

**Rye City Planning Commission Minutes**  
February 4, 2014

**MEETING ATTENDANCE:**

**Planning Commission Members:**

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

**Other:**

- Christian K. Miller, AICP, City Planner
- Carolyn Cunningham, CC/AC Chair
- Melissa Johannessen, AICP, LEED AP
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**I. HEARINGS**

**1. 30 Nursery Lane**

- Mr. Michael Stein, the applicant's engineer, noted that the applicant submitted a plan showing the internal configuration of 16 parking spaces, as the Commission had requested at the last meeting. The Commission asked if the anticipated number of employees was still 25. Mr. Stein responded that 16 buses could be accommodated in the building and there was an additional 16 parking spaces outside of the building. The applicant noted that 16 bus parking spaces allowed for the best mobility within the building, although they would have liked to have more. Mr. Stein noted that the spaces are 10' apart, and that the other half of the building is strictly office space.
- There were no questions from the Commission and no comments from the public.

**ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to close the public hearing for Site Plan application number SP#348, which was carried by the following vote:

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

**2. 12 Phillips Lane**

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- 1       • Mr. Leo Napior, attorney for the applicant, briefly described the application. He  
2       noted that the existing residence would be removed and a new residence is  
3       proposed in substantially the same footprint. He noted that a rear yard variance  
4       is required. Mr. Napior stated that the applicant recently received  
5       correspondence from the attorney for a neighbor and as a result, the front and  
6       rear stairs have been moved so that they are within the subdivision setback lines.  
7       Mr. Napior noted that the Commission has not seen the new plan showing these  
8       changes and he would have no objection to continuing the public hearing if  
9       needed.
- 10
- 11       • The Commission reviewed the new plan and Mr. Napior described all of the  
12       changes. The Commission felt it was not necessary to continue the public  
13       hearing.
- 14
- 15       • There were no questions from the Commission and no comments from the  
16       public.
- 17

18       **ACTION:** Barbara Cummings made a motion, seconded by Martha Monserrate, to  
19       close the public hearing for Wetland Permit application number WP#368,  
20       which was carried by the following vote:

21

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

29

30

### 31       **3.     20 Parsonage Point**

32

- 33       • Mr. Leo Napior, attorney for the applicant, briefly described the application. He  
34       stated that the project consists of the construction of a new residential pier and  
35       dock in roughly the same location as an existing dilapidated pier. He noted that  
36       Ms. Azure Dee Sleicher, the applicant's engineer, and Ms. Beth Evans, the  
37       applicant's wetland consultant, were present to answer any questions.
- 38
- 39       • The Commission asked Mr. Napior if the docks were going to be removed for the  
40       winter. Mr. Napior replied yes. The City Planner noted that all of the  
41       Commission's previous comments have been addressed by the applicant.
- 42
- 43       • There were no comments from the public.
- 44

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1 **ACTION:** Laura Brett made a motion, seconded by Martha Monserrate, to close the  
2 public hearing for Wetland Permit application number WP#369, which was  
3 carried 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:	Absent
10	Peter Olsen:	Aye
11	Alfred Vitiello:	Aye

12  
13  
14 **II. ITEMS PENDING ACTION**

15  
16 **1. 30 Nursery Lane**

- 17
- 18 • The applicant noted that there will be a maximum of seven people in the office  
19 part of the building, two of whom are full-time office personnel and five of whom  
20 are also bus drivers.  
21
  - 22 • The Commission discussed limiting the number of buses that the applicant could  
23 have. The Commission also discussed limiting the area where vehicles can park.  
24 The City Planner noted that it is easier to count buses than cars. The  
25 Commission discussed limiting the applicant to 16 buses. The applicant  
26 responded that he would like more than that, perhaps 20 buses. The  
27 Commission noted that the applicant could come back for approval for more  
28 buses after the facility is operation for some time. Overall, the Commission felt  
29 that 20 buses was a reasonable number. The City Planner noted that there is no  
30 requirement that buses must be stored in the building.  
31
  - 32 • The Commission expressed a concern of the idling of buses. The applicant noted  
33 that they have a very strong anti-idling program in place and will apply it to this  
34 facility as well. He also noted that all vehicles have particulate matter filters on  
35 them and use ultra-low sulphur fuel.  
36
  - 37 • The Commission reviewed the draft resolution prepared by the City Planner and  
38 made minor revisions. The Commission agreed to add a condition to the  
39 resolution limiting the number of buses operated or stored on the premises to 20  
40 buses.  
41

42 **ACTION:** Barbara Cummings made a motion, seconded by Martha Monserrate, to  
43 approve Site Plan application number SP#348, which was carried by the  
44 following vote:  
45

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

8  
9

10 **2. 12 Phillips Lane**

11

12 • Mr. Napior again described the revised plan. He noted that the front stairs were  
13 moved further back into the footprint of the building and the rear steps were  
14 repositioned to go off to the side rather than to the rear.

15

16 • The Commission asked Mr. Napior if the neighbor was satisfied with the  
17 changes. He responded that he has not received confirmation of that from Keane  
18 & Beane, the neighbor's attorney.

