

Meeting Minutes August 12, 2010
Marblehead Conservation Commission

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, Ken Fisher, Deb Payson, Craig Smith and Don Tritchler. 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: The minutes of 07/08/2010 were approved by all present members.

Massachusetts Association of Conservation Commissions (MACC): All members voted to pay the annual dues of \$578.00 per MACC invoice FY11168 dated 07/01/2010.

Note: The agenda no longer stipulates a specific time for each and every hearing thereby freeing the commission to hear all applications in a continuing sequence without delay.

40-1002 21 NEPTUNE ROAD - ETHOLM

Resource Area: Coastal Beach

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

Appeared: Petter Etholm and David Smith of Vine Associates.

Control Drawing: Proposed Pier, Gangway and Float, 21 Neptune Road, dated June 2010, prepared by Vine Associates

This was a continuance from 07/08/2010. A letter from the Marblehead Harbormaster dated 13 July 2010 approved the project. The DEP form reminded the applicant to file for a Chapter 91 license. Gregg Thibodeau submitted a letter dated August 12, 2010 with three photos explaining his reasons for opposing the project. John Messenger also submitted a letter (no date) opposing the project. One of the issues raised was the possibility of the floats bottoming out on the ocean floor. To address this it was agreed with the applicant to attach legs to the floats so that the underside of the floats must remain a minimum of eighteen inches (18") above ocean bottom even at lowest low tides.

It was further agreed with the applicant to anchor the floats with helical anchors and elastic rodes. In the event this does not prove satisfactory over time after installation due to the type of ocean bottom, concrete block anchors with chains will be allowed to replace the helical/rodes. The applicant will inform the commission in writing before blocks and chains are to be installed and will verify the attempt to use helical/rodes.

The photos submitted by Thibodeau show seagrass in the vicinity of the project but the pier is not immediately adjacent to this grass and will not disturb the grass. There are no eel grass beds in this area.

All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

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

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.

A confirmation of a Chapter 91 license must be submitted to the commission before any work is started.

During construction:

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.).

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

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

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 will conform to the requirements of Chapter 91.

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.

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

The floats will be anchored with helical anchors and elastic rodes. In the event this does not prove satisfactory over time after installation due to the type of ocean bottom, concrete block anchors with chains will be allowed to replace the helical/rodes. The applicant will inform the commission in writing before blocks and chains are to be installed and will verify the attempt to use helical/rodes.

Legs will be attached to the floats so that the underside of the floats must remain a minimum of eighteen inches (18”) above ocean bottom even at lowest low tides.

Post-construction/in perpetuity:

At the completion of the work, the buffer zone area will be restored to pre-construction condition and all soils will be stabilized.

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.

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.

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.

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

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.

Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an “as built” drawing (signed and stamped by a Registered Professional Engineer) with the

application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

RDA 6 EDMERE ROAD - RICE

Resource Area: Coastal Beach

Interests of the WPA and Bylaw: Flood Control

Appeared: James Rice

Control Drawing: Plot Plan of Land, 6 Edgemere Road, dated July 12, 2010, prepared by North Shore survey Corp.

The stream is intermittent, the work proposed is minimal and the project is seventy two (72) feet away from the BVW. All members voted to close this hearing. All members voted to issue a negative determination with no special conditions.

RDA DAVIS ROAD - RECORD

Resource Area: Coastal Bank and Beach

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

Appeared: No one

Control Drawing: Sketch by Mr. Record

This application was tabled and Lanphear will contact Record to determine further action.

21 SCHOONER RIDGE - JACOBS

Resource Area: BVW

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

Appeared: Scott Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan, 21 Schooner Ridge, Tom Jacobs, dated July 23, 2010, prepared by Patrowicz Land Development Engineering

The replacement of the existing deck with a slightly larger garage in the No Build Zone does not impact the BVW and will be compensated for by the installation of a dry well to capture roof runoff. All members voted to close this hearing. All members voted to issue a negative determination with the special condition as follows.

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 Lawncare 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.

40-1005 27 GINGERBREAD HILL - BLAISDELL/POWELL

Resource Area: Fresh Water Wetland on Pond

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

Appeared: Philip Blaisdell, Nancy Powell and Scott Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan, 27 Gingerbread Hill, dated July 15, 2010, prepared by Patrowicz Land Development Engineering

It was agreed with the applicant to move the proposed garage one (1) foot closer to the road so the garage is a bit less in the No Build Zone. A revised control drawing showing the revised garage location will be submitted to the commission for approval before any work is started. In addition, the applicant will make the surface of the driveway (now asphalt) pervious. Finally, the area between the proposed garage and the pond will never be fertilized. All members voted to close the hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

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

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.

