

**CONSERVATION COMMISSION  
MINUTES OF MARCH 23, 2006**

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

Meeting was called to order at 7:00 PM

Present were: Commission Members Betsy Rickards, Walt Haug, Mark Klopfer, Neal Mizner, Margo Carey and Fred Sullivan (representing a quorum). Also present were: Doug Saal, Conservation Administrator and Jan Smith, Associate Member.

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

**Presentation by Don Morgan:** Morgan, representing the Marblehead Conservancy, submitted his memo, "Conservancy Questions for ConCom", dated February 24, 2006. In preparation for Earth Day on Saturday, April 29, the Conservancy would like to perform certain work as explained in the memo on Robinson's Farm and an adjoining parcel of school land. Regarding the removal of Norway Maple trees, if these cannot be properly identified they will not be cut down. If any cutting is done, attention will be given to insure the overall tree canopy is not seriously impacted. The commission agreed with the proposed work on Robinson's Farm and Morgan will now request permission from the Board of Selectmen since this property has not yet been transferred to the ConCom. The commission also agreed with the suggestion to remove the sumacs in the area of Steer Swamp as described in the memo.

Morgan and Haug will tour Robinson's Farm to determine if there is a vernal pool on the property. They will also review the old foundations to see if they merit preservation.

**40-872 12 NONANTUM ROAD CHALIFOUR**

Resource Area: Coastal Bank

Interest of WPA and Bylaw: Storm damage prevention.

Appeared: Gail Chalifour, applicant, and Jim Aldrich, contractor

Control Drawing: Exhibits A4, C1, C2 and C3 as submitted with the NOI

The house footprint will be extended by adding an area 19.8 x 8.0 ft. and an area 8.6 x 7.7 ft. These two areas are in the No Build Zone, lying landward of the existing house. The deck will be rebuilt on the same existing footprint. The roof storm water will be directed into a French drain. The new drain system for storm water and ground water will be located so it's exit does not cause any erosion on the coastal bank. Excavated dirt will be properly contained. Per Chalifour, the first paragraph in Exhibit C1 – Project Description

does not apply to this NOI and should be deleted. (This paragraph starts: This activity would require ...)

Mr. Thibodeau of 14 Nonantum Road submitted a letter dated March 23, 2006 delineating three concerns. Re concern #1, the commission pointed out that since the Board of Directors of Bessom Associates had already imposed a condition, #15, in their permit addressing this concern, it did not believe a special condition from the commission was necessary. It was further pointed out that any permit granted by the commission did not relieve the applicant from fulfilling any other legal obligations incumbent upon the applicant. Concerns # 2 and #3 will be addressed in the special conditions of the OOC.

All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. The first paragraph in Exhibit C1 – Project Description does not apply to this NOI and must be deleted.

During construction:

3. 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.).
4. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
5. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
6. No debris shall be allowed to enter the resource waters.
7. No heavy equipment will be allowed in the drip area around the Linden tree. This area is to be properly marked.

Post-construction/in perpetuity:

8. 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 Lawncare 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.

9. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

Note: Sullivan departed the meeting at this time due to illness.

**RFD: 27 GINGERBREAD HILL BLAISDELL**

Resource Area: Inland Bank to Pond

Interest of WPA and Bylaw: Protection of Fisheries and Wildlife Habitat, Prevention of Pollution

Appeared: P. Blaisdell and N. Powell, applicants

Control Drawing: As submitted with the NOI plus the drawings with underlying photos showing the existing and proposed conditions of the house.

The house footprint will not change. Referring to 310 CMR 10.58 (6) (b) and section 5.4.1 of the Bylaw regulations, it was agreed the work in question qualified as minor activities and would not impact the resource area. After discussion, all members voted to close this hearing. All members voted to issue a negative determination with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. A drawing of the debris containment system to be used to prevent any debris from entering the resource waters will be approved by the commission prior to the start of any work.

During construction:

3. 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.).
4. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
5. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

6. 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 Lawncare 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.
7. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.
8. 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.

**NOI under Marblehead Bylaw only: 6 EDGEWOOD ROAD DOANE**

Resource Area: Isolated Wetland

Interest of Bylaw: Protection of Ground Water Supply, Prevention of Pollution

Appeared: K. Doane and W. Doane, applicants, Paul Fermano, architect

Control Drawing: Proposed Site Plan, prepared for Ken Doane by Landmark Eng. And Surveying, Inc., dated Feb 8, 2006 (same plan dated Mar. 20, 2006 – change of drawing format)

Due to the size of the wetland and the fact that it is not connected to another water system, only the local Bylaw applies. A corner (ca. 60-70 sq. ft.) of the house and the deck are in the No Build Zone. There is no encroachment into the No Disturb Zone. The deck will be ca. 8 feet above grade supported on three columns (resting on sono tubes). Photos of the existing site were introduced showing the relative flatness and lack of vegetation of the site. After discussion, it was agreed the amount of house footprint encroaching into the NBZ would not impact the isolated wetland and could be allowed per section 5.4.1 of the Bylaw regulations if additional vegetation were planted in the NDZ. All members voted to close this hearing. All members voted to issue an OOC under the Bylaw with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

During construction:

3. 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.).
4. All demolition debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
5. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
6. A dry lay up stone wall of minimum two foot height will be constructed along the boundary marking the No Disturb Zone.
7. A sketch showing the plantings in sufficient quantity (native, fruit bearing shrubs) to be planted in the No Disturb Zone will be submitted for approval by the commission before any work is started.