19

20 • The Commission asked how many trees were going to be removed. Mr. Napior  
21 stated that five trees were to be removed, including a cherry tree in the rear yard  
22 that was in poor condition. He noted that the planting plan has not been prepared  
23 yet.

24

25 • The Commission discussed adding a requirement for any trees removed within  
26 the wetland buffer to be replaced on a one-to-one ratio. The Commission  
27 specified that deciduous trees must be replaced with 3" caliper deciduous trees  
28 and conifers must be replaced with conifers of no less than eight feet tall.

29

30 • The Commission directed the City Planner to add the tree replacement  
31 specifications to the resolution, as well as the date of the revised plan. The  
32 Commission made other minor revisions to the draft resolution.

33

34 **ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to  
35 approve Wetland Permit application number WP#368, which was carried  
36 by the following vote:

37

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

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1 **3. 20 Parsonage Point**

- 2
- 3 • The Commission discussed the dates during which the ramp and dock would be  
4 removed from the water. Mr. Napior stated that the dates were from November  
5 15<sup>th</sup> to April 15<sup>th</sup>. The Commission directed the City Planner to add the dates of  
6 removal, as well as the date of the site plan, to the resolution.  
7
  - 8 • The Commission made minor revisions to the draft resolution.  
9

10 **ACTION:** Laura Brett made a motion, seconded by Alfred Vitiello, to approve  
11 Wetland Permit application number WP#369, which was carried by the  
12 following vote:

13

14 Nick Everett, Chair:	Aye
15 Martha Monserrate, Vice-Chair:	Aye
16 Laura Brett:	Aye
17 Barbara Cummings:	Aye
18 Hugh Greechan:	Absent
19 Peter Olsen:	Aye
20 Alfred Vitiello:	Aye

21  
22

23 **4. 330 Stuyvesant Avenue**

- 24
- 25 • The Commission discussed the request for an extension of time for a period of  
26 one year from the original expiration date of the application.  
27
  - 28 • The applicant's representative had a question regarding the planting bond. The  
29 City Planner responded that the planting bond had not yet been received and a  
30 building permit would not be issued without it. He also noted that an estimate of  
31 the costs was also required, along with the application fee.  
32
  - 33 • The Commission clarified that granting the extension of time would allow one  
34 more year for construction to commence.  
35

36 **ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to  
37 approve the Extension of Time for Wetland Permit application number  
38 WP#341, which was carried by the following vote:

39

40 Nick Everett, Chair:	Aye
41 Martha Monserrate, Vice-Chair:	Aye
42 Laura Brett:	Aye
43 Barbara Cummings:	Aye
44 Hugh Greechan:	Absent

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1 Peter Olsen: Aye  
2 Alfred Vitiello: Aye  
3  
4

5 **5. One Theall Road**  
6

- 7 • The applicant noted that the two setback variances were granted by the Zoning  
8 Board of Appeals at its January 23<sup>rd</sup> meeting.  
9

10 **ACTION:** Martha Monserrate made a motion, seconded by Barbara Cummings, to  
11 approve Site Plan application number SP#349, which was carried by the  
12 following vote:  
13

14 Nick Everett, Chair: Aye  
15 Martha Monserrate, Vice-Chair: Aye  
16 Laura Brett: Aye  
17 Barbara Cummings: Aye  
18 Hugh Greechan: Absent  
19 Peter Olsen: Aye  
20 Alfred Vitiello: Aye  
21  
22

23 **6. 754 Boston Post Road**  
24

- 25 • Mr. Seth Mandelbaum, the applicant's attorney, gave a brief overview of the  
26 project. He noted that the site walk was conducted on January 11<sup>th</sup> and appeared  
27 to be very informative for the Commission.  
28
- 29 • Mr. Mandelbaum described changes that were made to the site plan since the  
30 last meeting. He stated that the lot lines for Lots 2 and 3 were adjusted so that  
31 the pond is entirely within Lot 2 and the property lines in the front near the cul-de-  
32 sac are more radial. He stated that the houses on Lots 2 and 3 were moved  
33 slightly to preserve Tree #32 and the drainage system for the entrance driveway  
34 was moved forward to preserve a row of evergreens along Boston Post Road.  
35 Mr. Mandelbaum also noted that the existing stone wall along the driveway and  
36 stone piers will remain as a historical vestige of the property. He also stated that  
37 a construction protocol and erosion control plan had been developed.  
38
- 39 • Mr. Mandelbaum noted that the sewer connections have been revised such that  
40 three individual sewer connections will be provided. He stated that the County  
41 indicated that it will accept such connections provided that the City Engineer  
42 acknowledges that the City does not want to maintain a public sewer at the site.  
43 He stated that the applicant will provide a written agreement to the City to that  
44 effect.  
45

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- 1       • The Commission asked about the plantings around the pond and whether they  
2       are all on one lot. Mr. Mandelbaum clarified that the lot line between Lots 2 and 3  
3       is actually at the top of the bank, so all of the plantings are in fact on the same  
4       lot.  
5  
6       • The City Planner noted that the applicant should be prepared to have the details  
7       of the easements worked out, and should provide a plan showing the sewer  
8       easements. Mr. Mandelbaum indicated that this will be provided.  
9  
10      • The City Planner noted that the road will need to be named. The applicant  
11      suggested "Woodhail Close" as a possibility. The City Planner stated that there is  
12      a street naming protocol in the City and he will review it before the next meeting.  
13  
14      • The City Planner asked Mr. Mandelbaum if he was amenable to deferring the  
15      SEQR determination. Mr. Mandelbaum agreed.  
16  
17      • The Commission reviewed the CC/AC memo.

