

Rye City Planning Commission Minutes
April 5, 2016

MEETING ATTENDANCE:

Planning Commission Members:

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Andrew Ball
- Laura Brett
- Hugh Greechan
- Richard Mecca
- Alfred Vitiello

Other:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

I. HEARINGS

None.

II. ITEMS PENDING ACTION

1. 14 Mendota Avenue

- Mr. Richard Horsman, landscape architect, and Mr. Peter Cole, architect, were present for the application. Mr. Horsman stated that as requested by the Commission, reductions were made in the amount of impervious surface area by removing part of the walkway. Mr. Cole stated that he pulled the deck back 4' from where the walkway was and eliminated one set of stairs.
- The Commission asked if the stairs were part of the previous approval. Mr. Horsman stated that they were put in after the last wetland permit approval. He stated that the steps were being removed and replaced with stepping stones. The Commission requested that the plans document what is currently on the site as existing conditions.
- Mr. Horsman stated that the total increase in impervious surface area is 42 sf.
- The Commission discussed the proposed mitigation planting on City property. The City Planner noted that there is a concern about having offsite mitigation and stated that an easement may be required, which is within the jurisdiction of the City Council to authorize.
- Mr. Horsman noted that 84 sf is required and most likely could be provided on-site, possibly behind the garage or in another area.

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 2 of 9

- 1 • Mr. Cole noted that a variance is required for the rear yard setback and asked
2 whether application could be made to the Zoning Board of Appeals now. The City
3 Planner responded yes.
4

5 **ACTION:** Martha Monserrate made a motion, seconded by Al Vitiello, to set the
6 public hearing for Wetland Permit application number WP#410, which was
7 carried by the following vote:
8

9 Nick Everett, Chair:	Aye
10 Martha Monserrate, Vice-Chair:	Aye
11 Andrew Ball:	Aye
12 Laura Brett:	Aye
13 Hugh Greechan:	Absent
14 Richard Mecca:	Aye
15 Alfred Vitiello:	Aye

16
17

18 **2. 140-142 Maple Avenue**

19

- 20 • Mr. Rex Gedney, architect, was present for the application. Mr. Gedney noted
21 that the project requires variances and it will also be necessary to request that
22 the Zoning Board (ZBA) “expand” the existing nonconformity on the site.
23
- 24 • The City Planner stated that he provided to the Commission excerpts from the
25 Neighborhood Business District Study from 2005 and highlighted several
26 sections that appear to provide planning rationale for the proposed project.
27 He stated that some elements of the proposal also reflect things from the
28 1985 Master Plan. He noted that while a single-family home is permitted as-
29 of-right on the subject property, it would not be supported by the market in
30 that area. He noted, however, that the ZBA has jurisdiction over the variances
31 and will be taking into consideration the establishment of precedent.
32
- 33 • The Commission stated that the 2005 study is consistent with the
34 Commission’s current recommendations on the present application. It was
35 noted that several independent studies had been done around that time in the
36 hopes of knitting together an updated plan for certain areas of the City.
37
- 38 • The Commission discussed the possibility of the applicant pursuing a zoning
39 change for the subject property. It was noted that it was an option, but it
40 would be a long, laborious process and the Commission felt it would be a
41 burden on the applicant. The City Planner noted that precedent established
42 by the ZBA could, in effect, become zoning, which is something the ZBA will
43 need to evaluate.

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 3 of 9

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- Mr. Gedney described the as-of-right plan. He stated that one single-family home would be permitted on the combined lot. The FAR would be 0.5. He stated that 3,000 sf of commercial use is also permitted and there could be two units on the second floor. He stated that individually, the lots are too small for residential uses.
 - The Commission asked whether the B-1 study recommended two-family homes or three-family homes. The City Planner stated that it recommended two-family homes. He also stated that a three-family home makes sense in the context of the streetscape.
 - The Commission reviewed the history of the site, noting that it was formerly developed with five units that could have potentially accommodated five families with children. The Commission noted that there are currently three units on the combined site and the proposal similarly includes three units but with upgraded amenities, new up-to-code construction, and aesthetic improvement to the neighborhood. The City Planner noted that the project is consistent with decades of use along the street.
 - The City Planner noted in the context of discussing precedent, it should be considered whether the precedent is desirable. He noted that the proposed application is consistent with previous recommendations of the 1985 Master Plan, the B-1 study, and the historical intent for the area.
 - The City Planner also stated that the application could be considered with respect to the ways in which it is NOT establishing a precedent; for example, it is a unique site in an opportunity area.
 - The Commission requested that the City Planner prepare a draft memo to the ZBA and circulate it to all Commission members for review. The Commission advised Mr. Gedney not to start the process with the ZBA until the Commission submits the City Planner's memo. The Commission noted that the memo will be reviewed at the April 19th meeting, which is just prior to the ZBA meeting.
- 3. 851 Forest Avenue**
- Ms. Beth Evans, wetland scientist, and Mr. Sean Jancski, landscape architect, were present for the application. The Commission stated that at the site visit, the question arose about whether the proposed deck could be subject to possible uplift from wave action during storms. The Commission expressed concern over

