

STAFF REVIEW COMMITTEE
Minor Development Review
DRAFT Findings of Fact
January 11, 2017

Project Name: Isaac Greenberg and Ronna Casper
Location: 14 Sunset Way
Case Number: 16-059
Tax Map: Map MP2, Lot 15
Zoning: (CP1) Coastal Protection 1 (Mere Point Area) Zoning District
Overlay Zone: Natural Resource Protection Zone (NRPZ)
Applicant: Isaac Greenberg and Ronna Casper
15 Bicentennial Drive
Lexington, MA 02421

Authorized Representative: Leblanc Associates, Inc.
c/o Joseph D. LeBlanc
67 Dipper Cove Road
Orr's Island, ME 04066

Staff reviewed the application and has determined it is complete.

PROJECT SUMMARY

Staff review is based on the Minor Development Review application for Isaac Greenberg and Ronna Casper's shoreline stabilization activities within the Natural Resource Protection Zone (NRPZ). The primary use of the parcel is residential. The proposed activity includes the installation of 50 cubic yards of stone riprap fill within the NRPZ for erosion control. The proposed activities are located within the FEMA mapped 100-year flood zone (Special Flood Hazard Area), and a mapped unstable bluff.

The application includes a project narrative and supporting documentation including plan showing the proposed layout and elevation profile. The plan is labeled Exhibit 2 entitled, "Isaac Greenberg & Ronna Casper riprap shoreline stabilization system" prepared by LeBlanc Associates, Inc., and dated September 29, 2016.

The applicant requests the following waivers in accordance with Section 410 of the Brunswick Zoning Ordinance:

1. Names of Engineer and Surveyor – *The applicant did not utilize the consulting services of a professional engineer or surveyor because the proposal is a small project. Provided the location of coastal wetlands and uplands are accurately depicted on the site plan, the staff recommends approving the requested waiver in accordance with Section 410.*

2. Topography intervals no more than two (2) feet – *The application indicates the proposal is a small project area. The proposed riprap fill encompasses a 340 square foot area within the NRPZ at a maximum height of four feet on an existing 15-foot high embankment. Based on this supporting information, the staff recommends approving the requested waiver in accordance with Section 410.*
3. Class A High Intensity Soil Survey - *The application indicates the proposal is a small project area. The proposed riprap fill encompasses a 340 square foot area within the NRPZ at a maximum height of four feet on an existing 15-foot high embankment. The staff observed the uplands within the project area exhibit erosion as indicated on the site plan. The application indicates that the proposed design is intended to control erosion on the 15-foot tall embankment. Based on this supporting information, the staff recommends approving the requested waiver in accordance with Section 410.*
4. Wetlands map drawn by a specialist – *The applicant depicted the areas below the Highest Annual Tide (HAT) within ~~its~~ the subject portion of Maquoit Bay. The application indicates the proposal is a small project area. The staff observed the coastal wetlands within the proposed riprap footprint are comprised of a gravel beach with boulders and ledge. Based on this supporting information, the staff recommends approving the requested waiver in accordance with Section 410.*
5. All applicable materials necessary for the reviewing entity to review the proposal in accordance with Section 411 - *The application indicates the proposal is a small project area that encompasses a 340 square foot area with 50 cubic yards of fill. The staff recommend the Staff Review Committee (SRC) deny the applicant’s request for a waiver and reserve the right to request additional information if necessary to review the proposal in accordance with Section 411.*

Review Standards from Section 411 of the Town of Brunswick Zoning Ordinance

411.1 Ordinance Provisions

The property is located within the (CP1) Coastal Protection 1 (Mere Point Area) Zoning District. The proposed filling and earthmoving activity is for the development of a shoreline stabilization system for an existing residential use within the Natural Resource Protection Zone (NRPZ). The existing residential use at the subject lot is a permitted use within CP1.

The proposed project area within the NRPZ contains a mapped unstable bluff; and a mapped 100-year flood plain adjacent to tidal waters as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps. Filling and earthmoving between 10 cubic yards and 100 cubic yards within the NRPZ and at the location of a mapped unstable bluff or the FEMA 100-year flood plain requires Minor Development Review. The land on the subject parcel within the 100-year floodplain as delineated on the FEMA Flood Insurance Rate Maps is considered a Special Flood Hazard Area. In accordance with Section 211.3.A, all proposed construction activities within the Special Flood Hazard Area must receive a Flood Hazard Development Permit from the Code Enforcement Officer (CEO) in addition to any other permits required by the zoning ordinance. *The Committee finds that the provisions of Section 411.1 are*

satisfied provided the proposed construction within the Special Flood Hazard Area is approved with a Flood Hazard Development Permit from the Code Enforcement Officer (CEO).

