

CONSERVATION COMMISSION MINUTES OF JANUARY 11, 2007

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, Betsy Rickards, Craig Smith and Fred Sullivan. Mark Klopfer arrived at 8:15 PM but was present for all hearings requiring a vote. Also present was Jan Smith, Associate Member. Doug Saal, Conservation Administrator, was present at the beginning of the meeting to notarize signed documents but departed thereafter due to feeling ill.

The hearings were conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw.

Note: The commission currently has only five 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.

BOARD OF HEALTH – Landfill Closure Discussion

Appeared: Wayne Attridge, Director of the Board of Health, Steven Wright and Rob Kenally of SEA Consultants, Inc.

Reference: Documents, "Progress Report Update Regarding Landfill Closure and Post-Closure Use Options, prepared December 19, 2006" and "Conservation Commission Coordination Meeting Update Regarding Landfill Closure and Post-Closure Use Options, January 11, 2007"

Wright presented three possible scenarios for cleaning up/capping the landfill. See the document "Progress Report Update Regarding Landfill Closure and Post-Closure Use Options, prepared December 19, 2006" for a description of these scenarios. (Attridge subsequently mentioned a fourth scenario, which is simply to close the landfill after it has been capped.) The BOH recommends the third scenario whereby a new transfer station is built, new re-cycling areas are established and an area for on-going deposition of yard waste is provided. Under this scenario, approximately 0.8 acres of Steer Swamp immediately adjacent to the transfer station (adjacent to the new re-cycling area) would be capped with grass and fenced off (along with the entire landfill site) to prevent human access. The commission agreed to this and to the placement of a BMP (Best Management Practice) detention basin on that portion of land previously transferred to the Conservation Commission from the BOH. This basin will serve as part of the overall storm water management plan to clean water flowing off the landfill site.

Another 3.05 acres of Steer Swamp will be dredged, capped and new soil replaced. The commission agreed to the suggestion not to bring this area back to its current grades (which had been created by the dumping of waste in previous years) but rather, to allow this area to revert to a wetland. All parties agreed to work with other pertinent parties (for example, the Marblehead Conservancy) to create a re-vamped area as natural and esthetically pleasing for conservation purposes as possible. One further action in Steer Swamp might be the dredging of parts of Babbling Brook and the removal of a culvert in the vicinity of the Stony Brook entrance.

The commission felt these concessions from it would help the town to achieve a healthier, more sanitary environment around the landfill that will benefit all residents into the foreseeable future.

40-911 DEVEREUX BEACH REC., PARK & FORESTRY DEPARTMENT

Resource Area: Coastal Beach, Coastal Bank

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

Appeared: Derek Norcross and Mike Lane of the Rec., Park & Forestry Dept.

Control Drawing: As supplied with the NOI

The proposed pavilion will be set on pilings. This was recommended by Rebecca Haney of MA CZM (see Haug memo regarding a site visit by Haney on Friday, 16 June 2006). Per Lane four pilings will be driven into the dune and the vertical support columns for the pavilion will be attached directly to the pilings. There will be no concrete slab under the pavilion. Rather, this area will be left as sand. Per Lane, the manufacturer specified a life of 30 years for the pavilion. Further, Lane stated this construction should be able to withstand a storm as severe as the blizzard of 1978. One day will be required to drive the piles and one day to erect the pavilion. 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. Four (4) separate piles shall be driven to resistance (at least 10-feet) into the dune to act as a foundation for the four columns supporting the roof of the pavilion. The pavilion columns shall be attached to the piles using either the caisson footing detail (20X20 Orlando Model with pile embedded) per the pavilion design by Classic Recreation Systems, Inc. or by direct connection of pavilion column

base plates to the piles, the details of which shall be submitted to the Conservation Commission for approval prior to installation taking place.

3. There is to be no concrete or wooden floor under the pavilion. This area is to remain sand.
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. 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

6. 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.

40-853 191A & 191B GREEN STREET McEACHERN

Resource Area: BVW

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

Appeared: Mr. Shawn McEachern, new owner

Control Drawing: Conservation Plan for Single Family Residence, 203R Green Street, dated 07-16-01, and revised 08-30-05, prepared by Griffin Engineering Group, LLC and supplemented by sketch “Deep Sump Stormwater Manhole”, dated January 2007, drawn by Doug Saal and signed by McEachern.

