

Marblehead Conservation Commission
Minutes April 12, 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 Walt Haug, Fred Sullivan, Don Tritschler, David VanHoven, Brian LeClair and James Emmanuel. 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.

Approve Minutes of 03/08/2012: The commission voted to table this matter until the May meeting.

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: Per P. Lynch, attorney for the applicant, a completed permit application with all supporting documents for the Land Disturbance Permit will be supplied Friday, 13 April 2012.

Appeared: P. Lynch

This was a continuance from 09/08/2011, 10/13/2011, 11/10/2011, 12/08/2011, 01/12/2012, 02/09/2012 and 03/08/2012. The following memo documents a meeting as follows.

Memo to file

Date: 09 April 2012

Subject: NOI 40-1053

Site Location: 151 Green Street

The following individuals met 09 April 2012 to discuss the subject NOI: P. Lynch, J. Muldoon, E. Chartier, F. Sullivan, W. Lanphear and W. Haug.

Haug submitted the following memo issued to Lynch prior to the 09 April meeting.

Memo to file

Date: 8 April 2012

Subject: NOI 40-1053

Location: 151 Green Street, Marblehead

The following information is required to process the subject NOI.

Land Disturbance Permit (LDP)

Application: Erosion & Sediment Control Plan (195-8)
Stormwater Management Plan (195-9)
Operations & Maintenance Plan (195-10)
Homeowner's Association Agreement
Inspection & Reporting Plan during construction (195-11)
Monitor for ConCom
Surety (195-12)
Final Report (195-13)

Notice of Intent (NOI)

Special Conditions

Wetland Replication – Monitor for ConCom

Hazardous Material

Task-Schedule – Licensed Site Professional (reports to whom?)

The following documents have been provided as examples to NOI 40-1053.

Mound Road Manual & Reports (O&M of Storm Drain System)

Mound Road Recording & Reporting List (LDP)

Mound Road Trust – LDP conditions

Naugus Avenue revised O&M Manual

Haug explained there have been numerous changes, permutations, etc. to the information supplied thus far in bits and pieces. He said the commission needs the most current data identified per the above memo, organized using corresponding titles [ex. Erosion & Sediment Control Plan (195-8)] with appropriate data for that particular plan. He advised the applicant to read the pertinent bylaw (the numbers in parentheses in the memo refer to sections of the bylaw) and supply what is required with the data specified.

Points of agreement:

Surety (195-12): With required monitoring supplied and paid by the applicant and approved by the ConCom and with required occupancy permits from the Town, it was agreed no surety is required.

NOI – Wetlands Replication: the applicant will supply a task/schedule plan based on events, not dates, and will identify the monitor assigned. This will become part of the OOC.

Hazardous Material: the applicant will supply a task/schedule plan based on events, not dates, and will identify the LSP assigned. This will become part of the OOC.

Professional Personnel: The applicant will confirm in writing to the ConCom the professional qualifications of personnel assigned to perform specific tasks under this application and will confirm in writing that said personnel are employees (not consultants) of the organizations responsible for the tasks under this application.

All required information will be supplied by the applicant in the appropriate format before any further hearings are held on this application.

The commission reminded Lynch that the complete fees have not yet been paid. Lanphear sent Lynch a spreadsheet on 26 March 2012 showing all the fees for both permits (LDP and NOI). The commission told Lynch the hearings will not continue without full payment of the fees. Lynch agreed to comply. A motion was made and seconded “to continue this hearing to 10 May 2012.” All voted in the affirmative.

40-1061 10 CORN POINT ROAD ROCKETT

Resource Area: Coastal Bank and Land Under the Ocean

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution, Protection of Wildlife Habitat (Marine Habitat)

Control Drawing: Proposed Site Plan and Sections, #10 Corn Point Road, dated January 2012, revised February 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 (DMF), dated February 8, 2012
Email from T. Evans of DMF, dated March 07, 2012
Letter from Vine Associates, dated April 2, 2012