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 4 of 9

1 the possibility of the deck itself becoming debris during a storm. Ms. Evans
2 replied that the deck will be designed to be removed during storm events and
3 during winter. She stated that the applicant does not want the deck to be
4 damaged or to become debris and pose a potential hazard to other structures
5 and properties.
6

7 **ACTION:** Laura Brett made a motion, seconded by Martha Monserrate, to set the
8 public hearing for Wetland Permit application number WP#412, which was
9 carried by the following vote:

10		
11	Nick Everett, Chair:	Aye
12	Martha Monserrate, Vice-Chair:	Aye
13	Andrew Ball:	Aye
14	Laura Brett:	Aye
15	Hugh Greechan:	Absent
16	Richard Mecca:	Aye
17	Alfred Vitiello:	Aye
18		
19		

20 4. 6 Martin Butler Court

- 21
- 22 • Mr. Alan Pilch, engineer, and Mr. Jonathan Kraut, attorney, were present for the
23 application. The Commission noted that the Applicant had not submitted any new
24 materials prior to the meeting.
25
 - 26 • The Commission stated that the project involved removing an existing house and
27 pool and constructing a new larger residence and pool, a portion of which would
28 be located in the wetland buffer. The Commission questioned why the plan could
29 not be modified to reduce the proposed encroachment within the wetland buffer
30 consistent with the provisions of the City's wetlands law. Mr. Kraut responded
31 that the proposed plan reduces the amount of impervious area in the wetland
32 buffer and the Wetlands Law does not prohibit the construction of structures
33 within the wetland buffer. He stated his opinion that the application was
34 consistent with the wetlands law and that it offered an improvement over existing
35 conditions.
36
 - 37 • Mr. Kraut stated that the house is currently very dilapidated with a very random
38 floor plan and noted the zoning setback restrictions including that the required
39 85-foot front yard setback. He stated that the proposed residence on the same
40 footprint of the existing residence in an effort to reduce site disturbance. He
41 stated that the existing gazebo is being removed and a porch will be built on the
42 side of the house and the pool is being removed and rebuilt further to the south.
43

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 5 of 9

- 1 • Mr. Kraut stated that there is a total of 3,238 sf of existing impervious surface
2 area in the wetland buffer and 2,788 sf is proposed, for a total reduction in
3 impervious surface area in the wetland buffer of 450 sf.
4
- 5 • The Commission commented that the 85-foot setback is self-imposed in that the
6 applicant owns the adjacent lot and could merge the lots and relocate the
7 proposed residence from the wetland. Mr. Kraut responded that the properties
8 are in separate ownership and that the approved subdivision allows for each
9 building lot to have a residence.
10
- 11 • The Commission stated that pools are not something that is desirable in the
12 wetland buffer. Mr. Kraut responded that the Commission approved a similar
13 application two properties away from the subject property, which included a pool
14 and residence. He also stated that the applicant's environmental consultant, Ms.
15 Evans, would argue that a pool in the wetland buffer is preferred to maintained
16 lawn in the wetland buffer because of the amount of chemicals that are
17 associated with the care of a lawn. Mr. Kraut stated his opinion the applicant's
18 plan is environmentally sensitive and consistent with similar applications
19 approved by the Commission. He stated that there may be opportunities to
20 improve water quality that can be added to the plan.
21
- 22 • The Commission noted that the wetland law requires reducing impacts to the
23 wetland buffer to the maximum extent practicable. Mr. Kraut stated that the
24 Applicant could rebuild the house in exactly the same location without needing a
25 permit. The Commission responded that the proposal before them is not for a
26 reconstruction. The Commission noted that the deck and the pool in the buffer
27 are new and could be shifted outside of the buffer with some reasonable
28 modifications to the plan. Ms. Cunningham of the CC/AC stated that with plan
29 modifications, the pool could be moved out of the wetland buffer and should be
30 moved out of the wetland buffer based on the wetlands law.
31
- 32 • Mr. Kraut stated that the code does not read as simply as impacts have to be
33 reduced to the maximum extent practicable. The Commission disagreed. Mr.
34 Kraut commented that the Commission appeared to be changing its direction in
35 light of past decisions made by the Commission. The Commission responded by
36 stating that some past applications have had very specific and unique limitations
37 and restrictions. The Commission noted that the CC/AC reviewed the application
38 and issued a finding of unacceptable. Mr. Kraut requested and received a copy of
39 the CC/AC's memo.
40
- 41 • Mr. Kraut asked whether the Commission would be willing to consider water
42 quality improvements. The Commission responded that they would, if it can be
43 shown that the plan provides such water quality improvements.
44