18  
19 **ACTION:** Barbara Cummings made a motion, seconded by Peter Olsen, to set the  
20      public hearing for Subdivision application number SUB#332/Wetland  
21      Permit application number WP#370, which was carried by the following  
22      vote:  
23

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

### 31 32 33 **7. 6 Westbank Road**

- 34  
35      • Mr. Leo Napior, along with Ms. Beth Evans, the applicant's wetland consultant,  
36      presented a new plan to the Commission. Mr. Napior stated that the wetland line  
37      was incorrect on the previous plan and the plan now shows it to the edge of the  
38      slope on the property. He noted that the requested 5' variance in the front yard  
39      setback was approved. Mr. Napior also stated that the plan now includes a  
40      walkway down to the brook to allow for a safe pathway to access the water.  
41  
42      • Mr. Napior stated that, in consultation with Ms. Evans, it was determined that  
43      there was very little opportunity for mitigation planting on the slope to the brook,

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1 so the applicant is proposing a deed restriction or conservation easement to  
2 protect the sensitive slope area.  
3

- 4 • The Commission noted that the key thing now that the wetland line was moved is  
5 to determine the amount of impervious area in the wetland buffer. Mr. Napior  
6 replied that there is an increase of approximately 1,000 sf of impervious area in  
7 the buffer, with a total of approximately 8,000 sf in the area proposed for the  
8 deed restriction.  
9

- 10 • It was noted that a wooden walkway was suggested, with the desire that the  
11 walkway be as minimally intrusive as possible.  
12

- 13 • The CC/AC questioned how there could be no area for mitigation on the site. Ms.  
14 Evans noted that the area is very steep and it is already vegetated, so it would be  
15 necessary to disturb the area in order to implement mitigation planting. Ms.  
16 Evans noted that the area is not maintained grass, but rather ivy and woody  
17 vegetation, which is well established.  
18

- 19 • The Commission asked to see photos of the slope, since it was snow-covered at  
20 the site walk. Ms. Evans said she would take photos once the snow cover melts.  
21 The Commission also asked for the applicant to examine additional ways to  
22 stabilize the slope, if possible.  
23

- 24 • The Commission also requested that markers be put on the site to delineate the  
25 area to which the deed restriction will apply. Mr. Napior agreed and will show the  
26 location of the markers on the site plan as well.  
27

- 28 • The Commission generally felt that the wooden walkway is acceptable. Ms.  
29 Evans noted that nothing is proposed below elevation 10', which marks the  
30 beginning of the DEC-regulated area.  
31  
32

33 **8. Consideration of a recommendation to the City Council regarding the**  
34 **petition of Lazz Development/Pawling Holdings to change the zoning**  
35 **designation of County-owned property located on Theodore Fremd Avenue**  
36 **and North Street to the RA-5 District to provide for the construction of**  
37 **affordable senior housing.**  
38

- 39 • The City Planner informed the Commission that the County is aware of the City's  
40 desire to abandon the sewer line in Nursery Lane. He stated that it requires  
41 approval of the County Board of Legislators because it would involve discharge  
42 of sewage into a different sewer district.  
43

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- 1 • The Commission focused on the question of whether the change in land use is  
2 appropriate for the area. The City Planner pointed out that the comparison should  
3 be made between what is allowed under the current zoning and what would be  
4 allowed under the proposed zoning, not what exists at the site today. He noted  
5 that useful factors to compare are FAR, building height, number of stories, and  
6 setback requirements.  
7
- 8 • The Commission again discussed the issue of possible contamination both on  
9 and adjacent to the project site. The City Planner noted that the County is both  
10 property owner of the site and regulator when it comes to remediation. The  
11 Commission stressed the need for the County to sign off that the property is  
12 acceptable for the proposed use.  
13
- 14 • The Commission discussed the wetland on the site. It was noted that the wetland  
15 is low functioning. Its limited functioning can be replaced by structural stormwater  
16 controls that will manage stormwater quality and quantity.  
17
- 18 • The Commission reviewed the draft memo to the City Council prepared by the  
19 City Planner and made minor revisions.  
20

21 **ACTION:** Barbara Cummings made a motion, seconded by Martha Monserrate, to  
22 approve a memo to the City Council regarding the proposed zoning  
23 change at Theodore Fremd Avenue and North Street, which was carried  
24 by the following vote:

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

### 35 9. Minutes

- 36
- 37 • The Commission reviewed the minutes from the January 7<sup>th</sup> meeting and made  
38 minor revisions.  
39

40 **ACTION:** Laura Brett made a motion, seconded by Martha Monserrate, to approve  
41 as amended the minutes of January 7, 2014, which was carried by the  
42 following vote:  
43  
44

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