

**Marblehead Conservation Commission**  
**Minutes December 11, 2014**

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

Meeting was called to order at 7:15 PM

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

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

**Approval of Minutes:** A motion was made and seconded to approve the minutes of November 13, 2014. All members voted in the affirmative.

**DISCUSSION ITEMS:**

Proposed Gate at the former Chadwick Lead Mill site Marblehead Conservancy

Appeared: Don Morgan, from the Marblehead Conservancy

An email (dated December 11) was submitted to the Commission detailing construction details.

The Commission voted to approve funding for this project in the amount of \$1098.70.

**HEARINGS:**

**NOI 40-1178, 26 Harbor Avenue**

Appeared: Eamon McGilligan, Fort Hill Infrastructure and James Turner, Stephens Associates

Proposed: Repairs and alterations to stabilize and protect the existing seawall

Continued from 7/10/2014 (LeClair, Depew, Sullivan, Tritschler, VanHoven)

Control Drawings: Plan entitled Seawall Repairs/Upgrades, 26 Harbor Avenue, (4 Sheets) prepared by Stephens Associates, Consulting Engineers. Sheets 1-4 dated 6/26/2014.

The Commission advised the owner that they need to amend the NOI to include the landward work.

The Commission voted to continue this hearing to the January 15, 2015 meeting.

**NOI (Local Bylaw only), 13R Green Street (Joel W. Reynolds Playground) off Lime St**

Applicant: Town of Marblehead, Recreation & Parks Department

Proposed: Excavation of peat deposits, raising the level of the ground surface, and renovations to existing athletic fields

Continued from 9/11/2014 (LeClair, Depew, Sullivan, Tritschler, VanHoven)

Submitted an email dated 12/2/2014 requesting a continuance. The Commission voted to continue this hearing until January 15, 2015.

**NOI 40-1184, 50A Cloutman's Lane**

Appeared: David Smith, Project Manager, GZA Environmental

Proposed: Construct new pile supported pier with gangway and float

Continued from 11/13/2014 (LeClair, Depew, Sullivan, VanHoven)

Submitted an email and a letter. DEP made comments regarding the float anchors and the effect on the eel grass.

All members voted to close the hearing. The Commission voted to issue an order of conditions 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.).

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.

37. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks shall conform to the requirements of Chapter 91.

38. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

39. All piers, docks and floats must follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

**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.**

46. All gangways, docks or other items not permanently secured to the earth shall be stored during the "off season" (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. **This condition shall survive this order.**

47. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. **This condition shall survive this order.**

48. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at low tides. **This condition shall survive this order.**

51. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. **This condition shall survive this order.**

52. If the pilings supporting a pier have not been painted or treated with a chemical substance, the pilings may be hand scraped to remove barnacles and other marine growth. The scraped material may remain on the beach/tidal flat. However, if the state declares a state of contamination (such as Red Tide) in an area wherein the pilings have been resident, tarps or a similar containment method must be located in the work area so as to cover the entire work area where scraping is performed. Tarps are to be cleaned of scraped material at the end of each day when scraping is performed and the scrapings disposed of in a proper manner for such contaminated materials.

If the pilings supporting a pier have been painted or treated with a chemical substance, the pilings may be hand scraped to remove barnacles and other marine growth. Tarps or a similar containment method must be located in the work area so as to cover the entire work area where scraping is performed. Tarps are to be cleaned of scraped material at the end of each day when scraping is performed and the scrapings disposed of in a proper manner for materials which include paint or treatment.

For all types of pilings (painted or unpainted/treated or untreated), a protocol must be submitted to the Conservation Commission for approval in advance of the scraping. The protocol must contain: whether the pilings are painted or unpainted/treated or untreated; whether the pilings have been contaminated; if painted or treated, the exact type of paint being scraped/if treated, the exact type of treatment; the dates and times of intended scraping (start and finish); the exact location of the intended scraping; a description of the containment method; a description of the scraping method; the final location for disposal of the paint scrapings or, if applicable, contaminated scrapings. If the pilings are to be repainted/re-treated, the exact type of paint/treatment must be identified and must be approved per the latest state and federal guidelines for such applications. The person ordering the scraping/painting/treatment must sign and date the protocol and submit it to the Marblehead Conservation Commission before any work is started. **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"**.

