

**Marblehead Conservation Commission
Minutes September 13, 2012**

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

Meeting was called to order at 7:00 PM

Present were: Commission Members Walt Haug, Fred Sullivan, Brian LeClair and Don Tritschler. Also present was Willy Lanphear, Conservation Administrator.

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

Note: The commission currently has six members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

Approve Minutes: see below

Discussion Items:

Transfer Station: Appeared L. Mead, Special Town Counsel and A. Petty, Supt. M'hd Board of Health. Mead presented the commission with a form validating the ownership of the land to be remediated. Two parcels are involved. The form included two motions requiring the signatures for each motion of the present commission members. All present commission members signed for each motion. A copy of the signed form will be on file at the Conservation Office.

Eagle Scout Project – Hawthorn Pond: Appeared Max Levine to request permission to perform a project in Hawthorn Pond for his Eagle Scout Badge. The project will be monitored by Don Morgan of the M'hd Conservancy. Levine submitted the document, Eagle Scout Project Details, and will further submit a drawing (with the help of Lanphear) showing the exact location of the project. Four members of the commission voted to approve this project and thanked Levine for his effort (the fifth member arrived at the conclusion of this review and did not vote).

Minor Activity Projects: This subject was tabled until further notice.

Approve Minutes: A motion was made and seconded "to approve the minutes of 9 August 2012." All members voted in the affirmative.

40-1091 12 DAVIS ROAD MAFFEI

Resource Area: Coastal Bank, Coastal Beach

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

Control Drawing: Plan to Accompany NOI, #12 Davis Road, dated July 16, 2012, latest revision 13 September 2012, prepared by Hayes Engineering

Reference: Hayes Engineering letter dated September 13, 2012

Appeared: P. Ogren of Hayes Engineering and A. Maffei

This was a continuance from 08/09/2012. The commission focused on the proposed seawall design and questioned the final design and height of the proposed wall. As a result, a site visit was scheduled for Monday, 17 September 2012 at 5:30 PM to coincide with a low tide. The sacrificial plantings on the eroding bank, #2, will be addressed at the next hearing. With the consent of the applicant, all members voted to continue this hearing to 11 October, 2012.

RDA 100 OCEAN AVENUE RESNICK

Resource Area: Land Subject to Coastal Storm Flowage

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

Control Drawing: Hand sketch

Appeared: Peter Lake

Reference: Haug email to Resnick 23 July 2012

This was a continuance from 08/09/2012. No neighbors of Ms. Resnick appeared. The commission informed Lake that the applicant must be sure the proposed fence is not on Town-owned land and that the M'hd Water & Sewer Department has access to a drain line running under this property. Lake will contact M'hd W&S and confirm to the commission in writing of their approval. The design of the fence was then discussed. It was agreed the fence will be a maximum of four (4) feet high and will have periodic open spaces to allow ocean storm water surge to pass through. This is a matter of public safety. With the consent of the applicant, all members voted to continue this hearing to 11 October 2012.

RDA 15 SPRAY AVENUE GROOM

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

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

Control Drawing: Plan to Accompany NOI, Showing Proposed Additions & Grading, 15 Spray Avenue, dated December 15, 2012, latest revision June 26, 2012, prepared by Hayes Engineering

Appeared: P. Lynch, atty. and P. Ogren of Hayes Engineering

Reference: Haug email to Lynch dated September 13, 2012.

Minutes of July 12, 2012

Haug read the referenced email to the commission and necessary explanations were discussed. The commission then voted on each of the three changes requested under this RDA.

Change 1. Sprinkler System (40-1029): It was pointed out the system has already been installed but not connected. The commission did not consider this a violation with a fine since this did not influence its decision in this matter and did not impact any resource area. This system was not part of the project under 40-1025, had not been included under the original 40-1029 and, therefore, was not a part of the DEP SOC. A motion was made and seconded "to close this hearing". A motion was made and seconded "to issue a negative determination with no conditions". All members voted in the affirmative.

Change 2. Fence (40-1029): The commission had already approved a fence for that part of the project under 40-1025 but, since a fence was included in the original 40-1029 and, therefore, covered under the DEP SOC, the commission referred this change under 40-1029 back to DEP and did not vote on it.

Change 3. Seawall Re-pointing: The commission had already approved a surviving condition for re-pointing that part of the seawall under 40-1025. No re-pointing had been included under the original 40-1029 and, therefore, was not a part of the DEP SOC. The commission reminded the applicant that a surviving condition cannot be granted under a RDA. A motion was made and seconded "to close this hearing". A motion was made and seconded "to issue a negative determination with the following special conditions". All members voted in the affirmative.

