

**CONSERVATION COMMISSION
MINUTES OF DECEMBER 14, 2006**

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 and Mark Klopfer (representing a quorum – see below Note). 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.

Approve Minutes: The minutes of 11/09/06 were approved without amendments.

Meeting Dates: The commission agreed not to hold a meeting on Thursday, December 28, 2006.

40-861 436 ATLANTIC AVENUE GOLDMAN

Resource Area: Coastal Beach, Coastal Bank

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

Appeared: B.Goldman and M. Gelfand, applicants and Rich Williams of Hayes Engineering, Inc.

Control Drawing: Amended NOI Plan, 436 Atlantic Avenue, Barbara Goldman dated 10/17/06, prepared by Hayes Engineering, Inc. and landscape plan, Goldman Residence, dated September 2006, and Coastal Bank Plantings dated October 2006, both prepared by For Seasons Ecological Landscape Design

Referring to the minutes of 10/26/06 this repair work on the coastal bank is being reviewed as an amendment to the original OOC issued December 2005. Per the minutes of 10/26/06: "Although this is a major project, the interests of the WPA and the Bylaw will not be impacted by the permanent repair and the commission voted to review this as an amendment."

The cast-in-place concrete retaining wall will have an exposed face of no more than 5.5 feet in height. A variable width vegetated planting bed at the top of the bank has been added to the landscape drawing. The proposed block wall will be constructed of a single row of cast blocks, each block measuring 6ft long by 2.5 ft. high by 3 ft deep. The blocks will be embedded 0.5 ft below the ground surface. All work will be done from land.

In response to questions by D. Koh, abutter, (1) there will be no change in slope under the new steps along side his property and (2) there will be no digging on his property. 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. All exposed soils both within and beyond the coastal bank will be stabilized so as to prevent any erosion during construction and thereafter until the soil has established vegetation.

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. 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.

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.

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.

This was a continuance from 04/13/06, 05/11/06, 10/12/06 and 11/09/06. A memo from Childs Engineering Corp. dated 12/14/06 requested a continuance (no date specified). In addition, the company requested an opinion from the commission as to the minimum depth of water it requires under the float. The commission voted unanimously to follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Per section B. Wetlands Design Standards, Float Height, the commission requires a minimum of 18 inches measured from the bottom of the float to the bottom of the ocean floor, measured at normal low tide. Note that there was a +0.3 tide on November 30, 2006. The commission also wants to confirm that the delineation of the eel grass bed was made at the proper time of the year thus insuring its maximum area was measured. The possibility of requiring an independent wetland scientist to confirm the eel grass bed size was discussed. A copy of these minutes will be sent to Childs Engineering. All members voted to continue this hearing to January 25, 2007.

40-907 12 CLIFF STREET NAUMANN

Resource Area: Coastal Bank

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

Appeared: Paul Lynch, atty.

Control Drawing: Plot Plan, 12 Cliff Street, Paul & Elizabeth Naumann, dated June 28, 2006, prepared by Kane Land Surveyors and Naumann Residence dated July 1, 2006 prepared by Grazado Velleco Architects

The house sits on ledge directly on the ocean. There is minimal space around the house so all demolition debris and construction materials will have to be removed/delivered so as not to interfere with street traffic. The NOI failed to mention that a higher retaining wall is proposed to be built on top of an existing retaining wall. In response to questions by D. Sullivan, an abutter, Lynch said the surface of the parking area enclosed by the higher retaining wall will be pea stone to maximum drainage/filtration of storm water. Per Lynch, the top of the higher retaining wall will be not less than 1 foot above the parking surface. Any further height to block the view of the undercarriage of the car parked in this parking area will be negotiated between Sullivan and Naumann. Further, he said roof drains will be directed directly into the ocean, thus preventing any flow onto the property of Sullivan.

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 submitted to the commission for approval before any work is started. They shall also 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. The surface of the parking area will be pea stone to maximize infiltration of storm water.
7. The roof drains will be piped directly over the ledge into the ocean.

Post-construction/in perpetuity:

8. 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.
9. 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.
10. 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.

40-909 9 MOHAWK ROAD MARTYNIAK

Resource Area: BVW

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

Appeared: L. Martyniak, applicant, S. Patrowicz of Patrowicz Land Development Engineering and D. Albright, architect

Control Drawing: Site Plan for NOI, #9 Mohawk Road, dated November 20, 2006, prepared by Patrowicz Land Development Engineering

A letter from the Marblehead Water & Sewer Commission dated December 11, 2006

approved the relocation of an existing town drain within the subject property. A letter from Daniel and Susanna Pratt dated December 13, 2006 granted permission to dig on their property for relocating the drain. A series of letters from adjacent neighbors supporting the application was submitted. A change from the submitted control drawing is the use of the existing manhole on the Pratt property in lieu of installing a new manhole on the Martyniak property. 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.

