

**CONSERVATION COMMISSION  
MINUTES OF MARCH 12, 2009**

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, Deb Payson, Craig Smith, Brian LeClair and Don Tritschler. 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 seven 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:** Don Morgan of the Marblehead Conservancy presented an updated report dated 01/22/09 regarding the trail work performed on conservation lands. This report requested permission to make a path on Hawthorn Pond land, entering from West Shore Drive. This is now possible due to a donation of land from the Martha Knight estate. Morgan also requested permission to erect a post at this entrance for dispensing trail maps. All members agreed to both requests.

**Approve Minutes:** The minutes of 02/12/09 were approved without change by all members.

**Request for Extension:** A letter dated 03/07/09 from Ken Doane of 6 Edgewood Road requested an extension on his OOC filed under the local wetlands bylaw. The commission voted all in favor of extending this OOC by one year to expire 04/13/10.

**Sign Documents:** All documents per the agenda were signed.

**40-966 FORT SEWALL TERRACE KNICKREHM**

Resource Area: Coastal Bank

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

Appeared: G. Knickrehm, K. Fay and D. Peach

Control Drawing: None

This was a continuance from 12/11/08, 01/08/09, 01/22/09 and 02/12/09. Mr. Knickrehm presented a new approach whereby the seawall is to be re-constructed as a dry-laid stone wall, duplicating the existing seawall. This seawall would incorporate a set of stone stairs leading down to the tidal shore. Other stone walls would be constructed landward and up-slope of the seawall. Mr. Knickrehm will visit the Old & Historic Districts Commission for its approval. The commission told Mr. Knickrehm his new approach is a great improvement over the previous design and indicated it is inclined to approve this new design. The commission told Mr. Knickrehm to come back with firm drawings for all walls, stairs, plantings, etc. With the approval of Mr. Knickrehm, all members voted to continue this hearing to May 14, 2009.

#### **40-970 COVE LANE BEACH SHEA SMITH III REALTY TRUST**

Resource Area: Coastal Bank

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

Appeared: P. Smith, D. Smith and R. McCann

Control Drawing: Cove Lane Beach (sheets 1 & 2), dated February 2009, prepared by Vine Associates, Inc.

No comments have been received from DEP. Since this application deals with work in a resource area, the hearing cannot be closed. The beach and coastal bank are the property of the Town of Marblehead. Two properties, 11 and 13 Kimball Street, lay directly abutting the coastal bank and they will undertake any repairs to the coastal bank. The commission questioned the existing slope of the bank as shown on sheet 1 of the control drawings. On site observations by members of the commission led to the conclusion the bank is much steeper than as shown on the drawing. This issue is important since the toe of the proposed rip-rap cannot extend further out onto the beach and this restriction could make it difficult to achieve the new, proposed slope of a re-constructed bank. Vine Associates will revisit the site to investigate this matter. With the approval of the applicant, all members voted to continue this hearing to April 9, 2009.

The commission remarked that a sign had been observed on the beach by one of its members, said sign stating this was a private beach. The sign has been removed. The commission reminded everyone this is a public beach belonging to the Town.

#### **40-972 50B CLOUTMAN'S LANE SCHRAGE**

Resource Area: Coastal Bank

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

Appeared: M. Schrage, K. Johnson, T. Siemasko and J. Tucker of Siemasko + Verbridge

Control Drawings: Proposed Renovations for the Schrage Residence sheets L1.0 dated 2/24/09, A1.0 dated 2/25/09, A1.1 dated 2/25/09 and A2.1 dated 02/24/09, all as prepared by Siemasko + Verbridge.

The commission requested a revised drawing showing the 25 ft. No Disturb Zone and the 50 ft. No Build Zone. An existing shed (to be rebuilt) extends slightly into the NBZ. The new, proposed deck is shown to extend into the NBZ by less than 60-80 sq. ft. To compensate for this, a vegetated buffer strip will be planted along the top of the seawall.

R. McCann, representing abutters Updaw and Gowell, questioned the intrusion into the NBZ. He was reminded about the vegetated buffer strip which is intended to mitigate the flow of lawn chemicals and other pollutants into the ocean waters.

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 for approval a revised control drawing showing the 25 ft. No Disturb Zone and the 50 ft. No Build Zone.
4. Prior to commencement of construction activities, the Applicant shall submit to the commission for approval a landscaping plan showing a vegetated buffer strip along and abutting the seawall on the landward side, said buffer strip to average 10 feet in width. This buffer strip is to be planted with salt tolerant plants.

**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 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 the 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. 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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

11. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

**40-40-971 21 SARGEANT ROAD STEPHENSON**

Resource Area: Coastal Bank

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

Appeared: J. Tucker of Siemasko + Verbridge

Control Drawings: Proposed Renovations for the Stephenson Residence, dated 02/24/09, sheets L1.0, A1.0 and A1.1, as prepared by Siemasko + Verbridge.

After review, the commission voted in the affirmative 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. 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.).
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.

**Post-construction/in perpetuity:**

5. 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.
6. 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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

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**40-000 7 FORT BEACH WAY McGuire**

Resource Area: Coastal Bank

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

Appeared: L. McGuire

Control Drawing: Plan of Land Prepared for: Lawrence G. & Georgine Sampson McGuire, 7 Fort Beach Way, dated September 24, 2008, prepared by Reid Land Surveyors

No DEP File No. had been received. The commission discussed the project but informed the applicant the hearing cannot be closed until the number is received. The proposed addition is outside the 50 ft. No Build Zone, and no erosion fence is required. With the approval of the applicant, all members voted to continue this hearing to April 9, 2009. In the event an OOC is issued, the following special conditions will apply.

**Pre-construction:**

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

**During construction:**

2. 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.).

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.

**Post-construction/in perpetuity:**

5. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an “as built” drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E

**Old/New Business:**

**Approve Minutes:** see above

**Requests for Extension:** see above

**Sign Documents:** see above

The meeting was adjourned at 9:00 PM.