

VILLAGE OF MAMARONECK  
HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION MEETING MINUTES  
October 16, 2013 – 7:30 PM  
169 MOUNT PLEASANT AVENUES, COURT ROOM, MAMARONECK, NY

Attendees:

PRESENT:

**Chairman Nick Allison**  
**Clark Neuringer**  
**Cindy Goldstein**  
**Jim Bilotta**  
**Brian Glattstein**  
**Alice Pernick**

**Also Present:** **Les Steinman, Counsel to the HCZMC**  
**Sven Hoeger, HCZM Environmental Consultant**  
**Anthony Carr, Village Engineer**  
**Susan Favate, Planning Board Consultant**  
**Anna Georgiou, Counsel to the HCZMC**  
**Robert Galvin, Village Planner**

**Absent:** **Kevin LaFollette**

**CALL TO ORDER**

The meeting of the HCZMC was called to order by Chairman Nick Allison at 7:30 P.M.

**OLD BUSINESS**

**No Old Business**

Commission spoke of leaving old business on the agenda even if they are not being heard at the current meeting so that the commission is always aware of what is still pending. Anna Georgiou, Counsel for the Commission, stated that it is not past practice to have items that are not being heard at the current meeting on the agenda. She also recommended setting a time frame as to when new documentation can be submitted to the Commission. She suggested having the Planning Board Counsel provide the Commission an updated memo on the status of MB&YC.

**New Business**

- A. Notice of Intent for Planning Board to be Lead Agency for a 2 lot subdivision for two (2) family residences at 209 Grand Street**

Mr. Galvin (Village Planner) representing this item stated that the Planning Board opened Public Hearing on this several months ago. It is being re-noticed because the Zoning Board indicated that they did not receive the Notice of Intent. The application is currently before the Zoning Board for a variance. The Planning Board has subdivision approval and is asking to be Lead Agency under SEQRA. Notice has been sent out to all involved agencies. If the Commission has no objections, I can develop a brief memo on behalf of the Commission that you have no objection to the Planning Board assuming Lead Agency status.

Chairman Allison asks for any objections for the Planning Board to be Lead Agency on this item

No objections

All in favor

Ayes: Mr. Allison, Mr. Bilotta, Ms. Goldstein, Mr. Neuringer, Mr. Glattstein & Ms. Pernick  
Against: None  
Absent: Mr. LaFollette

B. Notice of Intent for Planning Board to be Lead Agency for SEQRA for Harbor Court. This application is a site plan review and special permit for a new one (1) story retail on Mamaroneck Avenue, with secure access from Mamaroneck Avenue to a four story residential building with six residential units with vehicular/pedestrian access from Library Lane. Six on-grade parking spaces provided on-site with additional three spaces to be acquired in the municipal parking lot across the street on Library Lane. Site is located at 108 Mamaroneck Avenue (former bridal shop) in the C -2 Central Commercial District.

Chairman Allison asks Mr. Galvin if he is representing the Planning Board.

Mr. Galvin responds that this issue was heard at the last Planning Board meeting, it is a site plan application and a special permit for residential use in a C-2 district. A public hearing was opened on the special permit in conjunction with the site plan. Mr. Galvin explains the project and indicates that the Planning Board would like to assume Lead Agency. There are no Zoning issues at this time.

Chairman Allison asks for any objections

No objections

All in favor

Ayes: Mr. Allison, Mr. Bilotta, Ms. Goldstein, Mr. Neuringer, Mr. Glattstein & Ms. Penick  
Against: None  
Absent: Mr. LaFollette

C. Notice of Intent for Board of Trustees to be Lead Agency for PLL-P-2013 revision to Section 322-60 (Improvement of Parking Facilities)

Chairman Allison asks Mr. Galvin to represent

Mr. Galvin responded that Sally Roberts, Deputy Clerk, referred the BOT Resolution and the Notice of Intent for lead Agency. The resolution was passed by the Board of Trustees last night at their meeting, indicating their intent to be Lead Agency for the legislation. This is a companion piece to PLL-L which is a definition of parking space. The previous legislation was determined to be consistent at the Commission's last meeting in September. PLL-P-2013 is an amendment of 342-60 which is the improvement of parking facilities. All of these are un-listed actions and will be coming back for consistency.

Chairman Allison asks for any objections

No objections

All in favor

Ayes: Mr. Allison, Mr. Bilotta, Ms. Goldstein, Mr. Neuringer, Mr. Glattstein & Mr. Pernick  
Against: None  
Absent: Mr. LaFollette

Chairman Allison concluded the Notice of Intent section of the meeting.

- D. Application of Joseph Spadaro: Review and Approve Application for Marine Structure Permit for the Restoration of Existing Shoreline Interface and Reconfiguration of the Entrance to Recreational Docking Facility and Determine Consistency with LWRP located at 426 Rushmore Avenue.

Mr. Galvin stated that this is also a Wetlands Permit Application that is before the Planning Board. The Planning Board opened the Public Hearing at their last meeting. The application will continue at the next Planning Board meeting on 10/23/13. The wetland permit and HCZM's application are separate uncoordinated actions. The Commission will need to make their own SEQRA and consistency determination. If the Commission has any comments or conditions, you may note them in your approval. These comments and/or recommendations will be provided to the Planning Board as part of their wetland review.

Chairman Allison stated, before we can begin, can anyone tell me what was e-mailed to me and what was printed and is it different from what we have just received?

Dan Natchez's Associate responded that what was placed before the commission was compiled today in response to Sven Hoeger's memo that we received this morning. What was e-mailed to you was already submitted.

Chairman Allison responded that he did not get a chance to read Sven's memo in its entirety and now there is an update to it. I'm assuming that we will discuss this in detail.

Mr. Natchez's Associate responded he could provide a brief overview if you wish.

Chairman Allison responded that he will ask the Commission but to be frank I find this to be a bit annoying.

Mr. Neuringer asked if this information was new to the commission this evening.

Mr. Natchez stated that he wanted to try and address the memo and to give the most updated information.

