

**CITY OF RYE  
1051 BOSTON POST ROAD  
RYE, NY 10580  
AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL  
Wednesday, May 8, 2019  
7:30 p.m.**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, May 8, 2019, at 7:30 p.m. at the **Square House**. *The meeting will move from the Square House to Council Chambers in City Hall at approximately 8:45 p.m.*

1. Pledge of Allegiance.
2. Roll Call
3. General Announcements.
4. Draft unapproved minutes of the Regular Meeting of the City Council held April 24, 2019.
5. Residents may be heard on matters for Council consideration that do not appear on the Agenda.
6. Consider setting a Public Hearing on May 22, 2019 to amend the text of the City of Rye Zoning Code to permit physical fitness facilities in the B-1 (Neighborhood Business) and B-2 (Central Business) Zoning Districts within the "A" and "B" Parking Districts.
7. Consideration of a Road Paving Plan for 2019.
8. Presentation of 2018 General Fund financial results.
9. Appointments to Boards and Commissions, by the Mayor with Council approval.
10. Miscellaneous communications and reports.
11. Old Business/New Business.
12. Adjournment

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, May 22, 2019 at 7:30 p.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

**The Mayor and City Council have office hours in the Mayor's Conference Room Annex at Rye City Hall, 1051 Boston Post Road. Attendance by the Mayor and Council Members will vary. The Mayor's Conference Room Annex is located on the 1<sup>st</sup> floor of City Hall adjacent to the Council Chambers. Hours are as follows:**

**Mondays 9:30 a.m. to 11:00 a.m.**

**Wednesdays 9:30 a.m. to 11:00 a.m.**

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on April 24, 2019, at 7:30 P.M.

PRESENT:

JOSH COHN, Mayor  
SARA GODDARD  
EMILY HURD  
RICHARD MECCA  
JULIE SOUZA  
BENJAMIN STACKS  
Councilmembers

ABSENT: None

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Hurd, enter into executive session to discuss litigation and personnel matters. At 7:38 P.M., Councilman Mecca made a motion, seconded by Councilwoman Hurd, to exit executive session and commence the regular meeting of the City Council. The meeting began at 7:46 P.M.

1. Pledge of Allegiance.

Mayor Cohn called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call.

Mayor Cohn asked the City Clerk to call the roll; a quorum was present to conduct official City business.

3. General Announcements.

Mayor Cohn announced that the City had been awarded a grant of \$1.5 million to do pedestrian improvements on Forest Avenue. He said the hope was to have a combination of a walking path and running path along Forest Avenue. With that project, the Forest Avenue repaving would wait until the City was able to execute those improvements.

4. Draft unapproved minutes of the regular meeting of the City Council held March 27, 2019 and April 10, 2019 as well as the Joint Meeting of the School Board and City Council held April 6, 2019.

Councilwoman Hurd made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the minutes of the Regular Meeting of the City Council held March 27, 2019

and April 10, 2019 as well as the Joint Meeting of the School Board and City Council held April 6, 2019.

8. Announcement of the Rye Sustainability Leadership Awards.

Councilwoman Goddard announced that in recognition of Earth Week and as part of its mission to implement the Rye Sustainability Plan, the Rye Sustainability Committee has created a Rye Sustainability Committee Leadership Award. This award honors individuals, organizations or members of the business community that have made significant environmental achievements and demonstrated excellence in leadership for the health of the community and planet.

Councilwoman Goddard announced and acknowledged each recipient of the 2019 Rye Sustainability Committee Leadership Award:

Business Category: Rosemary and Vine

Individual Category: Carolyn Cunningham

Municipal Category: 1) Ryan Coyne (City Engineer) 2) City of Rye Department of Public Works 3) Michelle Sterling, Scarsdale Conservation Advisory Council 4) Ronald Schulhof, Scarsdale Conservation Advisory Council

Non-Profit Category: Suzanne Clary, President, Board of Trustees, Jay Heritage Center

Youth Category: Rye Girl Scouts Troop 2196

5. Residents may be heard on items not appearing on the agenda.

Linda Lefkowitz, 38 Oakwood Avenue, asked about the senior citizens being able to use the swimming pool for the 2019 season. She also expressed concern regarding the cost of joining the senior citizens for the year, as the price had gone up 50% recently. She also asked that communications from the seniors be sent out electronically.

Mayor Cohn announced that the revitalized Senior Advocacy Committee has the issue of costs on its agenda tomorrow morning. At the moment there is no proposal.

Ms. Lefkowitz expressed fond memories of Ralph Damiano, former Recreation Superintendent.

Irwin Lefkowitz, 38 Oakwood Avenue, asked about the newly-improved Fireman's Circle. He was concerned about the changes made to the pattern of the circle.

6. Acknowledgement of the City of Rye as recipient of the Westchester County Eco Award for its outstanding contribution to the County's environment by having one of the top three highest municipal curbside recycling rates in 2018.

The Rye Sustainability Committee thanked Ryan Coyne and the entire DPW staff for their efforts with curbside recycling. The DPW was presented with the Westchester County Eco Award for its outstanding contribution to the County's environment by having one of the top three highest municipal curbside recycling rates in 2018.

