

**CONSERVATION COMMISSION
MINUTES OF FEBRUARY 9, 2006**

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, Miller Shropshire (arrived during the first hearing), Margo Carey, Betsy Rickards and Fred Sullivan (representing a quorum). Also present were: Doug Saal, Conservation Administrator and Jan Smith, Associate Member

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

HEARING: 40-871 367 OCEAN AVENUE CAIRNS

Resource Area: Coastal Bank

Interest: Storm damage prevention

Appeared: William Kelley of Kelley Marine Resources and Michael Wasser of Hines/Wasser Associates

Control Drawing: Proposed Landscape Plan, Cairns Residence, dated 1/19/05, prepared by Hines/Wasser Associates (note the correct date is 1/19/06)

Kelley and Wasser provided a series of photographs showing the site to explain the topography and the extent of the proposed construction within the buffer zone. Per Mr. Wasser, the term "Flood Hazard Boundary" as shown on the control drawing is meant to indicate the FEMA 100 year flood elevation. A neighbor, Mr. Gianatasio of 373 Ocean Avenue, stated he has observed an increase of water flowing/seeping from the construction site onto his property in the vicinity where the proposed terraces are to be built. The applicant agreed to address this issue once the work in this area is completed and if a problem persists make any corrections at his/her expense deemed necessary. This issue will be addressed in the special conditions. The commission reminded Mr. Wasser that all plantings must conform to the list of non-invasive plants as specified by the state. All work for this application will be performed landward of the No Build Zone. To close this hearing, four members voted "yes", one abstained. To issue an OOC with the following special conditions, four members voted "yes", one abstained.

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. A revised control drawing showing the correct issue date, the referenced datum for elevations and the correct terms (No Disturb Zone, No Build Zone) will be submitted before any work is started on the work to be covered by this OOC.

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. All retaining walls are to be constructed per Marblehead building codes.

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. 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.

10. 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.

11. Post-construction water run-off from this site shall not exceed pre-construction water run-off.

HEARING: 40-863 HARBOR AVENUE/FLINT STREET M'HD WATER & SEWER

Resource Area: Coastal Bank

Interest: Storm damage prevention

Appeared: Dana Snow and Carl Siegel of M'hd Water & Sewer and Scott Miller of Haley and Ward, Inc.

Control Drawing: Drainage Repair at Harbor Avenue and Flint St., dated November 2005, prepared by Haley and Ward, Inc.

This is to re-build/repair an existing drain system. Storm water BMP's (deep sump, hooded catch basins) will be included to meet the standards for the state Storm Water Guidelines. Previous comments made by DEP in their review have been addressed and resolved. This is a limited project as defined under 310 CMR 10.24 (7) © 3. 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.

HEARING: 40-869 20 GREGORY STREET GESSNER

Resource Area: Coastal Bank

Interest: Storm damage prevention

Appeared: No one

Control Drawing: Drawings as included with the NOI, including "Modified Timber Pile Pier Ramp & Float, dated Dec. 28, 2005, revised Jan. 23, 2006, drawn by Charles Gessner

This is a continuance from 1/26/06. The DEP web site indicated "No comment". All members voted to close this hearing. To issue an OCC with the following special conditions, four members voted "yes", one abstained.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. Plans for the actual repair techniques to be followed will be submitted to the commission for approval before any work is started.
3. Plans for containing debris to prevent it from entering resource waters will be submitted to the commission for approval before any work is started.

During construction:

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. 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.
7. Any pressure-treated wood proposed to be used in the construction of the structure

shall be arsenic-free.

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.).

Post-construction/in perpetuity:

9. 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. This condition shall survive this order.

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

11. 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.

HEARING: 40-870 7 FT. SEWALL TERRACE SAWTELLE

Resource Area: Coastal Bank

Interest: Storm damage prevention

Appeared: Ted Peach

Control Drawing: Exhibits B through E, dated 01/05/06, Exhibits C and D with Illustrative Sketch, all dated 1/31/06 prepared by E. Peach

This is a continuance from 1/26/06. The DEP web site indicated "No comments". A memo from Marine Fisheries/Tay Evans dated January 30, 2006 was read into the file. All comments in this memo as well as the concerns raised by the commission at the hearing on 1/26/06 have been addressed and resolved. 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. All removed and excavated soil will be stored above the flood elevation and will be controlled in such a manner to prevent migration to the resource waters.
3. 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:

4. 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.

Old/New Business:

Minutes: The minutes of 1/26/06 were approved without change.

Sign Documents: All documents per the agenda were signed.

Other Matters: After a comparison of the proposed Bylaw changes re "minor activities" with section 5.4.1 of the Bylaw regulations, it was decided by all members not to pursue any changes to the Bylaw and to maintain section 5.4.1 as it is presently is written.

Meeting was adjourned at 8:45 PM.