Mr. Neuringer responded that he understood but we are going to get a very good analysis and briefing and we have documents that we haven't seen, in response to comments made by our consultant which we received this afternoon. From a procedural stand point, would it be better to hear the comments of our consultant and then a response?

Mr. Galvin responded, yes. The reason that Sven commented is that we sent the material that Dan gave us at the last minute to Sven. These represented responses to his commentary and it was important to have Sven review.

Chairman Allison responded that he did get a chance to read a little bit and it did seem that there was a little bit of back and forth, but quite frankly it's not productive for the five of us to get an application that is being wrapped up at 5:00 this afternoon. Does anyone disagree? (No one disagreed)

Mr. Natchez responded that the Commission has not opened the hearing yet. The issue was to provide a more complete record for the Commission. This includes having a record with updated drawings.

Chairman Allison asked if the plans were different than the ones that had been scanned.

Mr. Natchez responded that the plans you received that were filed on Friday are the revised plans. The changes had to do with showing the area of disturbance, gravel, drainage, a construction fence going into the inner tidal zone. These were the types of things revised. There were no substantial changes to the project, detail changes.

Mr. Glattstein asked if these are responses to findings of the Planning Board.

Mr Galvin responded No

Mr. Natchez commented that the changes had to do with the detailed memo from Anthony Carr and the memo from Sven. There is no subtenant change, the issue before you is a seawall, the entrance to a docking facility that was significantly damaged by Sandy and is being rehabilitated and slightly modified.

Mr. Neuringer commented that 90% of the issues that were identified in October 14<sup>th</sup> are of a substantial technical nature, I believe there are 1 or 2 minor technical things that need to be resolved. However, in my view, they have no bearing on a consistency review or determination by this Commission. I would like to narrow it down to relevant issues that the Commission needs to deal with.

Ms. Georgiou stated that it is not only a consistency determination but structures permit as well and there are some technical aspects that might come into play with the balancing task that you will be engaging in with the structures permit. I appreciate your distinction but I just wanted to clarify that there are two pieces to this, namely, the consistency and the structures permit.

Mr. Neuringer responded that right now he is only dealing with the consistency review of the structures application. That is why the Commission has a very, thorough analysis and review by the Village Engineer.

Mr. Natchez stated that their presentation will be short and highlight the relevant issues for the Commission.

Mr. Bilotta had a procedural question stating that they have had other applications come back to us and said these are not substantial changes which we completely disagreed with so that might be your judgment on it. If someone went to the Building Department 3 weeks ago and looked at these plans and ok I'm fine with that maybe a neighbor and now you've made changes, they are not here because they didn't see those changes. So how are we being fair with an application that might be more controversial than this one? Don't we have to handle them in the same way?

Chairman Allison stated that he agrees with Mr. Bilotta 100% we have to be fair to the process and I understand that it is frustrating to everyone but we are in a frustrating place. Do we open a hearing at this point or do we give time for review.

Ms. Georgiou stated that she would suggest that the Commission open the hearing and if they find that you need more information or you need to digest the information given to you, you can leave the hearing open to next month but I would certainly encourage you to open the hearing since notice has been provided. It's a public hearing and anyone who had an interest could attend the meeting or watch it on tape and we are discussing it right now.

Mr. Bilotta stated that anyone who has seen the application dated October 11<sup>th</sup> would not know that new information was presented on October 16<sup>th</sup>.

Ms. Georgiou stated that she would suggest that the hearing be opened and that very issue can be addressed.

Mr. Bilotta stated that he is not saying that we should open and listen to it but, I see that as an issue going further, maybe not with this application but maybe with another.

Ms. Goldstein asked isn't every application a work in process? We are going to make comments and we expect people to reissue plans.

Chairman Allison stated that he does agree that it is a work in progress but generally it arrives here earlier and then we get a chance to work through it and then we send it back or not. So yes, everything is a work in progress, but at some point, I feel like I can't catch up with the documentation bus anymore. I get more e-mail than I expected and I get more documentation updates than I would allow in my work life. I feel that we have to let the five minutes of frustration to boil over and open the hearing. Whether it's technical, nontechnical it's frustrating.

Mr. Galvin stated to Mr. Chairman I would also ask that you provide directive that nothing gets submitted after a certain time.

Chairman Allison responded that we did at least once or twice in the last five meetings we've asked that we don't receive documentation later than one week before a meeting.

Ms. Georgiou suggested that it go in writing.

Chairman Allison stated that if it's not in the minutes where is my rule book so that I can write it in.

Ms. Georgiou asked if it is in the application.

Mr. Galvin said that we can change the application so it states the timing. It does not do so at this point. I was very hesitant about submitting this electronically that is why I went to the attorney.

Ms. Georgiou asked what the specific time frame we are talking about.

Chairman Allison responded a week would be nice so that we have a week-end to review. I understand changes come up so at least 24 hours.

Mr. Galvin responded that it should be the Wednesday before the meeting.

Ms. Goldstein asked if we are speaking about the applicant's info and our own consultants have a different rule.

Chairman Allison responded No, I don't want to pick on our consultants, but yes. Receiving Sven's e-mail today I was surprised.

Mr. Glattstein stated that one of the problems here is that we have experts that are supposed to be our consultants and somehow this information is getting back to the applicants and other parties and actually the application is being worked on and that is not in the public fashion and therefore we get completely changed documents by the time we get here. I don't think that's really supposed to be the process, where people are reacting to advice that we are supposed to be getting directly.

Ms. Georgiou responded that she thinks the further complication here is that there is also a Wetlands application before the Planning Board and the engineer had comments on the same project relative to that review and it kind of spilled over to this.

Mr. Glattstein responded that was why he asked but that is why I asked if there is another board or another decision being made by another agency that should be addressed before they come here because it's an open issue. I don't feel comfortable getting an application where the applicant hasn't satisfied another agency and then we may have a situation. It's a matter of organization and process because there has been a lot of talk of the open meetings rule and the public has to be able to be part of the back and forth.