7. No Idling Proclamation.

Mayor Cohn read the following proclamation:

*WHEREAS, the City of Rye is joining with area schools to declare Wednesday, April 24, 2019 a day of awareness about the harmful effects of engine idling and to encourage the community to take action to reduce unnecessary idling; and*

*WHEREAS, the City recognizes that excessive emissions from idling are harmful to the environment, and impact the health, safety and welfare of the community; and*

*WHEREAS, the City recognizes that unnecessary idling is against the law, punishable up to \$150 for a vehicle idling for longer than three minutes at a time; and*

*WHEREAS, idling is a waste of fuel and money and negatively impacts air quality; and*

*WHEREAS, the City Council encourages residents to turn off their vehicles without idling, to spread this helpful information on idling to friends and family, and to be aware of the multitude of negative impacts on our community that idling presents; and*

*NOW, THEREFORE, BE IT RESOLVED, that I, Josh Cohn, Mayor of the City Rye, on behalf of the City Council, do hereby declare Wednesday, April 24, 2019, to be “No Idling Awareness Day” in the City of Rye.*

9. Consideration of a Road Paving Plan for 2019.

Mayor Cohn announced that Forest Avenue would be paved in conjunction with the capital improvements that come as a result of the City receiving the aforementioned grant for pedestrian safety.

Mayor Cohn also commented that according to Westchester County, Theodore Fremd, a County-owned road, was due to be paved between North Street and Purchase Street.

Gordon Daring, VHP, addressed the Council. Mr. Daring summarized the thought process behind the paving priority recommendations. He said it would be prudent to focus on the key streets that are in the most need. He reiterated that the total annual program cost for 2019 is \$1.7 million. This includes approximately \$100,000 for crack sealing and small repairs. He said that he was hopeful that the unit costs received through the bids will be a little bit lower than the total budget, and have planned for that occurrence having identified a few extra roads in case.

Mr. Daring presented a map with recommendations, identifying specific neighborhoods. There was discussion about the Barlow Lane area with respect to priority and strategy, among other neighborhoods.

Mayor Cohn said that he was concerned that the recommendations did not seem to address the worst rated roads as a priority. Mr. Daring said that with regard to roads such as Barlow, the paving could skip over the better part, but there are strategic reasons to do an entire road. Strategy considers the mobilization aspect, and that the unit cost of piecemeal paving may be a bit more.

There was general discussion over priorities, need and strategy for paving. There was discussion over the data being five years old, and the projected map.

Mr. Daring discussed the process of paving, including milling. There was more general discussion over paving priorities and the strategy for using the \$1.7 million budgeted cost.

Councilman Mecca asked Mr. Daring to produce the plan for the following year. The Council agreed that this may be a good piece of information to have. There was discussion over the fact that paving is a multi-year endeavor to eventually be able to pave all of the streets in Rye. Mr. Daring agreed to return to the Council with the requested information.

10. Consideration of a Local Law amending our City Code to allow certain well-qualified debt of enterprise funds outside the charter debt limit.

Greg Usry, Finance Committee Chair, addressed the Council. He explained the currently, the debt for enterprise funds is subject to either the City's self-imposed debt limit or public referendum. The proposal is to make enterprise debt exempt from these two avenues, which would require a Charter change. Debt issued on behalf of the enterprise funds would be backed by the full faith of the City's credit rating. However, the proposed debt issued by the enterprise funds would be subject to financial tests determining ability to pay and ultimately, Council approval.

Mr. Usry stressed that debt on behalf of the enterprise funds is ultimately the responsibility of the taxpayer. He mentioned that historically, the Rye Golf Club has paid its debt with its own funds. As the Golf Club Commission has identified many capital needs, the Golf Club has looked at options to finance these projects. Another option would be through an equipment lease to finance capital needs. Mr. Usry said that the equipment lease was a more expensive option with higher interest rates.

Councilman Mecca asked for clarification on a scenario where the Commission felt that the needs are worth the additional expense to forego public referendum, it would not affect the Council-authorized debt limit. Mr. Usry responded that it would still need to be backed by the City of Rye as an obligation.

Councilwoman Goddard asked if the debt would count toward the City's debt limit if it went to referendum. Mr. Usry explained the two types of debt restrictions (self-imposed restriction and as is required by New York State).

There was discussion over the structure of an equipment lease. The Council was not favorable toward the equipment lease option.

Mr. Usry stated that the Finance Committee recently met to discuss the proposed Charter amendment. The amendment would allow the enterprise fund to incur debt without referendum and without affecting the authorized debt limit. Mr. Usry talked about the possibility of having this amendment sunset within five years.

Mr. Usry talked about the benefit of borrowing for capital improvements directly benefitting the membership. Because the City is financially responsible, regardless of whether the Golf Club performs or not, there would be an additional charge for that City guarantee.

There was general discussion regarding the proposed Charter amendment.

Councilwoman Souza asked how this Charter amendment itself could be made without public referendum. Corporation Counsel Wilson explained that some items are required and some are permissive referendums. This would not require to go to referendum to change the charter in this case.

Mayor Cohn recommended the item be considered further on an upcoming Council agenda.

11. Consideration of a petition from 1037 Boston Post Road, LLC to amend the text of the City of Rye Zoning Code to permit physical fitness facilities in the B-1 (Neighborhood Business) and B-2 (Central Business) Zoning Districts within the "A" and "B" Parking Districts.

