

Marblehead Conservation Commission
Minutes August 9, 2012

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, Brian LeClair and Don Tritschler. Also present was Willy Lanphear, Conservation Administrator.

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

Note: The commission currently has six 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.

Discussion Items:

Minor Activity Permit: It was agreed to postpone discussion on the activities allowed in a Minor Activity Permit.

Harbor Glade: Appeared Robert French of the Marblehead Conservancy to explain the proposed project named Harbor Glade. See drawing "Harbor Glade, Landscape Plan", dated July 17, 2012. The plan includes some vista pruning, removal of some vegetation to slightly expand the open area, remove two dead trees (possible danger), plant some new wildlife-supporting plants and spray poison ivy with Avenger Weed killer (see email chain between A. Petty of M'hd Board of Health and R. French, said email chain dated August 8, 2012. Petty approved the use of this weed killer). Note that the steps in the proposed plan have been eliminated and will be addressed separately. This proposed work is in accordance with the general RDA approval voted on at the April 12, 2012 ConCom meeting. All members voted to approve this plan.

Approve Minutes: All voted in favor of approving the minutes of July 12, 2012.

40-1090 14 INDIANHEAD CIRCLE BOOTH

Resource Area: Coastal Bank

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

Control Drawing: Chris & Cheryl Booth, 14 Indian Head Cir., latest revision dated 07/24/12, prepared by Griffin Engineering Group

Appeared: R. Griffin and M/M Booth

This hearing dealt with changes which the commission had decided required a new filing. After discussion and review, the commission voted to close the hearing. The commission then voted all in favor of issuing an OOC with the following special conditions.

Pre-construction:

Before any work is started, a revised Control Drawing shall be submitted to the ConCom for approval. This revised drawing will show lips or releases on top of all walls, said lips or releases measuring a minimum of four (4) inches above the highest elevation of the abutting ground or other abutting surface. These lips or releases are to prevent or minimize any sheet flow of water from the lawn/ground/soil into the resource waters.

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

During construction:

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

33. 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.).

35. All demolition debris shall be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

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

Post-construction/in perpetuity:

40. 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 Lawn care 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.**

41. Maintenance pointing of existing (a) stone masonry and (b) concrete walls including the replacement of occasional, missing stones in the stone masonry wall or the patching of cracks and minor defects in a concrete wall is allowed as a surviving condition to the Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any repointing work.** All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. 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.**

47. 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. **This condition shall survive this order.**

50. The control drawing/s for this project were prepared by a licensed Professional Engineer. The construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawing/s. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. **See Attachment "C" for "Schedule of Fines".**

40-1091 12 DAVIS ROAD MAFFEI

Resource Area: Coastal Bank, Coastal Beach

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

Control Drawing: Plan to Accompany NOI, #12 Davis Road, dated July 16, 2012, prepared by Hayes Engineering

Appeared: P. Ogren of Hayes Engineering and G. Maffei and A. Maffei

The Control Drawing will be revised to show the No Disturb Zone and the No Build Zone referenced from Coastal Bank #2. Three members of the commission and W. Lanphear had visited this site the prior week. Their observations of the lower-height seawall were that this entire lower seawall is beyond repair. Per the Maffeis the existing house was built in 1900. Their grandfather purchased the property in 1962. They were not able to state when the wall was built or its condition in 1962. The closest corner of the existing house is ca. Fifty (50) feet landward of the coastal bank #2. The commission said it could not assume the house was in immediate or even near term danger due to the erosion on coastal bank #2.

During the site visit, the commission noted that the coastal bank (#2) is supplying beach nourishment to the coastal beach directly seaward of the coastal bank (#1). In addition, it must be entertained that bank #2 is also supplying nourishment to beaches littorally downshore. The commission said it could not approve the hard armoring via rip-rap of this eroding bank. It suggested that the lower-height seawall might be rebuilt to its existing height and that coastal bank #2 might be restored with soil and some plantings but this soil and the plantings must be considered as sacrificial material to continue to supply beach nourishment. A plan would have to be devised to replenish the soil and plantings on an appropriate schedule. The applicant will review this suggestion. All members voted to continue this hearing to September 13, 2012.

RDA 100 OCEAN AVENUE RESNICK

Resource Area: Land Subject to Coastal Storm Flowage

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

Control Drawing: Hand sketch

Appeared: No one

Reference: Haug email to Resnick 23 July 2012

A neighbor was in attendance, not to represent Resnick but to alert the commission to some outstanding legal matters regarding this property. The neighbor was informed that, due to her non-appearance, the hearing must be continued and he should appear at that time. All members voted to continue this hearing to September 13, 2012. Lanphear will so inform Resnick.

Old/New Business:

Request for changes in project scope:

40-1084 120 Jersey Street: This involves a reduction in the stairs and a slight increase in the size of the deck. See plan drawing "Proposed Rear Deck, Kathi Grunwald, dated March 20, 2012, prepared by Craig Bosworth. The commission voted to regard these changes as minor design changes, not requiring an amendment.

40-1040 Glover Landing: This involves employing scaffolding in the re-construction of the seawall. The commission voted to regard this change as a minor construction method change, not requiring an amendment.

Request for COC:

40-550 4 Hunsley Lane: All members voted to issue this COC and to fine the owner a total of \$900.00 per our guidelines (\$300.00 for not recording the OOC {until 2012} and \$600.00 {second violation} for not filing for a COC).

40-1026 18 Gregory Street: All members voted to issue this COC.

OOO under local Bylaw 3 Beacon Heights Lane: All members voted to issue this COC.

40-1065 32 Foster Street: All members voted to issue this COC.

Corinthian Yacht Club: This involves eight OOCs. R. McCann, attorney for the CYC, had previously worked with Lanphear to determine which had not received COCs and any fines due. All are now ready for their COCs and all fines have been paid. However, since LeClair had to recuse himself, a quorum was lacking and the vote will be taken in September.

Other: 191A and 191B Green Street 40-1076: The document, "Shared Driveway and Drainage Structure Maintenance Agreement" (attached herewith) was voted for acceptance by all members. Andrea McEachern of Pig Rock LLC and Ram Island LLC was informed by Haug to sign and record this document and return originals to the ConCom.

The meeting was adjourned at 8:30 PM.