411.2 Preservation of Natural Features

The proposed activity includes the placement of riprap stone along 85 linear feet of eroded coastal shoreline. Riprap is proposed to be installed along the shore at a maximum height of four feet within a total footprint of 340 square feet. On December 1, 2016, the staff visited subject parcel and observed the intertidal area within the proposed project area is primarily a gravel beach with boulders and ledge; and uplands within the project area exhibit erosion along the shoreline primarily below a dense stand of Japanese knotweed. The Maine Natural Areas Program identifies Japanese knotweed as an invasive plant. A few trees and understory shrubs were observed above the elevation of the project area and directly adjacent to the applicant's pier structure. A well distributed stand of trees, shrubs, and other vegetation is exhibited along the shoreline and within the project area at a location north of the stand of knotweed. During the site visit the applicant's representative indicated that the Japanese knotweed will be disturbed to deliver construction materials to the project area but no trees or other understory plants are proposed to be removed during construction. Further, the application states no trees will be removed as part of this project.

Based on the information provided in the application, the proposed development maximizes the preservation of natural features of the landscape, and does not occur within or cause harm to any land which is not suitable for development. *The Committee finds that the provisions of Section 411.2 are satisfied.*

411.3 Surface Waters, Wetlands and Marine Resources

The proposed development directly affects coastal wetlands. The application indicates that the proposed activities affecting coastal wetlands require permits from the Maine Department of Environmental Protection (DEP), and the Army Corps of Engineers. Provided the activities affecting coastal wetlands are approved by the DEP and the Army Corps of Engineers, the proposed development will not adversely affect the water quality of Casco Bay or its estuaries. *The Committee finds that the provisions of Section 411.3 are satisfied provided the proposed coastal wetland impacts are approved by the DEP and the Army Corps of Engineers.*

411.4 Flood Hazard Areas

The proposed development activity occurs within a flood hazard area and therefore requires a Special Flood Hazard permit from the Code Enforcement Officer (CEO) to ensure the proposal minimizes the risk of flooding. *The Committee finds that the provisions of Section 411.4 are satisfied provided the proposed construction within the Special Flood Hazard Area is approved with a Flood Hazard Development Permit from the Code Enforcement Officer (CEO).*

411.5 Stormwater Management

During the site walk, the staff observed the roof gutter system associated with the applicant's residence is directed to a plastic pipe beneath the applicant's attached deck. The plastic pipe was disconnected from the rain gutter system during the site visit. Minor soil erosion was evident beneath the applicant's deck and around the outlet of the plastic pipe. The erosion at the end of the plastic pipe indicates the gutter system is typically connected to outlet entirely onto the eroded shoreline. As a remedy to surface erosion caused by roof runoff, the proposal includes permanently connecting the roof gutter system to a stormwater outfall within the proposed riprap directly adjacent to coastal wetlands. While on-site, the staff recommended supplementing the stormwater management plans with a vegetation management plan to replace Japanese knotweed with native plants. The staff advised that by preventing other plants from establishing and leaving exposed soils between individual Japanese knotweed plants the exposed soils may continue to erode from the surface of the embankment. At this time the applicant has not provided a vegetation management plan.

The staff advised that directing stormwater from the roof to a vegetated buffer for filtration would generally be preferred to the proposed stormwater outfall. However, due to the direct proximity of the applicant's residence near the edge of the coastal embankment, and the general grade of the subject lot towards coastal wetlands, the erosion control gained by directing stormwater to riprap is considered the most practicable alternative. The proposal satisfies the recommended storm water quality standards described in Storm Water Management for Maine: Best Management Practices, published by the State of Maine Department of Environmental Protection, November, 1995 as amended. *The Committee finds that the provisions of Section 411.5 are satisfied.*

411.6 Groundwater

Groundwater is not proposed to be affected by the proposed development. The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. *The Committee finds that the provisions of Section 411.6 are satisfied.*

411.7 Erosion and Sedimentation Control

The proposed construction plan is to minimize the area of soil disturbance by using hand tools, and disturbing a maximum of 20-foot sections of shoreline until permanently stabilized with riprap. A narrative construction and erosion controls plan is provided in the application. Based on the information provided, the proposed development will be constructed in accordance with Best Management Practices for erosion and sedimentation control and will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy situation results. *The Committee finds that the provisions of Section 411.7 are satisfied.*

411.8 Sewage Disposal

The proposed activity does not require sewage disposal and Section 411.8 is therefore not applicable. *The Committee finds that the provisions of Section 411.8 is not applicable.*

411.9 Water Supply

The proposed activity does not require a water source and Section 411.9 is therefore not applicable. *The Committee finds that the provisions of Section 411.9 are not applicable.*