Jonathan Kraut, attorney for the applicant 1037 Boston Post Road, LLC, addressed the Council. He stated that the Planning Commission had stated that there are parts of the zoning code that are antiquated. He said the petition of 1037 Boston Post Road is intended to improve the zoning, bringing a sensible idea with more modern uses to the area. The use applied for, group fitness, was not contemplated when the zoning code was drafted. With the Planning Commission's recommendations, Mr. Kraut asked that the Council consider them and set a public hearing on the matter.

Mayor Cohn invited City Planner Miller to address the Council. City Planner Miller provided a brief overview of the Planning Commission recommendation memorandum. The general consensus of the Commission was that there is a need for the proposed use in Rye. The Commission's memorandum reviewed by each business district in the City the potential planning implications of allowing physical fitness use. The Commission also provided comments on the applicant's proposed zoning request to include this use in the B-1 District and B-2 (Central Business) District.

Councilman Mecca added that one possible recommendation would be to limit the group physical fitness use to exclude the ground floor in the B-2 District. Other Council members discussed the planning implications and potential impact the proposed use may have on increasing parking demand in the Central Business District, which has periods of limited parking availability.

This item was adjourned for further discussion.

12. Discussion on Leaf Blower laws and restrictions.

As an overview, Councilwoman Goddard said that there are some residents who feel that the current law think is not strict enough, and others who think there could be changes made. She said it might be good to take a look and see what the current law is and contemplate the possibility of improvement.

Councilwoman Goddard also talked about other municipalities. She said she had received a letter from a resident attaching an article discussing how Washington, D.C. passed a leaf blower law that only allows electric leaf blowers. She said that one of the resident complaints is about the noise. She said that some municipalities, such as Mamaroneck, only allow leaf blowing use on weekends. Councilwoman Goddard also said that Bedford has town-wide restrictions, one being that they do not permit leaf blowing on Sundays. There are also complaints that the town and the schools can use the leaf blowers.

There was general discussion over issues of air pollution, noise, and possible weekend restrictions. There was also discussion about homeowners and landscaper differentiation, but that there may be enforcement challenges.

Gretchen Crowley, Vice Chair of the Rye Sustainability Committee, addressed the Council. She said that the conversation has not yet addressed the health issues. She said that leaf blowing blows the top soil off on the ground, and as a result, pesticides becomes airborne. She said that while she felt it might be helpful to change from the gas powered blowers to electric, it would be helpful to limit the time of the use in general.

Mayor Cohn responded that the Council agreed, but that the City is faced with an enforcement problem. It is difficult for the Police Department to keep track of all the leaf blower activity. The City currently has a law that the Council is looking at to deal with the situation at hand.

Ms. Crowley asked if residents should be educated on the leaf blower issues. Mayor Cohn responded that education is an important thing.

The Council discussed possible options to try and help all residents on this issue.

12. Consideration to waive parking restriction on the snow field lot for a private event on Saturday, May 11, 2019 for a fee of \$500 (with a \$1,000 security deposit) contingent upon insurance and indemnification being provided.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to waive parking restriction on the snow field lot for a private event on Saturday, May 11, 2019 for a fee of \$500 (with a \$1,000 security deposit) contingent upon insurance and indemnification being provided.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Hurd, Mecca, Souza, Stacks Tagger-Epstein

NAYS: None  
ABSENT: None

13. Appointments to Boards and Commissions, by the Mayor with Council approval.

There was nothing discussed under this agenda item.

14. Miscellaneous communications and reports.

There was nothing discussed under this agenda item.

15. Old Business/New Business.

There was nothing discussed under this agenda item.

16. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza to adjourn the meeting at 10:42 pm.

Respectfully submitted,

Carolyn D'Andrea  
City Clerk



JONATHAN D. KRAUT

DIRECT TEL.: 914-701-0800  
MAIN FAX: 914-701-0808  
[JKRAUT@HKPLAW.COM](mailto:JKRAUT@HKPLAW.COM)

November 20, 2018  
**VIA HAND DELIVERY**

Mayor Josh Cohn & City Council  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: ***Proposed Zoning Text Amendment  
Physical Fitness Facility***

Dear Mayor Cohn and Members of the City Council:

We represent 1037 Boston Post Road, LLC (the "Petitioner"), in connection with the property commonly known as 1037 Boston Post Road (the "Subject Property"). The Petitioner actively searched for a tenant to occupy the Subject Property since the closure of Mrs. Greens approximately two years ago. The Rye YMCA expressed keen interest in occupying the Subject Property as part of their Rye operations. Unfortunately, the existing Zoning Ordinance of the City of Rye does not currently include physical fitness facilities as a permitted use in any zoning district. Accordingly, we respectfully submit herewith a petition to amend the Zoning Ordinance of the City of Rye to include physical fitness facilities as permitted uses within the B-1 and B-2 zoning districts located within the "A" and "B" parking districts (essentially the downtown business district).

Submitted herewith please find ten (10) copies of a Verified Petition for an amendment to the Zoning Ordinance. The original petition is simultaneously being filed with the city clerk. We respectfully request this matter be placed on the Rye City Council agenda for November 28, 2018.

