

**Marblehead Conservation Commission**  
**Minutes December 9, 2010**

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, Don Tritschler, Craig Smith and Ken Fisher. Also present were Willy Lanphear, Conservation Administrator and Jan Smith, Assoc. Member.

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:** A motion was made and seconded to approve the minutes of 11/18/2010. All voted in the affirmative.

**Sign Documents:** All documents per the agenda were signed.

**Fines Policy:** A revised fines guidelines (attached) was discussed and all members voted to apply this revised guidelines.

**40-1019 99 PITMAN ROAD THOMPSON**

Resource Area: Coastal Bank

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

Appeared: No one

Control Drawing: Plot Plan, 99 Pitman Road, Thompson, dated October 20, 2010, prepared by North Shore Survey Corporation

This was a continuance from 11/18/2010. An email dated 12/06/2010 from Patrowicz requested a continuance to 01/13/2011. All members voted to continue this hearing to 01/13/2011.

**40-1016 6 FOSTER STREET WEISE**

Resource Area: Coastal Bank

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

Appeared: Mr. Weise and B. Comak, contractor

Control Drawing: Site Development Permit Plan, Peter & Jill Weise, dated October 26, 2010, revised Dec. 1, 2010 prepared by Eastern Land Survey Associates.

This was a continuance from 11/18/2010. The revised drawing included a cross section of the proposed retaining wall for the terrace and a cross section of the proposed trench drain along the landward side of the seawall. A discussion ensued about the stability of the retaining wall and its footing but it was concluded this would not impact the resource waters. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

**Pre-construction:**

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.

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:**

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.

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 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.

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 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.

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.

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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

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".

#### **40-1022 98 BEACON STREET WHITMORE**

Resource Area: BVW

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

Appeared: W. Quigley

Control Drawing: Plan of Land, 98 Beacon Street, dated December 1, 2010, prepared by Engineering Alliance, Inc.

Reference: Letter from Riley & Dever, P.C. dated December 9, 2010

Coastal Bank Buffer Zone, Haug, November 2003

## List of Buffer Zone References, November 2003

The commission read the comment from the DEP (“Applicant should move house farther from wetland.”) for this NOI and stated its own reservations about the size of the house footprint and its incursion into the No Build Zone. The commission read from documents relating to the purpose and value of buffer zones and entered same into these files. While these documents mention coastal areas, they very accurately apply also to inland wetlands. The commission stated the house should be moved ten (10) feet closer to Beacon Street and one bay of the garage should be removed. This would still leave a small corner of the garage in the No Build Zone but would significantly reduce the intrusion into this area, thereby increasing the effective width of the buffer zone. This change would still allow the house footprint to meet zoning setbacks. One benefit to the eventual house owner would be access around the garage in the vicinity of the existing stone wall which, per the control drawing, will be maintained. In addition, the commission said the hay bales should be moved inside of the existing stone wall.

At this point, the referenced letter was read. In addition to the already proposed drywell, a second will be proposed. This second drywell will be located in the vicinity of the proposed driveway and connected to a hooded, deep sump catch basin. This system will act as a BMP to capture oils, etc. and upwards of 80% of Total Suspended Solids per state guidelines. In addition, the developer will supply a cross section drawing showing the elevations of the proposed driveway with respect to those of the existing road surface of Barnegat Lane. This is to insure the proposed driveway does not add to an existing problem of stormwater collecting on Barnegat Lane. Further re the letter, there are no stairs/stairwell proposed leading to Barnegat Lane. Further re the letter, a condition will be stipulated restricting the access of “heavy” construction vehicles on Barnegat Lane, possibly by referring to the weight of a vehicle.

The commission will require a landscaping plan for approval before any landscaping is started. All members voted to continue this hearing to January 13, 2011.

### **RFA 32 FOSTER STREET VAN OTTERLOO**

Resource Area: Coastal Bank

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: Photos submitted with the RFA

If this project had only involved roof re-shingling and widow replacements, it could have been permitted with a Minor Activity Permit. However, since it involves also the enclosing of an existing porch, it was decided to review it as a RFA. 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 on a daily basis 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.

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

**Old/New Business:**

**Approve Minutes:** see above

**Amendments to OOC:** 40-714 3 Brown Street Noyes: This request was to reverse the sequence of work to allow a more logical progression from the back to the street side of the property and a slight change in the location of the drain pipe. Noyes submitted a new "Proposed Construction Sequence", revised 12/09/2010. The scope of work will not change nor will there be any further impact on the wetlands or on neighbors. Therefore, rather than view this as an amendment, the commission voted to allow this as a "change", thereby not requiring a further hearing or recording.

**Requests for Extension:**

40-714 3 Brown Street Noyes;  
40-942 81 Naugus Avenue Carlton

It was agreed to postpone any actions on these requests awaiting final response from DEP regarding the Permit Extension Act.

**Requests for COC:**

**40-958:** 22 Crowninshield Road: See Memo to file re site visit 11/29/2010. S. Patrowicz submitted a revised marked up drawing dated 12/09/2010 showing the changes implemented per the memo. A site visit on 12/09/2010 by W. Haug & W. Lanphear verified the changes. All members voted to issue a COC.

**40-390:** 8 Corn Point Road: Records indicate a COC might have been requested and, in view of this possibility, no fine will be levied. No vote was necessary due to the foregoing assumption.

**40-470:** 8 Corn Point Road: The OOC expired in 1998: COC is delinquent 12 years.

**40-668:** 8 Corn Point Road: The OOC was not recorded: OOC is delinquent 10 years.

**40-668:** 8 Corn Point Road: The COC was not requested: COC is delinquent 7 years.

The foregoing violations for 40-470 and 40-668 are all administrative. Per the revised fine guidelines approved at this meeting, the total fine for these violations would be tens of thousands of dollars. The commission decided to further revise the fine guidelines, applicable to administrative violations only and for all administrative violations from other parties, said administrative violations occurring before 2010. This revision applies a fine of \$300 per violation for the first administrative violation and \$600 per violation for each additional administrative violation committed by the same applicant on the same or another property. These fines apply regardless of the length of time the administrative violations have existed and are not to be multiplied by any specific time period provided the

administrative violations occurred prior to 2010. The fines for buffer zones and resource areas remain per the fine guidelines approved at this meeting.

The fines levied against 8 Corn Point Road are: \$300 for 40-470, \$600 40-668 (OOC) and \$600 40-668 (COC). All members voted to levy these fines.

**Sign Documents:** see above

The meeting was adjourned at 9:00 PM.