

MINUTES OF A REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION OF THE VILLAGE OF MAMARONECK HELD ON MAY 21, 2008, AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT: Mr. Steven Goldstein, Chairman
 Mr. Lewis Fechter
 Mr. Daniel Gallagher
 Mr. Morton Heilman
 Mr. Cary Sleeper
 Mr. Anthony S. Weiner, Vice Chairman
 Trustee Liaison Toni Ryan
 Mr. John Feingold, Environmental Consultant for the Village

Chairman Goldstein called the meeting to order at 7:40 p.m.

OLD BUSINESS:

MAMARONECK BEACH AND YACHT CLUB –TO OBTAIN A PERIMETER PERMIT FOR A DOCKING FACILITY

Mr. Paul Noto, Esq. and Mr. Michael Ludwig/Ocean Coastal Consultants of Trumbull, Connecticut and Mr. Bernard Rosensein were present to represent the applicant.

A stenographer was present to transcribe the application of the Mamaroneck Beach and Yacht Club.

Mr. Noto referred to a memorandum he received from Mr. Furey.

Mr. Ludwig discussed metes and bounds and addressed the points Mr. Furey noted in his memorandum.

The Commission and the applicant discussed if the metes and bounds were accurately represented on the drawings.

Mr. Ludwig said they have gone to the NYS Department of General Services and asked about the metes and bounds and the State said they are ok with what the drawing depicts.

Mr. Ludwig said he did not receive Mr. Furey's memorandum until 5:00 p.m. this evening.

The Commission and the applicant discussed the following issues:

- Representation of metes and bounds on the drawings
- Property lines
- Accuracy of the inland metes and bounds
- Width of the channel increased by ten feet
- Reef taken out/removal of rock
- State DEC has open investigation on the rock removal including the reef

- DEC violations: the rock reef, lack of notification of repairs after the storm and wall repair on the entranceway
- Accuracy of the boundaries

Mr. John Feingold, Consulting Engineer introduced himself and said he was hired by the Village to offer advice to the HCZMC on a project by project basis.

Mr. Feingold requested the following from the applicant:

- A copy of the Allen Scott e-mails from the Office of General Services
- Determine what the licensed line is
- To obtain Appendix 1 of the Office of General Services license, showing the map of the line
- Regarding the rock/reef issue, the HCZMC should be concerned about unpermitted excavation that may have occurred. The HCZMC should know whether rock or logs were removed.
- The applicant has asked the DEC to respond and suggests that the HCZMC to ask along with the applicant if a permit is needed.
- Regarding changes in the floats and dockage, the central ramp may be connected to the landside that does not have the necessary Certificate of Occupancy from the Village.
- Adjacent properties should be shown on the plans.

Mr. Sleeper asked Mr. Feingold if he considered the safety/navigation within the breakwater of the dockage and navigation safety in general.

Mr. Feingold said the navigation safety has not been taken into consideration.

Mr. Sleeper said the HCZMC should look at the navigational safety of the dockage and how it is set up.

Mr. Feingold said it is a concern in the LWRP. The existing conditions on the docking configuration refer to the fairway as not to be too different from what is on the plans and does not seem to be an issue.

Mr. Feingold said he cannot address internal navigation at this point.

Mr. Sleeper asked if there were good operating standards when building a marina.

Mr. Feingold said he would look into that.

Mr. Heilman said whether we grant the perimeter permit or not will not determine whether it's safe or not.

Mr. Goldstein said they are operating illegally without the required Coastal Consistency approval.

Mr. Noto discussed renovating the docks and said the Building Department needed a basis to judge future applications.

Mr. Goldstein asked Mr. Noto if he was asking the HCZMC to establish a base line and Mr. Noto said he was.

Mr. Heilman asked what is the HCZMC's basis for granting a perimeter permit.

Mr. Noto said they have been grandfathered in since before 1984 and going forward they will know what the Building Department and Village expects from them.

Mr. Gallagher said there appeared to have been work done on the docks in the past that the applicant should have come to the HCZMC to apply for a permit. Mr. Gallagher said at some point the configurations were changed without going through the Village.

Mr. Noto said the area was clearly worked on after the storm, especially the dockage. Mr. Noto said the configuration has been modified since 1984 and the applicant would like for the configuration to be approved by the HCZMC.

Mr. Goldstein said the third dock access point was done after the LWRP was approved and is not reflected on the 1984 plans. Mr. Goldstein asked about work done on the walkway, gazebo and shed by the middle of the walkway.

Mr. Noto said he did not know if that work was reported.