As noted in the Petition, with the increased attention on physical fitness as being a key component of personal health and well-being there has been a corresponding increase in the demand for physical fitness facilities and various programs. Currently, the Zoning Ordinance does not permit this type of use anywhere within the City of Rye, although personal training

# HKP

facilities (1-on-1) have been interpreted to be a permitted personal service business within the B-1 and B-2 zoning districts. In filing the instant Petition, the Petitioner is seeking to address this seemingly unintended void in the existing Zoning Ordinance.

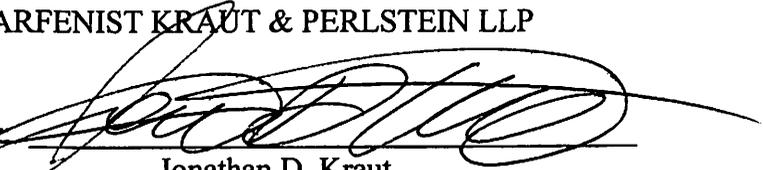
While the Petitioner and the YMCA are interested solely in the proposed use of the Subject Property, in granting the proposed zoning text amendment the City Council would be modernizing the Zoning Ordinance to permit what has become a commonplace use in many other municipalities and is typically grouped in with other standard commercial uses in business districts such as retail, personal services, restaurants, banks and professional offices.

Although this action requires review under the State Environmental Quality Review Act (SEQRA) and is an unlisted action, there will be no environmental impact whatsoever in permitting a physical fitness facility as a permitted use in the greater downtown business district. As noted above, the use is a standard commercial use in business districts elsewhere and would allow commercial property owners in the downtown business district greater flexibility in prospective occupants of underutilized space. The environmental impacts for a proposed change in use of a specific site to a physical fitness facility would be addressed on a case-by-case basis by the Planning Commission during the site plan approval / modification process.

We look forward to presenting this Petition to the Rye City Council on November 28, 2018, and can provide any additional information at that time.

Very Truly Yours,

HARFENIST KRAUT & PERLSTEIN LLP

By 

Jonathan D. Kraut

Cc: Marcus Serrano, City Manager  
Christian Miller, City Planner  
Kristen Wilson, Corporation Counsel

CITY OF RYE: RYE CITY COUNCIL  
COUNTY OF WESTCHESTER: STATE OF NEW YORK  
-----X

In the Matter of the Application of  
1037 Boston Post Road, LLC

**PETITION FOR  
FOR AMENDMENT TO  
CITY OF RYE ZONING  
ORDINANCE**

PROPERTY LOCATION:  
1037 Boston Post Road, Rye, New York  
Sheet 146.11, Block 1, Lot 4  
-----X

Petitioner, 1037 Boston Post Road, LLC, by its attorneys, Harfenist Kraut & Perlstein, LLP, hereby petitions the City Council of the City of Rye for an amendment to the City of Rye Zoning Ordinance as follows:

1. 1037 Boston Post Road, LLC, (hereinafter “Petitioner”), with an address c/o Bill Wolf Petroleum Corp., 100 Jericho Quadrangle, Suite 209, Jericho, New York 11753, is Limited Liability Company duly formed and existing under the laws of the State of New York.
2. The Petitioner is the owner of the real property commonly known as 1037 Boston Post Road, as further set forth in the caption of this Petition (hereinafter the “Property”).
3. The Property lies wholly within the B-1 (Neighborhood Business) Zoning District and the “A” Parking District.
4. The Petitioner has entered into a lease agreement with the Rye YMCA (the “YMCA”) for use of the Property as a physical fitness facility.

5. The current Zoning Ordinance of the City of Rye does not include physical fitness facilities as permitted uses in any zoning district within the City of Rye.
6. With the increased attention in the modern era to physical fitness being a key component of personal health and well-being, the Petitioner and the YMCA wish to rectify this apparent overlooked issue within the Zoning Ordinance.

#### AMENDMENT TO ZONING ORDINANCE

7. The Petitioner requests a text amendment of the Zoning Ordinance of the City of Rye to include physical fitness facilities as a permitted use within the B-1 and B-2 Zoning Districts within the “A” or “B” parking districts. This would allow physical fitness facilities as a permitted use within the downtown business district as generally depicted on the map attached hereto as Exhibit 1.
8. The Petitioner specifically requests that the Zoning Code of the City of Rye, Chapter 197: Zoning, Section 197-86: Table of Regulations: Table B, Business Districts-Use Regulations, Column 1, Permitted Main Uses be amended to include as a permitted main use in the B-1 district, and thus also within the B-2 district which already incorporates by reference all permitted main uses in the B-1 district, the following:

*(10) Physical Fitness Facility: an establishment or use where physical exercise or training is conducted on an individual or group basis, using exercise equipment or open floor space with or without instruction with a personal trainer and/or in a group class, to include, but not be limited to, the following: weight training, yoga, gymnastics, spin, aerobics, martial arts, wrestling, boxing, etc. Support functions accessory to the principal use include a child care area, spas, lockers, showers, health food bar, game or party room, counter and sales desk for sports health or fitness items associated with the facility. This use shall be limited to properties located within the “A” or “B” Parking Districts.*

9. The Petitioner also specifically requests that the Zoning Code of the City of Rye, Chapter 197: Zoning, Section 197-28: Schedule of Off-Street Parking Requirements,

Subsection A: Schedule of Parking Requirements, last amended 7-15-1987 by Local Law No. 7-1987, be amended to include the following:

Use	A	B	C	Unit of Measurement
Physical Fitness Facility	1	1	N/A	200 square feet of gross floor area

5. The requested amendments to the Zoning Ordinance would not have any adverse impacts on the City of Rye, rather it would modify the Zoning Ordinance to the reality of modern demands for the repurposing of underutilized commercial space in and around the downtown business district.

