

MINUTES OF A REGULAR MEETING OF THE HARBOR COASTAL ZONE MANAGEMENT COMMISSION OF THE VILLAGE OF MAMARONECK HELD APRIL 21,2010 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

OLD BUSINESS

1. Mamaroneck Boats and Motors – 622 Rushmore Avenue – Application for Perimeter Permit – Consistency review. (Tabled at 2/17 Meeting) New Material received.
2. Evans Associates – Richard & Caroline Alter – 1000 Taylors lane – Evans Associates Environmental Consulting, Inc.- Development of a 3 lot subdivision. One of the proposed lots contains an existing single family residence. (No new material received – Table to May Meeting)

NEW BUSINESS

1. Colin & Louise Ryan – 579 The Parkway – Remove existing home and replace with single family home – Westchester Modular Homes Construction Corporation.
2. Mark Mustcato, Architect, 0 Oakhurst – Proposed one family residence. Mustcato address is 105 Calvert Street, Harrison 10528
3. Mamaroneck Beach & Yacht Club – 555 South Barry Avenue – Structures Permit – Ocean & Coastal Consultants, Architect. (Work Session – unless otherwise notified)

Roll Call.

Present: Bert Seigel (voting), Tim Kebbe (voting), Anthony Weiner, Acting Chair (voting), Peter Jackson (voting), Keith Furey, Consulting Engineer (Not voting), Christie Derrico, Village Attorney (Not voting)

1. Mamaroneck Boats and Motors – 622 Rushmore Avenue – Application for Perimeter Permit – Consistency review. (Tabled at 2/17 Meeting) New Material received.

Motion: Open Public Hearing, **Action:** Approve, **Moved by** Tim Kebbe, **Seconded** by Peter Jackson.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Paul Noto applicant's attorney addressed the Board stating he submitted all required document the Board requested.

Tim D'Bartolomeo, applicants engineer stated he responded to Mr. Furey's comments and added the revisions requested and submitted a revised plan tonight.

Revised SP1 clearly shows perimeter line.

Also included are:

1. copies of the approved drainage plan
2. excuted agreement between the neighbor Indian Cove

3. submitted a Storm Water best management plan addendum disposal of waste material 2nd one essentially drainage from engineer, a wash down station revise C1, no revision on C2, on C3 gravel & notes added

Mr. Weiner questioned about the filter fabric how is it disposed of.

Mr. D'Bartolmeo responded that they did the calculations for the worst scenario of contaminates, the fabric can be cleaned and reused, its good for several weeks if not more.

Mr. Furey stated that code has no specific disposal method.

Mr. Weiner asked if there were any questions or comments from the public.

Dan Natchez of Daniel Natchez Associates 916 E. Boston Post Rd. addressed the Board representing McMichael's Rushmore Avenue to support the application with provisos.

Mr. Natchez passed out pictures, taken today showing the perimeter and bulkhead concerns. The issues involved are the bulkhead has been failing for some time and the McMichael's are delighted to see it on the plan. The bracing for the float is settling. He requested conditions of approval: 1. bulkhead be undertaken with a time limit of 1 year to complete, fill be removed. 160 & 200 cubic yards have fallen in he further stated that the design of bulkhead may not work as they may hit ledge rock and the toe may not hold.

Mr. Seigel asked what is meant by toe.

Mr. Natchez explained if the sheet doesn't go in deep enough the bottom toe will not hold and move.

Mr. Noto stated that Mr. Deutterman just told him that regarding Mr. Natchez statements that they have not agreed to all of the previous mentioned concerns.

Mr. Kebbe commented the Board received the material last minute can't assimilate and put in context on such short notice.

Mr. Furey stated the important issues are the 1. meets & bounds; 2. the applicant is going before the Planning Board for site plan approval, and a bond must be posted the HCZMC can address the timeliness of the construction, 3. the Board should let Mr. D'Bartolmeo speak to showing the sheet pile design of bulkhead (140 feet sheet pile at 4 ft lengths, horizontally).

Mr. D'Bartolmeo stated rock can be there and they would have to make adjustment in the field to make the bulkhead, Engineer is liable and an as built survey will be done upon completion.

The inspections become part of the Building file. Logs are kept for every sheet pile driven when job is complete the engineer certifies the job.

Mr. Weiner asked if this is the kick off to the Planning Board for site plan review. If the HCZMC board approves it goes to Planning then the Building Department for permits and each one must meet building code.