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 debris (mortar chips, excess mortar, etc.) shall be captured by appropriate means to prevent any of this debris from falling onto the beach and entering the resource waters and shall be removed daily from the site. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

XX. Prior to re-pointing work, the applicant shall contact the Conservation Administrator to conduct a site inspection of the containment system.

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.

XX. Any future re-pointing beyond that allowed under this Determination of Applicability (DOA) requires a new permit.

12 ROLLESTON ROAD: At this point, a change of agenda sequence was made to allow a discussion of the requests for changes to **40-1042 and 40-1078** (Reference: Hayes Engineering letter dated September 6, 2012) and an Enforcement Order, all for **12 Rolleston Road**.

Appeared P. Ogren of Hayes Engineering.

Enforcement Order: Lanphear had visited the site earlier and discovered the mason re-building the permitted seawall (40-1078) did not have any drawings or prints defining how the wall shall be re-built. In addition, an area of vegetation at the seaward base of the upper seawall had been stripped and presented possible erosion into the ocean since the erosion control (silt sock) had been disturbed and was not properly in place. Lanphear verified the next day that the sock had been properly re-installed. An E.O. dated 15 August 2012 was issued for this violation. All members voted to approve this E.O. Per the Fine Guidelines, for resource area violations, a fine of \$300.00 for one day was levied. All members voted to approve this fine.

Changes requested: Per the referenced Hayes letter:

Change 1. This modified seawall design is to compensate for the mistake of the mason as described above. All members voted to approve this change as a minor design change.

Change 2. The proposed location of the fence at the top of the upper seawall is not properly documented on the site plans. Also missing is a description of the fence. Ogren will correct/include this on the site plans.

Change 3. All members voted to approve the removal of 2" to 6" of fill at the base of the upper seawall as a minor design change.

It was then pointed out that the shape of the in-ground pool (40-1042) does not conform to the site plan. In addition, the grades around the pool appear to be inconsistent with the requirements of the commission. Lanphear, Sullivan and Haug will visit the site.

RDA 10 COOLIDGE ROAD RICCIO

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

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

Control Drawing: Zoning Board of Appeals Plan, dated July 11, 2012, prepared by North Shore Survey. Note: The July 11, 2012 drawing was updated for this hearing and shows a proposed skylight but no new revision date was entered.

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

All members voted to issue a negative determination with the following special conditions.

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.

At this point, a change of agenda sequence was made to allow a discussion of the request for a change to 40-1074 (C. Young). The matter concerned the gazebo in the proposed design. The footprint of the gazebo had been included in the original site plan and approved but it had not been identified as such on the site plan. The requested change was to properly label the gazebo. No vote was necessary by the commission and no further action is necessary.

RDA 28 MONANTUM ROAD CHALIFOUR

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

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

Control Drawing: Site Plan for Request for Determination of Applicability, dated August 10, 2012

Appeared: C. Chalifour and Ms. Woodcock

Reference: Bessom Associates, Inc. letter dated July 12, 2012

After discussion, all members voted to close this hearing. All members voted to issue a negative determination with the following special conditions.

1. All debris (roof shingles, flashing, etc.) shall be captured by appropriate means to prevent any of this debris from falling onto the ledge at the seaward base of the house and entering the resource waters and shall be removed daily from the site. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
2. Prior to stripping the existing roof shingles the applicant shall make an appointment with the Conservation Administrator at 781-631-1529 to conduct a site inspection of the containment system.
3. All construction material shall be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

40-1093 89 FRONT STREET MARBLEHEAD BOATYARD, INC.

Resource Area: Land Subject to Coastal Storm Flowage, Coastal Bank and Land Under Water

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

Control Drawing: Plan for Timber Dock Repairs, 89 Front Street, Marblehead Boatyard Associates, dated August 9, 2012, prepared by North Shore Survey Corp.

Appeared: Jeff Tucker (of Walter Jacobs, architect)

Note: This application is in a resource area and the DEP has it “under review”. Per the practices of the Con Com, we do not issue a permit until the DEP comments on the application. However, we erred in this case and voted to issue the permit.

All existing decking will be removed from the entire deck. In one area, the existing pilings will remain. In another area where the old pilings are to be removed (cut to ocean floor level), new pilings will be driven into the ocean floor. In another area where the existing pilings are sitting on concrete footings, new pilings will re-attached to the existing concrete footings. Three new concrete piers will be installed at the base of the existing seawall. All work will be done from land. The work will start in November and continue for about one month. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

A copy of the “proof of mailing” per the NOI, section C, 2 b shall be furnished to the commission before any work is started.