Mr. Neuringer stated that he knows that we did have a hard and fast date on the Zoning Board and that was established and was pretty much adhered to. In fact, the intake person for the Zoning Board would tell people that they have missed the deadline. He suggested that instead of the Wednesday before the meeting that the cutoff could be the Friday before that would still give us the week-end and still give the applicants sufficient time.

**Mr. Hoeger commented that if the cutoff was a Friday he could not have his comments ready by Friday.**

**Chairman Allison responded by saying let's pick a date and if people can't have the information ready they should be pulled off the agenda.**

**Mr. Galvin responded by saying that Sven's comments could be read at the meeting which is in public forum and the applicant can respond in that regard too.**

**Ms. Pernick commented that we are supposed to have 30 days after the application is complete and if it's evolving at another board maybe it's not complete for us and it shouldn't be on our agenda for that month.**

**Mr. Galvin stated that the Planning Board is going to continue the hearing on this on 10/23, on the Wetland permit and it should be completed at that time.**

**Chairman Allison asked if there is anything that we have to do have anything to do with the Wetland permit.**

**Mr. Galvin responded that the only thing would be the Marine Structure Permit which would be talking about some of the calculations that the Planning Board has also asked the engineer to comment on.**

**Chairman Allison stated that he was not sure opening a hearing on this at this point if there is something that needs to be finalized at the Planning Board.**

**Mr. Galvin stated that they are two separate actions. This is a problem we have with the whole concept of the Marine Structure and the Wetlands permits. They overlap.**

**Chairman Allison stated that the Planning Board may make decisions that we may not agree on the Marine Structures permit.**

**Chairman Allison stated that they should do what they need to and then the Planning Board will do their Wetlands. Is there any objection to opening the hearing?**

**Mr. Neuringer stated that there needs to be a determination before we open it by somebody, is the application complete, second once we open it, the clock is running so, there are things involved. It is one thing to do a permit analysis that doesn't have a clock, a consistency review does.**

**Chairman Allison asked Anthony Carr if he has had a chance to review the information.**

**Mr. Carr responded that if the drawings have not changed he has reviewed them.**

**Chairman Allison asks if anyone has an objection to opening the hearing**

**Mr. Neuringer asked if the Engineer or Planner would like to confirm to the board that the application is complete**

Mr. Galvin stated that the application was complete when it was submitted except for the noticing which needed to be corrected which they have done. The application is complete. However there have been changes to the application which the Village Engineer indicated to me were the drawings that he had requested and already reviewed. The SWPPP was also something that was asked for and reviewed and the other was calculations that Mr. Neuringer indicated were 90 – 95% complete.

Mr. Neuringer responded by asking that would it be accurate by saying that our minutes reflect the fact that both Village Planner and Village Engineer confirm to the commission that the application deems to be complete.

Mr. Galvin responded Correct.

Chairman Allison asked for any objections to opening the hearing

Ms. Pernick asked if it's opening with the understanding that we are going to keep it open for the reasons that Jim had.

Chairman Allison responded by saying he did not know and we should see how it goes.

Sean of Dan Natchez and Assoc. discussed the project at 426 Rushmore Avenue which was brought on by damage caused by Storm Sandy. The project consists of 3 basic things which have not changed. (1) we are maintaining portions of the seawall, (2) we are replacing portions of the severely damaged seawall and (3) we are simplifying the entrance of the existing Docking facility which entails removing the existing damaged wooden fixed pier, replacing and relocating the damage gangway, and relocating (1) pile. That is basically the whole project. If you have additional questions or you would like me to go over Sven's comments, I would be happy to do so.

Chairman Allison responded by saying he would like to go over Sven's comments first.

Mr. Hoeger spoke of his comments. He found some changes that were not explained to him. I hear now that the Planning Board has initiated a Wetlands Permit process, that extra 250 plus square feet where they are removing gravel, planting, restoring plants is probably part of the wetlands permit I presume. I think it impacts your decision to some degree because it is in the wetland adjacent zone which is impacting on the wetlands to some degree because the wetlands are connected to the buffer zone. LWRP Policy 44 does require that you don't disturb wetlands. It might also mean that you don't disturb the buffer. That may be subject to discussion. In my opinion, the restoration that is proposed may need some refining. I feel that some of the plants may not survive if they are planted there, perhaps a change of species. I'm focusing on the LWRP policies which are what I'm advising you on.

Chairman Allison asked if Mr. Hoeger feels that it is not compliant to the policy 44.

Mr. Hoeger responded that at least it is worth a discussion, that particular addition to the plan. Mr. Natchez has already commented on comments that I have made regarding Policies 8, 37 and 44.

Policy # 8, protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bioaccumulate in the food chain or which cause significant sub lethal or lethal effect on those resources.



**Policy #37. Best management practices will be utilized to minimize the nonpoint discharge of excess nutrients, organics, and eroded soil into coastal waters.**

**Policy #44. Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.**

**I have a little issue with the project's impact on these three policies.**

**Chairman Allison asked Mr. Hoeger if he believes that this application is consistent with these three policies.**

**Mr. Hoeger responded that I personally think right now and I'm going to explain why the application may not be consistent with these policies. Policy #8 protect fish and wildlife from pollutants, policy #37, deals with the erosion extra nutrients, organics that sort of thing. They are tied together since in many cases sediment when disturbed may have pollutants. To me that is an important technical detail, Mr. Natchez may not agree. Any disturbance of the sediment should be counteracted with action and in this case, I propose that they look into the possibility of deploring a turbidity curtain. This is the same as a silt fence but in the water. I think that would satisfy these two policies, they would then be compliant.**

**Chairman Allison asked Mr. Hoeger if the act of digging in the intertidal zone to construct the seawall without the turbidity curtain is not consistent with policies 8 and 37**

**Mr. Hoeger responded by saying the characteristic of a tidal wetland is essentially that the water comes up and down twice a day and any disturbance in that area will then get moved in and out and it will pound that area.**

