

Rye City Planning Commission Minutes
February 6, 2018

MEETING ATTENDANCE:

Planning Commission Members:

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

Other:

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

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3 **1. 6 Dalphin Drive**

- 4
- 5 • Mr. Steven Ripp, applicant, was present for the application. Mr. Ripp stated that
6 the project involves installing a children's play set in the wetland buffer, which
7 involves a disturbance area of 0.004 acres. He noted that at the request of the
8 Planning Commission, two locations (A and B) were evaluated by a wetland
9 consultant and neither were determined to have any impact on the wetland itself.
10 He stated that Location B was determined to have more impact to the buffer
11 because it would require three times the amount of fill as Location A, resulting in
12 more disturbance. He also noted that it would require a retaining wall up to 3.5'
13 high, which would present a safety concern for the children.
14
 - 15 • There were no questions from the Planning Commission.
16
 - 17 • Mr. Russ Crawford, 8 Dalphin Drive – Mr. Crawford stated that he is a direct
18 neighbor of the subject property. He distributed to the Commission photos of the
19 view from his house toward the play set location (Location A). He stated that he is
20 opposed to Location A and asked the Commission to require the homeowner to
21 move the play set to a different location, or remove it.
22
 - 23 • Mr. Crawford stated that he believed the only reason the play set was placed in
24 Location A was to minimize its impact on the homeowners' views, with no regard
25 to the impact on views from his house. Mr. Crawford stated that the play set is
26 nearly on his property line and almost on top of a rock wall.
27
 - 28 • He stated that there are many constraints on the subject property and several
29 previous owners tried to make improvements to the property. He stated that many
30 times, previous owners reached out to him to discuss the improvements they were
31 proposing and he never objected. He said that the current owners never
32 approached him to discuss the play set. He stated that he became aware of the
33 activity when he saw construction occurring on the property. Mr. Crawford stated
34 that the City issued a violation but work continued.
35

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- 1 • Mr. Crawford noted that Mr. Ripp cited safety as a concern in choosing an alternate
2 location. He said that Mr. Ripp did not mention that the play set is currently located
3 on top of a wall with a 6-8' foot drop to the wetland below. He also stated that the
4 play set location will deprive wildlife of habitat and will damage tree roots. He stated
5 that the kids will outgrow it and then it will be left to rot in its place, becoming an
6 eye sore.
- 7
- 8 • Mr. Ripp stated that it is clear that the neighbor's concern is the impact to views.
9 He stated that there is no property right to that view and if he chose to, he could
10 install any kind of vegetation he wanted there.
- 11
- 12 • The Commission agreed that the main issue seemed to be the view. The
13 Commission noted that views are not one of the criteria it considers when deciding
14 whether to grant a wetland permit. The Commission asked whether there were any
15 impacts from the construction process. Mr. Ripp stated that some small branches
16 needed to be cut down, but otherwise no impacts were observed.
- 17
- 18 • The Commission also noted for Mr. Crawford's benefit that they did conduct a site
19 visit and observed the play set location, and stated that they are familiar with the
20 property and its constraints.
- 21

22 **ACTION:** Andrew Ball made a motion, seconded by Richard Mecca, to close the
23 public hearing for Wetland Permit Application Number WP#429, which was
24 carried by the following vote:

25		
26	Nick Everett, Chair:	Aye
27	Martha Monserrate, Vice-Chair:	Aye
28	Andrew Ball:	Aye
29	Laura Brett:	Absent
30	Richard Mecca:	Aye
31	Steven Secon	Aye
32	Alfred Vitiello:	Absent
33		
34		

35 **2. 4 Sackett Landing**

- 36
- 37 • Mr. Richard Horsman, the applicant's landscape architect, was present for the
38 application. Mr. Horsman stated that the application involves the removal of the
39 existing house, garage, and walkways and replacing the disturbed areas with
40 additional plantings. He noted that almost 4,000 sf of impervious area was
41 proposed to be removed and 5,806 sf of landscaping would be planted in the
42 wetland buffer.
- 43
- 44 • There were no questions from the Commission and no comments from the public.
- 45