This was a continuance from 02/09/2012 and 03/08/2012. At the beginning of this hearing, the commission expressed great concern about the eelgrass beds. The commission referred to the DMF letter and email delineating the historical reduction in eelgrass beds and the ongoing threat to the beds from many sources, including human activity. One of the commission members who has an intimate knowledge of the Marblehead waters relayed his observations of the marine life he has seen in the beds. It is accepted that the eelgrass beds supply habitat for a host of marine life and also stabilize the ocean bottom from erosion, thereby protecting the coastal banks and beaches in the immediate area. The only change made to the site plan was a reduction in the size of the float from 16 x 32 feet to 12 x 30 feet. The float remains entirely within the eelgrass beds. The gallows (lifting mechanism) is also within the eelgrass beds. Note from the April 2 letter of Vine, ..."Alternative ... placements of the gallows ... was considered, however the cost, aesthetic look and design loading ... was considered not to be feasible for this location." The commission stated cost and aesthetics are beyond their jurisdiction for consideration.

The commission pointed out that the current location of the float provides only about 4 feet of clearance between the bottom of the float and the ocean bottom, whereas, the stated clearance per the DMF letter should be about 3 meters (10 feet). The commission also noted that, at minus tides (up to -1.5 feet), there will be only about 2.5 feet of clearance. The proposed amount of clearance at low tide, occasioning twice a day, will cause extreme shading to the eelgrass beds. In addition, there is great potential of damage from the prop wash of boats.

The commission asked Smith to consider re-directing the gangway and float in a more south-southeasterly direction. This would place the float outside the eelgrass beds closer to the shore. This could be done by bringing the gangway off the pier head at a 90 degree angle in a southerly direction. The float would bottom out at low tides but not in the eelgrass beds. The commission emphasized it is trying to provide the applicant with a reasonable solution and, at the same time, to protect the eelgrass beds. The commission considered its suggestion as helping to minimize adverse impacts [CMR 10.25 (3)] and still allow for a pier and float.

Smith said he could not entertain this compromise. Thereupon, the commission voted all in favor of closing this hearing. A motion was then made and seconded "to deny this application per the following Wetlands Protection Act, Regulations 310 CMR:

10.25(1): "... Land under the ocean provides feeding areas, spawning and nursery grounds and shelter for many coastal organisms related to marine fisheries. Nearshore areas of land under the ocean help reduce storm damage and flooding. ... Waterfowl feed heavily on vegetation (such as eel grass, ... ". 10.25 (5) "... so as to increase storm damage or erosion of ... coastal banks, ..." 10.25 (6) (b) destruction of eelgrass. [Note from 10.04: definition of Protection of Fisheries and from 10.23: Marine Fisheries]

10.35 (1): "... land under the ocean ... that underlie an anadromous/catadromous fish run are significant to protection of marine fisheries."

All members voted in the affirmative.

40-1064 212 HUMPHREY STREET

Resource Area: Land Under Water (BVW)

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, Alt. No. 1, Alt. No. 2, both dated 03/28/2012, revised 04/12/2012, 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
Planting Plan by For Seasons Ecological Landscape Design by L. Lautner, dated March 2012

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and L. Lautner of For Seasons Landscape Design

This was a continuance from 02/09/2012 and 03/08/2012. It was agreed not to address the matter of the fine at this time. The fine will be reviewed in May and pertinent parties have been so notified. For the storm drainage, the overall concept of a new deep sump hooded catch basin feeding into a Stormceptor (STC900) and then discharging down a swale into the wetland is accepted by the commission. Alt. No. 1 and No. 2 differ only in the location of the Stormceptor. Patrowicz introduced a possible third alternative utilizing two separate smaller Stormceptors located elsewhere on the parking areas, again with deep sump hooded catch basins. One Stormceptor would be located in the parking area adjacent to the street and the second after the catch basin located in the lower driveway opposite the garage entrance. This was mentioned only as a possibility in case the first two alternatives cannot be properly located after depth probes are made. He will advise the commission of the final design before any work is started. With regard to the planting plan, the commission required that the plant legend be incorporated on the landscape plan. Lautner said she anticipates it will take 3-5 years to firmly establish the new growth and to get the Knotweed under control. She will use "Roundup" as the herbicide. It will be applied by hand painting the cut stems. It will not be sprayed. She will submit an annual report on the status of the plantings with photographs. This will be due at the end of each growing season in the fall.