SEORA REVIEW

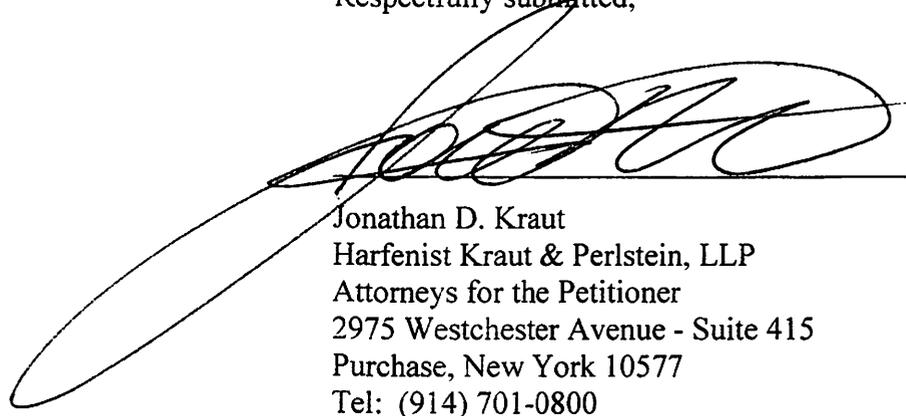
6. With respect to the environmental procedure and review of this Petition pursuant to Article 8 of the Environmental Conservation Law of the State of New York and Part 617 of the New York Codes, Rules and Regulations promulgated pursuant to the New York State Environmental Quality Review Act, the requested zoning amendments are a Type I action as the subject area of the zoning amendment is in excess of 25 acres; however, we respectfully submit the zoning amendment will have no environmental impact whatsoever.
7. The zoning amendments simply permit an additional standard commercial use that carries with it the same impacts as the existing permitted uses in the downtown business district. It is not anticipated that the inclusion of a physical fitness facility use will result in a noticeable increase of construction activities, impervious surfaces, traffic, noise or any other potential environmental impacts over other already permitted uses (i.e. retail, restaurants and personal services). Rather, as most of the downtown business district is already fully developed we expect physical fitness facilities would occupy vacant existing space within the downtown business district such as the Subject Property.

8. Petitioner has reviewed all pertinent environmental issues relating to the proposed zone change and has prepared a short form Environmental Assessment Form (EAF) in connection with this application, submitted herewith as Exhibit 2, so as to enable the City Council to take steps necessary to consider, and to issue, a negative declaration pursuant to the New York State Environmental Quality Review Act.

WHEREFORE, it is respectfully requested that this matter be placed on the calendar of the City Council for November 28, 2018 for a hearing and that the relief sought herein be in all respects granted.