Mr. Natchez stated that his client just want some assurance that the applicant will go forward with the bulkhead.

Ms. Derrico said that this should be brought up to Planning Board.

Mr. Weiner stated they can specify the Boards concern regarding the bulkhead being done timely.

Mr. Natchez stated the board is at the point they can put conditions on there approval such as have to have good toe requirement, removal of material that has slid down and if possible move the material behind bulkhead as fill.

John Hilts quantities were estimated up to the property line and they can't work on other person's property he is sympathetic with the neighbors

Mr. Weiner stated he understands technical issues, it's obvious the land slid down and Mr. Natchez is asking for the stuff to be picked up this should be able to be worked out. Mr. Hilts stated if some additional material were to be taken from Mc Michaels property and put on Mamaroneck Boats& Motors it would be good.

Mr. Weiner said he hoped it can be done. Both sides are advocating for your clients, Mr. Furey and Ms. Derrico will help with language of an agreement.

Mr. Furey stated the language of the DEC permit will not preclude taking material from McMichael's.

All materials that have fallen into the water from the failure of the bulkhead will be removed.

Mr. Noto stated in the spirit of hopefulness they are to be before the Planning Board tomorrow.

Mr. Weiner asked if there were any further questions from the board or public.

Hearing no response.

Motion: To close Public Hearing, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Bert Seigel.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: unlisted action under SEQRA the Harbor Coastal Zone Management Commission Declared lead agency status for the perimeter permit, the public hearing set 4/21 is complete after the review process, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: To approve the NEG DEC with regard to SEQRA, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: Perimeter permit, Metes and Bounds as indicated on SP1 revised 3/29/10 All work done requires an as built survey, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: Consistency with LWRP, not inconsistent with environmental impact additional bulkhead language Ex of material will include all that have deposit in the lands underwater as a result of the failure of the bulkhead.

All facilities of the approved site plan shall be completed or bonded as provided for by law prior to the closing of any building permit for any new feature.

Action: Approve, **Moved by** Anthony Weiner, **Seconded by** Peter Jackson

Ayes: Weiner, Kebbe, Seigel, Jackson
Nays: None

2. Colin & Louise Ryan – 579 The Parkway – Remove existing home and replace with single family home – Westchester Modular Homes Construction Corporation.

Mr. Weiner stated he was most concerned with water retention on the property, and how applicant plans to deal with it.

Applicant's representative stated there will not be an increase to the peak flow of the site it will have less water coming off the site after construction. Total volume of water during a 25 year storm was calculated. Proposal is for 23 culverts, test pits got down 7 feet and did not hit water. This plan drops the net reduction 18% even though house is big, plus they plan to add a trench drain in the driveway.

Mr. Furey stated that they are 20% more than what would be required, probably closer to a 40% reduction.

Mr. Weiner questioned that a great deal of work was done under the Parkway and whether the storm drain was too far away from the property to tie into it.

Mr. Furey explained the tie in is for overflow only. Because of our capacity issues the Village doesn't want excess water in the system if possible the drain is adequate but it's better to not put any more than you have to, detention is required before connection. Also The Parkway is different on each side there are no dry well ways on other side.

Mr. Weiner asked if there were any questions from the Board or Public.

Mr. Seigel stated the new house doesn't want to increase runoff; they plan to capture excess water and store it on property.

Mr. Furey there will be much less than what is currently coming off the property.

Alison Stabile 572 The Parkway questioned about displacement of water and how will other neighbors be affected.

Mr. Furey stated they can hold water on property therefore the neighbors shouldn't be affected.

Allen Wood 727 Soundview Dr, stated that after the last big rain storm there was 3 feet of water in basement of his house.

Mr. Furey responded that it was not necessarily about ground water, it could be drain improperly installed.

He applicant's representative stated that the proposed houses sump pump in basement will be pumped into a culvert.

Mr. Seigel stated the situation that exists prior to construction will be improved all water will be retained and slowly perk down stream.

Mr. Furey stated the culvert hold water.

Mr. Wood asked what would be the cost to hook up to storm drain.

Mr. Weiner stated the cost more than double as per Mr. Furey.

Mr. Weiner stated the applicant complied with regulations. Clearly

Mr. Furey stated he was not sure the elevation of storm drain would work for this application.

Motion: To opening Public Hearing to Declare Lead Agency status for this Type I SEQRA action, the board has reviewed plans and discussed the application

Action: Approve, **Moved by** Tim Kebbe, **Seconded by** Peter Jackson.