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. 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.

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.

40-908 44 GALLISON AVENUE TETREAULT

Resource Area: Coastal Dune (cobble)

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

Appeared: C. Young of Wetlands Preservation Inc.

Control Drawing: Site Plan, 44 Gallison Avenue, Robert & Susan Tetreault, dated November 15, 2006, prepared by Kane Land Surveyors

The proposed planting bed will be three feet wide and will be located as shown on the control drawing. A small portion of one end of the bed is slightly within the cobble dune but, to compensate for this intrusion, the opposite end of the bed is located outside the dune, as opposed as to abutting the dune. This is a very minor incursion. The bed will not impair the function of the dune to move as it absorbs wave energy during storms. A planting plan will be submitted for approval before any work is started. The proposed retaining walls will be constructed using interlocking cast stone. 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. 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.

5. 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.

6. 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.

40-910 201 OCEAN AVENUE LANGE

Resource Area: Coastal Dune, Coastal Beach, Coastal Bank, Land Subject to Coastal Storm Flowage

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

Appeared: G. Dolan of Atlantic Engineering and Survey Consultants, Inc. and G. Lombardi, landscape designer

Control Drawing: Proposed Plan, NOI, 201 Ocean Avenue dated Nov. 24, 2006, revised 12/04/06, prepared by Atlantic Engineering & Survey Consultants, Inc. and Proposed Planting List for 201 Ocean Avenue dated 21 November 2006 including design layouts by Gregory Lombardi Design

The control drawing does not identify the resource areas. The applicant's representative defined the resource area being a coastal bank and did not mention a coastal dune or Land Subject to Coastal Storm Flowage. The entire site is within V and AO zones. The commission believes this site contains a coastal dune and questioned the existence/location of a coastal bank, especially in the area of the proposed pool. This question is of major import regarding the proposed location of the pool. The remainder of the proposed work (in an already disturbed site) did not involve any alteration of a resource area or negatively impact the interests of the WPA. However, the installation

and location of the proposed spa raised concerns. **DEP comments must be received before any decision regarding an OOC is concluded.** The discussion centered on the pool and the purported coastal bank in this area, which may actually be a coastal dune. The control drawing showed rather organized rip-rap on the “bank” in front of the proposed pool but closer observation of colored photos indicated a rather disorganized, minimal amount of boulders strewn randomly around on the beach. There did not appear to be a real bank in the area of the proposed pool. Rather, the photo indicated the possibility of a sandy beach or dune which could provide beach nourishment for storm damage prevention. The commission pointed out it does not recommend vertical seawalls. It also recounted various observations and experiences of damage at this site due to severe storms. The ability of the proposed pool to remain in ground at times of high surge and storm events was raised. The proposed fence around the pool was also discussed as to its potential for becoming flying debris during a storm.

Dolan indicated that the owners were anxious to remodel the house and take occupancy. The commission recommended that the pool and all other work proposed east of the driveway be deleted from this NOI and re-filed under a new, separate NOI. The commission felt it could then approve the remainder of the work under conditions to be listed on a OOC. On behalf of the applicant, Dolan agreed to remove the pool and all other work east of the driveway from this NOI.

M/M Coppola, abutters across the street stated they were also concerned about the new construction and agreed with the reservations expressed by 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.
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. This OOC does not permit the construction of the pool or any other work located east of the proposed driveway.
4. The spa located at the west end of the property and immediately adjacent to the top of the rip-rap must be so constructed and anchored so it does not tear loose during any storm and thus become a “flying object”.

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. 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

7. 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.

8. 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:

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.

13. When the spa is drained, no chlorine or other chemicals are to be added to the spa water for a period of at least four (4) days prior to draining. The method of spa 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.

18. 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.

20. 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

COC 40-829 220 Humphrey Street The Reserve at Oliver's Pond. Saal and Haug reviewed this site and approved a partial COC. The "partial" reservation deals with a portion of the bank behind the structure. This bank will be reviewed again in the spring of 2007 to confirm its stability and vegetation.

Amend OOC 40-853 191A & 191B Green Street This property has been sold. The new owner wishes to install the drain system originally proposed for the site but to replace the proposed StormCeptor with a deep sump hooded manhole, as before, exiting over a rip-rap swale. Since this drain system is draining only the low area next to the property of R. Barney and the lawn area of the "upper" house (not the driveways), the commission agreed this was a reasonable change. All members voted to review this proposed change as an amendment.

Sign Documents: All documents per the agenda were signed.

Other Matters: All three Minor Activity Permits per the agenda were reviewed with Saal.

The meeting was adjourned at 10:00 PM