

**CONSERVATION COMMISSION
MINUTES OF JANUARY 10, 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, Betsy Rickards and Fred Sullivan. 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 only four 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.

Violations of Marblehead Snow Disposal Guidance Policy:

The above policy was issued February 2004 and distributed to all pertinent public and private parties. Two violations of the policy in December 2007 were reported to the commission by the Marblehead Police Department and the violators were identified. Mr. David Mansfield, representing self, and Mr. Steve Spillane, representing Thomas M. Rockett, appeared to explain their actions. The Commission reviewed the policy, gave a copy to each, admonished these gentlemen for violating the policy and reminded them of the purpose and value of the policy. They were told any further violations would be dealt with as the law allows.

Approve Minutes: The minutes of November 8, 2007 as amended, were approved by all members.

Minor Activity Permits issued: Saal informed the commission of two permits he issued, one to 6 Foster Street (Weise) and one to 52 Beacon Street (Sullivan). All members voted to confirm these permits.

NOI 40-933 452 ATLANTIC AVENUE FALK

Resource Area: Coastal Bank, Coastal Beach

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

Appeared: Curt Young of Wetlands Preservation, Inc., Scott Patrowicz of Patrowicz Land Development Engineering, Thaddeus Siemasko of Siemasko + Verbridge, Inc. and Mr. Falk

Control Drawings: Site Plan, Existing Conditions; Site Plan, Existing Conditions & Swampscott ConCom Approval; Site Plan, Showing Proposed Improvements: all dated October 25, 2007 and prepared by Patrowicz Land Development Engineering. Seawall Repair Project, #452 Atlantic Avenue, sheets 1 and 2, dated October 5, 2007, prepared by Vine Associates, Inc.

Control Documents: As included with the NOI

This was a continuance from 11/08/07. Comments from DEP had been received questioning why the entire coastal bank should be armored. A letter dated December 18, 2007 from Wetlands Preservation Inc. to Gary Bogue of DEP presented the arguments of the applicant as to why armoring of the entire bank was necessary and the most effective approach to fulfill the requirements of 310 CMR 10.30 (3)(a), (b) and (c). The commission accepted these arguments. All members voted to close this hearing and 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 obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.
4. All site plans will show the No Disturb Zone and the No Build Zone.
5. Test borings will be made in the area of the pool to insure a proper foundation for supporting the pool. This information will be documented to the Commission before any work on the pool is started.
6. Structural details for the proposed terrace walls at the top of the coastal bank will be supplied to the Commission before any work is started on these walls.
7. A clearly stated, legally binding document from the Clifton Improvement Association to insure that access to the beach remains open and accessible for a minimum of fifty (50) years from the completion date of this application must be submitted to the Commission before any work is started on the site.

During construction:

8. 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.).
9. 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
10. 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.
11. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
12. In the event of a major storm forecast, the area and all equipment will be secured to protect the wetland resource areas.
13. If any work is done on the beach and this work disturbs the beach, the disturbed areas will be restored to their conditions as they existed prior to the work. The on-site manager will notify the commission at least 48 hours before any work is started on the beach.

Post-construction/in perpetuity:

14. 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.
15. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. 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.

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

17. 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.

18. Monitoring of the beach erosion will be done and the schedule of nourishment will be updated each year for the first five (5) years after completion of the revetment. This requirement applies only to the one hundred (100) foot section of the beach at the west/south end of the property. At the end of the five (5) year period, the condition and history of the nourishment program will be reviewed to determine what, if any, future ongoing nourishment is required. The applicant is responsible for the beach nourishment as long as he/she owns the property. Monitoring and evaluation of the beach erosion will be done by a wetland scientist with expertise in coastal restoration projects and will be submitted to the commission by the end of August each year. Referring to the letter of October 25, 2007 from Dr. Rosen of Geo/Plan Associates and the monitoring of the beach erosion and the schedule for replenishment of beach material (beach nourishment), his letter defines how and when these activities will be done and is made a part of the conditions for this application.

19. Any required beach nourishment program must be continued by any and every ensuing future owner and this must be written into the deed. If necessary, a bond from the applicant will be posted to insure this condition. This is a surviving condition.

20. Once the revetment is constructed and the coastal beach has been restored and after the five (5) year period or thereafter during which the applicant, or any subsequent owner is responsible for the maintenance of the bank, additional beach nourishment material shall be added as necessary in order to maintain the bank per its final design under this NOI. A review with the Conservation Commission by the parties to perform the work is required before any nourishment is added. No NOI will be required. This condition shall survive this order.

21. Upon completion of the work allowed under this OOC, the applicant shall within 30 days apply for a Certificate of Compliance (COC). This application shall be accompanied by a written report from the project wetland scientist confirming all work has been done in accordance with the design as defined under this NOI. If required by the commission, an "as built" drawing shall also be submitted with the application for the COC.

