

CONSERVATION COMMISSION MINUTES OF MARCH 8, 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 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 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.

Discussion:

Redd's Pond: Chuck Winder appeared to request an amendment to 40-834 which allowed one application of Reward in the spring of 2005. This application was made and was estimated to have been effective for about three years. However, the algae/grasses in the pond have re-occurred faster than anticipated. Therefore, he requested that 40-834 be amended to allow an application of Reward this spring (2007). The Marblehead Board of Health granted a waiver for this application (copy of BOH letter and minutes in our files). The commission informed Winder that any request for amendment would have to come from the body to which the OOC was issued, viz., the Marblehead Recreation, Park & Forestry Department. The commission also indicated to Winder that it would support a request for amendment and allow one more application of Reward but with the condition that any future decisions regarding chemical treatment would be influenced by the study to be conducted on Black Joe's pond and could disallow any further chemical treatment. Winder will contact the Rec. & Park to pursue this matter.

Marblehead Conservancy: Don Morgan and Doug Perkins appeared to request permission to engage prisoners to help with the work on trails, viz., spreading wood chips on the trails. Saal, Haug and Morgan had already discussed this possibility with Lt. Matt Freeman of the Marblehead Police Department. Matt is responsible for such matters and has had satisfactory experience using prisoners on other projects in Marblehead. The commission agreed to allow the Conservancy to engage the prisoners.

A second topic was then discussed, viz., what projects to pursue using the sum of \$6,000 which is currently in the Conservation Fine Fund. Morgan and Perkins submitted a list of six projects, which were discussed. The commission was unanimous on choosing the project dealing with Robinson's Farm. Morgan will draw up a firm plan for this project for the approval of the commission.

Note: A memo from Don Morgan, dated 03/08/07 detailing both above topics is made a part of these minutes.

40-0000 133 FRONT STREET D'AMELIO

Resource Area: Rocky Intertidal Shore, Coastal Bank, Land Under the Ocean

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

Appeared: William Kelley of Kelley Marine Resources and Dan Lynch of D.J. Lynch, engineers representing the applicant

Control Drawings: Proposed Replacement of Pier, Ramp and Float – Land of Junonia Realty Trust, M. D'Amelio, trustee, dated 01/26/07, prepared by D.J. Lynch, engineers; Planting Plan for D'Amelio Residence, dated September 2006, prepared by For Seasons Ecological Landscape Design

The DEP File number and form were not received. The applicant's representatives were informed the hearing could not be closed until this information was received. However, the project would be discussed to be ready to issue a possible OOC. A previous NOI for this property is 40-904 from October, 2006. A letter from the Marblehead Harbormaster dated February 7, 2007 approving this project is a part of this file. The applicant will apply for a new Chapter 91 license since the old license, #1875 of July 1937, no longer applies (because the previous pier was torn down about fifteen years ago).

Re the pier, the two existing concrete piers will be partially removed and new, larger concrete piers built on/around them. A lift mechanism for the ramp will be employed. The decking of the pier and any other wood not in contact with the ocean waters will be treated with arsenic-free treatment.

Re the landscaping. The existing seawall will be raised by two feet. Since the V zone is at elevation 18.2 and the top of the existing wall is at elevation 22/23, this additional wall height should have no impact on wave reflection or direction. It was noted that the new landscaping shows a vegetated buffer strip (replacing lawn) along the landward side of the seawall.

If an OOC is issued after receipt of the DEP information, it will include 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 showing the details of the lifting mechanism will be submitted to the commission for approval before any work is started.

During construction:

3. During the partial removing of the existing two piers, all demolition material will be contained and removed so as to prevent any of this material from entering the resource waters.

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. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces will be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site

6. 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.

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

8. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks will conform to the requirements of Chapter 91.

9. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use (contacting with soil) 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 MADEP which is less polluting and harmful to the salt water and its environment.

10. All piers, docks and floats must follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

Post-construction/in perpetuity:

11. 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.

12. 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.

13. All gangways, docks or other items not permanently secured to the earth shall be stored during the "off season" (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. This condition shall survive this order.

14. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. This condition shall survive this order.

15. 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.

16. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. This condition shall survive this order.

17. 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: The minutes of 02/08/07 were approved without change.

COC 40-533 36 Foster Street, Humphrey:

Appeared: Mr. David Dwyer, Jr. of Otte & Dwyer, Inc.

Control Drawing: Asbuilt Plan of Land, DEP File No. 40-533, dated February 15, 2007, prepared by Otte & Dwyer, Inc.

Reference: letter from Otte & Dwyer, Inc. dated 02/28/07 explaining the deviations from the original site plan (dated 28 Aug. 1996, revised 08/29/96 prepared by Walker Kluesing Design Group) as included with this COC request

With regard to the referenced letter, the following observations were made.

- A. Removing the pool and deck resulted in less impervious surface and all work was further landward from the top of coastal bank.
- B. Removing the proposed stairs off the patio resulted in less impervious surface.
- C. The original design showed stone steps so this is not changed.
- D. The length of driveway, which remained in asphalt, is outside the 100 foot buffer zone.

Considering the foregoing, the commission decided the deviations which apply to the resource area actually contributed to protecting the resource area and unanimously approved the COC.

Neptune LNG Pipeline Project: A letter dated February 26, 2007 from Neptune informed the commission of a slight change in the route of the proposed pipeline within waters under the jurisdiction of Marblehead. Copies of letter from MEPA and MADEP approving this change were attached.

Sign Documents: All documents per the agenda were signed.

Other Matters:

Marblehead Conservancy: A Thank You letter to the Conservancy on the occasion of their fifth anniversary was signed by all members.

Stramski Park: Haug will send a letter to T. Hamond of the Marblehead Rec., Park & Forestry Department reminding him he owes the commission, per the outstanding Enforcement Order regarding Stramski, (1) a sketch of the proposed plantings and (2) the memo reminding his staff of the need to discuss with the commission any work within the jurisdiction of the commission.

Stormwater Management and Erosion Control Bylaw: Saal and Haug explained the understanding reached with Tony Sasso and others regarding the administration and enforcement of the new, proposed bylaw. Basically, this understanding requires all other applicable town departments to participate in the administration and enforcement of the bylaw thereby limiting the additional workload on the commission that will result from

the bylaw. All members agreed this is necessary to allow the commission to become the Authorized Enforcement Authority.

Meeting was adjourned at 8:50 PM.