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:

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.).

The driveway will be constructed as permeable surface to allow water to infiltrate into the ground on site.

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

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:

By voluntary agreement with the applicant, no fertilizer and/or chemicals will ever be applied to the entire area between the proposed garage and the pond. This condition shall survive this order.

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.

The control drawing for this project was prepared and stamped 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. 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.

Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

40-1004 1 BEACON STREET - McHUGH

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: David Smith of Vine Associates and Stephen McHugh (applicant)

Control Drawing: McHugh Residence, 1 Beacon Street (3 sheets), dated July 2010 and prepared by Vine Associates

The DEP file form had no comment. An email memo from the MA Division of Marine Fisheries (Kate Ostrikis) dated August 11, 2010 stated that they recommend the use of helical anchors with

elastic rodes. A letter from the Marblehead Harbormaster dated August 2, 2010 approved the application. The applicant will apply for a Chapter 91 license.

The commission expressed concern that the proposed pier in Little Harbor will crowd the area but it acknowledged that such considerations are not under its purview. J. Willard from the audience then expressed a similar view and suggested a smaller design but this was not acted upon. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

Proof of a Chapter 91 license must be submitted to the commission before any work is started.

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

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.

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:

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.).

All debris will be removed from the site ASAP and not stored within a resource area or a buffer zone. If a dumpster is used to contain the debris, the dumpster shall be covered. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

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

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 will conform to the requirements of Chapter 91.

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.

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

Post-construction/in perpetuity:

The floats will be anchored with helical anchors and elastic rode. In the event this does not prove satisfactory over time after installation due to the type of ocean bottom, concrete block anchors with chains will be allowed to replace the helical/rodes. The applicant will inform the commission in writing before blocks and chains are to be installed and will verify the attempt to use helical/rodes.

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 Lawncare 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.

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 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.

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.

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.

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

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.

The control drawings for this project were prepared and stamped 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 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 by the Conservation Commission.

Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

RDA 25 SPRAY AVENUE - WILLIS

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: William Willis (applicant) and Robert Zarelli, Architect

Control Drawing: Plan to Accompany Request for Determination, 25 Spray Avenue, dated July 23, 2010, prepared by Hayes Engineering

Before this application was addressed, a previous NOI (40-814) for the same applicant and address was discussed. 40-814 expired about three years ago but no COC had been requested which is a violation of the OOC. The commission agreed to issue a COC for the work that was completed but also levied a fine of \$300 for the violation.

The new, proposed work, a garage, is outside the 50 ft. No Build Zone. All members voted to close this hearing. All members voted to issue a negative determination with no special conditions.

40-1006 239 OCEAN AVENUE - HAMILTON

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan for Existing RipRap Boulder Maintenance, dated July 26, 2010 and prepared by Patrowicz Land Development Engineering and North Shore Survey Corporation. The DEP file form said "under review" and therefore the hearing cannot be closed. It is the opinion of the commission that the addition of 25 boulders of similar size and material to those already present in the rip rap will not negatively effect the coastal bank. The additional boulders will conform to the requirements of 310 CMR 10.30 (6) and (7). All members voted to continue this hearing to September 9, 2010. In the event an OOC is issued, it will contain the following special conditions.

Pre-construction:

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

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:

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.).

Post construction:

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 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.

Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

RDA 147 FRONT STREET - MARBLEHEAD CONDOMINIUM TRUST

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: Bruce Greenwald, architect, G. Peterson of the Marblehead Condominium Trust and Scott Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Adams House, Front Facade Renovations, dated 03/18/10, latest revision 07/23/10, prepared by D. Bruce Greenwald

All work will be performed on the landward side of the building and will have no impact on the resource area. All members voted to close this hearing. All members voted to issue a negative determination with the following special conditions.

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

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

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.