NOI 40-936 361 OCEAN AVENUE TEEL

Resource Area: Coastal Bank, Coastal Beach

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

Appeared: C. Young of Wetlands Preservation Inc.

Control Drawing: Teel/Lane Residence, 361 Ocean Avenue, Landscape Plan dated 10/12/07, prepared by Keith LeBlanc Landscape Architecture

All work proposed will be in the buffer zone and be done by hand. After an explanation by Young, all members voted to close this hearing and 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 (chipped mortar, stone and cement) will be removed from the site daily so as not to enter the resource water. 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. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. 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.

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.

NOI 40-0000 3 KENNETH ROAD TRAUTMAN

Resource Area: Coastal Bank, Coastal Beach

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

Appeared: M/M Trautman and P. Lynch, atty.

Control Drawing: Plot Plan, 3 Kenneth Road, Land of John & Holly Trautman, dated June 29, 2007, revised 09/24/07, prepared by Kane Land Surveyors. Drawings by Pitman & Wardley, Architects LLC dated 28 September 2007

No DEP File Number had been received. The applicant was informed the hearing will be discussed by cannot be closed until this number is received. An open deck on posts resting on sono tube footings is proposed partially within the No Disturb Zone and the No Build Zone. Both zones are already disturbed with lawn and terraces. The terraces are flat and vegetated. The commission decided the deck construction will not impact the wetland resource area and that no erosion control is necessary. The remainder of the construction is landward of the house and will not impact the resource area. The driveway will have a drywell at its lowest spot to contain and filtrate storm water from the driveway. A revised site plan showing this drywell will be submitted. With the concurrence of the applicant, all members voted to continue this hearing to January 24, 2008. In the event an OOC is issued it will contain 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. Prior to the start of any work, a revised site plan showing the proposed drywell in the driveway will be submitted to the commission for approval.

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. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use (contacting with soil) 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 MADEP which is less polluting and harmful to the salt water and its environment.

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. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. 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.

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.

NOI 40-934 45 WHARF PATH DOLPHIN YACHT CLUB

Resource Area: Coastal Bank

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

Appeared: V. Conty, Commodore of D.Y.C. and P. Lynch, atty.

Control Drawing: Site Plan, 45 Wharf Path, Dolphin Yacht Club dated April 3, 2007, prepared by North Shore Survey Corporation; Dolphin Yacht Club Floor Plans, dated 11/08/2007, prepared by Siemasko + Verbridge; Deck Framing Plan & Details S1, Dolphin Yacht Club Marblehead, MA dated 11/7/07 and prepared by McBrie, LLC Structural Design & Sales, Danvers, MA.

The proposed deck area will be slightly larger than the existing deck area. The additional area amounts to about 110 sq. ft. and will be on the north side, facing the Glover Landing condominiums. This area is currently a hard surface. Therefore, the added area will not impact this surface or increase the storm water that currently flows down to the ocean. The entire area is currently totally developed. The existing chain link fence along the top of the retaining wall will serve as a limit of work and containment for construction materials. All members voted to close this hearing and 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.

5. 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 40-935 42 FOSTER STREET PLEON YACHT CLUB

Resource Area: Coastal Bank

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

Appeared: D. Bennett of the Pleon Yacht Club and R. McCann, atty.

Control Drawing: Plan to Accompany NOI Foster Street (prepared for Eastern Yacht Club) dated 05/15/2005, prepared by Hayes Engineering. This drawing was originally used for NOI 40-842 and is being used for NOI 40-935. All information on the drawing is the same. The building being discussed is located at the west end of the property, lying almost adjacent to this west lot boundary. Other drawings are A.0 and A.1 entitled Pleon Yacht Club, Floor Plans, dated 11/12/2007 prepared by Siemasko + Verbridge.

Per McCann, the proposed building sits essentially within the footprint of the current building to be replaced. The proposed roof will be covered by coated metal sheets. Per the current MA DEP Stormwater Guidelines, the storm water flowing from metal roofs is not considered treated water and therefore cannot be allowed to flow directly into wetland resource waters. In order to address this matter, the applicant agreed to install a French drain along the entire side of the building directly abutting the lot line and have

this French drain empty into a drywell located at the end of the building. After further discussion, all members voted to close this hearing and 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. Before any work is started, the applicant will submit a revised site plan showing the French drain located along the entire west side of the proposed building and the drywell located at the seaward end of the proposed building.
3. Before any work is started, the applicant will submit a revised site plan showing the location of the erosion control, said control to consist of filter socks laid along the top of the coastal bank in the area of construction.

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.
7. Any pressure-treated wood proposed to be used in the construction of a structure for land -based use (contacting with soil) 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 MADEP which is less polluting and harmful to the salt water and its environment.

Post construction:

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.

Old/New Business:

Approve Minutes: See above

Request for COC: Both COC's per the agenda were signed.

Minor Activity Permits: See above.

Sign Documents: All documents per the agenda were signed.

The meeting was adjourned at 9:00 PM.