It was voted to close this hearing. A motion was made and seconded "to issue an OOC with the following special conditions". All 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.

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.

Prior to the start of any work, the final design and location of the BMP's will be reviewed and approved by the commission, via Lanphear.

Prior to the start of any work, the maintenance plan for the BMP's will be submitted for approval to the commission and said plan will be recorded in the Registry of Deeds.

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.**

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.**

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"**.

103. The final Maintenance Agreement approved by the Commission shall be recorded with the Essex South Registry of Deeds as a restrictive covenant running with the land to be binding upon the present owner and all subsequent purchasers of the land or any lot or part thereof, and a reference to such restrictive covenant shall be included in the first deed out of the property or in the deed for all lots or subdivided portions thereof.

RDA TOWN OF MARBLEHEAD CONSERVATION/RECREATION AREAS

Buffer Zones to Various Wetlands

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

Reference: Attachment "A" (Conservation Interest Areas) and Attachment "B" (Project Description)

Appeared: R. Macy and R. French of the Marblehead Conservancy

A brief review of the overall project was done. The purpose of this hearing is to be able to allow the Marblehead Conservancy to fulfill its goal of maintaining conservation and recreation lands when said lands border wetlands without requiring a permit for each of these instances. Messrs.

Marcy and French confirmed that the organic herbicide referred to in section 4.c of Attachment “B” will conform to the requirement of the Board of Health Organic Pest Management Regulations. Attachment “B” forms the guidelines of their future work. It was voted to close this hearing. A motion was made and seconded “to issue a negative determination without special conditions.” All voted in the affirmative.

RDA 24 LEE STREET HARBORSIDE CONDOMINIUMS

Resource Area: Buffer Zone to Coastal Bank

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

Control Drawing: As supplied with the application, drawn by Paul G. Fermano & Associates, dated March 14, 2012

Appeared: Mr. P. Fermano and D. Nowland

The work will take place within the 50 ft. And 100 ft. buffer zone. A few sono cement footings will be dug by hand. After review, the commission voted to close this hearing. A motion was made and seconded “to issue a negative determination with the conditions that all construction debris and material be stored as far away for the resource waters as feasible and that a professional engineer sign off the final construction.” All voted in the affirmative.

RDA 59 VILLAGE STREET HARDWICK

Resource Area: Buffer Zone to BVW

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

Control Drawing: Site Plan for Proposed Pool, 59 Village Street, dated March 22, 2012

Appeared: M/M Hardwick

After review, the commission voted to close this hearing. A motion was made and seconded “to issue a negative determination 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.

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."**

All members voted in the affirmative.

40-1069 18 DOAK'S LANE LITTLE HARBOR REALTY

Resource Area: Buffer Zone to Ocean (Coastal Bank)

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

Control Drawing: Plan to Accompany NOI, 18 Doaks Lane, dated February 16, 2012, prepared by Hayes Engineering. Also, photo 18 Doaks Lane, Marblehead, MA.

Appeared: J. Tilton of Hayes Engineering

This application is for the repair of parts of an existing wooden seawall. The project narrative uses words like construction and replacement of the wall. No construction or replacement of the existing seawall is proposed in the application. As stated at the beginning of the narrative, the proposed work is remedial. The commission suggested that the repair include the missing upper 2-3 layers of planking at one end of the wall. The uprights are in place and it would be a simple matter to put these planks back in place. This wall would then serve as a surface on which the proposed Gunitite could be sprayed. The planks will not increase the wall height.

It is agreed with the applicant that this coastal bank is a vertical wall and does not supply any beach nourishment. There has been gouging or scouring behind the wall due to overtopping of the ocean and this will most likely continue to some degree during storms. The commission

voted to close this hearing. A motion was made and seconded “to issue an OOC with the following special conditions.

Prior to Construction:

This application is for the repair of parts of an existing wooden seawall. The project narrative uses words like construction and replacement of the wall. No construction or replacement of the existing seawall is proposed in the application. As stated at the beginning of the narrative, the proposed work is remedial. The wall footprint, length, thickness and height remain the same.

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. The applicant shall insure that during the spraying of the Gunite, this material is not allowed to enter the resource waters either during the spraying or afterward if any cleaning is proposed.

