

**CONSERVATION COMMISSION  
MINUTES OF FEBRUARY 12, 2009**

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, Deb Payson, Craig Smith, Ken Fisher, Brian LeClair and Don Tritschler. Also present were Jan Smith, Associate Member and Doug Saal, 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 01/08/09 were approved without change by all members.

**Approve Minutes:** The minutes of 01/22/09 were approved without change by all members.

**Old/New Business:**

**New Meeting Schedule:** Due to the reduction in number of applications all members agreed to schedule meetings only once each month, viz., on the second Thursday of each month. This schedule will continue until further notice.

**COC 40-795 36 Crestwood Road Little:** D. Saal visited this site and said only a minimum of planting has been done. No other activity was performed under this NOI. All members voted to approve the COC. Saal will withhold the COC until the \$25 filing fee is received.

**Extension 40-802 Whittier Pond Whittier Ponds Association:** The applicant's contractor, Aquatic Control Technology, in a letter dated February 04, 2009 (along with their Year End Report for 2008, dated February 04, 2009) asked that this OOC be extended for three years. J. Polimeni of the Whittier Ponds Association asked that the commission approve further treatment. The commission agreed that since no new treatment procedures of a non-chemical nature and financially realistic have become known to the commission since the previous extension, a motion was made and seconded to extend this OOC for one year to 03/04/10 with the following conditions. All members voted in favor.

The permit for this extension of 40-802 to 03/04/10 might not be granted in the future depending on any possible studies offering reasonable alternatives to the application of chemicals.

Prior to or with any future request for an extension, the applicant will inform the commission in writing of any efforts on their part to research non-chemical treatment of the pond.

#### **40-968 VILLAGE STREET SCHOOL M'HD SCHOOL COMMITTEE**

Resource Area: BMW

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

Appeared: Brian Lawlor of Symmes, Maini & McKee Associates, Inc.

Control Drawing: Marblehead Village School, drawings C1.01, C2.01, C2.02, C3.01, C4.01 and C4.02, all dated 01/19/09

The DEP form reviewing this NOI was read. The following discussions address each of the concerns raised by DEP.

*...only a portion of the flow from the driveway to Jersey Street is being is being treated*

There is a sidewalk running along the entire length of the driveway, said sidewalk abutting the wetland area. The sidewalk acts as a berm preventing the storm water from accessing the wetland. There is a high point in the driveway and some storm water flows from this point in the direction of Jersey Street while, again from this point, some storm water flows in the opposite direction down towards the parking area. The catch basin adjacent to the football field will be replaced with a deep sump, hooded catch basin and a recharge basin. The storm water flowing toward the parking area is directed into this catch basin which, therefore, acts as a BMP. The area immediately surrounding this catch basin will remain unpaved, so as to further serve filtration.

In addition, per Mr. Lawlor, the two existing catch basins located directly opposite the parking area, will be replaced with deep sump, hooded catch basins. Any storm water will be directed into these catch basins, again to serve as BMP's.

*What is the actual amount of impervious surface being removed?*

Per Mr. Lawlor, the amount of removed impervious surface is only 25-30 sq. ft. This was misrepresented in the project narrative as there will be essentially no reduction in impervious surface.

*Recharge calculations should be done to ensure that maximum recharge is being met.*

Per Mr. Lawlor, since the drainage pattern will not be changed and, taking into account the recharge basin with the catch basin near the football field, the post recharge will be slightly improved over the pre-recharge.

At the request of the commission, the erosion control barrier will be extended north along side and to the end of the building wing in this area. The commission voted all in favor of closing this hearing. The commission voted all in favor of issuing an OOC with the following special conditions.

**Pre-construction:**

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. The construction of the erosion control barrier to be used on site is described in the referenced control drawings. This barrier shall be extended north along side and to the end of the building wing in this area.

**During construction:**

3. 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.).
4. 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.
5. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
6. The area immediately surrounding the catch basin in the immediate vicinity of the football field will remain unpaved so as to serve for storm water filtration.
7. The two existing catch basins located directly opposite the parking area, will be replaced with deep sump, hooded catch basins. Storm water will be directed into these catch basins to serve as BMP's before flowing into the wetlands.
8. The foundation perimeter drains will be pumped up into the same outflow pipe servicing the aforementioned two catch basins located directly opposite the parking area. Since this drainage is ground water it will not be pre-treated prior to flowing into the wetlands.

