

**CONSERVATION COMMISSION
MINUTES OF JUNE 14, 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, Fred Sullivan, Mark Klopfer and Betsy Rickards. 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.

Sand castles at Devereux Beach: No one appeared to discuss this issue. However, the commission will allow a small amount (about one pick-up truck load) of clean sand to be deposited on the beach above the high water mark.

Approve Minutes: The minutes of 05/24/07 were approved by all members without change.

Lead Mills: The earliest date on which all members will be available to attend a hearing regarding the clean up of Lead Mills is September 13, 2007. Saal will notify Woodard & Curran.

RDA 12 HATHAWAY ROAD NOVEMBER

Resource Area: Coastal Bank, Coastal Beach

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

Appeared: Mike McCloskey of Michael McCloskey Design Group

Control Document: Plan to Accompany NOI for 12 Hathaway Road, originally drawn by Hayes Engineering July 19, 2001(revised April 25, 2003). This drawing was marked up by McCloskey 05/17/07.

Note that the original drawing by Hayes Engineering shows a proposed stone and masonry retaining wall with bluestone patio in the area where the currently proposed work is located. Neither the wall nor the patio was built. McCloskey stated that the

garage and driveway will be used to store all materials and all cutting and other preparation work will be done inside the garage. No heavy equipment will be brought to the site. All work will be done primarily by hand. No excavation will be done. A plastic orange-colored "snow" fence will be erected in the area of the formerly proposed retaining wall to contain any debris and construction material from falling over the bank. All members voted to close this hearing. All members voted to issue an negative determination with the following special conditions.

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor. A plastic orange-colored "snow" fence will be erected in the area of the formerly proposed retaining wall to contain any debris and construction material from falling over the bank.

During construction:

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. All material will be stored in the garage or on the driveway. All preparation work to be done inside the garage.

40-924 1 STONE TERRACE LYONS

Resource Area: Coastal Bank, Coastal Beach

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, Mr. Markell, atty. and M/M Lyons

Control Document: Topographical Site Plan, 1 Stone Terrace, Catherine D. Lyons, dated May 14, 2007, prepared by North Shore Survey Corporation.

This site is separated from the resource area by an existing paved parking lot. Only about 12-13 sq. ft. of the proposed deck, four stair treads and a small, cantilevered second-floor balcony are within the 50 ft. No Build Zone. 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 of the erosion control techniques to be used on site 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.
6. 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.

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.
19. 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.

21. 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.

COC 40-881 309 OCEAN AVENUE LEDERMAN: All members voted to approve this COC.

Enforcement Order: The E.O. issued 10/25/06 against Albanese has been satisfactorily fulfilled.

40-921 14 NONANTUM ROAD THIBODEAU

Resource Area: Coastal Bank, Rocky Intertidal Shores, Land Subject to Coastal Storm Flowage

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

Appeared: M/M Greg Thibodeau

Control Documents: As submitted with the cover letter from Ann and Gregg Thibodeau dated June 6, 2007, said letter also signed by Susan Byrd, President of Bessom Associates. The newly submitted attachments were discussed as follows.

Note that no work will be done on the existing rip rap seawall.

Attachment C: Para. 3: The existing cellar wall will not be rebuilt. It is constructed of wood and will be re-enforced where necessary.

Attachment G: The FEMA Flood Zone does not coincide with the Top of Coastal Bank. The TCB does not run through the house. It is at elevation 14 NGVD 1929. Saal will work with Thibodeau to clarify the elevation datum to be used on this site (NAVD or NGVD) and all required elevations will be properly documented.

Attachment K: 17 feet is the correct measurement, not 16 feet as shown on the previous attachment K. The location of the concrete footings will be 6 feet from the cellar wall.

Attachments P.P.1 and P.P.2: The top view of the ramp shown in attachment P.P.1 will be re-drawn to correctly coincide with the side view in attachment P.P.2.

The commission felt that the drawings/attachments as submitted were lacking in sufficient construction detail. They require that a stamped approval by the Building

Inspector of the construction drawings be submitted to the commission before any work is started.

Clair Chalifour requested that the ramp of Thibodeau be located a little farther away from her wall. It appeared to the commission from drawings that this could be done and it suggested that the neighbors might cooperate on this.

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 of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.
3. Prior to commencement of construction activities, the Applicant shall submit to the commission revised, corrected drawings/attachments per the minutes of this hearing.
4. Prior to commencement of construction activities, the Applicant shall submit to the commission stamped approval by the Building Inspector of the construction drawings.

During construction:

5. 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.).
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. 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.

Post-construction/in perpetuity:

9. 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.
10. 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.
11. 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.
12. 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.

RDA BLACK JOE'S POND CONCOM POND COMMITTEE

Resource Area: Bank, Land Under Water

Interest of WPA and Bylaw: Protection of public and private water supply
Protection of ground water supply
Prevention of pollution
Protection of fisheries
Protection of wildlife habitat

Appeared: W. Haug

Control Document: As submitted with the RDA.

Reference: Email letter of Craig Campbell dated June 9, 2007

The above referenced letter was reviewed. Haug explained that correspondence with the MA Association of Conservation Commissions indicated no permits were required to conduct sampling (see exchange of emails between MACC and B. Rickards dated June 5,

2007 – Ken Pruitt and Patrick Garner). In addition, J. Smith of DEP stated he has been involved in many sampling studies and, whenever he approached a ConCom for prior approval, was told it was not necessary. Haug withdrew the RDA.

40-925 27 NONANTUM ROAD CHALIFOUR

Resource Area: Coastal Bank, Rocky Intertidal Shores, Land Subject to Coastal Storm Flowage

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

Appeared: David Smith of Vine Associates, Inc.

Control Documents: Proposed Work Plan, Chalifour Residence – Bessom Assoc., 27 Nonantum Road, dated May 2007, prepared by Vine Associates, Inc.

A letter dated June 6, 2007 signed by Susan Byrd, President of Bessom Associates approved this work on behalf of Bessom Associates. Smith was informed to supply revised drawings showing the resource area and applicable buffer zones. All members agreed with the necessity of the repair of the seawalls and with the methods of repair. The commission did not agree to allow the re-building of the concrete stairs on the ledge. The previous stairs were constructed many years ago. What remained of them (very little) showed a lot of erosion from water and wave action. Per aerial views submitted with the NOI, no other properties within view along this section of coastline have similar stairs. Since most of the work is taking place within the resource area and since a containment system is not feasible, the contractor is required to remove all debris daily, said removal to be monitored and controlled by Vine Associates. 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. The contractor is required to remove all debris daily, said removal to be monitored and controlled by Vine Associates.
3. This OOC does not allow the re-building of the concrete stairs.

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. 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: Lead Mills: see above
318 Ocean Ave.: see above

Meeting was adjourned at 9:45 PM.