Aye
3	Hugh Greechan:	Aye
4	Peter Larr:	Absent
5	Peter Olsen:	Aye

6. American Yacht Club

- The CC/AC expressed concern over the possibility of gravel falling into the wetland and suggested a curb or some other physical barrier be installed to prevent this from happening. The Commission suggested large riprap might be suitable.
- Mr. Rick Parisi, the applicant's landscape architect, stated that the plans will be revised to show stabilization of the gravel area.

ACTION: Barbara Cummings made a motion, seconded by Martha Monserrate, to set the public hearing for Wetland Permit WP#361, 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:	Absent
Peter Olsen:	Aye

7. 100 Purchase Street

- Mr. James Caris from John Meyer Consulting, the applicant's engineer, updated the Commission on the amount of parking along 1st Street behind the building. He noted that there are two parallel parking spaces on the west side of the street near the Purdy Avenue intersection, and there are 10 90-degree parking spaces with a two-hour time limit on the east side of 1st Street. He stated that 1st Street is 26' wide near the Purdy intersection and narrows to 15' in the area behind the site. He stated that because of this width, additional parallel parking spaces along 1st Street are not feasible.
- Mr. Caris stated that a one-foot wide brick paver strip is proposed to be added along the west side of the sidewalk in an area that is currently a vegetated strip. He stated that this provides the desired five-foot sidewalk width that the Commission requested, without narrowing the existing roadway.

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 8 of 11

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- Mr. Caris described the proposed trash enclosure. He stated that it would be located along the 1st Street frontage to allow access to the trash containers. The Commission questioned whether existing curb cuts were to be maintained. He stated that there is an existing flush curb where the former driveway was and that will be maintained. The Commission asked about the size of the enclosure and Mr. Caris replied that it would be 4.5' by 5.5' and would be enclosed by two masonry walls.
- The Commission noted that they want to make sure the trash enclosure is large enough to contain the amount of trash that will actually be produced, to ensure that trash does not become a nuisance issue. The Commission directed the applicant to contact his trash hauler and ensure that they can get into an enclosure of this size, since it is relatively small and will hold small containers.
- The Commission also asked about the frequency of trash pickups, noting that other similar businesses in the area have messy sites because the trash is not collected frequently enough. The applicant replied that the trash at his other locations is picked up two or three times a week. The Commission discussed whether that would be sufficient and noted that the problem with trash really has more to do with what is disposed in on-street receptacles, which get picked up by DPW twice weekly. Mr. Caris noted that a trash receptacle will be provided at each entrance, which should limit the amount of trash disposed of in City trash cans.
- The Commission directed the City Planner to include in the resolution a condition that the applicant will provide adequate onsite receptacles to the satisfaction of the City. All were in agreement.
- The Commission expressed concern about whether the paving strip will present a tripping hazard. The applicant confirmed that the pavers will be flush with the sidewalk and really function as a decorative border.
- The Commission noted that the two-story building being constructed to the south of the site will cast shade on the site for much of the day. The Commission directed the applicant to be sure to plant shade-loving plants so that they will thrive in the environment. The Commission also noted that much of the site is proposed to be covered with mulch rather than actual plants for ground cover. The applicant was also directed to find shade-loving ground cover plants to utilize instead of mulch.

ACTION: Peter Olsen made a motion, seconded by Martha Monserrate, to set the public hearing for Site Plan application number SP#347/Outdoor Dining application number OD#08-2013, which was carried by the following vote:

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 9 of 11

1
2 Nick Everett, Chair: Aye
3 Martha Monserrate, Vice-Chair: Aye
4 Laura Brett: Aye
5 Barbara Cummings: Aye
6 Hugh Greechan: Aye
7 Peter Larr: Absent
8 Peter Olsen: Aye
9

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11 **8. 75 Wappanocca Avenue**

- 12
13 • The Commission discussed the County's prohibition on vehicles backing out onto
14 a County road. It was discussed that the County would be contacted again to try
15 to convince them to allow it in this case. The applicant has proposed a K-turn
16 area on the site to allow a vehicle to turn around before exiting onto
17 Wappanocca.
18

