

**CONSERVATION COMMISSION
MINUTES OF JANUARY 25, 2007**

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, Betsy Rickards, Craig Smith, Fred Sullivan and Mark Klopfer. Also present were Jan Smith, Associate Member and 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 only five 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 three members.

Approve Minutes: The minutes of 12/14/06 were approved without change. The minutes of 01/11/07 were approved with changes as recommended by Saal. These changes applied to hearing 40-911 and are reflected in the OOC.

40-874 40B CLOUTMAN'S LANE COLLINS

Resource Area: Coastal Beach, Coastal Bank, Land Under the Ocean, Land Containing Shellfish

Interest of WPA and Bylaw: Protection of Fisheries and Wildlife Habitat, Prevention of Pollution, Flood Control, Storm Damage Prevention

Appeared: No one

Control Drawing: Collins Residence Pier, sheets 1 through 6, dated 08/28/06. Note that sheet 3 was revised on 11/09/06. Collins Residence Pier, Surveyed Mud Line Elevations @ MLW, dated 12/13/06, submitted by Childs Engineering Corporation.

A memo without date from Joshua Singer of Childs Engineering Corporation was read into the file. In his memo, Singer explained the optimum time of year, October, for measuring the extent of eelgrass beds. He confirmed that the eelgrass bed was delineated 10/17/05 thereby satisfying the concern of the commission. Singer, in his memo, then requested that the commission identify any further requests or requirements prior to the next hearing. The commission did not feel it can fulfill his request since a final design for this project has not yet been presented to the commission. In the interest of cooperating with the applicant and his representative, the commission had already, at its initiative, mailed a copy of the minutes of 12/14/06 to Childs Engineering to insure they

were aware of our concerns as developed up to that date. Nobody for this application had attended the 12/14/06 hearing. One item that was discussed at tonight's hearing, 01/25/07, was the use of Seaflex anchors for the float. Per its normal procedures, the commission has already stated it will require a letter of approval from the Marblehead Harbormaster and now it will require a specific approval of the Seaflex anchors.

A possible cooperation between Collins and Hanson regarding the use of Hanson's pier has been raised. In response to the request of Singer in his letter dated 01/25/07 to re-schedule this hearing into February, the commission decided it was best to vote for an indefinite continuance. There have been five continuances (including the request this evening) thus far. By a copy of these minutes to Singer he is advised of this decision and reminded the next hearing must be advertised and all abutters re-notified. All members voted for an indefinite continuance.

40-913 105 OCEAN AVENUE DEVEREUX BEACH CORPORATION

Resource Area: Coastal Beach, Coastal Bank

Interest of WPA and Bylaw: Protection of Fisheries and Wildlife Habitat, Prevention of Pollution, Flood Control, Storm Damage Prevention

Appeared: Paul Petersiel, applicant and Paul Lynch, atty.

Control Drawing: Lime Rickey's, Devereux Beach, Marblehead, dated 12/15/06, prepared by Walter Jacob Architects, LTD and resource plan, Devereux Beach, dated May, 2006, prepared by D. Saal.

The proposed bathrooms will be located over an existing deck. There will be no increase in the footprint of the building. The plumbing for the proposed bathrooms will be connected to the existing plumbing of the bathrooms being replaced. A double walled grease containment system manufactured by The Direct Connection will be located on the northwest side of the building, thereby being as far as possible from the ocean. It will rest on a pre-cast concrete pad and be bolted to the side of the deck. The system will be connected to the kitchen via a hose for direct disposition of the grease into the system. For cleaning, the system will be pumped directly into a truck using a hose. Finally, a fence will be erected around the dumpster (located on the northwest side of the building) to hide the dumpster from public view. The bottom of the fence will be a minimum of one foot above ground level to protect it during flooding. 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.

Post-construction/in perpetuity:

4. Upon completion of the work allowed under this OOC, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing with the application for the COC.

40-914 11 GOODWIN'S COURT BITTMAN

Resource Area: Coastal Beach, Coastal Bank

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

Appeared: Paul Lynch, atty.

Control Drawing: Plot of Land, 11 Goodwin's Court, Bittman & Worthen, dated December 12, 2006, prepared by North Shore Survey Corporation and architect drawings, Bittman – Worthen Residence, dated October 4, 2006, prepared by Robert Zarelli, Architect.

All work is in the 25 foot No Disturb Zone but this area is already completely built on. On the basement level patio, a stone wall of height two feet maximum running the length of the patio will be built. This proposed wall will sit on top of an existing sea wall, the top of which is above elevation 14 and therefore, this additional height will not influence wave reflection or direction. It was advised that this proposed wall incorporate scuppers to allow any water which might enter this area to discharge from the patio. 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.

2. A drawing/description of the construction debris/material control techniques to be used on site shall be submitted to the commission for approval before any work is started and shall be included in the construction contracts between the applicant and his/her

contractor.

During construction:

3. 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.).
4. 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.
5. 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:

6. 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.
7. 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.
8. Upon completion of the work allowed under this OOC, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing with the application for the COC.

Old/New Business:

Approve Minutes: see above

Sign Documents: All documents per the agenda were signed.

Other Matters: It was determined that the Marblehead Recreation, Park & Forestry

Department had cleared vegetation along the stream in Stramski Park. An Enforcement Order is being issued against the department. The commission will consider requiring remediation of the site and education of the department personnel. The commission did not feel it could levy a fine against a town body.

The meeting was adjourned at 8:30 PM.