Mr. Feingold said he will check with the Building Inspector to see what was reported by the applicant. Mr. Weiner said he thought it was overstepping the HCZMC's boundary to question the Building Inspector. Mr. Goldstein said it is ok to ask what was done. Mr. Feingold said the HCZMC should ask the Building Department if the dockage is legal. Mr. Fechter asked how the HCZMC was going to handle the consistency issue and the reef and rock removal. Mr. Feingold said this comes up as a habitat issue.

Mr. Weiner said whether rock has been taken from it or added to it, it is a reef and not the HCZMC's job to find out what happened to the reef. It is an environmental feature that must be protected and we are looking at consistency now.

Mr. Sleeper said if the coordinates and surveys make no difference then what the HCZMC needs to do is give applicants a baseline and move forward.

Mr. Heilman asked if the HCZMC could make a consistency determination.

Mr. Goldstein said if this is consistent then the HCZMC could also make a SEQRA determination. If it is a negative declaration then we can move to consider approval of a perimeter permit. Mr. Goldstein asked if the HCZMC had all the necessary forms and documents.

Mr. Feingold suggested getting the opinion of the DEC.

Mr. Weiner said we have three choices, it's either consistent, not consistent or not inconsistent. Regarding the perimeter, the HCZMC can determine which one is most appropriate for the Yacht Club, the use of kayaks and boats and as a thruway.

Mr. Feingold said regarding the §240-20 site plan requirements, that the plans should include adjacent properties within 200 feet. The HCZMC should require plans which reflect coverage of the adjacent properties/neighbors.

Mr. Goldstein asked if the HCZMC could get a map that includes the adjacent properties.

Mr. Noto said yes, but it would be rather expensive to provide them.

Chairman Goldstein asked if there was anyone present who wanted to address the Commission with regards to this application.

The following residents addressed the Commission regarding their concerns about the application:

- Mr. Dan S. Natchez of 906 East Boston Post Road, representing Mr. Flick and his wife who own property on the causeway, as well as the Golubs, who own the property immediately adjacent to the club
- Mr. Flick/825 Taylors Lane
- Mr. Bernard Rosenshein/Marina Owner

Mr. Natchez displayed an aerial view of the area which showed the adjacent areas. Mr. Natchez said he and the neighbors he is representing wish for the club to prosper and does not want to create a problem. Mr. Natchez pointed out the dredged area in the aerial view and said the aerial is on an angle so it might be about one foot off of being accurate.

Mr. Flick said he has a float off the causeway. He needs clear access in the fairway in order to move his boats and it looks as if that is guaranteed in the plans. Mr. Flick does not want to be prohibited from coming into his mooring. Mr. Flick said he has been assured that another dock is not going to be installed so he is happy with the plans.

Mr. Goldstein and Mr. Rosenshein discussed the fairway, the perimeter line and the right for a dock to be installed. Mr. Rosenshein said they do not have any issue with the neighbors.

Mr. Natchez showed the perimeter line touching the fairway and asked the HCZMC to consider a buffer area since the applicant said they will not use that area for docks or encroaching in that area.

Mr. Noto said the club is concerned about the maneuvering of boats.

Mr. Weiner said the permit is not concerned with the maneuvering of boats, the issue is perimeter lines and consistency.

Mr. Natchez referred to a letter dated 5-20-08 from Mr. Golub regarding littoral rights. Mr. Golub is not prepared to give up any of his littoral rights, but is will to work on encroachment. Mr. Natchez said the marina as it is today is not what was approved in 1984. Mr. Golub is happy that the bump out has been withdrawn.

Mr. Noto said the Village and the DEC went to the site to ensure that no work was being done. There was a tree that was being removed under the barge. Mr. Mancusi, the Harbormaster, said there was no dredging and this issue was also addressed on 1-27-06.

Mr. Natchez said there was no tree on the barge, there was rock on the barge. Mr. Natchez said the HCZMC could not make a consistency determination before SEQRA.

Mr. Goldstein said Mr. Natchez could be partially correct. NY State can make a consistency determination prior to SEQRA but then SEQRA may not be necessary.

Mr. Natchez said the applicant thinks everything is grandfathered. Mr. Natchez said if the applicant had two choices, a structure permit or a perimeter permit, then he thinks the perimeter permit is the reasonable choice.

Mr. Heilman said there are three previous drawings showing possible permits and a fourth drawing has been submitted. Mr. Heilman would like the fourth drawing to be considered by the Village before a decision is made. Mr. Goldstein asked what the criteria was. Mr. Heilman said it makes no sense to extend the footprint of the existing floats and docks beyond what they are now.

Mr. Goldstein asked Mr. Natchez about his drawing, particularly the area off the reef.

Mr. Natchez said there is a 30' offset and without a 30' offset there was an 80' offset, meaning offset from the reef – actually the breakwater over the reef.