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1 **ACTION:** Richard Mecca made a motion, seconded by Andrew Ball, to close the
2 public hearing for Wetland Permit Application WP#431, which was carried
3 by the following vote:

4		
5	Nick Everett, Chair:	Aye
6	Martha Monserrate, Vice-Chair:	Recuse
7	Andrew Ball:	Aye
8	Laura Brett:	Absent
9	Richard Mecca:	Aye
10	Steven Secon	Aye
11	Alfred Vitiello:	Absent
12		
13		

14 **II. ITEMS PENDING ACTION**

15
16 **1. 6 Dalphin Drive**

- 17
- 18 • The Commission noted that when considering applications where some
19 construction had been put in place without a permit, they have to assume nothing
20 has been built in order to fully evaluate the potential impacts of the project. The
21 Commission asked what the distance is between Location A and the seawall. Mr.
22 Ripp noted that the play set is essentially on the seawall, but is 8-10' from the
23 wetland. The City Planner noted that the seawall serves as the mean high water
24 line and there is wetland vegetation up to the wall.
25
 - 26 • The Commission noted that the height of the retaining wall and the amount of fill
27 required for Location B are a concern in the wetland buffer. It was noted that the
28 amount of fill was the most significant difference between the two locations. It was
29 also noted that the presence of the seawall reduces the function and benefits of
30 the wetland buffer somewhat, so there is little difference between the two locations
31 even though one is closer to the wetland than the other.
32
 - 33 • The Commission again stated that views and safety are not factors in determining
34 whether to grant a wetland permit.
35
 - 36 • The Commission reviewed the draft resolution and made minor revisions. It was
37 agreed that a condition should be added to the resolution restricting the use of
38 ground cover material beneath the play set to wood chips or grass only, which
39 would prevent a rubberized or other similar surface from being introduced into the
40 wetland buffer.
41

42 **ACTION:** Richard Mecca made a motion, seconded by Andrew Ball, to approve as
43 amended Wetland Permit Application Number WP#429, which was carried
44 by the following vote:

45

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1	Nick Everett, Chair:	Aye
2	Martha Monserrate, Vice-Chair:	Aye
3	Andrew Ball:	Aye
4	Laura Brett:	Absent
5	Richard Mecca:	Aye
6	Steven Secon	Aye
7	Alfred Vitiello:	Absent

8
9

10 **2. 4 Sackett Landing**

- 11
- 12 • The Commission reviewed the draft resolution and made minor revisions.

13

14 **ACTION:** Richard Mecca made a motion, seconded by Steven Secon, to approve as
15 amended Wetland Permit Application Number WP#431, which was carried
16 by the following vote:

17		
18	Nick Everett, Chair:	Aye
19	Martha Monserrate, Vice-Chair:	Recuse
20	Andrew Ball:	Aye
21	Laura Brett:	Absent
22	Richard Mecca:	Aye
23	Steven Secon	Aye
24	Alfred Vitiello:	Absent

25
26

27 **3. 3 Club Road**

- 28
- 29 • Mr. Leo Napior, applicant’s attorney, was present for the application. Mr. Napior
30 stated that draft easements were submitted to the City Planner and the sight line
31 analysis and road location were reviewed by the City Engineer. The Commission
32 asked the City Planner if Corporation Counsel had any comments on the draft
33 easements. The City Planner indicated that he did not anticipate comments but
34 would check with her.

- 35
- 36 • The City Planner noted that he visited the subject property with the City Engineer
37 and they reviewed the comments from the neighbor. He stated that the City
38 Engineer found the proposed location of the private road to be acceptable and
39 thought the sight distance would be worse if the private road were shifted closer to
40 Highland. He stated that the City Engineer had no concerns about the alignment
41 of the intersection as proposed.

- 42
- 43 • The City Planner also reported that he spoke to the Commissioner of Public Safety
44 and he stated that despite the existence of a “Grainger Field” in Rye, there were
45 no concerns with naming the private road “Grainger Way.”

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- The Commission verified that the applicant provided a tree preservation plan. The Commission reviewed the draft resolution and made no revisions.

