

**Marblehead Conservation Commission  
Minutes January 14, 2016**

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

Meeting was called to order at 7:03 PM

Present were: Commission Members Brian LeClair, Fred Sullivan, David Depew, Barbara Collins Rosenberg, and David VanderHoven. Also present was Willy Lanphear, Conservation Administrator.

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

Note: The commission currently has six 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.

**HEARINGS:**

**RDA 263-269 Pleasant Street  
Continued from 12/10/15 without opening the hearing**

All members voted to continue the hearing to the February 11, 2016 meeting.

**NOI 40-1226, 37 Bradlee Road**

Applicant: Jack & Deborah Tatelman

Proposed: New pier, gangway, and float

Control Drawing: Site plan prepared by Northshore Survey, Sept 15, 2015

**Continued from 12/10/15 (LeClair, Smith, Depew, Rosenberg, Sullivan, VanHoven)**

All members voted to continue the hearing to the February 11, 2016 meeting.

**NOI 40-1228, 12 Davis Road (DEP: No comments)**

Applicant: JHR Davis Road Holdings, LLC

**Continued from 12/10/15 (LeClair, Smith, Depew, Sullivan, VanHoven, Rosenberg)**

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Control Drawing: Site Plan to Accompany a Notice of Intent, 12 Davis Road, dated November 23, 2015 and revised December 22, 2015, prepared by Patrowicz Land Development Engineering.

Proposed: Demolition of the existing house & construction of a new house with accessory driveway, patios, walkways, utilities and landscaping.

Walkway is within the 50' buffer zone but above the scour zone.

All members voted to close the hearing. The Commission voted to issue an order of conditions with the following special conditions:

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.

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.

**Post-construction/in perpetuity:**

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.**

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.**

54. The control drawing/s for this project were prepared by a licensed Professional Engineer. The construction of this project shall be regularly inspected by said licensed professional to

insure that the project complies with the control drawing/s. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

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"**.

**NOI 40-1227, 87 Beacon Street**

**(DEP: See DEP comments)**

Applicant: Lance & Moira James

**Continued from 12-10-15 (LeClair, Smith, Depew, Sullivan, VanHoven, Rosenberg)**

Appeared: Curt Young, Wetlands Preservation Inc.

Proposed: Cutting and pruning of trees and shrubs and management of invasive plants in order to establish view corridors.

DEP stated that there were no erosion controls on the plans. Erosion control measures will be taken when there is exposed ground and in the event of impending storms. Mr. Young promised limited machine work.

All members voted to close the hearing. The Commission voted to issue an order of conditions with the following special conditions:

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.

35. The disposal area/s for all brush & tree cuttings shall be approved by the Conservation Commission Agent prior to disposal.

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.**

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## **RDA 2 Shorewood Road**

Applicant: Christopher Leake

Proposed: Removal of an existing wood deck to be replaced with new stone patio.

Continued from 12-10-15 (LeClair, Smith, Depew, Sullivan, VanHoven, Rosenberg)

Continuance requested via email 1-11-2016

All members voted to continue the hearing to the February 11, 2016 meeting.

## **NOI 40-1231, 133 Front Street (DEP: Under review)**

Appeared: David Rosenberg, applicant and James Emmanuel, James K. Emmanuel Associates

Proposed: Construction of a new attached garage & a new circular driveway with associated grading & site work.

All members voted to close the hearing. The Commission voted to issue an order of conditions with the following special conditions:

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.

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.

**Post-construction/in perpetuity:**

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.**

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.**

54. The control drawing/s for this project were prepared by a licensed Professional Engineer. The construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawing/s. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

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".**

**NOI 40-1232, Goldthwait Reservation**

**(DEP: Under review)**

Proposed: Salt Marsh & Freshwater Wetland restoration. Reclamation of drainage ditches, removal of fill & control & elimination of invasive plants.

Control Drawings:

Project Elements plan prepared by DeRosa Environmental Consulting, May 9, 2013

Summary of Site Inventory prepared by Donohoe Survey, undated

Project Planting Plan prepared by DeRosa Environmental Consulting, undated

Appeared: Bill Blake, President, The Goldthwaite Reservation Inc.; Mike DeRosa, DeRosa Environmental Consulting; Cindy Sullivan

Project attempts to improve saltwater circulation, remove invasives and replace with native plants.

This proposal could not be closed because it is still under review by the DEP.

Bridgett Fortin wanted to know if invasives could be eliminated on her property under the same NOI. The Commission told her she needed a separate NOI.

Jack Attridge (67 Beach St) raised the issue of spraying (both during the project and going forward). The Commission wanted the applicants to address this issue when they come back. The Commission wanted a description of proposed chemicals, the location, method and timing of application. They also wanted research on alternatives to chemicals.

The Commission also wanted an erosion control plan for the spoils area.

**RDA 1 through 7 Fort Beach Way and the Common Driveway Area**

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Project description: Removal of existing asphalt driveway paving & installation of new pavers with a cobblestone edging.

Micheal Jako had concerns about runoff given the project. The new grade is similar to the existing grade.

The Commission did want erosion control measures to be implemented during the work.

The Commission voted to issue a negative determination with the following special conditions:

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.

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.).

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**OLD AND NEW BUSINESS:**

**Request for changes in project scope: All were approved by the commission as minor design changes**

- 40-1199, 37 Clifton Heights Lane, Fenel M. Eloi (originally approved by WCL as a minor design change)
- 40-1178, 26 Harbor Avenue, BH Realty Trust

**Request for Extension: All were approved by the commission**

- 40-865, 63 Beach Street, Douglas Schluter

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

- 40-1202, 207 West Shore Drive, Mary & Darrell Milburn
- 40-265, 325 Ocean Avenue, Aloisi & Aloisi, LLC

Meeting was adjourned at 8:30 PM.