Deem discussion part of the record

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: To close the Public Hearing, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.


Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Motion: To declare Consistency with the LWRP, this is **not** inconsistent, **Action:** Approve, **Moved by** Anthony Weiner, **Seconded by** Bert Seigel.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

3.  Mark Mustcato, Architect, 0 Oakhurst – Proposed one family residence. Mustcato address is 105 Calvert Street, Harrison 10528

Motion: To open the Public Hearing, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Fred Grippi, RMG associates and Elliott Senor, of Gabriel Senor Surveyors representing the applicant.

Mr. Senor stated that they are proposing to build on a vacant lot; tests pits show no ground water more than 3 feet below the bottom of the culsecs, sump pump pit in basement and additional footing culsecs are being installed, and the property is sloping toward street.

Mr. Jackson asked about the calculations for runoff.

Mr. Senor stated that they went with Mr. Furey's calculations and increased the number of culsecs from 18 added 20.

The trench drain is 5-8 ft from the street, and as directed by Village code they will retain all water on the property.

Mr. Kebbe asked if there was a buffer built into system that can handle a 50 year storm.

Mr. Senor ground water would have to rise up

Mr. Seigel asked what the situation now on the property is.

Mr. Senor stated it is vacant land now and water runs off to the street.

Mr. Seigel stated the situation would actually be improved.

Mr. Weiner asked if there were any questions or comments from the Public.

John Michaels 539 Oakhurst the property down the hill from the proposed property. He stated that water will run on to his property also he stated that he was never

notified, luckily he saw the sign and never had an opportunity to review the plans. He has had problems with water in his house having pumped water for 2 weeks. There is nothing on property now the trees help with flooding. He stated his position is that he is opposed to HCZMC to issue a Neg Dec.

He would like an opportunity to review the plan and possibly retain a consultant.

Stewart Sterk 533 Oakhurst stated he had to pump water for 2 weeks after the last storm; they have water problems in the area. He has concerns with the application

Mr. Weiner asked do up hill houses flood Mr. Michaels answered he believes yes

Mr. Kebbe asked what the water situation in Mr. Michael's house is.

Mr. Michaels answered that several times a year water comes up through a drain from below ground and it can last 1-2 days up to weeks to pump out.

Mr. Kebbe asked him, have you tried to address the issue.

Mr. Sterk responded that he put in a complete drainage system to storm drain he has had no water in basement but has in the garage and no matter how much he pumps it just keeps filling.

Mr. Furey stated that currently all water runs off into the street, the proposal stores underground in culverts. This is improving the situation; the increased amount of impervious surface added does not impact the area. Putting a house with storm water retention captures all water on property. He has reviewed the calculations.

Mr. Seigel stated the neighbors request assistance with dealing with the water problem.

Mr. Senor stated if it doesn't delay the process and the applicant agrees they could put a berm along property line with plantings which would prevent overland flow.

Mr. Kebbe asked after hearing Mr. Furey comments how do the neighbors feel.

Mr. Michaels said not sure he understands what is being said feels the better practice would be to give the neighbors time to review. He hopes notice would be better and asks that a decision not be made.

Mr. Jackson the most delay the Board can give is 30 days the applicant complied with the code.

Ms. Derrico stated the applicant did not have to put up a notice for this Board.

Mr. Kebbe asked what Mr. Michael will do if granted 30 days.

Mr. Senor stated that we have done what was required and offered to include a berm.

Ms. Derrico asked for a brief executive session. And checked when the BAR meets.

Motion: To go into executive session, **Action:** Approve, **Moved by** Tim Kebbe,

Seconded by Peter Jackson

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Return from executive session

Motion: The applicant complied with the letter of the law but the neighbors have concerns and should be allowed to review. Within one month any materials have to be submitted for the board neighbors and applicant, Mr. Jackson asked if the chair would notify the BAR so the application can continue to move forward.

Action: Approve, **Moved by** Anthony Weiner, **Seconded by** Peter Jackson.

Ms. Derrico stated that it behooves the neighbors to move fast on there review of the plans.

Mr. Seigel asked the neighbor is satisfied would he please notify the Board.

For the record 2 plans have been provided to the 2 neighbors for their review.

Mr. Kebbe stated that this is a one time adjournment.

Ayes: Weiner, Kebbe, Seigel, Jackson

Nays: None

Adjourned

4. Mamaroneck Beach and Yacht

The applicant wants to repair damaged pilings

Ms. Derrico stated that the Commission can make a motion to declare Lead Agency Status for this unlisted action

Mr. Weiner stated he would like this to remain only a work session.