ACTION: Andrew Ball made a motion, seconded by Richard Mecca, to approve as amended Subdivision Application Number SUB#347, which was carried by the following vote:

Nick Everett, Chair:	Aye
Martha Monserrate, Vice-Chair:	Aye
Andrew Ball:	Aye
Laura Brett:	Absent
Richard Mecca:	Aye
Steven Secon	Aye
Alfred Vitiello:	Absent

4. 280 Purchase Street

- Mr. David Mooney, architect, was present for the application. Mr. Mooney stated that as a result of comments at the last Commission meeting, he prepared two zoning-compliant site plans and a third one that requires some variances.
- Mr. Mooney stated that Site Plan A has two buildings in a similar configuration to the original proposal, except that Building A has been shifted away from the residential neighbor and toward Purchase Street so that side and rear yard variances are no longer needed. Building B has been moved so that the 10' planting strip can be provided and the building is smaller to comply with the rear yard setback requirements. Mr. Mooney noted that two parking spaces are lost under Site Plan A but the parking is zoning-compliant.
- Mr. Mooney stated that Site Plan B has two buildings fronting onto Purchase Street with parking in the rear. He stated that this plan includes 6,832 sf or 73% of FAR and has 18 parking spaces.
- Mr. Mooney stated that Site Plan C is a variation of the original site plan taking into account the neighbor's concerns. He stated that Building A meets the rear yard setback requirement but a variance would still be needed for the planting strip adjacent to Building B. He also noted that no height variance would be required. He stated that the maximum height is 35' and the buildings are proposed to be a maximum of 24'.
- The Commission asked for the floor area totals for each version of the site plan. Mr. Mooney stated that Site Plan A had 7,710 sf of floor area, Site Plan B had 6,832 sf, and Site Plan C had 9,280 sf.

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- The City Planner showed the Commission aerial mapping of the site and its relation to adjacent properties on Purchase Street. The Commission discussed the relationship of most of the other buildings to Purchase Street and how the consistent frontage helps define the character of that portion of the street. Mr. Mooney suggested that the Commission should visit the site again to remind themselves of its constraints.
 - The Commission asked if it would be possible to increase the size of the buildings if parking was not a concern. Mr. Mooney replied yes. The Commission asked about the intended use of the property. Mr. Mooney stated that the applicant would move the deli and flower shop into Building B, but would operate out of Building A while B was being constructed. The Commission noted that the plan to operate in Building A while B is built is not affected by any of the site plans. The City Planner stated that there are operational challenges to running a business while the rest of the site is under construction. He also stated that consideration needs to be given to what happens if Building B is not constructed. He also said that owners can change and there is no guarantee that the plans will actually happen as shown.
 - The Commission asked which plan was best from a professional planning perspective. The City Planner stated that in the past, buildings that were built back from the street were not preferred and were very disruptive to the streetscape. He stated that it is preferable to have parking at the rear of buildings; however, he noted that that is not necessarily marketable. He also noted that there are conflicts with the parking and the access driveway. He said it is generally not good to have cars backing out into the entrance. Mr. Mooney stated that all of the adjacent buildings have that same problem. The City Planner also stated that he understands the desire of the applicant to maximize square footage.
 - It was noted that on-street parking is permitted in the area and the Site Plan B is better for on-street parking because there is more space between curb cuts. Mr. Lagana (applicant) stated that there is actually limited on-street parking because there is a bus stop in front of the property.
 - The City Planner stated that the original site plan leaves no opportunity to soften the wall at the rear of the property with landscaping. He also noted that Site Plan B does not have an area for outdoor sales. The Commission noted that the outdoor plants and flowers are part of the charm of the site. Mr. Mooney stated that that aspect of the business will be drastically reduced because the applicant is not able to stay competitive with places like Home Depot and Costco.
 - The Commission noted that it seems like Site Plan B is preferred by the City Planner. The Commission asked if it would be possible to eliminate one curb cut. Mr. Mooney stated that there is not enough room on the site for vehicle circulation with only one curb cut. The City Planner noted that if you eliminate the two parking

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1 spaces between the buildings in Site Plan B you could get bigger buildings, but
2 then the parking requirements would also go up.
3

