

CONSERVATION COMMISSION MINUTES OF APRIL 12, 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, Fred Sullivan and Mark Klopfer. 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 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.

Discussion:

Black Joe's Pond: See this topic under "Old/New Business".

Conservation land at the rear of 31 Arthur Avenue (Ted Baker): Mr. Baker appeared and acknowledged he had cleared some brush on conservation land. Similar activity had been performed by him 2-3 years ago. The commission reminded him no one is allowed to perform any work or alter any conservation land without permission from the commission. In addition, he has a pipe exiting from his property, which drains ground water onto conservation land from under his cellar. He was instructed to re-direct the outflow of this pipe so it does not exit directly onto the conservation land but rather exits on his own land and does not cause any erosion on conservation land. He said there is a tree which has fallen across a path, blocking access through the path. The commission said he could cut out that section of the tree blocking access but he is not to cut any other trees, dead or alive. Regarding any vines (bittersweet) strangling live trees, he will work with Don Morgan to identify these unwanted vines so he can remove them from the trees. A letter will be sent to Baker to insure he understands these guidelines and will be informed that any further infractions will be fined.

Robinson's Farm: Don Morgan of the Marblehead Conservancy submitted two sketches dated 01/02/07 showing proposed work to be performed on the Robinson Farm land. It is anticipated that this land will be transferred from the town to the Conservation Commission at the Town Meeting in May, 2007. Assuming this occurs, one approach proposed is to remove an existing cement slab from the former dairy barn and almost the entire length of the existing asphalt driveway, leaving room to park three cars on the land near the entrance from Ramsdell Street. The intent is to return the land to as natural a state as possible in keeping with the concept of open space/conservation land. The

commission voted all in favor of this. Saal and Haug will check to see if the funds in the Conservation Fine Fund can be used for this purpose.

Appreciation Marker: Morgan then asked if the commission would approve a marker attached to a boulder and placed at the entrance to Camp Shore Lee, near the Living Lawn garden. A description of the message on the marker and the details of its structure are made a part of these minutes. This marker is to honor those individuals who were major contributors to the \$100,000 endowment fund for maintaining trails on conservation lands. The policy regarding memorials, etc. was reviewed and it was concluded this marker could be allowed in the specified location. All members voted to allow this marker.

40-834 Redd's Pond M'hd Rec., Parks and Forestry Dept.

Resource Area: Pond

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

Appeared: C. Winder, representing the M'hd Rec., Parks and Forestry Dept.

Control Documents: As previously supplied with the original NOI

Reference: See minutes of March 8, 2007 and letter dated April 10, 2007 from the M'hd Rec., Parks and Forestry Department, said letter agreeing to the treatment of Redd's Pond. In response to a question from C. Campbell, it was stated that the drain from the pond will be sealed for at least 24 hours after chemical treatment. All members voted to close this hearing. All members voted to amend the original OOC to include the following special condition.

The commission allows one application of Reward in 2007 but with the condition that any future decisions regarding chemical treatment would be influenced by the study to be conducted on Black Joe's pond and could disallow any further chemical treatment.

RFD 45 Wharf Path Dolphin Yacht Club

Resource Area: Coastal Bank

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

Appeared: P. Lynch, atty.

Site Plan, 45 Wharf Path, Dolphin Yacht Club, dated April 3, 2007, prepared by North Shore Survey Corporation

All work will be done in the buffer zones: re-shingle the roof, replace the smaller, double hung windows with “replacement” windows (not complete new casings, etc.) and replace some of the floor joists under the deck. All work will be done by hand. All members voted to close this hearing. All members voted to issue a negative RFD with the following special conditions.

1. The work to be performed must be described in writing in sufficient detail to facilitate an accurate evaluation by the Conservation Commission.
2. The location of the dwelling with respect to the resource area must be accurately described in a sketch.
3. If required by the Conservation Commission, an appropriate erosion control/silt barrier must be erected and maintained during the work. This must be shown on the foregoing sketch.
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. No debris or trash shall be allowed to enter resource waters.
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 used in the construction shall be arsenic-free.
7. Failure to comply with the above conditions may result in an Enforcement Order being issued whereby all work must cease and a Notice of Intent must be filed.
8. The Conservation Commission reserves the right to enter the property at its discretion to verify the work, resource location, erosion control and handling of materials.

40-835 40-918 316 OCEAN AVENUE CHRISTIAN

Resource Area: BVW

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

Appeared: No one

Control Drawings: Undated excerpt from overall site plan as drawn by S. Patrowicz from NOI 40-608 specifically, Lot 4.; Proposed Pool Scape for M/M Christian, no date, prepared by Environmental Pools, Inc.; typical details of pool construction, by Environmental Pools, Inc. dated 07/23/03

This was a continuance from 03/22/07. The DEP File number had been received. Based on the discussions at the hearing on 03/22/07, 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. The pool will not affect the flood storage capability of the surrounding land.
4. A landscape plant list will be submitted to the commission for approval before any 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. 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.
7. 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:

8. 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.
9. The annual discharge of pool water will exit outside the 100 foot Buffer Zone and will be done in such manner as to prevent any erosion.
10. 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.

11. 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.
12. 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.

40-919 133 FRONT STREET D’AMELIO

Resource Area: Rocky Intertidal Shore, Coastal Bank, Land Under the Ocean

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

Appeared: No one

Control Drawings: Proposed Replacement of Pier, Ramp and Float – Land of Junonia Realty Trust, M. D’Amelio, trustee, dated 01/26/07, prepared by D.J. Lynch, engineers; Planting Plan for D’Amelio Residence, dated September 2006, prepared by For Seasons Ecological Landscape Design

This was a continuance from 03/08/07 and 03/22/07. The DEP file number had been received. In addition, a letter from the National Heritage and Endangered Species Act allowing this project is required. All members voted to close this hearing. Three members voted to issue an OOC, one voted against. The special conditions are as follows:

Pre-construction:

1. A letter from the National Heritage and Endangered Species Act allowing this project is required 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. A drawing showing the details of the lifting mechanism will be submitted to the commission for approval before any work is started.

During construction:

4. During the partial removing of the existing two piers, all demolition material will be contained and removed so as to prevent any of this material from entering the resource waters.
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.
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. 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.
11. 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:

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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: The minutes of 03/22/07 were approved without change.

Sign Documents: All documents per the agenda were signed.

Other Matters:

All members present signed the Sexual Harassment Policy

31 Arthur Avenue: see above

Black Joe's Pond: Gina Field asked if purple loosestrife and Japanese knotweed could be hand removed from the north side of the pond in the area belonging to the commission. After discussion of the methods to be used and the location, all members voted to allow this effort. Gina will keep the commission informed of her progress.

Meeting was adjourned at 9:05 PM