Post-construction/in perpetuity:

8. 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 Lawncare 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.

9. 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.

#### **40-868 13 GOODWINS'S COURT OUELLETTE**

Resource Area: Coastal Bank

Interest of WPA and Bylaw: Storm damage prevention.

Appeared: Mr. Peter Williams of Vine Associates Inc. (Note: Mr. Bill Kelley of Kelley Marine Resources, P. Lynch, atty., and Jim Ouellette were in the audience.)

Control Drawing: Topographic Plan, # 13 Goodwin's Court, prepared for James Ouellette by Hancock Associates, dated 12/05/05, revised 12/14/05.

The discussion started by reviewing the five questions/requests as listed in the minutes of March 9, 2006. Responses from Williams were as follows.

1. This compilation has been submitted and is available for review.
2. Mr. William's conclusions are based on information provided by the applicant and his own observations. The letter from AK Structural Engineering dated 1/17/06 indicated rebar was used in the construction of the new wall. (Williams stated rebar is used primarily to prevent cracking and not as a strengthening measure.) In addition, responding to a letter from E. Falck, dated March 9, 2006, Williams pointed out that the letter from K. Nelson & Son Masonry dated 1/20/06 states that the new wall was tied back into the old wall using epoxy-coated reinforcing bars. He believes the new seawall offers a more solid, even surface facing the water. Whereas the old seawall had some unevenness/small jogs in its face, the new wall presents an even surface.

3. Williams stated the new wall is parallel to the old wall and therefore offers the same face and direction to the water. However, as an improvement, the new wall eliminated the irregularities and jogs of the old wall that were apparent in photographs. Therefore, the new wall will not change the reflection of the waves. With regard to the round seaward extension of the wall (called a turret) housing stairs, he said a wall with open stairs extending seaward was previously in the same location and this round wall would not increase or substantially change the wave reflection in this area.
4. Williams did not feel he had enough information to determine if the previous wall was sufficient to protect the property. He stated that alternative configurations were possible such as rebuilding the old wall in its existing location and relocating the deck columns to bear on the wall rather than sit in front of it. However, he questioned whether the amount of overhang/cantilever as a result of relocating the deck columns would pose a problem. He said, based on his experience, the original columns supporting the deck were inadequate to withstand the impact of storm waves. If the columns were to have been left "free standing", he would have designed re-enforced concrete columns measuring up to a foot square for this location. However, he felt the new steel columns encased within the new seawall are now adequate.
5. Williams referred the question of construction plans to Ouellette. Per Ouellette no specific drawings exist but he referred to the various letters, etc. submitted thus far attesting to the construction.

Klopfert asked Williams to describe the methods he would follow if he had been asked at the outset to build this wall. Williams said he would survey, evaluate the site, design the wall and prepare drawings. His evaluation would be based on knowing the site and how waves work. For very complex sites (which he said does not apply here), he would have used wave modeling.

Mizner pointed out Vine Associates had been a finalist in the bidding for the Marblehead causeway seawall. Rickards said Vine had recently conducted a workshop entitled "Coastal Engineering Structures in Massachusetts" sponsored the Massachusetts Coastal Hazards Commission. A focus of the workshop was evaluating existing conditions and the need for improvements or maintenance of publicly owned structures.

Mr. Mahan, direct abutter on the "turret" side, expressed serious concern about the turret increasing the potential for storm damage to his property. He is concerned about future liability with the current and ensuing owners.

Mr. Berman showed a video of a serious storm. The video was taken from 11 Goodwin's Court and was very descriptive in showing how the waves attacked the shore in this area. Williams said he would anticipate such storm flow and he included this consideration in his evaluation.

The commission stated it needed more time to digest this latest information. The applicant agreed to a continuation to 27 April 2006.

**Old/New Business:**

**Minutes:** The minutes from 03/09/06 were approved.

**Sign Documents:** Based on confirmation from Saal, the commission voted to approve the COC's for 40-284, 40-397 and 759 signed same.

**Chemical Treatment of Ponds:** In general, the commission said it is in favor of keeping our ponds as open bodies of water and using whatever means is appropriate and approved. While chemicals should not be the first choice, it will be considered.

Adjourned at 10:35 PM.