- 4 • The Commission discussed the need for two separate buildings. It was noted that
5 two buildings are more expensive to construct; two stormwater designs are
6 needed, etc. Mr. Mooney stated that Site Plan C gives much larger buildings and
7 noted that parking at the rear of the site is not preferable to the applicant. The
8 Commission disagreed and thought that parking in the rear would work for the
9 proposed use. It was suggested that with one building, it could be constructed in
10 parts so that the existing business could move into one part while the other is
11 finished.
12
- 13 • The Commission asked whether it would be possible to have a larger second floor
14 by cantilevering the top floor over the bottom. Mr. Mooney stated that retail is the
15 driving factor for revenue so more or larger apartments would not generate much
16 more income. The City Planner disagreed, stating that in many instances the upper
17 floor apartments essentially subsidize the ground floor retail.
18
- 19 • The Commission stated that Site Plan B had the best parking plan. The
20 Commission recommended that Mr. Mooney look for ways to maximize space for
21 the applicant, and find ways to soften the appearance of the wall. It was noted that
22 planted trees may not survive at the rear of the site because of the presence of so
23 much rock. The Commission suggested that potted plants could be used.
24
- 25 • The Commission noted that the project site is essentially at a gateway to the City
26 of Rye and orienting the buildings to the street would be preferred. The
27 Commission noted that they would visit the site again on Saturday, February 10.
28 Mr. Mooney stated that he will explore the idea of one building on the site but he
29 did not think it would meet the applicant's needs. He stated that the deli and food
30 service portion of the building needs a large back-of-house area for food service,
31 with a long run of space for the kitchen, etc. He also noted that parking in front of
32 the building works well for people who want to run into the deli for something quick.
33
- 34 • The Commission suggested the possibility of orienting the buildings differently on
35 the site. Mr. Mooney stated that he believed they already explored that, but he will
36 take another look. The Commission stated that there are more ways to design the
37 layout and that should be explored.
38

40 **5&6. Coveleigh Club Lighting Installation and Fence Replacement**

- 41
- 42 • No one representing the applicant was present at the meeting. The Commission
43 distributed comments from the CC/AC and briefly discussed the applications.
44

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1 **ACTION:** Richard Mecca made a motion, seconded by Steven Secon, to set the
2 public hearings for Wetland Permit Application Numbers WP#432 and
3 WP#433, which was carried by the following vote:
4

5	Nick Everett, Chair:	Aye
6	Martha Monserrate, Vice-Chair:	Aye
7	Andrew Ball:	Aye
8	Laura Brett:	Absent
9	Richard Mecca:	Aye
10	Steven Secon	Aye
11	Alfred Vitiello:	Absent

12
13

14 **7. 125 Wappanocca Avenue**

15

- 16 • Mr. David Mooney, applicant's architect, was present for the application. Mr.
17 Mooney stated that the application involves raising the existing house above the
18 floodplain elevation. He stated that the majority of the property is located within the
19 wetland buffer. He also noted that the footprint of the house will not be expanded.
20
- 21 • Mr. Mooney stated that 2,250 sf of impervious area will be removed, of which 2,040
22 sf is in the wetland buffer. He noted that the deck at the rear of the house will be
23 rebuilt.
24
- 25 • The Commission noted that the deck encroaches a small bit into the floodway. The
26 Commission recommended that the deck be made smaller to remove it from the
27 floodway.
28
- 29 • The City Planner noted that the project requires a small variance from the
30 maximum FAR, as well as a variance to allow three stories instead of 2 ½ stories.
31

32 **ACTION:** Richard Mecca made a motion, seconded by Steven Secon, to set the
33 public hearing for Wetland Permit Application Number WP#434, which was
34 carried by the following vote:
35

36	Nick Everett, Chair:	Aye
37	Martha Monserrate, Vice-Chair:	Aye
38	Andrew Ball:	Aye
39	Laura Brett:	Absent
40	Richard Mecca:	Aye
41	Steven Secon	Aye
42	Alfred Vitiello:	Absent

43

44

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1 **8. Minutes**

2

- 3 • The Planning Commission reviewed the draft minutes from the January 23, 2018
4 meeting and made minor revisions.

5

6 **ACTION:** Martha Monserrate made a motion, seconded by Richard Mecca, to
7 approve as amended the minutes from the January 23rd meeting, which was
8 carried by the following vote:

9

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

17

18