

Marblehead Conservation Commission
Minutes March 08, 2012

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, Ken Fisher, Don Tritschler, David VanHoven and James Emmanuel. Also present were Willy Lanphear, Conservation Administrator and Jan Smith. Brian Leclair served as Committee Chairperson in the absence of Walter Haug.

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.

Approve Minutes of 02/09/2012:

Regular Minutes: A motion was made and seconded to approve the minutes of 02/09/2012 as written. All in attendance voted in the affirmative.

Discussion Items:

40-1053 151 GREEN STREET MULDOON

Resource Area: BVW

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

Control Drawing: Green Street Condominiums, dated May 3, 2011, latest revision November 21, 2011 prepared by RIM Engineering

Reference: Stormwater Management for Green Street Condominiums, prepared by RIM Engineering, dated August 16, 2011, latest revision November 21, 2011. This document includes the Pre-development to Post-development Comparison (dated November 14, 2011).
Wetland Replication Methodology Report, dated October 10, 2011, prepared by ECR
Construction Phasing for Land Disturbance Permit (sheets 1-6), dated ? October 13, 2011, prepared by ?
Application for a Land Disturbance Permit for Green Street Realty Trust, dated October 11, 2011, stamped by Ralph I. Maloon, RPE, RIM Engineering Co., Inc.
Homeowners Association Agreement (no date) included in RIM Engineering Co. letter to DEP/Gary Bogue dated November 23, 2011.

Appeared: Paul Lynch, Brad Holmes

This was a continuance from 09/08/2011, 10/13/2011, 11/10/2011, 12/08/2011 and 01/12/2012 and 02/09/12. The peer review of the consultant, Eggelston Environmental has been responded

to by Brad Holmes with regard to issues concerning the wetlands. Lisa Eggleston representing the Eggleston Engineering was in attendance and confirmed that the response to their concern regarding wetlands replication had been satisfactorily addressed. Ms Eggleston still voiced concern that the design met state standards for stormwater management. The applicant had submitted retaining wall data and a revised site drainage report including calculations the day of this hearing. The Commission had not had opportunity to review these documents in advance of the hearing. It was recommended by the Commission that Eggleston Engineering's scope of work be extended to include an engineering response to this new report so as to assist the Commission in their decision. It was agreed by the Commission and the applicant's agent to have this new peer review initiated and completed by March 28, 2012. An interim meeting amongst the applicant's consultants and the peer reviewer was set for March 23, 2012 if necessary. W. Lanphear will work with the Town's procurement officer in amending Eggleston Engineering's contract to include this additional work. There still remains a question about the fee which will be resolved among W. Lanphear, W. Haug and P. Lynch (see W. Lanphear email to W. Haug, dated 11/07/2011, subject: 151 Green Street, John Muldoon, Land Disturbance Permit). A motion was made and seconded "to continue this hearing to 12 April 2012". All members voted in the affirmative.

40-1061 10 CORN POINT ROAD ROCKETT

Resource Area: Coastal Bank

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

Control Drawing: Proposed Site Plan and Sections, #10 Corn Point Road, dated January 2012, prepared by Vine Associates, Inc.

Appeared: D. Smith of Vine Associates, Inc.

Reference: Letter from the Marblehead Harbormaster, dated February 06, 2012
Letter from the Division of Marine Fisheries, dated February 8, 2012

This was a continuance from 02/09/2012. The applicant had submitted a request for a continuance as they were not prepared to address all of the questions raised at the prior hearing. A motion was made and seconded "to continue this hearing to April 12, 2012". All members voted in the affirmative.

40-1065 32 FOSTER STREET

Resource Area: Coastal Bank

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

Control Drawing: 32 Foster Street, Landscape Plan, dated 02/01/2012, prepared by Keith LeBlanc Landscape Architecture, Inc.

Reference: Letter from Patrowicz Land Development Engineering, dated January 25, 2012, #32 Foster Street

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

This was a continuance from February 09, 2012. This project has now received a DEP File No., and can now be closed based on the discussion at the February 2012 hearing. This project is the repair of an existing timber seawall. This seawall will be replaced with a masonry stone wall of the same length and height. In addition, repairs will be made to another section of an existing masonry stone seawall. In addition to the discussion at the previous hearing, the Commission pointed out their concern of erosion that may occur if there is significant rain during the construction of the project. Attention needs to be paid to diverting water run-off above the wall excavation. In addition, the Commission identified the need to preserve existing plantings seaward of the wall and provide tarps to catch any dropped or wind-blown construction debris. A motion was made and seconded "to close this hearing" and issue an OOC with the following special conditions. All members in attendance voted in the affirmative.

In addition to the following conditions, this will be added

Water diversion techniques will be employed in the area above the wall excavation. Silt sock and/or tubes will be used. Final approach will be reviewed in the field by W. Lanphear prior to moving forward with construction.

All attempts will be made to preserve the existing plantings seaward of the wall.

Tarps will be installed to ensure the catchment of dropped and wind-blown construction debris such that it will not enter the resource.

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.

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 will 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 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:

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 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. 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. 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.

47. 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 or www.newfs.org.

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. 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 drawings and setting forth any deviations that may exist between the completed work and the plans approved 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”.