**Chairman Allison responded by asking if there are pollutants in that area**

**Mr. Hoeger commented that he believes so.**

**Mr. Neuringer asked to have the function of the turbidity curtain explained.**

**Mr. Hoeger explained how the curtain works**

**Mr. Neuringer asked how using recycled materials violates policy #8**

**Mr. Hoeger responded by explaining that often recycled materials can leak chemicals. I know the DEC is very adamant about that and I feel we should be too. I have a couple of other concerns having to do with #44, protecting the wetlands. The applicant in his response mention that a fence will be put up and a sign will be put on the fence that says you shouldn't go pass the fence. Most contractors won't read the specifications; they need to have it on the plans. I would advise that the Commission request that such a note be put physically on the plans. Also, there were no specifications on the fence. I've seen these types of fences shred due to winds and it would impact on the LWRP because if that happens it would go into the water. The fence must be intact so people don't step pass it and this it stays intact.**

**Ms. Pernick asked Mr. Hoeger if there is a material or fencing that he might recommend.**

Mr. Hoeger replied that a few things can be done. There is a 10 ft spacing between the posts, the longer the spacing, the more of a whipping action you get. You can put the poles closer together, put up a metal fence and maybe drape it with a plastic material. There are many strong fences that don't get beat up in the wind. It's just a technical issue but I think it's important to the LWRP policies.

Chairman Allison asked Mr. Carr if he had any comments

Mr. Carr responded that applicant has submitted revised plans to address several of the engineer's comments. The applicant has also submitted a Storm Water Pollution Prevention Plan (SWPPP) that is in compliance with chapter 294. The last thing that we are working on now is finishing the structural calculations with the applicant's engineer. We are almost there, I personally wouldn't have any objections to seeing the application move forward and I think there are some technical issues that can be worked out before the issuance of a building permit. As Sven was saying, it wouldn't hurt to install a turbidity curtain. I have not had a chance to look at the fence specs which may or may not be upgraded. The fence may be D.O.T. grade; there is a rent-a-fence you can install. A turbidity curtain isn't a terrible idea especially in a DEC tidal wetlands adjacent area, again that's more Sven's purview and I support his rationale behind it.

Chairman Allison asked for any questions

Mr. Glattstein stated that the application refers to moving an anchor pile, what's involved in that?

Sean asked how do they do it or where is the pile?

Mr. Glattstein responded both.

Sean explained in detail where and how the process is done.

Mr. Glattstein asked what the pile was made of.

Sean responded that it was made of wood and I would not know what it is sitting in until we pull it out.

Mr. Glattstein responded that in light of all of Sven's comments perhaps the same precautions should be taken when pulling the pile.

Dan Natchez responded that the pile is in bottom sediment that is basically mud and it would be moved over 4.5 to 5 feet. In terms of silk curtains for the pile, the only way you can do that is you would have to take the entire docking facility apart or encapsulate the entire docking facility. That becomes an issue because you drive the pile in relationship to where the pile is. You don't put the dock in relationship to the pile because the rest of the docking facility is staying where it is.

Mr. Glattstein responded, so you have to do this outside where the current dock is and then put a bracket around it

Dan Natchez responded that it would be a fairly extensive approach.

Mr. Bilotta said that we are not asking for protection for the new pile but for the old one when it is cut.

Mr. Natchez responded by saying that pile is being pulled out and then put back. We are replacing the gangway not the pile. We are relocating the pile. What we have here is a wood gangway and a dock that were severely damaged. The pier is in the intertidal zone and the concept was to remove it completely. Instead of having a fixed pier and a gangway, you can have just a single gangway that goes from the seawall out to the main.

Mr. Bilotta responded by asking, you have a wood pile, you are going to pull it out of the ground, move it and put it back in the ground

Mr. Natchez responded yes.

Mr. Glattstein asked what the pile was made out of.

Mr. Natchez responded I believe wood.

Mr. Glattstein responded that I believe that it is part of the LWRP that all structures are to be rated for 30 years. Do we know the condition and how long has that pile been there?

Mr. Natchez responded, I cannot tell you how long it has been there. We can find out, it appeared to be in good condition. If it comes out and there are bores in it at the mud line, then the pile would be replaced. You can't know that until you pull the pile out.

Mr. Glattstein – therein lies the question, I'm not an expert but are there any environmental concerns with pulling the pile out.

Mr. Hoeger responded, yes there are but on the other hand, the impact is probably minimal. I am more concerned with the excavation of the foundation for the seawall that extends for 200 feet.

Mr. Glattstein responded and that's the simple answer, thank you.

Mr. Bilotta asked how long the construction process is.

Mr. Natchez responded that for a project like this I would think no more than (2) two months. It could be a little more or less depending upon the weather.

Chairman Allison asked if Mr. Natchez is not agreeing with the idea of the turbidity curtain

Mr. Natchez responded that he is suggesting that while the turbidity curtain is desirable, it is not needed in this particular situation. The area of disturbance is very minimal.

Ms. Pernick asked Mr. Natchez what is the cost of a turbidity curtain

Mr. Natchez responded by saying that the question is can you rent one or buy one. For the last stretch of the project where you are actually working in the water and the EPA requires a turbidity curtain, the smallest one costs over \$30,000 dollars.

Chairman Allison responded by saying that Mr. Spadaro would not be buying a turbidity curtain; he would be hiring a contractor who had one, correct.

Mr. Natchez – which cost would be for a rental

Chairman Allison – it cost \$30,000 dollars to rent one, I think what we are trying to understand is what the cost would be to Mr. Spadaro

Mr. Natchez responded by saying that they could find out. There are very few places to rent one. You can go and purchase it or you can go to a contractor and see if you can rent one from them.

Mr. Bilotta asked if the contractor you hire has one

Mr. Natchez responded by saying that none of the marine contractors in this area have one, you would have to go elsewhere.

Chairman Allison responded by saying that is a pretty sweeping statement that none of the marine contractors in this area have a turbidity curtain. So this is not an available product. Mr. Carr is that correct in your experience. Both Mr. Hoeger and you seem to have a familiarity with this.

Mr. Carr responded that he cannot speak of the cost or the availability at this time.