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:

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”.**

40-1074 12 COOLIDGE ROAD RICCIO

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

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

Control Drawing: Site Plan for Conservation Commission, Riccio Residence, dated 03/16/2012, revised 03/28/2012, prepared by Poore & Co.

Appeared: C. Young and T. Curtis of Wetlands Preservation Inc. and P. Rosen.

Young gave a very brief review of the project. Rosen stated his opinion as to the type of bank (vertical protection against storm damage). The commission asked that the comparison of pervious vs. impervious surface be specified within each buffer zone. A site visit is planned for Thursday, 19 April at 6:00 PM. A motion was made and seconded “to continue this hearing to 10 May 2012”. All members voted in the affirmative.

40-1073 10 COOLIDGE ROAD RICCIO

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

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

Control Drawing: Site Plan for Conservation Commission, Riccio Residence, dated 03/16/2012, revised 03/28/2012, prepared by Poore & Co.

Appeared: C. Young and T. Curtis of Wetlands Preservation Inc. and P. Rosen.

A site visit is planned for Thursday, 19 April at 6:00 PM. A motion was made and seconded “to continue this hearing to 10 May 2012”. All members voted in the affirmative.

40-1072 ROSENTHAL 40 BARTLETT STREET

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

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

Control Drawing: Site Plan, 40 Bartlett Street, dated March 28, 2012, prepared by Engineering Alliance, Inc.

Reference: Letter from Engineering Alliance dated March 29, 2012

Appeared: D. Dwyer of Otte & Dwyer and Suzanne Hynes

The height of this wall will vary but will measure 2.4 ft. at its maximum. The proposed entire wall will sit on ledge. Due to the low height and curved outline of the wall there should be insignificant change in the existing wave reflection or direction. In addition, neighboring residences are separated by substantial distances. The applicant will re-consider whether to use sand or concrete as the underlay for the proposed blue slate decking. A vote was taken to close this hearing. A motion was made and seconded “to issue an OOC 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 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 DAILY 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:

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”.

40-1071 12 FOSTER STREET MAYNARD

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

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

Control Drawing: Site Plan, 12 Foster Street, dated April 12, 2012, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and L. Lautner of For Seasons Ecological Landscape Design.

This application involves a short low curved seawall located in a somewhat protected area of the harbor. The proposed added height of 1.5 feet will not alter wave dynamics, reflection or direction. In addition, this new height will allow for a rain garden to reduce nutrient sheet flow across the lawn into the ocean. All members voted to close this hearing. A motion was made and seconded “to issue an OOC 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 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 of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any repointing work.** 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.**

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.**

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.**

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".**

40-1070 10 CORN POINT ROAD ROCKETT

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

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

Control Drawing: Site Plan, Grading #9 Corn Point: Seawall Repair #10 Corn Point, dated March 22, 2012, revised April 12, 2012, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development

The area in this application (#9 Corn Point) under the jurisdiction of the WPA will have two depressions dug to trap surface runoff from the upland portion of the site. These will eventually be converted to rain gardens after a house is built. For #10 Corn Point, the existing seawall and steps will be repaired/re-pointed. All voted to close this hearing. A motion was made and seconded "to issue an OOC 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 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 of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any repointing work.** 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.**

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".**

RDA 72 NANEPASHEMET STREET ZION

Resource Area: Buffer Zone to BVW

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

Control Drawing: Site Plan for 72 Nanepashemet Street, dated March 27, 2012, prepared by Parsons & Faia, Inc.

Appeared: J. Burke, contractor

The proposed pool has about the same impervious area as the pool to be replaced and remains in the area between the 50 ft. and 100 ft. buffer zone. All members voted to close this hearing. A motion was made and seconded "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 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.**

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.**

40-1075 9 GOODWIN'S COURT GDBRT

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

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

Control Drawing: Site Plan for Proposed Deck, 9 Goodwin's Court, dated April 4, 2012, prepared by P. Lynch

Appeared: P. Lynch

The filing was incomplete. The chair had earlier alerted Lynch via email to this and told him to make sure a project narrative was included with the filing. None was supplied. As a result there was no documentation which addressed: Was scaffolding necessary? How was the construction debris to be removed? How were the construction materials to be brought to the site? Lynch addressed these issues orally, but given the lack of written documentation, which is necessary for

the record to complete a filing, the chair thereupon requested a continuance. A motion was made and seconded “to continue this hearing to 10 May, 2012”.