40-1063 29 CLIFTON HEIGHTS LANE

Resource Area: Coastal Bank

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

Control Drawing: As supplied with the NOI

Reference: Letter from Patrowicz Land Development Engineering, dated January 25, 2012, #29 Clifton Heights Lane

Appeared: D. Winer, owner, and S. Patrowicz of Patrowicz Land Development Engineering

This is a continuance from 02/09/2012. This project now has not received a DEP File No. This project is the repair of an existing deck (same footprint, no expansion) and the repair of portions of the stone patio/terrace. A motion was made and seconded "to close this hearing" and issue an OOC with the following special conditions. All members in attendance voted in the affirmative.

In addition to the following conditions the applicant will ensure that a tarp will be in place at the lower elevation below the additional stair repair for the catchment of debris.

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.

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 will 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 will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

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.

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

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. 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 drawings and setting forth any deviations that may exist between the completed work and the plans approved 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".

40-1064 212 HUMPHREY STREET

Resource Area: Land Under Water

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

Control Drawing: Site Plan, Construction of new Drainage Improvements, 212 Humphrey Street, dated January 31, 2012, prepared by Patrowicz Land Development

Reference: Letter from Patrowicz Land Development Engineering, dated January 31, 2012, #212 Humphrey Street
Town of Marblehead Memo, dated 02/09/2012, re timeline of violations on this site

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

This project has received a DEP File No. since the last hearing. S. Patrowicz stated that additional survey work regarding existing storm drainage lines was needed before the applicant could address the Commission's concerns and questions and requested a continuance to the April meeting. The Commission voiced concern regarding interim erosion control per the enforcement order. The applicant was directed to address this immediately and review with W. Lanphear. A motion was made and seconded "to continue this hearing to April 12, 2012". All members in attendance voted in the affirmative. The matter of fines due to previous violations will be discussed at the April meeting.

RDA 201 Ocean Avenue Quirk

Resource Area: Coastal Bank

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

Control Drawing: As supplied with the NOI

Appeared: Robert Lynch, Atlantic Engineering

This project is repair in kind of an existing deck and porches. All members voted to close this hearing. A motion was made and seconded "to issue a negative determination with the condition that proper debris control in the form of a construction fence be in place prior to and during the construction". All members in attendance voted in the affirmative.

40-1068 201 Ocean Avenue Quirk

Resource Area: Coastal Bank

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

Control Drawing: As supplied with the NOI

Appeared: Robert Lynch, Atlantic Engineering

This project is for the replacement in kind of an existing seawall. The proposed construction is for a cast concrete wall with an integral stone veneer. It was discussed and confirmed that not work is being performed on the concrete wall behind the garage. A motion was made and seconded "to close this hearing" and issue an OOC with the following special conditions. All members in attendance voted in the affirmative.

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.

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.**

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. The 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.**

47. 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 or www.newfs.org. **This condition shall survive this order.**

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".**

40-1067 17 Edgemere Road Washek

Resource Area: Coastal Bank

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

Control Drawing: As supplied with the NOI

Appeared: J. Washek, Owner; S. Patrowicz of Patrowicz Land Development Engineering,

This project is for the repair and replacement in kind of an existing seawall. The terms of the project were discussed by the Commission. A motion was made and seconded "to close this hearing" and issue an OOC with the following special conditions. All members in attendance voted in the affirmative.

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.

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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.

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.

102. A tarp will be laid down at the base of the seawall during all repair work to capture all construction debris. The tarp will be on the seaward side of the seawall. The tarp will be rolled

up and dumped into a disposal trailer as required throughout the work day and will be removed at the end of each work day.

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. The 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.**

47. 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 or www.newfs.org. **This condition shall survive this order.**

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".**

40-631 17 Edgemere Road Washek

Another matter regarding this site dealt with violations committed under OOC 40-631 in which original order was not recorded and a COC was not filed. Per the guidelines of the Commission the following fines were issued: 1st administrative fine \$300; 2nd administrative fine double the standard of \$300; total fine levied **\$900.**

40-1066 43 Marion Road Bolognese

Resource Area: BVW

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

Control Drawing: As supplied with the NOI

Appeared: Derek Blom, Architect; Bill Manuell, Wetlands and Land Management, Inc.

This project is for construction within the buffer zones of a BVW resource area. Prior to the hearing, W. Haug and W. Lanphear conducted a site visit with agents for the applicant. It was discussed that the proposed vegetated filter berm be revised to be a gravel barrier with ½"-3" stones of a cross section to be 12" wide and 18" deep for fertilizer run-off control. In addition, the applicant was advised to seek approval from the Town Selectmen for the use of a silt fence out on the road during construction and that the Tree Warden be contacted prior to the removal of Norway maple as it may be considered protected under the shade tree by-laws. A motion was made and seconded "to close this hearing" and issue an OOC with the following special conditions. All members in attendance voted in the affirmative.

In addition to the following conditions the applicant will submit a revised site plan drawing to the Commission for review by W. Lanphear; comply with the Shade Tree by-law; request permission by the Town's Selectmen for use of a silt barrier on the roadway.

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.

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.).

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.

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.

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.**

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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/New Business:

Enforcement Order: 212 Humphrey Street (210-218): Fines dealing with these violations will be discussed on April 12, 2012.

Requests for COC:

40-1056 36 Foster Street Barrett: A motion was made and seconded "to issue a COC". All members voted in the affirmative.

Requests for Change in Project Scope:

40-1041 3 Kenneth Road Trautman: A motion was made and seconded "to approve a minor change in project scope". All members in attendance voted in the affirmative.

Minor Activity Permits:

12 Nonantum Road Chalifour; for window repairs

11 Susan Road Browning; for new roof shingles on house and garage

Sign Documents: All documents per the agenda were signed.

Other Matters: None

The meeting adjourned at 9:05 PM.