Chairman Allison responded it's not the cost, I think we are trying to protect Mr. Spadaro from buying a \$30,000 dollar turbidity curtain to put up a \$20,000 dollar seawall. We are trying to see if it's not available to him at all, which, I believe, is what Mr. Natchez is implying.

Mr. Natchez responded by saying that the \$30,000 dollars is a rental not a purchase just so we are clear on that. The closest contractor that I know of that would have one or who had one is in southern Jersey or on the Connecticut, Rhode Island border

Chairman Allison responded that Mr. Natchez is if we had to do a project, not Mr. Spadaro, but some other project further out in deeper water where we would cause a disturbance, we would need to go to a Southern New Jersey contractor to get a turbidity curtain

Mr. Natchez responded yes because what you would be doing is using a dredge contractor and dredge contractors in this area are the only ones that have turbidity curtains.

Mr. Neuringer asked that, with your familiarity with waterfront activities over the years in and around the Harbor, and knowing that storms have caused substantial and noticeable damage along the waterfront and there have been repairs, can you tell us how many of the sites with repaired seawalls have had these curtains used?

Mr. Natchez responded not in this harbor or in this region that I am aware of. I'm not saying that Sven's suggestion is not programmatically terrible

Mr. Neuringer responded that he understands that, you know this stuff better than most of us. I am trying to get an understanding. Work is done in and around our harbor, repairs and so forth, (I am not

talking about new construction or upgrading just basic repairs). I am trying to get a feel for how often this sort of protection is used.

Mr. Natchez responded that just a point of reference in this harbor we've had over a half dozen to a dozen seawall projects that I have undertaken far more extensive than this and at far lower elevations than this and none have used turbidity curtains.

Mr. Neuringer responded just one more clarification, according to your drawings, you do indicate mean high water level and mean low water level and you indicate where the proposed seawall will go and it appears that the bottom of the seawall is a little bit above mean low water, where's the excavation?

Mr. Natchez responded the excavation is above mean low water. You have between 4 & 5 hours of working time. This would not result in turbidity because the water was in the area we were working.

Mr. Neuringer responded once the tide is out and you are working you are essentially in the dry

Mr. Natchez responded yes.

Chairman Allison stated that he has a couple of questions, Mr. Hoeger do you agree with the discussion that as the tide goes in and goes out, if the disturbed soil is there when the tide comes in will not the tide bring it out once it goes out.

Mr. Hoeger responded, yes but I disagree on totally different reasons. First of all, I've been getting a lot of permits with the DEC with several, I should mention, not here in Westchester but in New York City which is only a few miles away. In New York City, every Tidal Wetlands Permit that I have gotten where structural work was involved required turbidity curtains. I would be very surprised if the DEC Region 3 which oversees this particular area would not require a turbidity curtain.

Chairman Allison asked if this was something new

Mr. Hoeger responded that it is not new, but some seven or eight years back, when we did work on the Hudson River, they didn't require a turbidity curtain but they required a silt fence in the tidal zone. I can assure you that does not work but they are evolving.

Chairman Allison responded that just because it not something that was done in the past five years, it does not mean that we haven't evolved our own practice

Mr. Hoeger responded that turbidity curtains have been a lot more common. Dan, I need to disagree with you there may not be dredging contractors nearby but there are several contractors in New York City that have turbidity curtains.

Chairman Allison responded that the idea of the turbidity curtain is sort of an evolution.

Mr. Hoeger responded I believe so; it is my impression and from a technical point of view is that Dan is correct when he says that you work in the dry. However, the water comes up and goes down and you are not always working in the dry. They might still excavate in the first 6 inches in the first 6 inches and that especially is the time when a lot of disturbance happens.

**Chairman Allison asks Mr. Natchez does the work follow the tide schedule**

**Mr. Natchez responded you would start construction when you have the most optimum work time.**

**Chairman Allison asked so you can only work every other week**

**Mr. Natchez responded that when they work big jobs, it is the understanding that it is one week on and one week off. When you do a seawall with 52 feet, you should be able to excavate and put your crushed gavel in and your key stones in 52 feet within a week.**

**Chairman Allison asked if the DEC would have any objection to having this job done without a turbidity curtain.**

**Mr. Natchez responded that they have talked to them and they have not mentioned the turbidity curtain. We've been to the site with them and discussed it; they were not uptight about it.**

**Chairman Allison asked do we have any of that communication available to us**

**Mr. Natchez responded that they are waiting for their permit and that would be our only communication. On site discussions and phone discussions have all been verbal**

**Chairman Allison asked if we permit and find it consistent and the DEC doesn't supply you with a permit, what then?**

**Mr. Natchez responded that the DEC has already said it is permutable. What you are saying is if you permit without a turbidity curtain and the DEC permits it with a turbidity curtain, we have to do what the most restricted requirement is. It doesn't void out any other permit.**

**Mr. Glattstein asked what protections are there for runoff during the project if there is a storm or flooding?**

**Mr. Natchez asked when you've excavated.**

**Mr. Glattstein responded yes.**

**Mr. Bilotta added especially at the stock pile.**

**Mr. Natchez responded that the stock pile area, as part of the SWPPP, has storm water controls on it.**

**Mr. Glattstein stated that he is primarily looking for the disturbed zone.**

**Mr. Natches responded basically there is none.**

**Mr. Glattstein asked if there was a turbidity curtain, would that serve the purpose.**

**Mr. Natchez responded yes.**

Mr. Neuringer asked if there is a curtain that lets water go through and not the silt and after the construction, what happens to all the silt that it traps?

Mr. Hoeger responded that it settles down.

Mr. Natchez explained the process of the excavation and that the material that is dug out is put in the stock pile area on the upland with storm water controls per the SWPPP.

Mr. Bilotta asked Mr. Natchez if he was hired for the supervision of the project.