A copy of the Chapter 91 license will be submitted to the commission before any work is started. Before any work is started, a floating boom with curtain will be installed just outboard and seaward of the proposed work.

All construction debris and materials will be properly contained so they do not enter the resource waters. A containment system will be submitted to the commission for approval before any work is started.

During Construction:

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. All demolition debris shall be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material shall be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

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

38. Any pressure-treated wood proposed to be used in the construction of a structure for land - based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper

Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

Post-construction/in perpetuity:

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

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

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

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".**

40-1092 95 PITMAN ROAD OLDHAM

Resource Area: Land Subject to Coastal Storm Flowage, Coastal Bank and Land Under Water

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

Control Drawing: Site Plan for NOI dated August 10, 2012, stamped by S. Patrowicz

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and M/M Oldham

Patrowicz reviewed the various projects. All members voted to close this hearing. All members voted 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.).

34. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces shall be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site.

35. All demolition debris shall be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

36. All construction material shall be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). **This condition shall survive this order.**

41. Maintenance pointing of existing (a) stone masonry and (b) concrete walls including the replacement of occasional, missing stones in the stone masonry wall or the patching of cracks and minor defects in a concrete 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.**

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".**

Old/New Business:

Enforcement Orders:

40-1078 12 Rolleston Road: see above

11 Susan Road: Reference: Wetlands Preservation Inc. letter dated August 8, 2012 with Site Restoration Plan and list of seed mixes. All members voted to approve this restoration plan.

Request for Changes:

RDA 16 Rainbow Road: Appeared P. Muldoon and Mr. Rowe. This change is a slight (18") overhang of the proposed second floor addition. All members voted to approve this as a minor design change.

40-1042 and 40-1078, 12 Rolleston Road: see above

40-1074, 12 Coolidge Road: see above

40-1021, 10 Mariner's Lane: D. Peach submitted a hand drawing showing a vertical support member under the stairs replaced with a more substantial member in the same location. All members voted to approve this as a minor design change.

40-1007, 12 Liberty Road: C. Titus submitted a hand written explanation of the proposed access with a front end loader to repair the seawall covered under this OOC. Following is a memo specifying certain conditions for this matter.

Memo to file
Subject: 12 Liberty Road
Reference: 40-1007
Date: 5 September 2012

On 5 September 2012 W. Lanphear and W. Haug met with Cal Titus at Stramski Park to discuss the use of a back hoe to work on the seawall at 12 Liberty Road under this NOI. Lanphear/Haug told Titus to submit a narrative of the work prior to the 13 September 2012 ConCom meeting. They suggested it could be reviewed as a minor design change to the existing OOC. Conditions will include:

- A maximum of 2-3 days for the back hoe to traverse the beach
- Travel only on a "dry" beach, not in water
- Lanphear to monitor the back hoe to insure no oil/chemical/lubricant spills on the beach
- Tarps will be on hand to contain any spills if they occur
- All removed concrete/mortar to be removed daily
- Access to the beach will be via the existing ramp from Stramski Park
- Any disturbed area will be returned to its original condition
- Titus will submit a picture of the back hoe.
- Before any work is started, submit a letter from B. Egan of M'hd Rec.& Park approving use of the ramp and a letter from the Ferragamo's approving the crossing of their beach with the back hoe.

All members voted to approve this access approach as a minor design change. Note: The fence under 40-1007 can have a maximum clearance to ground of 6", not 8".

40-1059, 11 Calumet Lane: Appeared K. McCreedy saying she wishes to raze an existing porch and replace it with a new porch of the same footprint. All members voted to approve this as a minor design change.

40-1068, 93 Pitman Road: Haug visited this site just before the meeting this evening to review a change requested by the applicant. The change was to widen a set of stairs which had already been approved (see attached). Haug recommended to the commission that this be reviewed as a minor design change. All members voted to approve this as a minor design change.

Request for COC:

1 Nahant Street, Corinthian Yacht Club: 40-449, 521, 542, 658, 691, 746, 775 and 1024: See the minutes of 9 August 2012 regarding these NOI's. Each and every COC was voted on by four of the five members present and approved. LeClair recused himself.

40-1055, 52-57 Stony Brook Road: All members voted to approve this COC.

Sign Documents: All documents per the agenda were signed.

The meeting adjourned at 10:00 PM.