RDA 91 PITMAN ROAD ARGIRO

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

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

Control Drawing: Proposed Plot Plan, 91 Pitman Road, dated March 21, 2012, marked up by Mr. Argiros plus a picture of the typical fence to be erected.

Appeared: M/M Argiros

The fence will be 4 feet high. All members voted to close this hearing. A motion was made and seconded “to issue a negative determination with no conditions.” All voted in favor.

RDA 423 OCEAN AVENUE NOYES

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

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

Control Drawing: Site Plan for Proposed Lap Pool, 423 Ocean Avenue, dated March 29, 2012, prepared by P. Noyes.

Appeared: P. Noyes

The application was incomplete. The commission told Noyes to provide the wetlands delineation and its buffer zones, to show erosion control, to show the location of the pool by measurement and to show the size of the pool. Noyes reacted negatively to this request of the commission and started to leave the room. The commission asked him how he wished to proceed and he gave no specific answer. The commission voted “indefinite continuance”.

Old/New Business:

Robinson Farm Driveway Property Boundary: Three bids were received and all appeared capable of performing the survey. North Shore Survey was chosen as the lowest bidder at \$1,200.00. R. Curran will be asked to place the order.

Enforcement Orders:

203 West Shore Drive Rose: The commission voted all in favor of issuing this E.O. and a fine of \$600.00 was levied since the work affecting the wetland was started without a permit.

15 Spray Avenue Groom: 40-1025 and 40-1029: The commission voted all in favor of issuing these E.O.'s.

Request for Change in Project Scope:

40-1056 3 Kenneth Road: Slight increase in size of shed (from 5'x10' to 8'x14'): The commission voted this as a minor change, not requiring an amendment.

40-996 7 Fort Sewall Terrace: Add a railing to stairs: The commission voted this as a minor change, not requiring an amendment.

40-1059 11 Calumet Lane: Drill two holes for thermal heating: The commission voted this as a minor change, not requiring an amendment.

Request for COC:

40-1049 40 Ticehurst Lane: The commission voted to approve this COC.

40-701 91 Pitman Road: The commission voted to approve this COC and to levy a fine of \$300.00 for failure to obtain the COC for the OOC which expired 05/17/2004.

40-049 29 Clifton Heights Lane: The commission voted to approve this COC.

40-631 17 Edgemere Road: The commission voted to approve this COC.

Fines:

40-1033 Gerry Island Noyes: There are two outstanding fines to be paid by Noyes. The first was issued 05/31/2011 for \$300.00 and the second 06/02/2011 for \$600.00. These fines have been documented in previous documents. Neither of these fines has been paid as of 04/15/2012. A third fine was incurred by Noyes in the matter of the goats. The commission issued an Enforcement Order on 06/30/2011 to remove the goats. The amount of the fine was not immediately issued by the commission due to various intervening factors. The commission has now decided on the amount of the fine, viz., \$3,000.00. This amount was arrived at by determining the number of days the commission and/or witnesses personally observed and reported the goats on the island. The goats were brought onto the island by Noyes sometime in June 2011 and he finally removed them 08/10/2011. Of this total time period, only ten (10) days can be documented wherein the commission and/or witnesses personally observed and reported the goats. The commission has videos for some of its observations (100_1805.MOV and 100_1806.MOV). It is obvious to assume the goats were on the island the entire time period but the commission was hesitant to levy a fine for each and every day. A motion was made and seconded "to levy a fine of \$3,000.00 against Peter Noyes for maintaining goats on the island in violation of the Enforcement Order to remove the goats." All voted in the affirmative.

212 Humphrey Street: This fine will be determined at the May meeting.

A motion was made and seconded "**TO APPROVE THE FINE GUIDELINES DATED FEBRUARY 2012**". All members voted in the affirmative.

Sign Documents: All documents per the agenda were signed.

The meeting adjourned at 11:00 PM.