

**CONSERVATION COMMISSION  
MINUTES OF NOVEMBER 8, 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, Craig Smith, Betsy Rickards, Fred Sullivan and Mark Klopfer. 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 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.

**Approve Minutes:** The minutes of 10/25/07 were approved.

**Minor Activities:** D. Saal reported on the two Minor Activity permits (per the agenda) issued.

**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, Peter Rosen of Geo/Plan Associates, Thaddeus Siemasko of Siemasko + Verbridge, Inc. and M/M 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

C. Young had received the DEP File No. for this application. However, no DEP form had been received and since the proposed activity is in a resource area, the applicant was informed the hearing would have to be continued until this form was received. Per the

NOI, the carriage house disappeared sometime between 1963 and 1969. The carriage house seawall disappeared between 1971 and 1976. Even though there is currently no structure (carriage house or seawall) on the portion of the lot previously containing said structures, per a letter from Mr. Damon Seligson of Holland + Knight, dated October 16, 2007, this entire property was legally defined as a single lot prior to 1978. Mr. Saal confirmed that the deed lists only one lot. The commission accepted that the entire lot is grandfathered under 310 CMR 10.30 (3).

The proposed house with additions (new carriage house, pool and terrace, driveway and basketball court) adds a significant amount of impervious surface. Per the control drawings, all surface storm water runoff will be directed down to the lower elevations of the property (elevation 14) to a depression. This area is comprised mainly of sandy soil and should provide good leaching to groundwater. In addition, this area will sit about four (4) feet below the eighteen foot top elevation of the proposed seaward revetment.

The site plans do not show the No Disturb and No Build Zones. These will be added to the drawings. The entire area is already disturbed. Since the proposed new construction will not direct drainage into resource waters and will not add pollution or nutrients into these waters, the commission determined these zones are not inviolate in this case.

The most seaward part of the toe of the proposed revetment will not extend beyond the present footprint of the existing vertical seawall. Based on limited observation of the soil in this area, Dr. Rosen estimated that the soil is composed of cobbles and sand and is compatible with the other beach material in this area. Dr. Rosen referred to his letter of October 25, 2007 (Geo/Plan Associates) and the monitoring of the beach erosion and 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.

Access to the beach for beach nourishment by the applicant was granted to the applicant per a letter from the Clifton Improvement Association dated October 9, 2007. The Commission requires a more clearly stated; legally binding document to insure this access remains open and accessible in perpetuity.

Per C. Young, most work will be done landward of the beach. There will be minimum work performed on the beach itself.

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. A surviving condition is that the 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

surviving condition. Monitoring and evaluation of the beach erosion will be done by a wetland scientist with expertise in coastal restoration projects.

With regard to the pool, test borings will be made in this area to insure a proper foundation for supporting the pool. Structural details for the proposed terrace walls at the top of the coastal bank will be supplied.

From the audience, Mary Casey (from the CIA), Allie Blodgett and Carolyn Harris all spoke in favor of the project. Letter supporting the project from M. Mentuck and D. Shea were read into the file. With the concurrence of the applicant, all members of the Commission voted to continue this hearing to January 10, 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. 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 access to the beach remains open and accessible for a minimum of fifty years 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 the most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://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.

**Old/New Business:**

**Approve Minutes:** see above

**Minor Activities:** see above

**Members:** M. Klopfer informed the commission he must relinquish his position effective December 31, 2007. His personal business schedule has become very demanding and he could no longer devote the appropriate amount of time to discharging his duties as a member. The commission expressed its sincere regrets and wished him well.

**Lead Mills 40-930:** Possible special conditions were distributed to all members for their review. No discussions or votes were held on this matter.

**Robinson Farm:** Don Morgan and Joan McDuff of the Marblehead Conservancy appeared to present the plan (dated 11/07/07) of the Conservancy for trail work at Robinson Farm. Prior to reviewing the details of the plan, M. Martinez of 1 Abbot Court, presented a letter dated September 6, 2007 she had circulated to neighbors in the area. She is against the removal of the asphalt driveway and delineated the reasons in her letter. Since this issue was only a part of the entire plan, the commission decided to review the plan item by item.

- #1. Ok
  - #2. Obtain opinion from Møhd Water & Sewer as to proper sizing of the pipe.
  - #3. Remove Norway Maple seedlings but not mature trees. Submit a list of native plants planted.
  - #4. Ok
  - #5. The asphalt driveway will remain until it needs replacement. Asphalt will not be re-introduced into the area as a means of repairing or replacing the driveway.
  - #6. Ok
  - #7. Four commission members said, Ok. One member said ðnoö.
  - #8. Ok.
- Considering all of the foregoing eight items, four members voted ðyesö and one member voted ðnoö due to objections with item #7.

The meeting adjourned at 10:00 PM.