

**CONSERVATION COMMISSION
MINUTES OF NOVEMBER 13, 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, Fred Sullivan, Deb Payson, Craig Smith, Ken Fisher and Brian LeClair. Also present 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.

Discussion: 40-933 452 ATLANTIC AVENUE FALK

Appeared: Mr. Alexander Falk and Curt Young of Wetlands Preservation Inc.

DEP has issued a Superseding Order of Conditions (SOC) for this NOI. The focus of the discussion was how to proceed in view of the OOC issued under the local bylaw. After reviewing the new site plan revised to agree with the SOC, the commission decided that, since the SOC was more protective of the wetland resource area, it makes sense to amend the OOC issued under the local bylaw to incorporate the SOC conditions but maintaining any local bylaw conditions which complement and do not violate the SOC conditions. By a vote of five "yes" and one abstaining, the commission voted to review this change as an amendment to the local bylaw OOC. The hearing is set for December 11, 2008.

The applicant requested that he be allowed to start interior demolition before the next hearing. He proposes to station a covered dumpster on the street side of the house adjacent to Atlantic Avenue and to remove all material from this side of the house. The commission decided this would not impact the resource area and all voted to allow this work to proceed. D. Saal will so inform the Marblehead Building Department.

**40-964 166 FRONT STREET FT. BEACH FISHING SHANTIES
TOWN OF MARBLEHEAD**

Resource Area: Land Subject to Coastal Storm Flowage

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

Appeared: A. Sasso, Town Administrator, D. Saal, Town Engineer and M. Finn, contractor

Control Drawing: Fort Beach Fishing Shanties, October 2008, prepared by D. Saal

The present shanty measures 12 x12 ft. The new shanty will measure 12 x 16 and will be supported by concrete columns, the bottom of the floor joists being approximately one foot above ground level. It will be located in the same location as the present shanty. It will not be any higher than the existing surrounding shanties. Demolition will be completed in one day and all material removed the same day from the site. Only the construction material, which will be used each day, will be stored on site on the parking lot. It was agreed that no erosion control fencing was necessary since the proposed shanty is located within other shanties and no material will be left on site overnight.

Ms. Murr, a neighbor, was concerned about the height but was satisfied it would not be higher than the current surrounding shanties.

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.

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. The construction of any structure within land subject to coastal storm flowage and permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure.

Post-construction/in perpetuity:

6. 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.

**40-961 HARBOR SIDE SEAWALL OCEAN AVENUE
TOWN OF MARBLEHEAD**

Resource Area: Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage

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

Appeared: A. Sasso, Town Administrator and Peter Williams of Vine Associates, Inc.

Control Drawing: Site Plan, Ocean Avenue Causeway, sheets 1-6, dated October 2008, prepared by Vine Associates, Inc.

Note that the NOI erroneously states the project is located in Estimated Habitat of Rare Wildlife. It is not and does not require any letter of notification. Williams pointed out that equipment and material will be stored on the upper beach at Riverside Beach. The six (6) existing stormwater catch basins on the roadway will be outfitted with hoods. After a detailed explanation by Mr. Williams, the commission voted to close the 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. The erosion control techniques to be used on site and as described in the project narrative in the NOI shall be included in the construction contracts between the applicant and his/her contractor.
3. A copy of the letter of notification to the Division of Marine Fisheries will be submitted to the commission before any work is started.

During construction:

4. All erosion control measures will be inspected at least once every seven day period by the applicant’s representative. In the event any repairs are required, repairs will be undertaken within 24 hours at the direction of the applicant’s representative and a written

report will be submitted by same to the commission.

5. Hooded outlets will be installed in the six (6) existing catch basins on the roadway.
6. 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.).
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 and equipment will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible and will be properly secured to prevent any of this material from entering the resource waters.

Post-construction/in perpetuity:

9. Upon completion of the project, the operation and maintenance of the structure becomes the responsibility of the Town and its agencies.
10. 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.
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

40-962 59 NAUGUS AVENUE CLARK

Resource Area: Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage

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

Appeared: Peter Williams of Vine Associates, Inc.

Control Drawing: Site Plan, Clark Residence, 59 Naugus Avenue, sheets 1 and 2, dated

October 2008, prepared by Vine Associates, Inc.

The DEP had commented that they assume the bank supplies sediment to a beach, said beach lying along the shore at some location (in this case at Edgemere) and not necessarily directly in front of the site. Williams responded to this comment in his letter dated November 11, 2008 to the commission, copy to M. Abell, DEP Northeast Region. Based on direct observations of the bank, he said the material on the bank is composed of broken ledge, loam, and small stone but does not contain any fines or sands which are found on beaches. A neighboring beach at Edgemere is located behind an outcropping and, due to this outcropping and the general water flow direction, even if there were proper beach sediment at the site of this NOI, this sediment would not supply the beach at Edgemere. The commission noted that the previous hearing for this site, 40-896, also stated that the site does not supply sediment. All work will be done from land over the bank. All work will be done by hand with the possible exception of a bobcat.

Williams also stated upon questioning that the new seawall will not have any adverse effects on neighboring properties due to wave action or direction.

Based on the foregoing, the commission 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. 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 landscape plan will be submitted to the commission for approval before any work is started. This plan will show a means of preventing the flow of any lawn chemicals over the coastal bank, example: a berm, a hard barrier, etc.

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. 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 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

40-963 54 EVANS ROAD MEYRAN

Resource Area: BVW

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

Appeared: W. Manuell of Wetlands Land Mangement, Inc.

Control Drawing: Plot Plan of Land, 54 Evans Road, Michael & Ivana Meyran, dated May 30, 2008, prepared by North Shore Survey Corporation.

All work is outside the No Disturb and No Build Zones. The topography is quite flat with a small incline flowing to the wetland. W. Manuell explained the details of the project. 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. 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.

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.

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Old/New Business:

Approve Minutes: The minutes of 10/09/08 were approved by all members.

Sign Documents: All documents per the agenda were signed.

The meeting was adjourned at 8:45 PM.