40-1007 12A AND 12B LIBERTY ROAD - ANDALORO

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: M/M Andaloro

Control Drawing: "SITE PLAN TO ACCOMPANY NOI", dated 07/28/2010, prepared by Griffin Engineering Group, LLC

The DEP informed the commission that, in their opinion, the proposed expansion of the landing is analogous to expanding a seawall. In addition, DEP did not feel the project will meet the standards for coastal bank and rocky intertidal shore. After much discussion, the applicant elected to withdraw the expansion of the landing. The applicant will repair the existing landing without any vertical expansion. Rip rap per the control drawing is allowed. The railing on the repaired landing is allowed.

With regard to the stockade fence, the applicant was instructed to leave a minimum of eight (8) inches between the bottom of the fence and the ground. It was agreed with the applicant to establish a berm or similar structure to prevent lawn runoff from flowing down the two swales abutting the stairs leading down to the landing. Further, it was agreed to allow vista pruning on the coastal bank, but not clear cutting. In addition, the plants installed by the applicant on the bank a few years ago may be protected from being choked out by the invasive plants. This will be accomplished by removing a small amount of invasive growth directly surrounding each plant.

Mr. Phelan of Liberty Lane expressed concern about the stockade fence preventing wildlife from traversing under the fence. He was glad about the 8 inch requirement.

All members voted to close the hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

Before any work is started, a revised control drawing shall be submitted to the commission for approval. This revision shall eliminate the vertical expansion of the landing and show a

proposed berm or similar structure at the top of coastal bank where the stairs lead down to the landing to prevent lawn runoff from flowing down the two concrete swales abutting the stairs.

During construction:

The stockade fence will have a minimum of eight (8) inches clearance between its bottom and the ground to allow travel by small animals. This applies for the entire length of the fence.

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.).

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

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:

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 Lawncare 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.

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 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.

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.

Limited vista pruning of invasive vegetation on the coastal bank is allowed for this application. Vista pruning means vegetation can be reduced in height but only in so far as the pruning will not kill the vegetation with repeated pruning. Clear cutting of vegetation is not allowed and is a violation. In addition, the plants installed by the applicant on the bank a few years ago may be

protected from being choked out by the invasive plants. This will be accomplished by removing a small amount of invasive growth directly surrounding each plant.

Upon completion of the work allowed under this Order of Conditions, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing (signed and stamped by a Registered Professional Engineer) with the application for the COC. Failure to submit said application within 30 days may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

40-1008 289 OCEAN AVENUE - RICH

Resource Area: Coastal Bank, Coastal Beach and Rocky Intertidal Shore

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

Appeared: No one

Control Drawing: Site Plan, 289 Ocean Avenue, dated July 22, 2010, prepared by North Shore Survey Corporation

A memo from Attorney Robert McCann, dated August 12, 2010 requested a continuance. All members voted to continue this hearing to September 9, 2010.

40-990 75 WEST SHORE DRIVE - TOWER SCHOOL/MARBLEHEAD W&S DEPT.

Resource Area: BVW, Land Under Water, Riverfront

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

Appeared: No one

Control Drawing: Brook Channel Maintenance, Tower School/Marblehead

This was a continuance from 02/11/2010, 03/11/2010, 04/15/2010, 05/13/2010, 06/10/2010 and 07/08/2010. Based on its decision at the hearing on 8 July 2010 and having informed the applicant's representative thereof, the commission voted all in favor of continuing this hearing until a time uncertain.

Old/New Business:

Approve Minutes: see above

Requests for COC: Requests for COC's for 40-816 and 40-835 were tabled. All other COC's per the agenda were signed.

Sign Documents: All documents per the agenda were signed.

Other Matters: A fine of \$300 was levied against 40-1000 for a resource violation (cleaning of cement truck in ocean waters).

MACC dues: see above

Fine Guidelines: All members voted to approve the following guidelines for levying fines.

FINES

Administrative: Failure to apply for OOC/RDA
Failure to record OOC
Failure to apply for Amendment
Failure to record Amendment
Failure to comply with OOC/RDA
Failure to apply for COC
Failure to record COC

1st violation for applicant: \$300.00 per year

2nd violation for applicant on same or different site: \$600 per year

plus the following fines

Buffer Zone Violation:

No Disturb Zone: \$600.00 per year
No Build Zone: \$450.00 per year
50-100 ft. Zone: \$300.00 per year
plus possible restoration

Resource Area Violation:

\$300.00 per day each violation exists
plus possible restoration

1st violation for applicant: as above for Buffer Zones and Resource Area.

2nd violation for applicant on same or different site: double fine for 1st violation.

The meeting was adjourned at 10:50 PM.