

**MARBLEHEAD CONSERVATION COMMISSION  
MINUTES OF OCTOBER 8, 2009**

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

Meeting was called to order at 7:00 PM

Present were: Commission Members Walt Haug, Fred Sullivan, Brian LeClair, Deb Payson, Don Tritschler, Craig Smith and Ken Fisher. Also present were Jan Smith and 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 09/10/09 were approved by all members.

**New Business:** Proposed change to special condition regarding vegetated buffer strips. The following change was suggested to replace the existing special condition: "This OOC specifies a vegetated buffer strip be planted along and abutting the coastal bank and/or the BVW. At the end of the second growing season the applicant must submit a report to the commission evidencing that the plantings have reached a minimum 75% survival rate. If the 75% rate has not been achieved, the applicant will re-plant/replace all non-surviving plants at the start of the third growing season and verify such to the commission. This reporting schedule will continue only until the COC is issued. If the conditions of the OOC have all been met (but excluding the planting survival rate), the COC can be issued and no further reporting is required." The commission will review this suggestion again at the next meeting in an attempt to insure the survival rate is monitored for a proper period considering when a COC is requested before the three period of the OOC expires.

**Request for COC and Amendment: 40-903 and 40-923 3 Davenport Road Redmond:** Kathy Bradford appeared to request a COC for 40-903. See her letter dated October 8, 2009 referring to 40-923. 40-903 was never registered and the landscape work was never installed. The commission voted all in favor of issuing a COC for 40-903.

Regarding 40-923, Bradford requested a partial COC. The COC application explains that the house and a portion of the landscaping are completed. The commission voted all in favor of issuing a partial COC for 40-923. The landscaping work contained in 40-903 will be incorporated into the remaining landscaping work of 40-923 still to be performed. The commission agreed to view this as an amendment to 40-923. Bradford will revisit the commission in November with a revised site plan showing the aforementioned final compiled landscaping. A further request for a one year extension will be made subsequently.

**40-975 27 TICEHURST LANE HAMMOND**

Resource Area: BVW, Pond, Land Under Water

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

Appeared: No one

Control Drawing: Site of Plan, 27 Ticehurst Lane, Henry Hammond dated February 26, 2009, prepared by North Shore Survey Corporation.

This was a continuance from 04/19/09, 05/14/09, 07/09/09 and 09/10/09. Mr. Patrowicz sent an email dated October 8, 2009 wherein the applicant requested a continuance to 12/10/09. All members voted to continue this hearing to December 10, 2009 but specified there will be no more continuances with specific dates beyond this date until the applicant has a final, firm date.

**RDA 151 GREEN STREET BOARD OF HEALTH**

Resource Area: BVW, Stream

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

Appeared: W. Attridge, Marblehead Board of Health and Steve Wright of SEA

Control Drawing: Town of Marblehead Landfill Risk Assessment, dated September 2009, prepared by SEA

All members voted to issue a negative determination based on 310 CMR 10.02 (2) (b) (1) g and section 5.4.4 of the Marblehead Wetlands Protection Bylaw. No special conditions were attached.

**40-952 216 OCEAN AVENUE, OCEAN PROPERTIES REALTY TRUST**

Resource Area: Land Subject to Flooding,

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and Dr. P. Rosen of GEO/Plan Associates

Control Drawing: Site Plan, 216 & 220 Ocean Avenue/ Eljk Van Otterloo and Bruce & Winnie Rogow, dated September 21, 2009, prepared by North Shore Survey Corporation

See also the report from Dr. Rosen dated October 7, 2009.

This was a request for an amendment to re-grade the front lawn of the site. This request has been advertised and all abutters notified. There was substantial discussion about the ability of the

proposed re-grading to adequately contain flood waters. Patrowicz said the choice of two inch diameter stone allows for maximum space between stones and the volume of stone under the lawn overlay will equal or increase the amount of pre-construction volume storage for storm water. In addition, a volume of muck has been removed thereby increasing percolation.

A major concern of the commission was the storm water flowing down the driveway (driveway elevated by ca. 1 to 1.5 feet over existing grade) and cascading over into the property of Coppola at 212 Ocean Avenue. Per Patrowicz if the driveway surface is pervious, this will not be a problem. If the driveway surface is impervious, a drain (such as a French drain) will be located across the driveway where the driveway elevation is 11.5 feet. This drain will direct the storm water into the abutting swale.

Dr. Rosen agreed to the following addition to his report dated October 7, 2009, regarding Site Evaluation of 216-220 Ocean Avenue. The addition to which he agreed is in the last sentence of the report. This sentence shall now read: "The proposed project should not increase the volume of flow moving landward from Ocean Avenue *therefore resulting in similar or less flooding into surrounding properties.*"

The commission voted (6 yes, 1 no) to review this drainage change/re-grading as an amendment. Patrowicz will revise the current site plan to define the surface material of the driveway and, if impervious, the additional drain.

#### **40-985 220 OCEAN AVENUE BRUCE & WINNIE ROGOW**

Resource Area: Land Subject to Flooding,

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and Dr. P. Rosen of GEO/Plan Associates

Control Drawing: Site Plan, 216 & 220 Ocean Avenue/ Eljk Van Otterloo and Bruce & Winnie Rogow, dated September 21, 2009, prepared by North Shore Survey Corporation

See also the report from Dr. Rosen dated October 7, 2009.

This application is directly connected to 40-952 and has the same characteristics. All members voted to close this hearing. The commission voted (6 yes, 1 no) to issue an OOC with the following special conditions.

Special Conditions:

19. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

20. The project shall be performed in accordance with the Final Approved Plans and Other Documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plans and documents requires written authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans prior to authorization may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

21. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

22. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

23. In accordance with General Condition No. 8 contained in this Order of Conditions, the applicant shall record this Order at the Registry of Deeds and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order prior to the commencement of any work authorized by this Order. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E.

**Pre-construction:**

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

**During construction:**

25. All muck removed from the site shall be properly disposed of in accordance with applicable federal, state and local regulations.

**Post-construction/in perpetuity:**

26. 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.

27. 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.

#### **40-958 22 CROWNINSHIELD ROAD RANDOLPH**

S. Patrowicz appeared to request a change in a part of the drainage on this site. Due to a miscommunication, he has already started the work. Messrs. Lanphear and Haug had already visited the site and discussed the change with Patrowicz and concluded it was within the scope of the approved work. Patrowicz assumed this was approval which it was not. The commission allowed the additional drainage work to continue and told Patrowicz to formally request an amendment accompanied with a revised site plan.

#### **Old/New Business:**

**Approve Minutes:** see above

**Request for COC:** see above

**Request to Amend OOC:** see above

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

#### **Other Matters:**

**40-958:** see above

**Vegetated Buffer Strips:** see above

**Fee Schedule:** The commission approved the following fee schedule changes.

- 9.1 a: \$50
- 9.1 b: If no site visit, \$50; If site visit, \$100
- 9.2 a: Projects such as house additions, ...\$100
- 9.2 b: \$200
- 9.2 c: \$400
- 9.2 d: \$600
- 9.2 e: \$600
- 9.2 f: \$200
- 9.2 g: \$200
- 9.2 h: \$600
- 9.2 i: ...and Minor Activity Permits - \$50
- 9.2 j: An additional \$500 ... when said replication or filling exceeds 250 sq. ft.
- 9.3: \$50
- 9.5: \$50

The meeting was adjourned at 9:20 PM.