Dated: Purchase, New York  
November 20, 2018

Respectfully submitted,



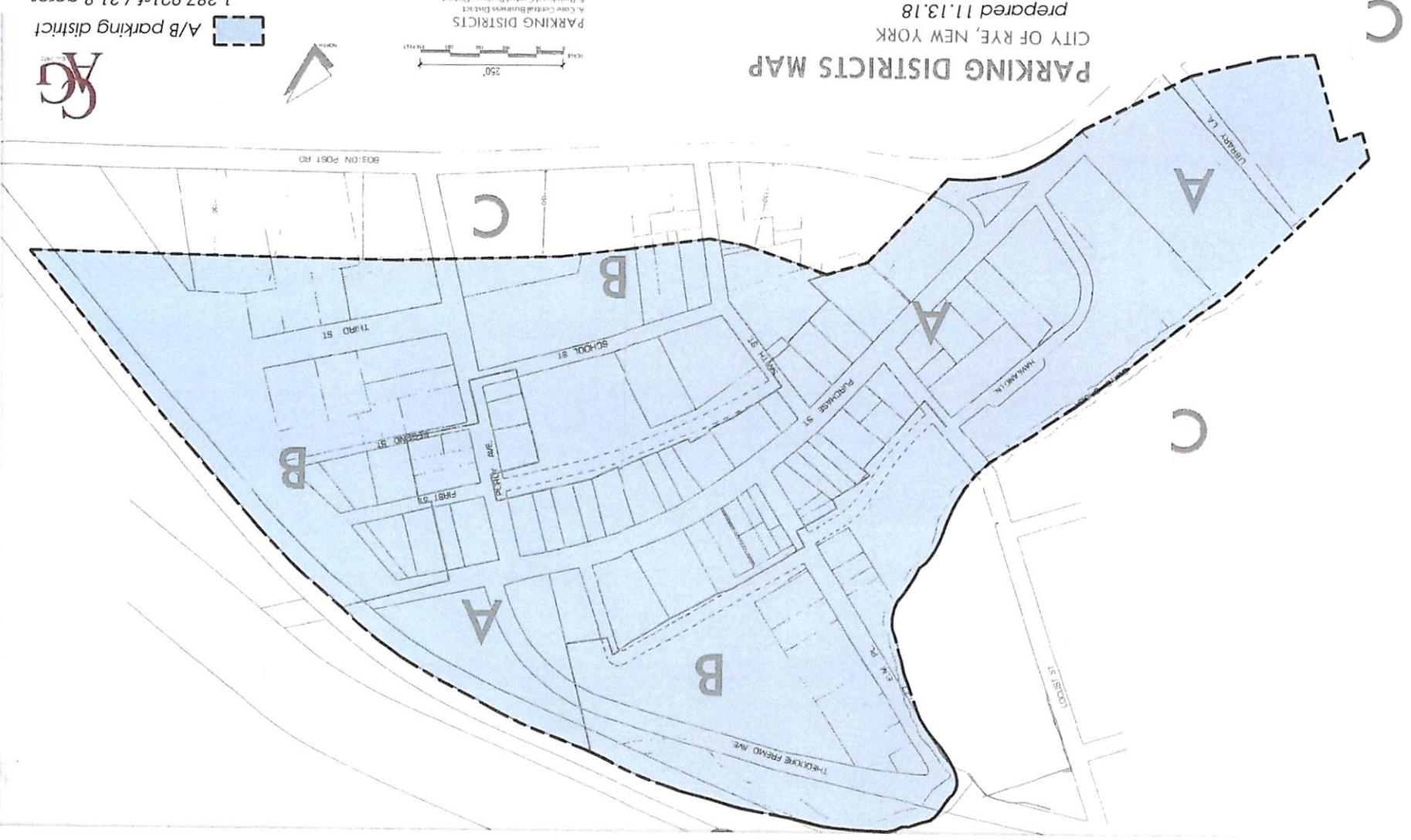
Jonathan D. Kraut  
Harfenist Kraut & Perlstein, LLP  
Attorneys for the Petitioner  
2975 Westchester Avenue - Suite 415  
Purchase, New York 10577  
Tel: (914) 701-0800

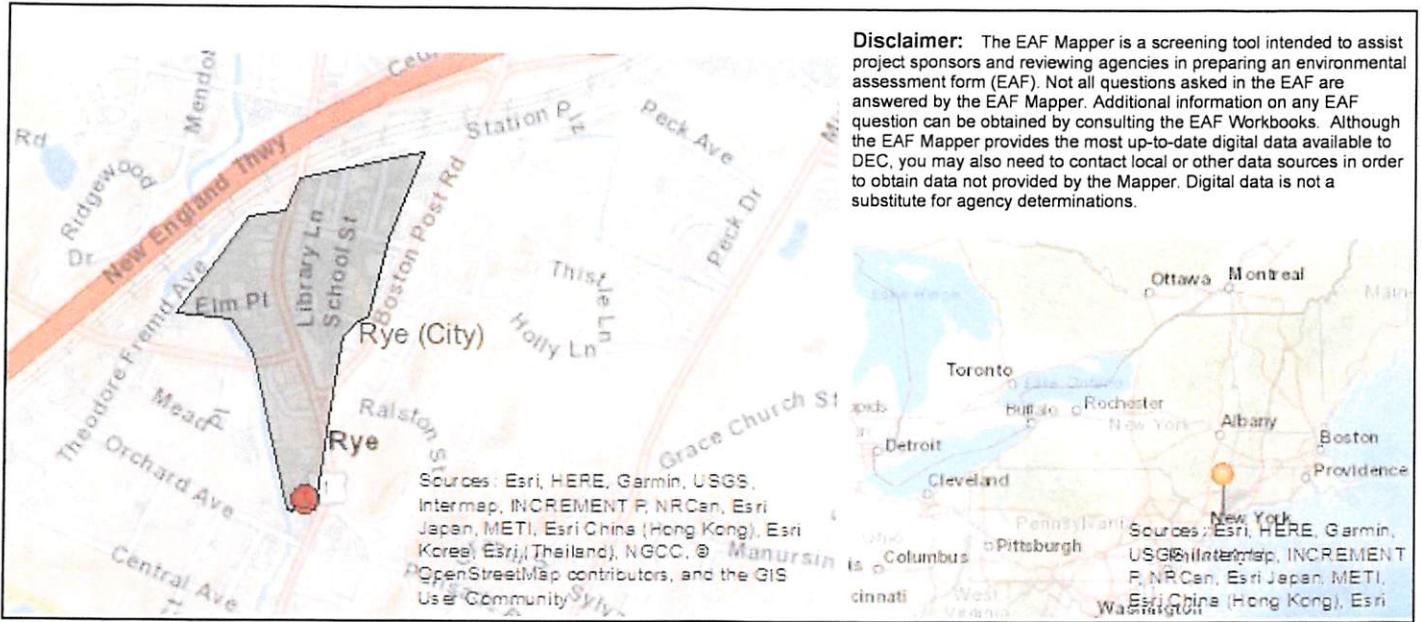
**PARKING DISTRICTS MAP**  
CITY OF RYE, NEW YORK  
prepared 11.13.18

