

**CONSERVATION COMMISSION
MINUTES OF FEBRUARY 14, 2008**

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, Craig Smith, Fred Sullivan, Deb Payson, Ken Fisher, Brian LeClair and Don Tritschler (see following Note). Also present was Jan Smith, Associate Member.

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. (Note: D. Tritschler was present but had not yet been officially sworn in so he did not sit with the other members nor did he vote.)

Discussion: Robinson Farm (see memo "Funding the Marblehead Conservancy's Robinson Farm Plan, undated). Appeared Don Morgan to request financial assistance from the ConCom in the amount of \$4,000 for Robinson Farm conservation land. This money would be used for work on the Robinson Farm land area, specifically, removing the old concrete foundation and erecting a structure at the entrance, said structure to be similar to that at the entrance to Ware Pond. Since additional work will be done on school property adjacent to Robinson Farm, D. Morgan agreed to submit a copy of the letter from the School Department confirming their agreement to the work. A motion was made and seconded to "allocate the sum of \$4,000.00 from the ConCom Fine Account #479 to the Marblehead Conservancy to be used for work on the Robinson Farm land area, specifically, removing the old concrete foundation and erecting a structure at the entrance, said structure to be similar to that at the entrance to Ware Pond." All members voted "yes".

On another topic, the commission informed D. Morgan that no conservation lands can be used for garden plots by private individuals. All conservation lands are available for the use of the entire general public and, as such, no areas can be set aside for individuals.

**NOI 40-937 PARKER'S BOAT YARD, 3 REDSTONE LANE MARBLEHEAD
HARBORS AND WATERS BOARD**

Resource Area: Coastal Bank, LSCSF

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

Prevention

Appeared: Douglas Trees, representing the Marblehead Boat Center

Control Documents and Drawings: Sketches A-2, A-3, A-4, P-0 and P-1 (all undated).

The commission pointed out two errors in the NOI, page 3 of 9. Bordering Land Subject to Flooding (Inland Resource Area) was checked. The area in question is a Coastal Resource Area. . Further, the commission pointed out that this project is subject to the DEP Stormwater Policy (page 7 of 9 of the NOI). Proof of mailing to the Natural Heritage and Endangered Species Program and to the Division of Marine Fisheries was submitted. The commission agreed that the construction of the bumpers along the seawall is acceptable and that top coating the area specified in the NOI is also acceptable provided the opening in the seawall for the gangway is properly sealed during the top coating process.

A further issue, which was raised, concerns the storm water runoff from this area. This is a commercial area (owned by the Town via the Marblehead Harbors & Waters Board) and is subject to the aforementioned DEP Policy. D. Trees said the Marblehead Boat Center is a private group that has an agreement with the Harbors & Waters Board to use that portion of the yard as shown on sketch A-2. As such, they are neither the owner nor the applicant for this NOI and cannot legally bind any other party. The commission requested D.Trees to contact the harbormaster and have the harbormaster, or his representative, appear before the commission to discuss this matter further. With the consent of D. Trees, all members voted to continue this hearing to February 28, 2008.

NOI 40-939 6 HARBOR VIEW CROSBY

Resource Area: Coastal Bank, LSCSF

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

Appeared: Peter Ogren of Hayes Engineering, Inc., Paul Lynch, atty., Robert Zarelli, architect and M/M Crosby.

Control Documents and Drawings: Plan to Accompany NOI "Showing Proposed House @ 6 Harbor View Avenue", dated December 20, 2007, prepared by Hayes Engineering.

P. Ogren stated that the above control drawing is being revised to include a small quarter circle extension to the "covered porch" in the No Disturb Zone and to show a vegetated buffer strip of variable width (averaging about 10-15 feet) at the top of the coastal bank. He said the total impervious surface has been reduced by ca. 3,300 sq. ft. The commission noted the following 1. The proposed house footprint is located ca. 10 feet back from the top of coastal bank (a corner of the existing house footprint is located over the coastal bank). This results in ca. 500 –600 sq. ft. reduction of footprint in the No

Disturb Zone. 2. The pool and its substantial concrete patio area is being totally replaced with a pervious surface. Considering the foregoing and the proposed vegetated buffer strip, the new plan represents an improvement from the standpoint of the WPA.