Ms. Derrico stated the Board must make statement to declare status.

Motion: To declare intent to be lead agency for this unlisted action with the hearing set for May 19, 2010, **Action:** Approve, **Moved by** Peter Jackson, **Seconded by** Tim Kebbe.

Ayes: Weiner, Kebbe, Jackson, Seigel

Nays:

Mr. Noto stated that the club is here for an emergency approval to repair damage from the March storm the issues with the DEC do not relate to docks. No perimeter permit has been issued yet. The Building Inspector came to site, Mr. Winters said to file a structures permit. Essentially their presence here tonight is to ask permission to repair the damaged docks so they can open for the season.

Michael Ludwig, of Ocean and Coastal Consultants Trumbull, Ct. the applicant's representative addressed the Board. He stated that they want to replace 11 piles, and 7 damaged docks. The docks are 5X30 feet and 8X30 and are in need of either repair or replacement.

Mr. Ludwig stated the floats on longer ride up and down with the tide some pilings have been lost or damaged, either snapped or moved from the correct location. Some of the docks sides have heaved and some have lost connecting brackets.

Mr. Kebbe asked about the estimated time required to do the repairs.

Mr. Ludwig answered the worst case is two weeks but it depends on the weather. In the application submitted they requested either repair or replace.

Dan Natchez, 916 Boston Post Road stated that he has some questions for the applicant. As to whether the docks that have heaved are accurate on the site plan.

Mr. Ludwig stated that the site plan was generated by Spinelli survey.

Mr. Natchez stated for the record he is representing Shore Acres and Rudy Flint for part of this proceeding.

He stated that the applicant has not filed timely manner according to the rules and the application is full of mistakes and contradictions, also part was filed electronically today. The first issue is that part of the storm damage is incorrect. The Spinelli survey of 08 and the 07 overlay have discrepancies between the two. Since they are different they don't have a base to work from. The most compelling damage is to the piles on the southern marina, Mr. Natchez handed the Board photos.

Mr. Noto asked who took the photos and Mr. Natchez responded that he did.

Mr. Weiner stated he recognizes the photos and would like to move on.

Mr. Noto stated that he takes exception to the photos as they could be to photo shopped.

Ms. Derrico stated that is not a bad point.

Mr. Weiner stated he wants to move forward.

Mr. Natchez stated pictures were taken March 17 by him by Boat,

The damage is in southern marina, twisted stringers, have a situation structures permit application is not complete. The documents for drawings are neither consistent nor reflect what is here today.

Mr. Jackson stated that application may require a survey.

Mr. Weiner stated that they have structural damage.

Lisa Rosenheim from MB&YC asked if Mr. Natchez is a qualified engineer.

Mr. Weiner stated the Board is qualified.

Mr. Natchez stated that this becomes important is that the damaged area is either next to or over the reef. What the Board has is essentially three marinas that have never been approved. MB&YC filed for a perimeter permit in 2008 and stopped the process. He supports the replacement of storm damage but the issue is they asked to approve specific structures that are not permitted.

If marinas are not built reso 1983.

Mr. Weiner asked if Mr. Winters could explain the issue.

JW gave explanation stating that

AW is there any thing on file that show dock configuration.

JW that was what Dan alluded to 1983

Mr. Weiner asked if there was a new dock added.

Mr. Furey stated reconfigured.

Mr. Natchez stated that General services stated the breakwater was to be moved.

Everything seems to move

Mr. Natchez stated the issue is simple the Board is asked to approve 15 piles in a facility that is illegal; this is troublesome this could have been avoided.

Mr. Weiner state that the point is well made.

Mr. Kebbe asked what Mr. Natchez would have the Board do.

Mr. Natchez stated that the applicant should redo the entire permit.

Mr. Kebbe stated that they should fix what's fixable now and address what is in contention.

Mr. Weiner stated the applicant came before the Board last year for 3 pilings and can fix the permitted ones but not the ones in the areas of dispute.

Mr. Noto stated that it is not illegal they just don't have a perimeter permit there is no issue to navigation, and the area by the rock would be a net loss of 8 slips He stated that if disapproved they are prepared to do an article 78.

Mr. Weiner stated that it is his concern there are representation of part of the application is in dispute, but he wants' to allow the Club to open for business.