XX. Helical anchors and elastic rodes shall be utilized to anchor the landward side of the float as proposed on the plans. If this method should prove infeasible, the applicant shall notify the Conservation Commission and request an alternative anchoring system prior to installing an alternative system.

#### **NOI 40-1185, 9 Roydon Road**

Appeared: Robert M. York (owner) and Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Reconstruct existing seawall. Construct new deck and stairs. Construct new retaining walls, patio with fire pit, walkways, shed, driveway pavers & fencing.  
Repairs to existing deck.

Continued from 11/13/2014 without opening in November (informal discussion only).

Control Drawing: Proposed site plan prepared by Patrowicz Land Development Engineering (November 25, 2014)

The Commission voted to close the hearing. The Commission voted to issue an Order of Conditions, and this did not pass. Two members were opposed: Ken Fisher and David Vander Hoven and David Depew abstained. The Commission then unanimously voted to deny the Order of Conditions.

#### **NOI 40-1187, 44C Cloutman's Lane**

Appeared: Bill Kaull, Cole's Pier Association and Milton Fistel, Fistel Associates

Proposed: Repairs / reconstruction of existing wood stairway and existing timber pier, including the removal and replacement of eight existing piles and the installation of four new piles for a new gangway lifting mechanism.

Control Drawing: Plan prepared by Fistel & Associates (November 20, 2014)

DEP license may need to be amended to include the requirement for a lifting mechanism. Marine Fisheries Department had no comment.

The Commission was unable to close the hearing because the DEP has not commented yet.

#### **NOI 40-1189, 158 & 158R Front Street**

Appeared: Ira and Judy Rosenberg (owners), Bob McCann, and Bob Zerrelli, architect  
Proposed: Addition to existing house, porch, terrace (deck), driveway, walkway & landscaping.

Control Drawing: Site Plan prepared by North Shore Survey Corp. (September 25, 2014)

Submitted certified mail receipts & green cards

Under review by the DEP.

All members voted to close the hearing. The Commission issued 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.

#### **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.**

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.**

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 40-1188, 47 Chestnut Street**

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Construction of stone walls, a patio, walkways, driveway and landscaping

Control Drawing: Proposed Site Plan prepared by Patrowicz Land Development Engineering.  
(November 18, 2014)

All members voted to close the hearing. The Commission issued 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.**

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".**

## **OLD AND NEW BUSINESS:**

### **Old Business:**

#### **NOI 40-930, Former Chadwick Lead Mill site, Annual Wetland Monitoring Report**

The Commission voted to have Walter Haug review the report and report back to the Commission.

### **New Business:**

#### **7 Brown St**

Appeared Michael & Corrine Cognata, owners, and Scott Patrowicz, Patrowicz Land Development Engineering and Miles Connor, Parterre Ecological

Informal Discussion: invasive species program

The Commission told the owners they must file an NOI and submit a plantings plan.

### **Request for changes in project scope:**

#### **40-1155, 6 Corn Point Road**

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Control Drawing: Proposed Site Plan prepared by Patrowicz Land Development Engineering. (November 25, 2014)

The Commission determined it was a minor design change to an existing order.



**Request for Extension:**

**40-865, 63 Beach St**

Appeared: Douglas Schluter

The Commission voted to approve the extension.

**Requests for COC:**

**40-563, 21 Skinner's Path**

The Commission voted to approve the Certificate of Compliance

**40-421, 87 Naugus Av**

The Commission voted to approve the Certificate of Compliance

**40-1179, 87 Naugus Av**

The Commission voted to approve the Certificate of Compliance

**40-0163, 11 Bradlee Rd**

OOB not recorded prior to work, No COC requested, extensive unpermitted wall construction

The Commission voted to require an as-built plan and assess a \$9,000 fine. A COC will be issued once these conditions are met.

**40-0920, 11 Bradlee Rd**

Commission voted not to act on COC until there is a professional inspection of the work.

Meeting was adjourned at 10:15 PM.