Mr. Rosenshein questioned the accuracy of Mr. Natchez's drawing and did not think the survey was correct. Mr. Rosenshein said there is one more dock, (the 7th dock), and the 7th dock does not have a piling like the other side.

Mr. Heilman said the perimeter permit does not give you a right to spread out.

Mr. Rosenshein said he has no intention to extend the docks. Mr. Rosenshein met with the neighbors on Sunday evening and they are happy. The Golub's and Flick's had an issue with mooring.

Mr. Noto said they would have to assume whatever line is approved will be strictly enforced.

Mr. Heilman asked what a reasonable buffer would be and Mr. Noto said ten feet would be reasonable.

Mr. Heilman said there had been at least three suggestions and he believes it should stick within the footprint of what exists in the water today.

Mr. Weiner said we need to determine the consistency.

Mr. Feingold read §240-20. Permit process for perimeter permits for in-water activity in Mamaroneck Harbor – Section G- Criteria for consideration of perimeter permits. Mr. Feingold said the line could be established between the line drawn by Mr. Heilman and the applicant.

Mr. Natchez said the aerial is from 2004 and is accurate. The reason the 7th dock was not built is because the entire facility was to be further east and it was actually moved southwest. Mr. Natchez said they need the flexibility and Mr. Heilman's red lines don't solve all the problems. Mr. Natchez is not wishing to have anything done to infringe on the littoral rights. Mr. Natchez reviewed a 1996 court case regarding breakwater not connected to the land and said the Village does not have authority, and does not have Home Rule. Mr. Natchez made suggestions to Mr. Heilman's lines.

Mr. Rosenshein clarified the dock being on the perimeter and said they do not infringe on or go over the line.

Mr. Rosenshein discussed having drilled into the reef to try to install a structure, but failed to adequately penetrate the rock.

Mr. Goldstein said the placing of the dock goes over the line.

Mr. Goldstein asked if the HCZMC needed any more information to make a review of whether this application is consistent.

Mr. Weiner said yes, that everything marked "no" on the CAF should be marked "yes".

Mr. Gallagher also noted incomplete or apparently incorrect responses on the CAF.

Mr. Goldstein said the applicant should re-do the CAF and can work with Mr. Feingold to make sure it is correct.

Mr. Noto said the HCZMC should provide him with an explanation of what needs to be corrected.

Mr. Goldstein said they should work with Mr. Feingold.

Mr. Feingold said he thought it would be a complete CAF submission if each yes/no was narratively explained.

Mr. Goldstein said the HCZMC is saying that we do not have sufficient information to make a consistency determination this evening.

Mr. Noto asked if the HCZMC is in agreement with what Mr. Goldstein said.

Mr. Heilman said the CAF is for the perimeter and thinks we have enough information.

Mr. Fechter said he wanted this to be decided by the next meeting and if this helps it is ok.

Mr. Weiner said a narrative should be submitted on the following sections: Section A – Page 1, items 1, 2, 3, 4, 5 & 6, Section B – items 1, 3, 4, 6, 8, 12 & 13 and C-1.

Mr. Goldstein said that Mr. Feingold said for the applicant to provide a map showing the adjacent properties and use of those properties.

Mr. Sleeper asked if we need the 2006 dredging information.

Mr. Goldstein said to treat it as an existing reef unless we hear from the DEC.

Mr. Gallagher discussed the use of consultants as this application goes forward.

Mr. Goldstein said the Village does not have a problem with two consultants working on the project, we just don't want both at the meeting at the same time.

On a motion by Mr. Weiner, seconded by Mr. Gallagher, to authorize the Village to adjourn the application of the Mamaroneck Beach and Yacht Club to the June 18, 2008, meeting of the Commission.

Ayes: Goldstein, Fechter, Gallagher, Heilman, Sleeper, Weiner

Nays: None

Abstains: None

APPROVAL OF MINUTES:

Mr. Goldstein said the minutes of the April 16, 2008 meeting will be adjourned to the June 18, 2008, meeting of the Commission.

Mr. Goldstein said the Hommicks School District wants to be on the next agenda so he will have to recuse himself and Mr. Weiner will handle that agenda item. Mr. Weiner should tell the school that we will need a minimum of \$5,000.00 in an escrow account.

ADJOURNMENT:

There being no further business to come before the Board, on a motion by Mr. Weiner and seconded by Mr. Gallagher, the meeting was adjourned.

Ayes: Goldstein, Fechter, Gallagher, Heilman, Sleeper, Weiner

Nays: None

Abstains: None

PREPARED BY:

ELIZABETH A. DREAPER

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO
CLERK-TREASURER