19 **ACTION:** Barbara Cummings made a motion, seconded by Laura Brett, to set the
20 public hearing for Modified Wetland Permit WP#346, which was carried by
21 the 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: Absent
29 Peter Olsen: Aye
30

31
32 **9. 10 Captains Lane**

- 33
34 • Mr. Seth Mandelbaum, the applicant's attorney, described the application. He
35 stated that the applicant intends to demolish an existing house on the 1.10-acre
36 property and subdivide the property into two conforming lots, each having
37 approximately 0.55 acres. Mr. Mandelbaum stated that the property is triangular
38 in shape and has frontage on Captains Lane and Rye Road, as well as the point
39 where the two roads meet. He stated that for Lot 1, each of these property
40 boundaries is considered the front for zoning purposes and therefore requires a
41 35-foot setback, which Lot 1 meets. He noted that each of the homes will be
42 accessed from Captains Lane, as is the existing home.
43

Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 10 of 11

- 1 • Mr. Frank Marsella, the applicant's architect, noted that both lots also meet the
2 minimum 15' side yard setback requirement and Lot 2 meets the 50' rear yard
3 setback requirement.
4
- 5 • The Commission asked about the first floor elevations of both homes. Mr.
6 Marsella stated that the first floor elevation of the house on Lot 1 is 43.5' and on
7 Lot 2 it is 35'. The Commission commented that this is a large difference in
8 elevation and would not be visually appealing.
9
- 10 • The Commission commented that if Lot 1 had frontage on Rye Road, it would
11 require less grading and would sit better on the lot. Mr. Marsella stated that there
12 was concern about getting a positive slope away from the house to the wall, but
13 he stated that he could look at the design of the wall to see what options there
14 were. The Commission asked if there was an option to put the garage under the
15 house and enter from Rye Road. Mr. Marsella stated that the desire is to have
16 the garage at the same level as the first floor.
17
- 18 • The Commission noted that trees #91 and #62 are not likely to survive and
19 commented that the preservation of more trees would maintain more of the
20 character of the existing site. The Commission stated that the grading plan needs
21 to coordinate with the tree preservation plan.
22
- 23 • The Commission commented on the sink hole that was mentioned in the wetland
24 determination report by Beth Evans. Mr. Benny Salanitro, the applicant's
25 engineer, replied that it was in the vicinity of a catch basin in Rye Road where the
26 clay pipe is shallow and partially exposed. He stated that it will be repaired as
27 part of the proposed development. Mr. Salanitro also noted that he met with
28 DPW at the property and visually inspected the condition of a 21" storm pipe via
29 the manhole near Lot 1. He noted that even with all of the mature trees in the
30 area, he observed flowing water.
31
- 32 • The Commission noted that the landscaping plan should be worked on before a
33 public hearing will be set. Mr. Mandelbaum noted that Richard Horsman is away
34 on vacation until September 25th, so the applicant will not be able to appear
35 before the Commission on the September 24th meeting, but will be available for
36 the October 8th meeting.
37
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- 39 **10. 11 Elm Place**
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- 41 • The Commission discussed the request for a time extension of the approved site
42 plan and had no objections to it.
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Rye City Planning Commission Minutes (Cont.)

September 10, 2013

Page 11 of 11

1 **ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to
2 approve the extension of time for Site Plan SP#322, which was carried by
3 the following vote:

4
5 Nick Everett, Chair: Aye
6 Martha Monserrate, Vice-Chair: Aye
7 Laura Brett: Abstain
8 Barbara Cummings: Aye
9 Hugh Greechan: Aye
10 Peter Larr: Absent
11 Peter Olsen: Aye

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14 **11. Minutes**

- 15
16 • The Commission reviewed the minutes from August 13, 2013 and made minor
17 revisions.

18
19 **ACTION:** Barbara Cummings made a motion, seconded by Laura Brett, to approve
20 as amended the minutes of August 13, 2013, 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: Absent
29 Peter Olsen: Aye
30