**Post-construction/in perpetuity:**

9. 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.

10. 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).

11. 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

**40-969 396 OCEAN AVENUE TERMEER**

Resource Area: Coastal Bank

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, R. McCann, atty. and J. Velleco, architect

Control Drawing: Site Plan of Land, 396 & 400 Ocean Avenue, Henricus S. Termeer, dated January 21, 2009, prepared by North Shore Survey Corporation.

B. LeClair recused himself from the hearing since he is on the governing board of the Corinthian Yacht Club.

Per Mr. Velleco, taking into account all impervious surfaces (roofs, driveway, etc.) the proposed design will result in an additional amount of impervious surface of 2,000 – 2,500 sq. ft. The proposed deck is partially located in the No Disturb Zone. About  $\frac{3}{4}$  of the proposed deck sits over the existing driveway in that area. The driveway will be replaced with pervious area and the deck will be constructed with open decking. Since this will result in an improvement for storm water filtration and since the area was already disturbed, the commission accepted this intrusion into the No Disturb Zone.

Regarding the prevention of pollution, the proposed rain garden in the northeast corner adjacent to the proposed re-drawn lot line will serve to capture pollution/nutrients from that side of the property. This rain garden will have a depth of at least 30 inches per DEP guidelines. In order to capture nutrients coming off the landscaped area on the water side of the existing house, a vegetated buffer strip/rain garden averaging a width of six feet minimum will be planted along the entire length of the existing retaining wall. . This rain garden will have a depth of at least 30 inches per DEP guidelines.

The manner of storm drainage off the proposed driveway was not clear to the commission as there was no description of the existing or proposed drainage. S. Patrowicz will clarify this. The manhole shown of the control drawings will be investigated by Patrowicz and reported to the commission. The commission voted 6 yes and 1 no to close this hearing. The commission voted 6 yes and 1 no to issue an OOC with the following special conditions.

**Pre-construction:**

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. The retaining wall on the water-side of the house will serve as the erosion control barrier.
3. A landscape plan including the proposed rain garden in the northeast corner as well as the rain garden (of average width 6 feet) along the retaining wall will be submitted for approval by the commission before any work is started. The landscape plan will show details of the rain garden construction regarding depth and the inflow versus outflow of the rain garden in the northeast corner interacting with its catch basin.
4. A drainage plan for draining the proposed driveway will be submitted for approval by the commission before any work is started.
5. The condition and purpose of the manhole will be documented to the commission before any work is started.

**During construction:**

6. 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.).
7. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces will be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site
8. 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.
9. 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:**

10. 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.
11. 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.
12. 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 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.

13. 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).

14. 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

#### **40-966 FORT SEWALL TERRACE KNICKREHM**

Resource Area: Coastal Bank

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

Appeared: No one

Control Drawing: Plan of Land, 7 Fort Sewall Terrace, dated November 4, 2008, prepared by Hayes Engineering

D. Saal has been in telephone contact with Mr. Knickrehm who requested a continuation to 03/12/09. All members voted to continue this hearing to 03/12/09.

#### **40-872 12 NONANTUM ROAD CHALIFOUR**

At its 01/08/09 meeting the commission voted to review the sewer pipe repair as an amendment to 40-872 and to extend this OOC to 04/13/10. Ms. Chalifour submitted a letter dated January 22, 2009 from Bessom Associates, Inc. approving her request. Per Ms. Chalifour, the emergency work on the sewer pipe has been completed. However, further work may be required pending another examination of the remainder of the pipe. Once this has been determined, and before any work is started, Ms. Chalifour will request of the commission its approval. All members voted to issue the amended OOC with the following special condition.

1. Before any further repair work is started on the sewer pipe, the applicant will obtain approval from the commission.

**New/Old Business:**

**Approve Minutes:** see above

**Requests for COC:** see above

**Requests for Extension:** see above

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

**Meeting Schedule Modification:** see above

The meeting was adjourned at 9:20 PM.