Mr. Natchez responded that they have not been hired at this point. It is the responsibility of the applicant and the building department to oversee it and if they choose to hire someone, they do and if they don't, they don't. This project is right across from the Harbor Master Joe Russo. It's not as if this project would not have eyes on it. One of the requirements from the Village Engineer was that he must be notified before the start of the project so that he can monitor the project on his time

Mr. Neuringer stated if he recalls Mr. Natchez came before the Commission once before for a similar application for rebuilding a seawall. That work was going to be done when the tide was out, there was excavation and it did not require a curtain.

Mr. Glattstein responded by saying that, I believe, that was to build up the existing seawall to protect the house.

Chairman Allison asked if there were any other questions.

Ms. Pernick said on a different topic, the machinery, the vehicles that are going to be used will they are left onsite during the construction for two months.

Mr. Natchez responded that the machinery will be an excavator or a large backhoe which will be left onsite.

Ms. Pernick asked where they will be kept.

Sean responded that they will be kept in the staging area which has been revised to be included on the site plan per the Village Engineer's request. It is in your most recent set of drawings.

Ms. Pernick asks about the visibility from Harbor Island Park. Will it be behind a barrier?

Mr. Natchez responded that it will be seen from Harbor Island Park. They will not be parked in the park. There will be a construction fence placed there. You will see the fence and there is a landscape buffer that exists which will allow you to see only portions of the fence.

Sean spoke of the construction fence specified 10 axle Nordic plus 2 which is H.D.P.E. fence. This is a snow fence which is rated for high winds and can handle the weight of snow drifts. This should have no risk of falling apart during high winds even with the 10 foot spacing on the posts.

Mr. Hoeger stated that that information should be on the drawings

Chairman Allison responded that his personal opinion on this is it that it drives the discussion about the turbidity curtain and the pollutants from the soil making its way into the Harbor. This is one of the core reasons as to why I like to sit on this Commission because I feel that I am in a position to protect the environment. I'm not personally prepared, although I will go with whatever the Commission wants to do, to close the hearing until I understand what the cost will be to Mr. Spadaro or the availability of such a curtain. I'm not interested in doubling the cost of the contract for Mr. Spadaro. I am interested in what it would cost to get this done because at some point I'm here to protect the environment. That is what the policies say and that is how I personally feel about it.

Sean stated that they can check into prices and get the Commission information.

Chairman Allison asked if anyone feels that we can close the public hearing.

Mr. Glattstein asked if we have a timeframe when the DEC may issue a permit.

Mr. Natchez stated that they expected it by now but DEC is backlogged.

Mr. Glattstein stated that based on what the DEC concludes, this may be a moot issue. I believe that we should get some more information.

Chairman Allison asked for any objections to the hearing remaining open.

Ms. Georgiou responded that she would just like to ask the applicant about giving the Commission additional time for consistency and for the structure permit.

Mr. Natchez responded that they have no objections and have all the time you need

Mr. Galvin asked the Chairman if the Commission would like to make a SEQRA determination at this point or wait until you have additional information.

Chairman Allison responded that I think we should wait until the hearing is closed

Mr. Natchez stated that he thinks that the Planning Board was looking for feedback from the Commission before they complete their review.

Chairman Allison responded that he does not see a request in the minutes from the Planning Board of 9/25/13.

Ms. Pernick stated that she just had one question regarding the plantings

Mr. Hoeger responded as far as this Commission is concerned, it matters only if the planting does not survive. If so then there will be a bare spot there which could impact the environment

Ms. Pernick stated that she would like that to be addressed

Sean responded that the plants that are being proposed have been reviewed and are recommended by the New York City Parks and Recreation GNPC. They are recommended as native plants that are salt tolerant. One in particular is suggested as a coastal plant that is good in high winds. We believe



that all three plants that we proposed are appropriate. If the Commission wants us to switch them out with something else, we can.

Mr. Galvin asked the Chairman to have the Planning Board ask Sven to list his comments on the planting species because that is something that we can provide in our Wetland Permit.

Sean responded that he is referencing Green Belt Native Plant Center for this list.

Chairman Allison asked was the suggestion that Sven makes his comments available to the Planning Board?

Mr. Galvin responded yes.

Mr. Hoeger stated that he did write it up it is in the notes that I sent you. My comments are based on my experience in the area. There is a generic list which applies to shade plants, butterfly plants and salt tolerant plants. There is a difference between having salt spray or street salt getting on plants or actually getting inundated every other year. There is a certain mutation that comes from the eastern end of Long Island that is pretty flood tolerant, how you can tell where the plant comes from, in the trade, when you go to the nursery, say it comes from Tennessee or wherever the nursery grows the plants, they may not necessarily be salt tolerant. Therefore, some eco plants can be salt tolerant and some are not. So if you can secure plants from eastern Long Island, I think they are pretty good. If he is securing plants from other places, it's anybody's guess, if they will be salt tolerant or not.

Chairman Allison adorned this application until the next meeting

**E. Application of Orienta Condominium Association/Nanhook Yacht Club for Perimeter Permit and a Determination of Consistency with the LWRP located at 490 Bleeker Avenue.**

Mr. Natchez spoke on this application. We are here seeking a Perimeter Permit for the marina was wiped out during Sandy. We did get a Sandy permit from the Core, DEC, DOS and the Village. It was replaced but during that approach, it was felt that it would be helpful to have a Perimeter Permit which allows them to replace piles with more piles without having to go through the long process of getting permits each time you need to do something. They have (7) piles, a little less than 4,100 square feet of docking facilities. We feel that it meets all of the criteria both of the LWRP and the Harbor Management Plan.

Mr. Glattstein asked how long the duration of the Perimeter Permit is.

Mr. Natchez replies that the initial permit goes for 4 years with two (3) year renewals as of right for a total of (10) years

Mr. Glattstein replied that in the application one of the main purposes that you call out is to fine-tune the docking arrangements.

Mr. Natchez replied that if you have damage to a facility, you have to go through the permitting process in the Village. All of the other agencies have what is called a reconfiguration perimeter; the Village calls it a Perimeter Permit. There is a difference. The perimeter permit includes the area

where the boats would go whereas the reconfiguration perimeters for the other agencies are just for the structures.

