

**Marblehead Conservation Commission**  
**Minutes January 12, 2017**

Meeting was held in the lower conference room at the Mary A. Alley Building, 7 Widger Road

Meeting was called to order at 7:05 PM

Present were: Commission Members Fred Sullivan, Chairman Brian LeClair, Michael Smith, David VanHoven, and Jesse Alderman. Also present was Charlie Quigley, Conservation Administrator.

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

Note: The commission currently has seven members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

**Prior to Hearings:**

**Approve Minutes:** A motion was made and seconded "to approve the minutes of 8 December 2016." All members voted in the affirmative.

**Discussion items:**

- Marblehead Conservancy, as a result of recent vandalism the commission voted to have motion activated cameras installed. Brian LeClair to look into the funding for this.
- Naming of Harbor Glade stone, will be discussed next month
- Encroachment at lot adjacent to 67 Legg's Hill Road, Michael Bouchard admitted to all of the claims including ATV on conservation land and cutting back trees and brush. Michael will work with Charlie to resolve all of the issues.

**HEARINGS:**

**NOI 40-125x, 18 Harborview**

Applicant: Michael and Diane Christian

Proposed: Demo and replace existing concrete pier

No file number. All members voted to continue the hearing to the February 9 meeting.

**NOI 40-125x, Offshore Atlantic Ocean**

**(DEP: under review)**

Applicant: Dan McPherson; Neptune LNG LLC

Proposed: sub-marine infrastructure discontinuance/removal

Appeared: Dan McPherson of Neptune LNG, Ronnie Gorgio of PCS, Anthony Scaraggi of Engie and Jason Austin of Engie

Waiting on DEP comments. All members voted to continue the hearing to the February 9 meeting.

**NOI 40-125x, 57 Naugus Ave. (Map 178 Parcel 4) (DEP: under review)**

Applicant: Robert Powelson

Work completed without prior Con Comm approval. Tree and vegetation removal

Appeared: Peter Lake, Dennis and Mary Bouche of 55 Naugus Ave. Applicant reminded that the Notice of Intent arose out of an Enforcement Order. It was pointed out that a detailed professional plan showing the work that had been done and the remedial work proposed was required. The inadequacies of the professional report provided were also noted. The likelihood of fines, and the fines being larger if inadequate materials were not furnished was pointed out.

All members voted to continue the hearing to the February 9 meeting because the applicant is unable to provide a sufficient plan of remediation. Brian suggested that the applicant seek approval by the abutters for the proposed remediation plan on the abutter's land.

**NOI 40-1253, 15 Sunset Road (Map 140 Parcel 20) (DEP: under review)**

Applicant: Andrew Bendheim

Proposed: Construction of new garage

Appeared: Brandon Abel of Walter Jacobs Architects

Commission would like to have a sock added on the downhill section for erosion control. Commission added special condition 41 to order of conditions. All members voted to close the hearing. All members voted to issue an OCC with the following special conditions.

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

34. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces shall be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site.

35. All demolition debris shall be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

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

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and

Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). **This condition shall survive this order.**

41. Maintenance pointing and repairs of existing stone masonry walls and concrete walls including the replacement of an occasional missing stone or patching cracks and minor defects in a concrete wall are allowed as a surviving condition to this Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repointing or repair work on existing walls.** All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Any future razing, rebuilding or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

50. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit [www.mnla.com](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org). **This condition shall survive this order.**

55. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. **See Attachment "C" for "Schedule of Fines".**

RDA 53 Orchard Street

Applicant: Suzanne and Peter Conway

Proposed: Lawn restoration

Appeared: Peter Conway, Jeff Doherty Treasurer of Goldthwait Reservation

All members voted to close the hearing. All members voted a negative determination.

#### **OLD AND NEW BUSINESS:**

**Requests for a Certificate of Compliance: All were approved by the Commission.**

- 40-905 – 15 Kimball St, rep. Robert Zarelli

Request by owners of lot 181-11-0 to determine if the lot improved with a tennis court qualifies for the granting of a conservation restriction per MGL c184 sect[31-33]. All members voted that the lot does not qualify.

Charlie suggested the commission use their funds to assist in the purchase of a large scanner for the Marblehead Engineering Dept. Concomm would pay 1/3, Water and Sewer Dept would pay 1/3 and the Town would pay 1/3. The scanner is estimated to cost \$9000. All members are in favor, pending confirmation that we have access to the funds.

**Sign Documents:** All documents per the agenda were signed including bills payable.

The meeting adjourned at 8:30 PM.