

Ray Tartaglione
101 Westmoreland Ave.
White Plains N.Y. 10606
914-948-1100
ray@rjtauto.com

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Dear Planning Commission Members,

I am the adjoining neighbor to the residence referenced in WP # 262. My cottage is located on the south side of the residence in question. As you are aware, Hen Island is currently seeking approval of the construction of a wall along the shores of the Long Island Sound. The present application in front of the commission includes many fallacies. I also believe Mr. Horseman may not be aware of the true facts involved.

What the Hen Island Board of Directors has failed to tell Mr. Horseman and the commission is that in 2002, the wall in question was simply repaired and stabilized -- for which no permits were required -- by workmen supplied and supervised by myself on my neighbor's behalf. In 2007, the wall was **expanded** under the guise of a repair. The wall in question was expanded in an effort to enlarge a patio/side yard without the necessary permits and applicable environmental consideration. The comments attached to the photo's and the application are not accurate as they state:

- 1) No significant soil materials were disturbed during the construction of the wall.
- 2) No wetlands soils were moved or disturbed by the activities of this project.
- 3) No natural aesthetic values were impacted by this project.
- 4) The purpose for the re-construction of the existing sea wall was to prevent further deterioration of the seawall so that it will be safer and better able to withstand the impacts of storm activity.
- 5) The proposed activity is not located within a designated area.
- 6) The existing vegetation was left undisturbed.

I am confident that most of these inaccurate statements were supplied to Mr. Horseman in an effort to again avoid environmental responsibility by the Hen Island Board of Directors. It should be noted that this wall is owned by the Kuder Island Colony Corporation which also owns Hen Island and is the applicant in this matter. I have attached a pre-construction photo referenced below. In addition to the above, I would also respectfully request the following be taken into consideration when reviewing the application.

It is my understanding that the application must first obtain approval from the New York State

Department of Environmental Conservation, the Department of State and the New York State Historic Preservation Office. It has been confirmed by the NYSDEC that it has jurisdiction based on the entire island being regulated under Article 25, Tidal Wetlands, under Article 34, Coastal Erosion, and under Article 11, Threatened and Endangered Species. The Department of State will require review since the island is within the Coastal Management Area and is a Significant Coastal Fish and Wildlife Habitat area. The project also requires review by the New York State Historic Preservation Office for potential archaeological resources and visual impacts on a National Registry Historic District.

The application shows erosion control as justification for work done. In the areas where tidal erosion would occur there is stable bedrock. Above that area it would be subject to erosion during occasional severe storms or as a result of storm water runoff. A photograph of conditions prior to the work being done shows dense vegetation in this area acting as a natural erosion barrier. Such vegetation would not be able to exist under unstable soil conditions caused by erosion so significant that it would require a protective barrier.

These two factors combined show that there was no need for erosion protection and based on a view of the project it is easy to conclude that the reasons for this project were not to protect property but rather to increase property.

The photograph of conditions prior to work being done shows an area that is suitable as a breeding, nesting and feeding area for shorebirds and migratory songbirds. In fact, Hen Island is designated as a Significant Coastal Fish and Wildlife Habitat by the New York State Office of Parks, Recreation and Historic Preservation. This designation speaks to the natural value of Hen Island and the importance of sustaining and increasing its natural features. The vegetation that was removed is in excess of the allowable selective cutting or trimming as defined by Chapter 197. The vegetation should be fully restored with equal quantity of plantings that are native and suitable for nesting and feeding by shorebirds and songbirds. According to the recommendations of the CAC the seawall should be replaced to its original condition. If for some reason the seawall is not removed, the required planting should be a significant to compensate for loss and damage caused by the construction.

By the installation of the new walkway in front of the residence (not mentioned in the Violation) the applicant has increased the impervious area and that issue should also be addressed. There has also been a substantial amount of fill, including the new stone for the wall, placed in the shore area. This fill was obtained from the adjacent beach and it is worth investigating this finding of fact. Not only are both these activities regulated at the state and local level, they will likely cause the death of the vegetation that remains (due to salt and other contaminants leaching into the soil and the depth of fill placed around the trees) and may have negative impacts on the shore where the "fill" was removed.

This seawall appears to have been built without the professional guidance of a certified engineer (which is required). The stability of the wall is unknown and may inadvertently injure a person

walking on the beach or up on the fill area behind the wall. The project is unacceptable without an engineer confirming that the wall can withstand the minimum 30 year requirement of stability.

The application is inconsistent with the City of Rye Local Waterfront Revitalization Program (LWRP), adopted on June 19, 1999:

According to Policy Number 7 of the LWRP:

“Significant Coastal Fish and Wildlife Habitats, as identified on the coastal area map shall be protected, preserved and where practical, restored so as to maintain their viability as habitat.”

According to Policy 11 of the LWRP:

“In coastal high-hazard areas fill may be placed only as part of an approved plan for the construction of a seawall or similar protective barrier, which has been designed by a civil engineer, with a professional engineering license, except that no structure shall be erected on such fill until the Flood Boundary and Floodway Map or Flood Insurance Rate

Map has been amended to show that the land on which the structure is to be erected has been designated as an A, AD, AH, AI-A30, A99, B, C, or D Flood Insurance Zone.” “No person may engage in any regulated activity in an Erosion Hazard Area as depicted on the Coastal Erosion Hazard Areas Map of the City of Rye, without first obtaining a Coastal Erosion Management Permit.”

Hen Island is located in both a Flood Hazard Area and a Coastal Erosion Hazard Area.

According to policy 25 of the LWRP:

“When considering a proposed action which would not affect a scenic resource of statewide significance, agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area.”

(LWRP), adopted on June 19, 1999:

The long standing precedent of work being done on Hen Island without consideration of Rye City Code is dangerous and can potentially cause serious harm. Similar work can be found throughout the Island and should be investigated. I would encourage the Commission to view the website HEALtheHARBOR.com. I direct you attention to the photo's and video section under environmental heading. The Hen Island community has been negating environmental laws and snubbing their nose at enforcement officials for years. I would request the city take note and respond appropriately. The commission should also be advised just last summer Kuder Island Corporation was allowed to build a

cottage on Hen Island without meeting any of the Rye City or County Health Department sanitary codes for sewer or potable water. The applicant dug a hole in the ground and deposits gray water effluents without any permits or approvals. I respectfully state, this is the time to stop this type of blatant disregard for the environment. When all is said and done, it's not the wall expansion itself that is objectionable, it is the fact that, once again, the Hen Island community has bypassed consideration for the environment and have failed to do things properly according to code.

Thanking you in advance for your consideration,

Ray Tartaglione