**PARKING DISTRICTS**  
A. Core Central Business District  
B. Peripheral Central Business District  
C. Remainder of City of Rye



A/B parking district  
1,387,921sf / 31.8 acres





Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	Yes
Part 1 / Question 20 [Remediation Site]	Yes

# Short Environmental Assessment Form

## Part 1 - Project Information

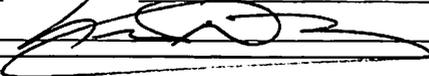
### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information				
Name of Action or Project: City of Rye Zoning Text Amendment re: Physical Fitness Facility				
Project Location (describe, and attach a location map): City of Rye Downtown Business District				
Brief Description of Proposed Action: Zoning text amendment to permit physical fitness facilities in the greater downtown business district area in the City of Rye				
Name of Applicant or Sponsor: 1037 Boston Post Road, LLC c/o Harfenist Kraut & Perlestein		Telephone: 914-701-0800 E-Mail: tnapior@hkplaw.com		
Address: 2975 Westchester Avenue, Suite 415				
City/PO: Purchase	State: NY	Zip Code: 10577		
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland				



<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?          If Yes, explain purpose and size: _____          _____          _____</p>	<p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?          If Yes, describe: _____          _____          _____</p>	<p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?          If Yes, describe: _____          _____          _____</p>	<p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>YES</b></p> <p><input checked="" type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: <u>1037 Boston Post Road, LLC c/o Harfenist Kraut &amp; Perstein</u>      Date: <u>11/20/18</u></p> <p>Signature: <u></u></p>		

Nick Everett, Chairman  
Martha Monserrate, Vice Chair  
Andy Ball  
Laura Brett  
Richard Mecca  
Steven Secon  
Brigit Townley



Planning Department  
1051 Boston Post Road  
Rye, New York 10580  
Tel: (914) 967-7167  
Fax: (914) 967-7185  
www.ryeny.gov

## **CITY OF RYE Planning Commission**

### **Memorandum**

---

To: Rye City Council

From: Rye City Planning Commission

cc: Marcus Serrano, City Manager

Date: March 26, 2019

Subject: **Consideration of Zoning Amendment to Allow Physical Fitness Use**

Per the City Council's request, this memorandum provides the Planning Commission's advisory recommendation regarding a petition by 1037 Boston Post Road, LLC to amend the Rye City Zoning Code to allow physical fitness use in the City's B-1 and B-2 Business District in the "A" and "B" Parking Districts. The intent of the zoning amendment is to accommodate the YMCA as a new tenant for the 1037 property.

### **Background**

There are instances where the Rye City Zoning Code can be considered antiquated in terms of not properly identifying or describing uses that reflect current or future community needs. One such use that is not explicitly identified in the Zoning Code is physical fitness facility. Demand for the growing array of physical fitness uses appears high. The City Building and Planning Departments are routinely approached by landlords and prospective tenants seeking to establish fitness businesses with group or class-based programming. Currently, the Zoning Code classifies these uses as personal services where only individualized instruction or use is permitted.

The petition by the owner of 1037 Boston Post Road is intended to accommodate the YMCA as a future tenant. Consistent with good planning and zoning practice, the petitioner's request is not limited to just its property, but also includes other properties in the City's Central Business District. More specifically, the proposed text amendment would allow physical fitness use in the B-1 and B-2 Business District in the "A" and "B" Parking Districts.

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

2 of 5

The Planning Commission agrees that with some modification the petitioner's request is reasonable. It addresses a community need and appears to add to a fairly limited list of economically viable uses for under-used or vacant tenant spaces in the Central Business District (CBD). Physical fitness use can present concerns in terms of parking demand, traffic generation and potentially compromise a pedestrian-oriented streetscape aesthetic if not designed properly or considered as part of a site plan review; however, physical fitness uses can complement existing uses in the CBD and allow for the opportunity to expand the diversity and economic health of the CBD.

The Planning Commission conducted a review of other areas in the City and recommends that the City Council consider amending the petitioner's request to allow or restrict physical fitness use as follows:

### *B-1, Neighborhood Business, District*

The 1037 Boston Post Road property is located in the B-1, Neighborhood Business, District. There are 11 neighborhood business districts in the City, many of which are in close proximity to residential neighborhoods. These districts serve the commercial and business needs of the local community, but can create potential quality of life conflicts with residential neighbors. It is reasonable to allow physical fitness uses to be permitted in all B-1 Districts. In fact, physical fitness is arguably more compatible with residential neighbors than the uses that currently exists or are permitted by the B-1 District zoning. ***Expanding that list to include physical fitness in all B-1 Districts is recommended.*** It is noted that many of the properties in the B-1 District are small so they will not be able to support large commercial gyms or athletic facilities, which some may find more problematic. In some cases similar uses have existed in B-1 neighborhoods without significant consequence on area neighbors including the physical therapy/fitness use that operated at the office building located on Clinton Avenue near the Central Avenue intersection.