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 6 of 9

- 1 • Mr. Kraut stated that his client will not move the house and is unlikely to be
2 willing to reduce the deck. He stated that the discussion should be focused on a
3 comparison between existing and proposed as required per the Code.
4

5. **11 Trails End**

6
7

- 8 • Mr. Steve Ackilli, engineer, and Mr. Andy Willard, owner and architect, were
9 present for the application. Mr. Ackilli briefly described the project. He stated that
10 it includes the construction of a two-tiered deck on the rear of the house, with the
11 lower deck extending further from the house than the upper deck. He stated that
12 the upper deck will have stairs down to the lower deck
13
- 14 • Mr. Willard stated that all of the supports for the deck will be hand-dug and the
15 cement will be hand-mixed because it is not possible to get equipment to the rear
16 of the house. He noted that the increase in impervious area is 850 sf, with
17 mitigation required for 425 sf taking into account the 50% reduction for wood.
18
- 19 • The Commission asked for clarification on the location of doors accessing the
20 deck. Mr. Ackilli responded that the upper deck is accessed via a sliding door
21 from the rear of the house and the lower deck is accessed via a sliding door from
22 the side of the house. Mr. Willard stated that the upper deck is intended to be an
23 extension of the kitchen and will enable outdoor dining, etc.
24
- 25 • The Commission discussed wetland mitigation, noting that 850 square feet of
26 plantings are required. The City Planner stated that there will be a need to
27 prevent erosion behind the house, given the steep grade. He noted that a
28 landscape architect will be needed to design the mitigation plan and suggested
29 that an area closer to the edge of the wetland might be a good place for
30 plantings. It was noted that there is a county sewer easement on the property, so
31 plantings would have to avoid that area. It was also suggested that the applicant
32 might be able to plant below the deck, given the elevation of it above the ground,
33 and fence it to keep deer away.
34
- 35 • Mr. Willard noted that the tiers in the backyard are not currently very usable and
36 he intends to do something with them to make them more usable. He stated that
37 he was unsure of whether he would be able to plant within the wetland buffer.
38 The Commission stated that planting in the buffer is fine but building in the buffer
39 is not. The Commission directed Mr. Willard to return with a wetland mitigation
40 planting plan.
41
42
43
44

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 7 of 9

1 **6. Aurora-Outdoor Dining Permit (Item taken out of order)**

- 2
- 3 • The Commission discussed the proposed outdoor dining plan submitted by the
 - 4 Applicant. It was noted that there were no complaints submitted last year about
 - 5 this restaurant's outdoor seating.
- 6

7 **ACTION:** Martha Monserrate made a motion, seconded by Laura Brett, to approve

8 Outdoor Dining Permit application number OD#05-2016, which was

9 carried by the following vote:

10

11 Nick Everett, Chair:	Aye
12 Martha Monserrate, Vice-Chair:	Aye
13 Andrew Ball:	Aye
14 Laura Brett:	Aye
15 Hugh Greechan:	Absent
16 Richard Mecca:	Aye
17 Alfred Vitiello:	Aye