Mr. Noto stated that the Club has OGS permit for 54 slips only have 47 the Spinelli survey is the most accurate. He knows people looking and everyone has to be careful.

Mr. Kebbe asked if the club is willing to bear cost of repair and may lose some docks can they move forward

Mr. Seigel asked if the Board allows any work are they in fact legitimizing the docks.

Mr. Furey stated what you approve you legitimize

Mr. Kebbe stated why not deal with the smaller issues.

Mr. Furey stated that there are areas in dispute that the Board should not touch. The Board should have an updated Spinelli survey.

Mr. Weiner stated the Board requires an overlay of what is most recent and what was approved in 1983. The Board needs to work with MB&YC there is enough confusion. They need a proposal that indicated recognition without a threat of an article 78. The Board would like to figure a way that MB&YC can dock as many boats as possible. Would like a proposal that recognizes the concern the Board has in regard to the reef, an accurate survey, an accurate record as to what was approved.

Ms. Derrico raised a good suggestion and it is the consensus of the Board that the applicant return with an application that only contains the part that is not under contention.

Mr. Weiner stated that unfortunately do to an act of nature the Board doesn't want to legitimize something that is in question.

Ms. Derrico stated if the Board permitted anything it would be a legal structure under Village Code. The applicant is entitled to have docks.

Mr. Weiner stated the Board needs a survey, 1984 map as a starting point, need real progress in other permit process, a brief on stated law, perhaps from there the Board could make a determination.

Ms. Derrico will look at littoral riparian rights and will prepare a report.

Mr. Weiner stated he would like the documents reviewed by a third party.

Mr. Noto stated that the season is now and they have to fix docks he understands the two areas in dispute.

Mr. Natchez stated with all due respect the same issue has come up before. If the Commission is willing to give a limited structures permit, to give relief for a self made hardship the DEC permit does not dictate what the village can do.

Mr. Kebbe asked if there is any portion they can repair,

Mr. Natchez responded no, the Board can give a limited structures permit, he believes in the Marina the Board can condition that the Club has to move forward on the perimeter permit.

Mr. Weiner stated that they can have a condition or penalty. Want to be able to remove pilings if necessary.

Ms. Derrico will look into that.

Mr. Seigel stated that only touched on some of the problems the neighbor feels he is being impacted by the present locations of the piles.

Mr. Noto stated that the club never had a problem before never block him.

Mr. Weiner stated he wants to move with all due speed.

Mr. Weiner would like to adjourn the meeting to set a public hearing.

Mr. Seigel asked about a Bond.

Ms. Derrico will check.

Mr. Weiner stated he doesn't want the Board to approve something and regret it later.

Would like structures permit soon, reviewed by a third party.
Mr. Seigel stated he was uncomfortable.
Ms. Derrico stated that it has been done before.
Mr. Noto stated that he will get an updated Spinelli survey.
Mr. Weiner wants a plan that they can look at.
Mr. Noto stated that can do nothing without a permit.
Ms. Derrico stated that they can repair the 3 piles that were permitted last year.
She stated it will be noticed, sent to paper, 7 days notice is a requirement in local law.
Mr. Kebbe stated he wants material ahead of time to study.
Mr. Weiner stated we have to work together, let's move forward.
Mr. Natchez asked if the applicant can forward him the new information.
Mr. Seigel suggested that the applicant and Mr. Natchez get together.
Mr. Noto stated they just want to repair and Mr. Natchez responded no.
Mr. Natchez stated that he was willing to write to the DEC to try to speed up the perimeter permit.
Mr. Weiner stated that unless there is something new they should adjourn.
Ms. Derrico stated the next public hearing is May 19.
Mr. Weiner stated that they only need 7 days notice and could have a special meeting if all requested information was received in time.
Ms. Derrico said she will try to get material to the Board with sufficient notice and will aim for a special meeting in 2- 2 1/2 weeks if the Board agrees.

Motion: EXECUTIVE SESSION, **Action:** Enter Closed Session, **Moved by** Peter Jackson, **Seconded by** Anthony Weiner.

Ayes: Weiner, Kebbe, Jackson, Seigel

Nays:

RETURN

Ms. Derrico stated that if the Board receives all requested documents she will attempt to schedule a special meeting.

Motion: To adjourn the meeting at 10:15P.M., **Action:** Adjourn, **Moved by** Peter Jackson, **Seconded by** Anthony Weiner.

Ayes: Weiner, Kebbe, Jackson, Seigel

Nays: