

**Marblehead Conservation Commission**  
**Minutes February 14, 2013**

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 Walt Haug, Fred Sullivan, Don Tritschler, Brian Leclair, Ken Fisher and David Depew. 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 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.

**40-1108 CROWNINSHIELD ROAD**

Resource Area: Coastal Bank and Land Subject to Coastal Storm Flowage

Interests of the WPA and Bylaw: Flood Control, Prevention of Stormwater Damage and Prevention of Pollution

Control Drawing: Sketch "Peach's Point Roadway Association", dated 01/22/2013

Reference: Various photos showing the sink hole and one page document from Peach (unsigned and undated)

Appeared: D. Peach

This application was to repair a cavity which had been discovered in January under a small section of the roadbed of Crowninshield Road. Peach had made some efforts to prevent further erosion by re-pointing the seawall at this section. He had requested an emergency permit to excavate the road bed but it was not granted since Haug and Lanphear, representing the commission at their site visit and upon investigation, felt that an immediate danger was not present. They suggested a formal permit application be made. Apparently as a result of the blizzard on 8 and 9 February 2013, the cavity deteriorated further and a sink hole opened up at this section of road. An Emergency Certificate was issued on 02/12/2013 to allow for a repair. As of this hearing, the emergency has been removed. Discussion ensued as to how to handle recurrences of this type of emergency. Similar problems have occurred in the past. Peach asked that the commission grant a surviving condition to allow road repairs of this type. The commission asked that a structural engineer with expertise in seawalls be called in and a more formal procedure be established by the "owners" of the road to preclude the necessity of responding to such recurrences by emergency edict. (Per Peach, the owners are not able to be determined.) Per Eugene Record, a resident of this area (Peach's Point), a group of residents has formed the "Peach's Point Roadway Association" to oversee the road. Crowninshield Road, which is the subject of these discussions, is defined as running from the entrance at Beacon

Street to the junction with Davis Road. The commission said it will complete this present NOI application and that the applicant should file a new NOI to deal with ongoing anticipated emergency repairs to the road. In response to the request of Peach to anchor the base of the seawall with boulders, the commission said he should include this in his new NOI. All members voted to close this hearing. All members voted to issue an OOC with the following special condition: A revised drawing showing the actual repairs to the sink hole will be submitted to the commission for its records.

Note that Peach asked for permission to re-point the seawall in front of the Redmond property. The commission said he should check the OOC issued for this property a few years ago since it was very likely this OOC already contained a surviving condition for this purpose. He also requested permission to back fill any erosion behind this wall to which the commission responded positively. (Note: Subsequent to the meeting, Haug verified 40-923 includes the re-pointing condition. This information is not a part of the minutes of this hearing).

## **RDA 11 SUSAN ROAD BROWNING**

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Sketch "Site Plan, 11 Susan Road", dated 01/15/2013

Reference: Letter dated January 24, 2013 from Steve Browning

Appeared: Mr. Browning

Mr. Browning confirmed that all work will be done inside the garage (pouring the garage floor) and that no apron in front of the garage will be poured. He corrected the first sentence of the first paragraph on page 2 of the referenced letter to read: "The total area of temporary impact (for the proposed work) is outside the 50 ft. No Build Zone and no work or workers ...". All members voted to close this hearing. All members voted to issue a negative determination with the following special conditions.

1. Prior to the start of any work, Mr. Browning will request the Conservation Administrator to inspect and approve the erosion control devices.
2. 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.).

As a separate matter, Mr. Browning acknowledged he still owes the commission the restoration plan required under his outstanding Enforcement Order.

## **40-???? 75 FRONT STREET TOWN OF MARBLEHEAD**

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Two sketches "Proposed Concrete Repair - State Street Landing", dated 01/18/2013 by Craig Smith

Appeared: C. Smith, Assistant Harbor Master

Because a DEP file number had not been received, the hearing cannot be closed. Smith will submit a revised sketch showing the rebar and wire mesh to be embedded in the poured concrete threshold. Smith also asked if the re-bedding of occasional paver blocks can be allowed under this NOI. From time to time, due to storms, paver blocks can be dislodged. The members agreed to allow this for occasional paver blocks but not for extensive areas of blocks. All members voted to continue this hearing to 14 March 2013. In the event an OOC is issued it will contain the following special conditions.

**Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

XX. Prior to the start of any work, a revised sketch showing the rebar and wire mesh to be embedded in the poured concrete threshold will be submitted to the commission for approval.

**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 or streets.

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.

**Post-construction/in perpetuity:**

51. 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"**.

**40-???? 12 FOSTER STREET MAYNARD**

Resource Area: Coastal Bank and Coastal Beach

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Site Plan ... Pool at #12 Foster Street, dated January 29, 2013, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, R. McCann (atty.) and P. Muldoon architect)

A currently outstanding NOI for this property is 40-1071. No DEP file number had been received. The commission discussed the possibility of re-locating or re-shaping the pool so it does not lie within the 25 ft. No Disturb Zone. As a counter suggestion, Patrowicz offered to plant the section of lawn lying between the pool and the Top of Coastal Bank, said plantings not requiring fertilizing. The owners (in attendance) agreed to this suggestion. All members voted to continue this hearing to 14 March 2013. In the event an OOC is issued, it will contain the following special conditions.

**Pre-construction:**

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

XX. Prior to the start of any work, a revised site plan will be submitted to the commission for approval. This revised site plan will show plantings between the edge of the pool and the Top of Coastal Bank, along the entire length of the pool, replacing the lawn in this area. No fertilizers will be allowed in this area.

**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 or streets.

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.

**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.**

42. When a pool/spa/hot tub is to be drained, no chlorine or other chemicals are to be added to the pool water for a period of at least four (4) days prior to draining to allow for the chlorine and other chemicals to dissipate; and there shall be an appropriate sign placed permanently at or immediately adjacent to the pool/spa/hot tub drainage valve or mechanism indicating this requirement. The method of pool drainage shall be such as to prevent any soil erosion by the draining water and to allow the draining water to seep into the ground prior to entering any resource waters. No direct discharge to resource waters is allowed. **This condition shall survive this order.**

50. 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.

51. 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".

#### **40-???? 2 DRIFTWOOD ROAD SUYDAM**

Resource Area: Coastal Bank and Coastal Beach

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Control Drawing: Site Plan ... Repair of Existing Patio, Wooden Steps and Boulder Revetment at #2 Driftwood Road, dated January 28, 2013, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

No DEP file number had been received. Patrowicz gave a brief overview of the proposed repairs. The commission determined a site visit is needed. All agreed to a site visit on Monday, 11 March at 4:00 PM. All members voted to continue this hearing to 14 March 2013.

#### **Old/New Business:**

**40-930 Former Chadwick Lead Mill Site:** Haug and Lanphear will visit this site to observe the condition of the new, replaced coir fascines after the blizzard of 8 and 9 February. *Did we vote to allow W&C to install the replaced coir fascines at the eastern end of the repaired bank?*

**Minor Activity Permit:** Lanphear will advertise twice prior to a vote to amend the areas covered by this permit.

**Baker, Arthur Avenue:** Lanphear will send the letter from December 2012 to Mr. Baker.

**Wilson Road:** Lanphear will invite all three parties involved with this matter to the March meeting to review BVW and Ware Pond.

**Howe Memorial Bench:** No contact has been made by the individuals regarding this matter. The commission will act upon any future contact.

The meeting was adjourned at 9:50 PM.