

CONSERVATION COMMISSION MINUTES OF JANUARY 14, 2010

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, Brian LeClair (arrived at 8:00 PM), Craig Smith and Deb Payson. Also present were Willy Lanphear, Conservation Administrator and Jan Smith.

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

Note: The commission currently has seven 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 four members.

Approve Minutes: The minutes of 12/10/09 were approved by the four present members.

Requests for COC:

- 40-960 11 Sargent Road:** All voted to approve.
- 40-722 Goldthwait Reservation:** All voted to approve.
- 40-949 Goldthwait Reservation:** All voted to approve.

Sign Documents: All documents per the agenda were signed.

Old/New Business: 40-948 Stramski Park: All present four members agreed to accept the proposed fence as shown on the arial view photograph, Stramski Way, Proposed Fence, dated January 14, 2010. This fence becomes a part of the final Superceding Order by DEP.

40-989 27 TICEHURST LANE HENRY HAMMOND

Resource Area: BVW, Bank, Land Under Water body (pond)

Interests of the WPA and Bylaw: Prevention of Pollution, Protection of Wildlife Habitat

Appeared: Henry Hammond, applicant, Scott Patrowicz of Patrowicz Land Development Engineering and Craig Bosworth, architect.

Control Drawings:

1. Demolition plan entitled: "Site Plan, Existing Conditions & Demolition Plan, for Deck Re-construction and Re-Landscaping at #27 & 31 Ticehurst Lane" dated January 5, 2010,

prepared by Patrowicz Land Development Engineering and North Shore Survey Corporation.

2. Plan of proposed work entitled "Site Plan, Proposed Work, for Deck Re-construction and Re-Landscaping at #27 & 31 Ticehurst Lane" dated January 5, 2010, prepared by Patrowicz Land Development Engineering and North Shore Survey Corporation.

See also letter from Patrowicz dated January 5, 2010 (PLDE #09-03).

No DEP file number had been received. The applicant was informed that the project will be discussed but cannot be closed until this number is received. This new, current NOI replaces NOI 40-975. NOI 40-975 has been withdrawn by the applicant without prejudice. The new NOI reflects a re-drawing of the boundary lines for #27 and #31 Ticehurst Lane. As with 40-975, the work proposed can be allowed per 310 CMR 10.53 (4) and 10.56 (4). A 1:1 replication can be accepted. (Note: The local bylaw stipulates a 2:1 replication only for BVW's).

The applicant requested to remove the existing deck ASAP while the pond is frozen, even before an OOC issued. The commission agreed to this action with the understanding the work will be done at the risk of the applicant. One rationale for this decision is that there will be less disturbance to wildlife and fish during the winter. A major aspect to this project is the landscaping and its ability to minimize negative effects on the pond. **A landscape plan will be submitted for approval at the February 11 meeting.** This plan will reflect a berm starting at the north end of the property of #27 Ticehurst Lane (where the two car parking area is proposed) and crossing into #31 Ticehurst Lane. The length of the berm will be ca. 40 lineal feet, it will be ca. 3-4 inches high and ca. 3 feet wide. It will be located on the landward side of the proposed stone walkway. The purpose of the berm is to prevent any lawn chemicals from flowing into the pond.

The "lawn" area between the pond and the stone walkway (on both properties) will be landscaped with plants/shrubs to minimize any fertilizers in this area. All landscaping will be finished by the fall of 2010. In the event a permit is issued it will contain the following special conditions.

Special Conditions:

19. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

20. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the

Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

21. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

22. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

23. In accordance with General Condition No. 8 contained in this Order of Conditions, the applicant shall record this Order at the Registry of Deeds and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order prior to the commencement of any work authorized by this Order. Failure to submit said recording information prior to the commencement of work may result in a fine of up to \$300 per day issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

24. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

Pre-construction:

25. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

26. 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.

27. 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.

During construction:

28. 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.).

29. 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.

30. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

31. 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:

32. 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.

33. When a pool/spa/hot tub is to be 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 to allow for the chlorine and other chemicals to dissipate; and there shall be an appropriate sign placed permanently at or immediately adjacent to the pool/spa/hot tub drainage valve or mechanism indicating this requirement. 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.

34. 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.

35. Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit said application within 30 days may result in a fine up to \$300 per day issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

The commission voted to continue this hearing to February 11, 2010.

Old/New Business:

Approve Minutes: See above.

Requests for COC: See above.

Sign Documents: See above.

Request for Extension: 40-865 63 Beach Street: The Building Permit for this property has been pulled by the Marblehead Building Department and will be reviewed by the Marblehead ZBA in January, 2010. The applicant requested a one year extension. The commission voted to extend the OOC to January 26, 2011.

Other Matters:

40-982 10 West Orchard Street: Reference: Siemasko + Verbridge letter, no date, Re: Amended Order of Conditions. See also the drawing "Proposed New Residence for Sarah and Ian Hart", prepared by Siemasko + Verbridge, dated 10/05/09, revised 01/08/10.

Appeared: Sarah Hart, Scott Patrowicz of Patrowicz Land Development Engineering, D. Siemasko of Siemasko + Verbridge

The applicant wishes to remove an existing poured concrete wall and replace it with a lower wall. This work will be in the No Build Zone. Due to the scope of the proposed work, the commission voted to review this as an amendment. However, the commission did indicate it was disposed to approve this work as defined by the 01/08/10 revised drawing. The applicant, at his/her own risk, will proceed to remove the wall and build the new wall. The commission voted to continue this hearing to February 11, 2010.

40-979 12 Goldthwait Road: Reference: Proposed Site Plan, 12 Goldthwait Road, dated April 29, 2009, revised January 12, 2010, prepared by North Shore Survey Corporation.

Appeared: Applicant William C. (Twig) Burke, attorney Robert McCann, and Scott Patrowicz of Patrowicz Land Development Engineering

The applicant requested two changes as follows:

(1) to extend the retaining wall at the northeast property line by 7 feet, thereby bringing this wall into the 100 foot buffer zone. The commission agreed this does not require an amendment.

(2) to drain below ground water from the area of the cellar into the street catch basin at the eastern corner of the property. The applicant has obtained permission from the Marblehead Drain Department, Permit 3111, dated 12/30/09. This street catch basin discharges directly into the Goldthwait marsh. In order to protect the marsh, which is being degraded due to fresh water

input from multiple sources, the commission required a written confirmation from an appropriate expert that the water to be drained off this property is salt water. If this is the case, the commission will approve this drain without requiring an amendment.

If the water is fresh, the drain water will be pumped uphill to a leeching basin and allowed to filtrate into the soil. The applicant will present the proper design for approval. Again, it would be the intent of the commission to approve this without requiring an amendment. All members voted to continue this hearing to February 11, 2010.

The meeting was adjourned at 8:40 PM.