

**CONSERVATION COMMISSION
MINUTES OF SEPTEMBER 11, 2008**

Meeting was held in the lower conference room at the Mary A. Alley Building, 7 Widger Road

Meeting was called to order at 7:00 PM

Present were: Commission Members Walt Haug, Fred Sullivan, Deb Payson, Ken Fischer, Don Tritschler and Brian LeClair Also present was Doug Saal, Conservation Administrator.

The hearings were conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw.

Note: The commission currently has seven members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

Approve Minutes: The minutes of 08/28/08 were approved by four members.

Minor Activities: D. Saal informed the commission regarding the Minor Activities Permits he issued.

Request for Extension: 40-853 191 A and 191 B Green Street: A letter dated September 9, 2008 was received from Shawn McEachern asking for an extension of 40-853. All members voted to extend 40-863 for one year, to expire on October 13, 2009.

40-957 75 FRONT STREET MARBLEHEAD HARBORMASTER

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Prevention of Pollution, Flood Control and Storm Damage Prevention

Appeared: Charles Dalferro, Harbormaster

Control Drawing: Sketches and photos as supplied with the NOI

After reviewing the control drawings and noting that all cement work will be done by hand, the commission voted to close this hearing. Five members (K. Fisher arrived just after this hearing.) voted to issue an OOC with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

During construction:

2. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

3. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

4. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

5. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

40-000 22 CROWNINSHIELD ROAD RANDOLPH

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Prevention of Pollution, Flood Control and Storm Damage Prevention

Appeared: R. McCann, atty., J. Velleco, architect, S. Patrowicz of Patrowicz Land Development Engineering and A. Biggio, owner

Control Drawing: Proposed Site Plan, 22 Crowninshield Road, Crowninshield Road Realty Trust, dated August 28, 2008, prepared by Kane Land Surveyors

The DEP file number had not been received and the applicant was informed the details of the application would be discussed but no permit could be issued until receipt of the DEP file number. Some members of the commission had visited the site. The seaward face of the house forms a part of the coastal bank. A portion of the house sits within the 100 year

flood plain. Per Mr. McCann, in spite of the foregoing location, the house does not receive any storm damage. The existing house does not meet the most current building codes regarding flooding but any new additions will meet these codes. The driveway is currently covered with pea stone. The proposed driveway “turn around” will also be pea stone. After discussions, the commission required the following information: (1) the elevation of the Top of Wall (retaining) for the pool and the elevation of the top of the pool; (2) cross sections and heights of the retaining walls for the pool and for the driveway; (3) design for anchoring the pool to the ledge. The applicant stated the drain for the proposed pool will be connected to an existing roof drain with egress through the existing seawall onto the inter-tidal rock outcroppings. The commission also agreed that no erosion control fence is necessary due to the elevation of the top of seawall above ground level. All members voted to continue this hearing to 25 September 2008. In the event an OOC is issued, the following special conditions will apply.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. A vegetated buffer strip of six feet minimum width will be planted along the entire landward edge of the existing seawall.
3. Before any landscaping is started, a planting plan will be submitted to the commission for approval.

During construction:

4. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).
5. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
6. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

7. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm

and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawncare published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

8. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

9. When a pool/spa/hot tub is drained, no chlorine or other chemicals are to be added to the pool water for a period of at least four (4) days prior to draining. The method of pool drainage shall be such as to prevent any soil erosion by the draining water and to allow the draining water to seep into the ground prior to entering any resource waters. No direct discharge to resource waters is allowed. This condition shall survive this order.

10. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

11. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

40-000 239 OCEAN AVENUE HAMILTON

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Prevention of Pollution, Flood Control and Storm Damage Prevention

Appeared: R. McCann, atty, S. Patrowicz of Patrowicz Land Development Engineering and M/M Hamilton, applicant

Control Drawing: Proposed Site Plan, 239 Ocean Avenue, Property of Douglas W. & Paige G. Hamilton, dated July 21, 2008, prepared by North Shore Survey Corporation

The DEP file number had not been received and the applicant was informed the details of the application would be discussed but no permit could be issued until receipt of the DEP file number. After an explanation of the application by Messrs. McCann and Patrowicz, the commission questioned the height of the seawall. This Top of Seawall (Top of Coastal Bank) is elevation 15. Per Mr. McCann, although the house sits in an AO area, it has not received any damage from coastal storms. The commission stated that any additions must conform to all building codes for this area. At the applicant's request, all members voted to continue this hearing to 9 October 2008.

HEARING: 40-861 436 ATLANTIC AVENUE GOLDMAN

Resource Area: Coastal Bank

Appeared: Ms. Goldman

Control Drawing: Amended NOI Plan, 436 Atlantic Avenue, Barbara Goldman, dated 10/17/06, prepared by Hayes Engineering, Inc. (marked in red, Area of Damage, no date of revision).

Reference: ConCom minutes of August 28, 2008.

Ms. Goldman had reviewed the proposed seawall repairs in NOI 40-929 and stated her repairs to the junction of her seawall with that of the seawall in front of 1 Pig Rock Lane were not inconsistent with the proposed repairs of 40-929 and would not interfere with the proposed repairs of 40-929. The length of her repairs will extend eleven (11) feet onto the seawall in front of 1 Pig Rock Lane and 1.5 feet onto her wall. The details of her proposed work are delineated in her letter of August 11, 2008.

Mr. Carl King, representing Evans-Webster of 1 Pig Rock Lane, stated that his clients do not own this section of seawall and assume no risks for the repairs by Ms. Goldman. All members voted to close this hearing. All members voted to amend the original OOC as follows.

All conditions from 40-929 shall apply to this amendment for 40-861 and will be included in the amended OOC for 40-861.

In addition, the following special conditions apply.

1. All repairs to the seawall made by Ms. Goldman under the amended 40-861 shall not be inconsistent with the proposed repairs of 40-929 and shall not interfere with the proposed repairs of 40-929.
2. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall

survive this order.

3. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

40-956 2 GAS HOUSE LANE KASS

Resource Area: Coastal Bank, Coastal Beach

Interests of the WPA and Bylaw: Prevention of Pollution, Flood Control and Storm Damage Prevention

Appeared: R. Erbetta.

Control Drawing: Deck/Site Plan, 2 Gas House Lane, dated September 9, 2008, and Deck Elevations, dated September 9, 2008, both drawings prepared by James K. Emmanuel Associates. Note: these drawings supersede and replace Landscape Plan dated July 2008 as prepared by James K. Emmanuel Associates.

After review of the new control drawings, it was agreed no erosion control fence is necessary and that the new control drawing meets the requirement of the commission. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

During construction:

2. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

3. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

4. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated

Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

Post-construction/in perpetuity:

5. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawncare published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

6. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

7. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

Old/New Business:

Approve Minutes: See above.

Request for Extension: See above.

Minor Activities: See above.

Request for Amendment: 40-951 295 Ocean Avenue Geraty: Appeared J. Tucker, landscape architect, to present a revised site plan entitled “Site Plan Prepared for Ron and Sheila Geraty by Siemasko + Verbridge dated September 10, 2008”. The limit of work remains the same and the plantings remain the same. The deck remains an open construction. The only change is the location and configuration of the stairs leading from the deck to the lawn and this change does not impact the resource areas. The commission agreed this did not require an amendment.

Sign Documents: All documents per the agenda were signed.

The meeting was adjourned at 9:10 PM.