Mr. Glattstein replied while you can reconfigure the structure, you cannot do so outside of the existing envelope. Therefore, your current setup, where the boats are actually tied up, will not interfere with the current lanes of navigation

Mr. Natchez replied that is correct. You can replace a pile, you can move a pile, and you don't have to go through the full permitting process. It has already been granted under permit so it helps facilitate maintaining and improvements without having to go through the long permit process. You cannot go outside the perimeter and, in your case, you can't go outside the perimeter with the boats either.

Mr. Glattstein replied that was my question and thank you.

Ms. Pernick asked if there were no other plans or changes.

Mr. Natchez replied no.

Mr. Neuringer asked if they were steel piles.

Mr. Natchez replied yes they are steel but we are not adding more piles or docks.

Ms. Pernick asked why we wouldn't do this for every marina

Mr. Natchez replied that most every marina in this village has one. McMichael's will be coming to you shortly to renew theirs, they have one for both yards, Nichols has one for their yard, Post Road has one, and we will be coming shortly for Orienta Yacht Club. Almost everybody has one that I would call the multiple facilities. It is something the Village started awhile back and it has been very helpful in helping to maintain the marina industry.

Ms. Georgiou responded that she wanted to point out that since this doesn't come up very often there is a separate section of Chapter 240, starting with 240 – 20 and it deals with Perimeter Permits. This section deals with the specific criteria for the review of procedures and the criteria that are applied.

Mr. Glattstein responded that part of the criteria is whether or not it adequately describes the activities to reconfigure or relocate. This is why I asked, in your experience, have they been conditionally approved upon a notice requirement to the Village Engineer in case piles need to be moved

Mr. Natchez replied no. The whole point of the Perimeter Permit was to reduce the permit process because you are not going outside of the perimeter

Mr. Glattstein replied that he understood but thought that was a recommendation.

Mr. Natchez replied that if there is any significant work going on at the facility such as after Sandy, we sent a note to the Building Department that there was work being done

Mr. Glattstein asked Mr. Hoeger if that was a recommendation that he made.

Mr. Hoeger responded that I basically don't have a problem with this as we had the discussion about the turbidity curtain. If they were to take all their piles and rearrange them then I would have a problem because you would be creating some disturbance. Doing one pile here and there is not going to be an issue.

Chairman Allison asked if a perimeter permit gives you the freedom to remove all the piles without coming back and forth through the process

Mr. Natchez responded yes but it would be rare unless you were changing the docking facility that you would do that.

Mr. Neuringer asked can you change from a ridged setup to an anchorage right.

Mr. Natchez replied yes.

Mr. Hoeger replied that if you are driving a pile underwater unless you are driving it in an area where there is a lot of current, the sediment usually stays very close to the pile and it just settles down. That is why I'm not too worried.

Chairman Allison responded that if you get a perimeter permit that allows you to reconfigure your docks as long as you don't go outside that perimeter, it marks your area and no one else can move or dock into your area

Mr. Natchez replied that is correct

Chairman Allison replied that the discussion has a tone that once you have a perimeter permit you can do whatever you want without coming back to the process and then what happens if you do something that is not consistent with the LWRP.

Ms. Georgiou responded by saying that I would like to have the applicant to your point, address the specific criteria in 240-20. Some of the specific criteria talks about the application adequately describing the nature of activities to reconfigure or relocate docks, pilings and ramps within the perimeter area and the application also references specifications for the construction, so how do you address those?

Mr. Natchez responded that I thought we did in the filing that we made; we've gone through the reasons for the perimeter permit. There are only (2) ways that you would do changes. One is to replace something that is damaged or to improve it or if you were changing the actual configuration. Those would be the only (2) approaches. The concept is and the criteria that this Commission has used in the past is to review it and say is this appropriate for a marina type docking facility, is the area conducive for it, has the perimeter been defined correctly to have that done and would any harm come to having such a perimeter. We provided detailed drawings that were prepared for the applicant that defines the perimeter very specifically. The application discusses that there are no impediments to navigation, I can't conceive of a situation that something would be done that would not be consistent with the LWRP. That was one of the reasons that the perimeter permit was set up

originally. Specifically exempted from the perimeter permit is to do anything along the shoreline whether it be bulk heading or seawalls etc. and dredging is not included. I don't understand what activity that could be undertaken would be detrimental to the LWRP.

Ms. Georgiou responded that the criteria that I'm speaking of is not consistency, it has to do with the permit itself, that's the criteria.

Mr. Natchez responded I believe that I've answered that.

Chairman Allison replied OK. I think you have explained that it can't be anything on the shoreline. You really are just talking about moving docks around.

Mr. Natchez replied that mostly you will only be moving docks around. In this type of facility, the only movement of docks that would occur would be due to boat sizes changing. The perimeter permit has only to do with the docking facilities.

Ms. Goldstein responded I think that Sven suggested that it would be prudent to attach a condition to the perimeter permit that there would have to be some type of notice to this commission if they were going to undertake something like replacing a pile.

Mr. Hoeger replied all the piles not just one.

Mr. Natchez replied if we have to come back to you than we don't have a perimeter permit. The whole point of the perimeter permit is not to need to come back to meet once a month.

Ms. Goldstein replied that once you get this permit, you can kind of do whatever you want within the permit including replacing the piling.

Mr. Natchez replied that's correct. Right now you can replace your anchors and chains without notification to anyone.

Chairman Allison responded by asking Mr. Hoeger you said that even if you were to replace all the piles, it would not be that big of a deal

Mr. Hoeger responded yes. It's not a huge effect; there are not that many piles. It's not like we are talking 100's of piles. I just want to sound a note of caution here and say you really should be aware of the fact that moving piles is not totally without effect.

Ms. Goldstein asked since we are in the process of looking at many of these in the next few years, is there some sort of boiler plate that we should be putting in if it's more than a certain percentage of piles that it needs to come back to make sure that it is complying with best management practices.