18

19

20 **7. Rhythm in Rye Too-Outdoor Dining Permit (Item taken out of order)**

- 21
- 22 • The Commission reviewed the outdoor dining plan submitted by the Applicant.
 - 23 The City Planner noted that there were no complaints submitted last year about
 - 24 this restaurant's outdoor seating.
- 25

26 **ACTION:** Laura Brett made a motion, seconded by Martha Monserrate, to approve

27 Outdoor Dining Permit application number OD#07-2015, which was

28 carried by the following vote:

29

30 Nick Everett, Chair:	Aye
31 Martha Monserrate, Vice-Chair:	Aye
32 Andrew Ball:	Aye
33 Laura Brett:	Aye
34 Hugh Greechan:	Absent
35 Richard Mecca:	Aye
36 Alfred Vitiello:	Aye

37

38

39 **8. 8-10 Purchase Street**

- 40
- 41 • Mr. Michael Stein of Hudson Engineering was present for the application. Mr.
 - 42 Stein stated that the salon wants to expand into the retail space next door to its
 - 43 current location. He stated that the front elevation of the two spaces will be

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 8 of 9

1 modified from two entrances to one set of doors. He noted that it will have a look
2 similar to that of Havana Jeans with a single entrance and an awning overhead.

- 3
4 • The Commission asked if any changes were being proposed to the rear of the
5 building. Mr. Stein stated that there were not. The Commission asked about trash
6 pickup. The Applicant stated that it would remain as it is currently, which is that
7 the tenant puts trash out at the rear of the building and it is collected by a private
8 hauler contracted by the landlord.

9
10 **ACTION:** Martha Monserrate made a motion, seconded by Al Vitiello, to set the
11 public hearing for Site Plan application number SP#361, which was carried
12 by the following vote:

13
14 Nick Everett, Chair: Aye
15 Martha Monserrate, Vice-Chair: Aye
16 Andrew Ball: Aye
17 Laura Brett: Aye
18 Hugh Greechan: Absent
19 Richard Mecca: Aye
20 Alfred Vitiello: Aye

21 22 23 **9. 3 Sackett Landing**

- 24
25 • Martha Monserrate recused herself from the discussion of this application.
26
27 • Ms. Cheryl Russ, landscape architect, was present for the application. Ms. Russ
28 stated that the project consists of installing a retaining wall to retain soils that are
29 currently retained by the existing house, which will be demolished. She noted that
30 there will be a reduction in impervious surface area of 4,332 sf.
31
32 • The Commission asked Ms. Russ whether any new structures are being
33 proposed. She replied that a patio and fire pit are proposed, as well as a small
34 grotto for kayak storage. She noted that there is currently a lot of lawn area,
35 some of which will be planted with perennials to augment the ecosystem and
36 help reduce runoff. She also noted that the existing prickly pear will probably be
37 removed.
38
39 • Ms. Russ stated that no disturbance is proposed to the existing topography. She
40 stated that the retaining wall will go where the existing foundation is and the area
41 will be backfilled. Ms. Russ also stated that the new 633 sf of impervious that is
42 proposed includes the walls, fire pit, and grotto.
43

Rye City Planning Commission Minutes (Cont.)

April 5, 2016

Page 9 of 9

- 1 • The Commission noted that the reduction in impervious surface area in the
2 wetland buffer is significant.

3
4 **ACTION:** Laura Brett made a motion, seconded by Al Vitiello, to set the public
5 hearing for Wetland Permit application number WP#415, which was
6 carried by the following vote:

7
8 Nick Everett, Chair: Aye
9 Martha Monserrate, Vice-Chair: Recuse
10 Andrew Ball: Aye
11 Laura Brett: Aye
12 Hugh Greechan: Absent
13 Richard Mecca: Aye
14 Alfred Vitiello: Aye

15
16
17 **10. Minutes**

- 18 • The Commission reviewed the minutes from the March 22, 2016 meeting and
19 made minor revisions.

20
21
22 **ACTION:** Martha Monserrate made a motion, seconded by Laura Brett, to approve
23 as revised the minutes from the March 22nd meeting, which was carried by
24 the following vote:

25
26 Nick Everett, Chair: Aye
27 Martha Monserrate, Vice-Chair: Aye
28 Andrew Ball: Aye
29 Laura Brett: Aye
30 Hugh Greechan: Absent
31 Richard Mecca: Aye
32 Alfred Vitiello: Aye

33
34
35