



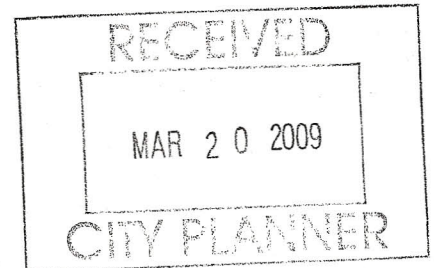
CONSERVATION COMMISSION/ADVISORY COUNCIL

TO: Rye City Planning Commission,
c/o City Planner – Christian Miller

FROM: Conservation Commission Advisory Council (CC/AC)

RE: WP# 161– Malloy Cottage Seawall (Kuder Island)

DATE: 3/20/09



Description:

Construction of new/expanded seawall on Kuder (Hen) Island within tidal wetland buffer including additional backfill.

Existing Conditions:

The wetland area is Long Island Sound (Milton Harbor). The work has been completed already. Therefore, this application is for retroactive approval.

Findings:

The aforementioned wetland permit application referral was received from the City Planning Commission on February 27, 2009.

Although the application alleges no increase in impervious surface, the seawall has been expanded substantially upwards and laterally across the shore. Vegetation clearing and backfill with soil was also part of the wall installation. As such, the project constitutes both additional fill and additional impervious surface within the 100' City of Rye wetland buffer.

The CC/AC cannot support this application because pre-construction conditions do not warrant its installation. Erosion/slope slumping are not in evidence and indeed part of the shorefront property well above mean high water is bedrock. It appears that one of the reasons for the wall installation was to create a backfilled terrace area to expand the yard seaward.

The CC/AC encourages a more natural treatment of the shoreline and therefore does not support armoring of the coastline without further evidence of serious erosion endangering structures.

The CC/AC finds this application:

Unacceptable in present form

1. **The CC/AC is in favor of removal of the newly constructed portions of the seawall without further documentation as to its need.**
2. **Short of removing the newly built portions of the seawall, there is not much the applicant can do on his/her property to remedy the situation. The City may wish to consider contribution to a wetland mitigation fund for tidal wetland projects in proximity to this property.**
3. **The application must include calculations showing increase in impervious surface. If approved as-built, mitigation plantings are required.**
4. **The applicant is listed as the Board of Directors of Kuder Island Colony, Inc. and not the occupant of the Molloy Cottage. The City may wish to obtain documentation from the Board of Directors approving/authorizing this work. All of the properties owned communally by the residents of Kuder Island are affected by the City's wetlands ordinance. Therefore it is advised that some mutual understanding be explored to clarify the proper procedure for approving work in the regulated areas to avoid a similar situation in the future. Clearly the homeowner or Board of Directors should have applied to the City for a permit before beginning this work.**

The CC/AC is requesting written findings from the Planning Commission in the event that the Planning Commission determinations are not consistent with the above report.