

**CONSERVATION COMMISSION
MINUTES OF APRIL 13, 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 Betsy Rickards, Miller Shropshire, Margo Carey and Fred Sullivan (representing a quorum). Also present was: Doug Saal, Conservation Administrator.

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

40-873 2 FORT BEACH WAY COCKAYNE

Resource Area: Coastal Bank

Interest of WPA and Bylaw: Storm damage prevention and flood control

Appeared: Paul Lynch, Esq., attorney for the applicant Robert Cockayne

Control Drawings: Plot Plan of Land, 2 Fort Beach Way, North Shore Survey Corp. 2/23/06 and Drawing Number BSR-6, Enlarge Third Floor Deck Plan, prepared by Jon Koopman, 6/20/2005.

The Chair apprised the applicant's representative that with only four conservation members present, he had the option of postponing the hearing until there were more members present. Mr. Lynch was also asked to waive the rule that all members voting on the NOI would have had to be present at all the hearings. Mr. Lynch waived the rule and opted to continue the hearing this evening.

The project is to enlarge a third floor deck and add a second floor deck on an existing single family dwelling. The location is just back from the top of the coastal bank.

The posts will be hand dug with concrete footings and come down on the building side of the wall.

There will be no paving and no impervious surfaces.

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. No debris shall be allowed to enter the resource waters.

6. Any pressure-treated wood proposed to be used in the construction of the structure shall be arsenic-free.

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. 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.newsfs.org.

40-0875 115 OCEAN AVENUE MARBLEHEAD RECREATION, PARKS & FORESTRY DEPT.

Resource Area: Land Subject to Coastal Storm Flowage

Interest of WPA and Bylaw: Storm damage prevention, Flood control

Appeared: Tom Hamond, Superintendent of Recreation, Parks & Forestry Department, Mike Lane, Director of Recreation and Commissioners Linda Rice Collins, Chip Osborne, Sam Ganglani, and Derek Norcross, of Marblehead Recreation, Parks & Forestry Department.

Control Drawing: SITE PLAN for DEVEREUX BEACH, Patrowicz Land Development Engineering, 10/3/05 as last amended on 3/21/06

The project is for remodeling rest rooms at the Devereux Beach main parking lot and site preparation for and paving the parking lot with bituminous concrete, also installing drainage system for parking lot.

The Chair apprised the applicants that with only four conservation members present, they had the option of postponing the hearing until there were more members present. The applicants were also asked to waive the rule that all members voting on the NOI would have had to be present at all the hearings. The applicants waived the rule and opted to continue the hearing this evening.

Because the DEP suggests consultation with CZM under their comments and the applicants would like to get started with the part of the Notice dealing with the rest room remodeling, it was suggested that they change this NOI to deal only with the rest room remodeling and re-apply for the parking lot and drainage system.

The applicants decided to withdraw the parking lot paving and drainage system and go forward with the rest room remodeling in this application.

The bathroom renovations will not change the footprint of the building and will include cement concrete ramps for wheelchair access.

All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

During construction:

1. 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.).
2. 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.

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.

40-0874 40B CLOUTMAN'S LANE COLLINS

Resource Area: Land Under the Ocean, Land Containing Shellfish, Coastal Bank

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

Appeared: Fred Radcliffe, and Josh Singer of Childs Engineering Corp., Ted Schaefer and Michael Collins, Co-owners of the property.

Control Drawings: Collins Residence PIER LAYOUT, PIER ELEVATION, and PIER SECTIONS. None had an engineer's stamp.

Although this NOI has a number, DEP still has this under review so the hearing will have to be continued until such time as the Commission receives DEP's comments.

The Chair apprised the applicants that with only four conservation members present, they had the option of postponing the hearing until there were more members present. The applicants were also asked to waive the rule that all members voting on the NOI would have had to be present at all the hearings. The applicants waived the rule and opted to continue the hearing this evening.

The project involves installation of a 96' long, 6' wide timber pier and a seasonal 12' x 20' timber floating dock. The pier will be supported by timber piles. A seasonal 45' long by 4' wide aluminum gangway ramp will be used to connect the pier and the floating dock. This structure will be used to on-load and offload passengers from a small dinghy.

The first 4 bents will each be supported by 20 sq. ft. concrete footing. The outer piles will be driven into the ground, although they are uncertain if that is feasible. The dock will be anchored with "Sea Flex Anchors" which are reinforced rubber strands. These are new to this area and the Commission will want more information on them. The applicant proposes to use the Sea Flex Anchors because they require less length from the dock to the blocks. If they were to use the customary chains, the length required would put them into the eelgrass beds which lie some 20 feet further into the water. The float will be 2' from MLW.

Some concerns were voiced about use of CCA for pilings. The stringers, cap and deck will use ACQ.

Attorney Bob McCann represented three abutters, Mr. Bob Hansen of 40C Cloutmans Lane, Mr. Fred Davis of 40A Cloutmans Lane and Mr. Bill Kaull of 42 Cloutmans Lane. Mr. Milton Fistel, who oversaw the construction of Mr. Hansen's pier, was also present.

Attorney McCann had specific concerns about the project:

1. Rubber band anchoring system – need more data, background, longevity, tensile strength as it is in a very rough area.
2. They want to drive outer piles but don't know if there is enough overburden over ledge for driven piles.
3. Will the mooring blocks be sunk to the mud line?
4. Other agencies such as Chap 91 (310 CMR 9.36 (2) and (3)) doesn't allow a pier within 25' of abutting property without consent of property owner. Construction of pier shall not interfere with existing water uses.
5. Other issues: Amount of people using the pier and problems with resource areas at end of pier and under it.
6. Storm damage – Northeast storms surge and back surge. Need detailed studies on wave action here – two piers and floats within 25' of each other in an open environment cause problems.

Mr. Milton Fistel's concerns:

1. Questions hydrographic and topographic survey.
2. Depths – Mr. Hansen moved his pier because there was no water at low tide. Their pier is located at same spot and he feels that it should be extended 60' so as to not ground out at extreme low water. (Applicants agreed to run elevations in from a known datum point)
3. Will it stand up to the 100 year flood? No dimensions on timbers, no engineering stamp.

Kay Eisenhower of 19 and 21 Edgemere Road asked if the applicants could try to keep their pier in line with the Hansen's pier so as not to add anything extra to her sight line.

The applicant noted that they haven't done a final design yet. There will be a sub-surface program to determine depth of rock for pilings, and based on this they may modify drawings. They are in the process of applying for a Chapter 91 License

In a bid to ease the burden of the resource area, the Chair asked if Mr. Hansen would be agreeable to sharing his pier with two more people. He was adamant in his denial.

The Commission requested:

1. A lifting mechanism for the ramp
2. Borings to discover depth so that mooring blocks can be buried
3. Verification of elevations from a known datum to agree on MLW
4. Technical information on Sea Flex Anchors as well as information on where, how, and how long they have been used.
5. Information about CCA.
6. Information from the Harbor Master
7. Comments from CZM
8. Site Survey to determine property lines.
9. Intention of use of dock as excess activity could endanger important eel grass bed resource

This hearing was tentatively continued to May 11, 2006,

Old/New Business:

Minutes: The minutes from 03/23/06 were approved.

The Commission was asked to consider volunteering with the Conservancy on Earth Day.

Sign Documents: The Commission voted to approve the extension for 40-745, the OOC 40-872, the DOA for 27 Gingerbread Hill, the OOC, local bylaw only, 6 Edgewood Rd.

Adjourned at 10:00 PM.