W. Dimento, atty., representing the owners of 7 Harbor View, Sheridan and Moore, questioned the delineation of the top of coastal bank and said his clients would pay for another delineation. W. Haug had personally viewed the site and believed the delineation was correct and, therefore, did not support any further delineation. W. Dimento did not pursue this matter.

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. A revised drawing, Plan to Accompany NOI "Showing Proposed House @ 6 Harbor View Avenue", showing the small quarter circle extension to the "covered porch" in the No Disturb Zone and showing the vegetated buffer strip of variable width (averaging about 10-15 feet) at the top of the coastal bank will be submitted for approval before any work is started.
4. A landscape plan for the former pool area and for the east side of the proposed house will be submitted for approval before any landscape work is started.

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:

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 or www.newfs.org.

11. 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.

NOI 40-940 354 ATLANTIC AVENUE BLANEY

Resource Area: Coastal Bank, LSCSF

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

Appeared: Scott Patrowicz of Patrowicz Land Development Engineering and B. Blaney

Control Documents and Drawings: Site Plan 354 Atlantic Avenue, Bernard Blaney, dated December 14, 2007, prepared by North Shore Survey Corporation

Two of the proposed changes were in the No Build Zone, were very small in size and did not impact this zone or any resource area. The other two proposed changes were between the NBZ and the 100 ft. buffer zone and did not impact the resource area. 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. 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
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 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.

NOI 40-942 81 NAUGUS AVENUE CARLTON

Resource Area: Coastal Bank, LSCSF

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

Appeared: Dan Lynch

Control Documents and Drawings: Land of Carlton, Proposed Pier, Ramp and Floats, 81 Naugus Avneue, dated Nov. 30, 2007, prepared by Lynch Engineers; landscape plan, Carlton Residence, dated January 08, no name of author; list of plantings, dated 01/26/08, no name of author

A letter from the Harbormaster dated January 29, 2008 approving the project was submitted. The commission told D. Lynch a chapter 91 license is required. The commission raised the following concerns. 1. A proposed fence in the coastal bank must be re-located at the top of coastal bank. 2. If feasible, the path in the coastal bank should be eliminated. 3. The 16 x 16 ft. deck should be reduced in size. 4. The OOC 40-806 for this property has expired and no application for a COC has been filed. 5. The requirement of a ten (10) foot vegetated buffer strip at the top of coastal bank per OOC 40-806 has not been fulfilled. Per D. Lynch, the eel grass beds per the DEP Eelgrass Mapping Project are located ca. 200 feet from the toe of the coastal bank and therefore, the proposed pier will not impact these beds.

In agreement with D. Lynch, all members voted to continue this hearing to February 28, 2008.

Old/New Business:

Approve Minutes: The minutes of 01/24/08 were approved.

Request for Extension: The request for an extension of 40-802 from Whittier Ponds Association was tabled. The previous request for extension for one year to March 4, 2008 was granted in February, 2007 but with the caveat that further extensions might not be granted based on the results of the study to be conducted at Black Joe’s Pond. This study was halted because of legal actions and has not been conducted. Further discussion of this matter is warranted before any extensions are considered.

Sign Documents:

Schedule of Bills Payable: Signed.

Extension # 2 for 40-802: Not signed.

Other Matters:

Resignation of Betsy Rickards: A letter of resignation from B. Rickards dated February 11, 2008 was read into the file.

New Causeway Seawall: F. Sullivan has personally witnessed the contractor cleaning cement trucks on the parking area. Haug and Saal will Investigate.

Special Conditions: The special conditions will be emailed to all members.

The meeting adjourned at 9:30 PM