Reference: Letter from P.F. Gallo to Mr. McEachern dated January 2, 2007

The prior owner, Mr. Ozzonian, sold the property to Mr. McEachern. McEachern does not plan to build houses at this time. However, he did agree to install the storm water drain system as designed on the control drawing but requested to replace the Stormceptor with a deep sump manhole. Since the storm water feeding into the Stormceptor will be from the low area behind the Barney property and another grass area only, the

commission agreed the proposed deep sump manhole would be adequate to perform its role as BMP on this site. McEachern said he plans to install the drain system within the next 2-3 weeks if the weather allows. All members voted to close this hearing. All members voted to issue an amended OOC with the following new special condition.

The Stormceptor will be replaced with a manhole with a four foot sump and a tee or elbow hood.

40-912 16 FOSTER STREET SKAANE

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

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

Appeared: R. McCann, atty., P. Ogren of Hayes Engineering and M/M Skaane

Control Drawing: Plan to Accompany NOI for Stein I. Skaane and Jean C. Skaane, dated November 22, 2006, prepared by Hayes Engineering, Inc. and Landscape Proposal, Skaane Residence, no date and no author listed.

A large part of the existing foundation will remain (especially in the No Build Zone) and the existing house footprint will not be increased by any significant amount. Regarding the proposed extension of the seawall, the commission stated it does not recommend vertical seawalls in principle. A site visit by Haug indicated the proposed seawall would actually be in the coastal bank. This area did not show erosion due to wave action. Any erosion appeared to be from water flow over the lawn. In addition, the bank in question already has a large number of large boulders strewn in front of it. Apparently, these were placed there long ago. Further, no ledge was evident in this area so the question arose as to how the proposed seawall would be anchored on ledge. The commission suggested additional boulders be placed in among the existing boulders to form a more complete rip-rap in lieu of a seawall. The owners, through Mr. McCann, agreed to this. Further, the owners agreed to plant a three foot wide vegetated buffer strip along the bank landward of the rip-rap. Juniper, grasses and/or rugosa rose will be planted in this buffer strip. (Burning Bush will be eliminated from the planting plan since it is now classified as an invasive species by Massachusetts.)

Regarding the pier repairs, any repairs will be to the superstructure only (decking, railings, etc.). The float will be anchored with mooring blocks (not considered "permanent" by Ogren, as described in the NOI). The commission also suggested a lifting mechanism (gallows) be included with the gangway and that the drain outflow at the end of Parker Lane be investigated for water quality. All members (Rickards left at 9:00 PM and was not present for this vote) 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. No seawall will be constructed. Existing rip-rap in the area of the proposed seawall will be complemented with additional boulders to form a more complete rip-rap but will not extend further out toward the harbor.
4. A vegetated buffer strip three feet wide will be planted landward and immediately adjacent to the bank in the area of the rip-rap. Plantings can include Juniper, grasses and /or rugosa rose (non-invasive plants).
5. Burning Bush will be eliminated from the planting plan and replaced with a non-invasive plant.
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 will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
9. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks will conform to the requirements of Chapter 91.
10. All piers, docks and floats must follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

Post-construction/in perpetuity:

11. 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.

12. 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.

13. All gangways, docks or other items not permanently secured to the earth shall be stored during the "off season" (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. This condition shall survive this order.

14. The float will be anchored with mooring blocks.

15. A letter from the Marblehead Harbormaster approving the new float will be submitted to the commission before installation.

16. Confirmation of the existing Chapter 91 license or a revision thereof will be submitted to the commission.

17. Any repairs to the existing pier will be to the superstructure only (decking, railings, etc.)

18. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. This condition shall survive this order.

19. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at mean low tides. This condition shall survive this order.

20. 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.

21. Minor maintenance repairs to the superstructure only of the pier are allowed as a

surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. This condition shall survive this order.

22. 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: No minutes were approved.

Sign Documents: All documents per the agenda were signed.

Storm Water Policy: A new storm water policy is being generated for the town to be applicable when 40,000 square feet or more of land is disturbed. This policy is based on the current policy of the state which the commission currently follows. It has been suggested that the Conservation Commission adopt responsibility for administering this policy. Initial response from the members was positive but further discussion among all pertinent parties should be held before a final decision is made.

Lead Mills: Haug will write a letter to Lisa Meade, attorney for the town regarding Lead Mills, to inform her of the decision relayed via Woodard & Curran to remove the portion of Wyman Woods from the land requiring any clean up. W&C now claims this land no longer requires clean up, expressed in a meeting Saal and Haug attended on December, 2006 at DEP in Wilmington.

The meeting adjourned at 9:30 PM.