### *B-2, Central Business, District*

The proposed text amendment would allow physical fitness in the "A" and "B" Parking Districts, which is conterminous with the B-2, Central Business, District. All members agreed that physical fitness use should be allowed in the B-2 District, but there was not consensus as to whether the use should be allowed on the first floor of the "A" Parking District (which is essentially the Purchase Street corridor). Some members did not want to allow physical fitness use on the first floor since they considered it disruptive to the streetscape environment because these uses lack a pedestrian orientation. Allowing them on the second floor was acceptable. It was reasoned that these uses are similar to offices, real estate agencies and banks, which are currently prohibited on the first floor in the B-2 District because they can create dead or inactive storefronts that distract from maintaining healthy and engaging facades. Other members stated that such uses are not disruptive

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

3 of 5

to the streetscape and can offer landlords additional economically viable options to fill vacant storefronts. They did not find them objectionable. The Commission agreed that these uses are acceptable on any floor of the side streets of Elm Place, Smith Street, Purdy Avenue or School Street.

### B-3, Beach Business, District and B-7, Waterfront Business, District

**The B-3 and B-7 Business Districts would not be appropriate for physical fitness use.** The B-3 District is currently improved with the Water's Edge condominium community.

The B-7 District is a small area located near the City Boat Basin. This business district is restricted to uses that are water-dependent, such as the Row America facility at 668 Milton Road. Allowing non-water-dependent use such as physical fitness facilities is not recommended since it would generally not be considered consistent with the policies of the City's Local Waterfront Revitalization Program (LWRP).

### B-4, Office Building, District.

The B-4 District includes the office buildings along Theodore Fremd Avenue and Theall Road. They are currently improved with office buildings that have relatively low vacancy rates. Some nearby communities, such as the Town of Harrison, have re-purposed under-performing office parks to include physical fitness use. If the zoning text amendment were to apply to these areas it could result in the conversion of all or portions of office buildings for physical fitness use.

The B-4 District also includes an area on the east side of Midland Avenue in the vicinity of the recently renovated FBI building at 600 Midland and an area along Boston Post Road including a portion of the Rye Country Day School campus and the Thruway property. Interestingly, these areas are currently improved with essentially fitness uses including existing or planned recreation fields and facilities at the School. Under current zoning these areas permit office development, educational and recreational uses.

Given the size of the properties in the B-4 District it is possible that allowing physical fitness use could result in the creation of larger full service gyms rather than the smaller specialized fitness uses anticipated for smaller properties and buildings. These larger uses would have a significantly larger scale and traffic demand that would require careful consideration; however this may advance a community need. **The Planning Commission recommends that the City Council consider allowing physical fitness use in the B-4 District.**

## Consideration of Zoning Amendment to Allow Physical Fitness Use

March 26, 2019

4 of 5

### B-5, Interchange Business, District

The B-5 District is located on Midland and Peck Avenues and includes the Rye Marriott Courtyard and the recently vacated Avon office building. Allowing physical fitness use in this district would create a strong possibility for the conversion of some or all of the Avon building to a larger scale gym given that a future office tenant appears unlikely. The building has a large one-story floor plate with an 18-foot ceiling height. This will improve the marketability of this property, but the parking and traffic demands that could be generated would require careful consideration. ***The Planning Commission recommends that the City Council consider allowing physical fitness use in the B-5 District.***

### B-6, General Business, District

The B-6 District includes the ConEdison property on Theodore Fremd Avenue and the properties along Nursery Lane. Nursery Lane currently has two veterinary establishments, a bus depot, contractor's office, auto repair/auto body and other similar uses. It also has some under-used or vacant buildings with relatively large floor spaces that could support physical fitness use. The Planning and Building Department have been approached by prospective tenants seeking class-based fitness programming but they have been advised that such uses are not permitted by zoning in this location.

This area could be challenging to support high-traffic generating uses such as a physical fitness facility since it lacks a formalized road through the area. ***Allowing physical fitness facilities is not recommended in the B-6 District.***

### RA, Apartment, Districts

There are many RA, Apartment Districts in the City. They are generally located on major roadways including Purchase Street north of I-95, Boston Post Road and Theodore Fremd, but also on some smaller side streets such as Orchard Avenue (between Theodore Fremd and Boston Post Road) and Cedar Place. These districts allow business uses such as ground floor retail and service business that support the needs of the apartment building and medical office such as those located along Purchase Street. It is not objectionable to allow physical fitness use in these locations if the community is seeking to expand the commercial viability of these locations for non-residential use. Given, however the general size, configuration, existing use and surrounding neighborhood context of many of the multi-family buildings in this district is ***not recommended that physical fitness use be allowed in the RA Districts.***

## **Consideration of Zoning Amendment to Allow Physical Fitness Use**

March 26, 2019

5 of 5

### **Parking**

The Commission received comments from the Rye Free Reading Room (RFRR) noting concern with the potential parking impact a physical fitness use may have on potentially constrained parking conditions at City Hall. The Commission agreed that these concerns could be addressed at the time of site plan review as it considers potential restrictions on the types and timing of programmed activities for the new tenant of 1037 Boston Post Road. The Commission also notes that the RFRR received a considerable parking variance in connection with the construction of its addition in 2001. Improved program coordination between RFRR and the new 1037 BPR tenant may be required. Many uses such as office, restaurant and some retail uses already permitted in the B-1 and B-2 District could have parking demands as great or greater than the proposed physical fitness use.

### **SEQR**

The Planning Commission agrees that the addition of physical fitness use to existing business districts in the City would not result in significant adverse impacts.