Ms. Georgiou replied typically something like that if there is a permit, an overriding permit that includes all of this would be done on an administrative level as opposed to coming back to the Commission. That is typically how it would be done and certainly the professional sitting down at the end of the table would know best management practices and would be able to make sure that they are adhered to. In light of my comment, no construction is planned right now, correct.

**Mr. Natchez replied it is being discussed right now if piles will be moved or not.**

**Chairman Allison asked for any other discussion**

**Ms. Pernick responded I have a little bit of discomfort with allowing you to do whatever you want with the perimeter permit. Are there no limits? What limits do the other marinas have?**

**Mr. Natchez responded the limits the other marinas have is that you have a number of boats. You are confined to the square footage. You can change the number of slips but not increase the square footage.**

**Chairman Allison asked what are we allowing you to do by giving you this permit.**

**Mr. Natchez responded a perimeter permit allows this docking facility to be replaced or be reconfigured within the dotted lines. You have to stay within the perimeter. You can add more boats as long as you stay within the perimeter.**

**Ms. Pernick asked if Mr. Natchez knows if there are any restrictions on any other marinas.**

**Mr. Natchez responded that there are no conditions on any Perimeter Permits and all those who have one have been operating for years without any issues.**

**Ms. Georgiou replied by saying what might be helpful is if I read the definition of a perimeter permit as set forth in chapter 240. A Perimeter Permit, a permit issued by the building department of the Village of Mamaroneck upon recommendation of the Harbor and Coastal Zone Management Commission authorizing eligible entities to reconfigure marine structures within a prescribed perimeter and if so authorized in the permit to add to, delete from, reconstruct or otherwise alter such marine structure. That's the definition and I would also like to very briefly, as I indicated before 240-20, the general criteria, the proposal for which an application is made shall not result in conflicts with the Harbor Management Plan or any of the activities stated in this chapter, second, Navigation, actual or potential hazard to navigation and the third is, Environment and adverse environmental impact in accordance with SEQRA and specific criteria, permit shall be denied if the proposal does not provide adequate fairways for access to and from open waters, the application does not adequately describe the nature of activities to reconfigure or relocate docks, pilings and ramps within the perimeter area, the application plans construction activity for which specific specification are set forth, the proposal is determined to be inconsistent with the policies and purposes of the LWRP and the Harbor Management Plan, the proposal would result in a significant environmental adverse environmental impact, the permit may be denied for any other documented reason in writing. That is what is set forth in chapter 240.**

**Chairman Allison responded that it is pretty restrictive.**

**Mr. Bilotta asked what is the process for the (2) three year renewals.**

**Ms. Georgiou responded that the Code itself states the permit may be renewed by HCZMC, but I believe the practice is the applicants come back for the renewal of the perimeter permit**

**Mr. Natchez responded that in the past the applicant submits a letter requesting a renewal for three years.**

**Ms. Georgiou replied that would have to be confirmed.**

**Ms. Pernick asked how is it determined where the perimeter is.**

**Mr. Natchez replied we took the littoral rights which are for this facility, where the actual marine structure was and what the water depths were.**

**Chairman Allison asked to move to the resolution.**

**HARBOR & COASTAL ZONE MANAGEMENT COMMISSION  
CONSISTENCY AND PERIMETER PERMIT APPROVAL RESOLUTION**

**NANHOOK YACHT CLUB  
490 Bleeker Avenue**

WHEREAS, on August 30, 2013, the Applicant applied for a Perimeter Permit with up to 18 boats (excluding personal watercraft) and approximately 4,211 square feet of mains, floats, and gangway within a permit area of approximately 28,697 square feet at 490 Bleeker Avenue ("Premises") with annexed plans (SD-01b, SD-05a) prepared by Lemond and Associates, dated August 29, 2013 and Hydrographic Survey prepared by Michael Finkbeiner, PLS, dated February 25, 2013 ("Application"); and

WHEREAS, the duly noticed public hearing for this Application opened at the regular monthly meeting of the Harbor and Coastal Zone Management Commission ("Commission") on October 16, 2013 and was thereafter closed on that same date; and

WHEREAS, the Commission has considered and evaluated the Application, including consistency with the Village of Mamaroneck Local Waterfront Revitalization Program ("LWRP").

On motion of Mr. Allison, seconded by Ms. Pernick:

AND BE IT FURTHER RESOLVED that the Commission, based upon review of the Application, including the Environmental Assessment Form and all other relevant materials deems this a Type II action requiring no further action under the State Environmental Quality Review Act ("SEQRA").

The motion passes:

Ayes: Mr. Bilotta, Mr. Allison, Ms. Pernick, Mr. Glattstein, Ms. Goldstein, Mr. Neuringer  
Nays: None  
Abstain: None  
Absent: Mr. LaFollette

On motion of Ms. Goldstein, seconded by Mr. Glattstein:

AND BE IT FURTHER RESOLVED that the Commission has completed its review and evaluation of said Application, including the Coastal Assessment Form and supplement, and after conferring with its consultants has determined that the Application is consistent, to the maximum extent practicable, with the policies of the LWRP and the Application will not substantially hinder the achievement of any of the policies set forth in the LWRP.

The motion passes:

Ayes: Mr. Bilotta, Mr. Allison, Ms. Pernick, Mr. Glattstein, Ms. Goldstein, Mr. Neuringer  
Nays: None  
Abstain: None  
Absent: Mr. LaFollette

**4 A Approval of Minutes for HCZMC Meetings of July 17, 2013 and September 18, 2013**

**Mr. Neuringer stated that on July 17, 2013 minutes he has a minor correction on page (8) 6<sup>th</sup> paragraph from the bottom, it says “consider a supplementary it should be (ies)**

**Motion to approve the minutes**

**On motion of Mr. Bilotta, seconded by Ms. Goldstein**

**Ayes: Mr. Bilotta, Mr. Allison, Mr. Neuringer, Ms. Goldstein**

**Nays: None**

**Abstain: Ms. Pernick, Mr. Glattstein**

**Absent: Mr. LaFollette**

**Meeting Closed at 10:00 P.M.**