411.10 Aesthetic, Cultural and Natural Values

Based on the information provided in the application, the proposed activity will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, significant wildlife habitats identified by the Maine Department of Environmental Protection or by the Town Of Brunswick, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. *The Committee finds that the provisions of Section 411.10 are satisfied.*

411.11 Community Impact

Municipal resources are not required to service the project, and no on-site or off-site impacts associated with the development of the project were identified. *The Committee finds that the provisions of Section 411.11 are satisfied.*

411.12 Traffic

The proposed development will require construction traffic to access the site in addition to normal residential traffic. The proposed increase in traffic is expected to be minor and will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed. *The Committee finds that the provisions of Section 411.12 are satisfied.*

411.13 Pedestrian and Bicycle Access and Safety

The proposal is a residential use that is not required to be designed to accommodate bicyclists and pedestrians ~~or, and~~ addresses issues of bicycle and pedestrian access, safety and circulation both within the site and to points outside of the site. *The Committee finds that the provisions of Section 411.13 are not applicable.*

411.14 Development Patterns

The proposed development is respectful of Brunswick's historic development patterns. Based on the information provided in the application, the proposed residential development will have no adverse impact on areas which are primarily residential. *The Committee finds that the provisions of Section 411.14 are satisfied.*

411.15 Architectural Compatibility

The proposed development does not require architectural plans and is not required to be compatible with its surroundings in terms of its size, scale, mass and design. *The Committee finds that the provisions of Section 411.15 are not applicable.*

411.16 Municipal Solid Waste Disposal

The proposed activity may require disposal of excess materials from construction off-site. Based on the relatively small project area any excess materials that may be generated during construction are not expected to cause an unreasonable burden on the

municipality's ability to dispose of solid waste. *The Committee finds that the provisions of Section 411.16 are satisfied.*

411.17 Recreation Needs

The proposed development is a residential use that does not increase the existing residential use of the subject parcel. Therefore, the proposed activity will not cause an unreasonable burden on the municipality's ability to provide recreational services. *The Committee finds that the provisions of Section 411.17 are ~~not applicable~~satisfied.*

411.18 Access for Persons with Disabilities

The proposed activity does ~~is not~~ provide access for any persons and Section 411.18 is therefore not applicable. ~~and is therefore compliance with the Americans With Disabilities Act.~~ *The Committee finds that the provisions of Section 411.18 ~~are satisfied~~is not applicable.*

411.19 Financial Capacity and Maintenance

~~The application indicates that~~A copy of the applicant's tax bill for July 2015-June 2016 is provided as proof of financial capacity and maintenance ~~is not necessary for the proposed addition to the existing daycare business.~~ The staff understands from the applicant's representative that a contractor agreement has been finalized to provide all construction services to complete the project. ~~proposed expansion to the existing daycare business indicates.~~ Therefore, the applicant has adequate financial and technical capacity to complete the project, and once it is completed, the project is expected to have adequate resources to maintain itself. *The Committee finds that the provisions of Section 411.19 are satisfied.*

411.20 Noise and Dust

Provided the applicant adheres to Brunswick's Zoning Ordinance requirements for noise and dust at Section 524, the proposed development is expected to reasonably minimize noise and dust during construction. The proposed development will not contribute to unreasonable noise and dust, both during construction and after the development has been completed. *The Committee finds that the provisions of Section 411.20 are satisfied.*

411.21 Right, Title and Interest

A copy of the right, title and interest documentation is included in the application. The applicant has sufficient right, title and interest in the subject property. *The Committee finds that the provisions of Section 411.21 are satisfied.*

411.22 Payment of Application Fees

The applicant has paid applicable development review application fees for Minor Development Review. *The Committee finds that the provisions of Section 411.22 are satisfied.*

DRAFT MOTIONS
CASE #16-059

Motion 1: The following requested waivers are approved:

1. Names of Engineer and Surveyor
2. Topography intervals no more than two (2) feet
3. Class A High Intensity Soil Survey
4. Wetlands map drawn by a specialist

Motion 2: That the following requested waiver is denied:

1. All applicable materials necessary for the reviewing entity to review the proposal in accordance with Section 411.

Motion 3: That the Final Plan is deemed complete.

Motion 4: That the Final Plan is approved with the following conditions:

1. That the Committee's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. That prior to the start of construction, the proposed construction within the Special Flood Hazard Area shall be approved with a Flood Hazard Development Permit from the Code Enforcement Officer (CEO).
3. That prior to the issuance of a Certificate of Occupancy, evidence that the proposed coastal wetland impacts is approved by the DEP and the Army Corps of Engineers shall be provided for the review and acceptance of the Director of Planning and Development.