

**CONSERVATION COMMISSION
MINUTES OF MAY 14, 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, Brian LeClair, Ken Fisher and Don Tritschler. Also 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 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.

Approve Minutes: The minutes of 04/09/09 were approved by all members.

Request for COC: The COC for 40-794, 25 Harbor Avenue (Tejwani) was signed.

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: Mr. Knickrehm and D. Peach, contractor

Control Drawing: None

Reference: Memo from E. W. Peach dated 01/31/06 (re 40-870) with photo dated 2009/04/19 and topo plan of the site (no date)

This was a continuance from 12/11/08, 01/08/09, 01/22/09, 02/12/09 and 03/12/09. This hearing was to discuss conceptual plans for the proposed renovations to the seawall, the bank above this seawall (this bank is not a resource area) and to the house. The boulders shown at the top of this bank are to be eliminated. A site topographical plan to scale and with engineering detail on all proposed structures will be submitted if the conceptual plans are approved by the commission.

The applicant will review his plans with the Old and Historic Commission. The proposed stairs both upland and in the resource area will be granite. Those in the resource area will be designed to blend in as much as possible with the natural ledge and stone seawall. Their location has been chosen to minimize wave reflection and any possible scouring effect on any properties. All members of the commission approved the conceptual plan. All members voted to continue this hearing to July 9, 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, P. Williams [of Vine Associates and R. McCann

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

This was a continuation from 03/12/09 and 04/09/09. A memo from Vine Associates, Inc. dated May 11, 2009 was submitted wherein the latest design changes were delineated. These changes were in accordance with those agreed upon at the site visit on May 2, 2009. Note that the Town of Marblehead is a co-applicant on this NOI. The commission has tried on two occasions to contact DEP (Rachael Freed) regarding any comments from DEP and has been unsuccessful. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

1. The applicant will review the revetment and landscaping plans with the Recreation and Park Department before any work is started. Written confirmation of this review and approval will be submitted to the commission before any work is started.
2. The applicant will submit a written description of the construction sequence incorporating any erosion control deemed necessary and/or practical to the commission for approval before any work is started.
3. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

During construction:

4. The park bench in Cove Beach Lane shall be protected.
5. The stone monuments in Cove Beach Lane will be protected.

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 project, the Cove Beach Lane will be returned to its original condition.

9. 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

40-975 27 TICEHURST LANE HAMMOND

Resource Area: BVW, Pond, Land Under Water

Interests of the WPA and Bylaw: Prevention of Pollution, Protection of Wildlife Habitat

Appeared: Scott Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site of Plan, 27 Ticehurst Lane, Henry Hammond dated February 26, 2009, prepared by North Shore Survey Corporation.

Mr. Patrowicz referred to his email dated May 14, 2009 wherein the applicant requested a continuance. All members voted to continue this hearing to July 9, 2009.

40-978 160 FRONT STREET UHL

Resource Area: Coastal Bank

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

Appeared: Mr. Uhl and Paul Lynch

Control Drawing: Site Plan, 160 Front Street, dated April 14, 2009, revised 04/23/09, prepared by Lynch Engineers

The commission noted its displeasure with the submitted control drawing since it lacked basic information required of all submissions to the commission and since the originator of the drawing has dealt with the commission on numerous occasions. The commission then proceeded to discuss the application. Due to the location of this site, no erosion control barrier is required. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

1. A revised control drawing showing the No Disturb Zone, the No Build Zone and the 100 foot buffer zone will be submitted to the commission for approval before any work is started.
2. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
3. 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:

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. 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 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

40-977 REDD'S POND M'HD RECREATION & PARK COMMISSION

Resource Area: Pond, Ocean Waters

Interests of the WPA and Bylaw: Prevention of Pollution, Protection of Wildlife Habitat

Appeared: C. Winder, representing M'hd Rec. & Park, Marc Bellaud of Aquatic Control Technology (ACT).

Control Drawing: See narrative "Introduction and Management History"

The herbicides proposed for this application are the same as has been used multiple times under previous OOC's. Treatment is allowed by 310 CMR 10.53(4). These herbicides are approved by the DEP and ACT is a MA licensed applicator. A copy of the DEP license for this application will be supplied to the commission before any work is started. In the event the water level in Redd's Pond is higher than the level of the drain inside the manhole adjacent to the pond at the time of application, ACT will block the flow via the manhole for three days. This is an added precaution since the water from Redd's Pond flows into Little Harbor. The OOC is issued for three years, not five as requested. Extensions are allowed upon timely request.

It was explained to the applicant that the commission would prefer to use non-chemical methods to control weed and algae growth. However, since no such methods are known to the commission which are not prohibitively expensive and since the state allows the aforementioned applications, the commission must permit such applications. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

1. In the event the water level in Redd's Pond is higher than the level of the drain inside the manhole adjacent to the pond at the time of application, ACT will block the flow via the manhole for three days.
2. An annual report on the condition of Redd's Pond will be submitted to the commission at the end of each year for the duration of the permit.

40-000 12 GOLDTHWAIT ROAD BURKE

Resource Area: Coastal Bank, Salt Marsh

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

Appeared: Mr. Burke, R. McCann, atty., and S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Proposed Site Plan, 12 Goldthwait Road, dated April 29, 2009, prepared by North Shore Survey Corporation

No DEP File No. has been received. No OOC can be issued until this number is received. The entire house and cellar are to be demolished. The proposed house footprint is outside the No Build Zone and the AO zone. The silt sock fence will be extended up to the property line along Phillips Street. The portion of this fence along the driveway will be removed once the foundation has been completed. The rain garden will be of the filtering type. All members voted to continue this hearing to June 11, 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.
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. A landscaping plan will be submitted to the commission for approval before any landscaping is started.

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.

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9. 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 COC: See above.

Sign Documents: All documents per the agenda were signed.

Other: This was the last meeting which Doug Saal will attend since he is retiring. The commission thanked him for his many years of assistance and guidance and wished him well in his retirement.

The meeting adjourned at 8:50 PM.