

**CONSERVATION COMMISSION  
MINUTES OF MAY 10, 2007**

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, Craig Smith and Betsy Rickards. (Mark Klopfer arrived at 8:00 PM.) Also present were Doug Saal, Conservation Administrator and Jan Smith, Associate Member.

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

Note: The commission currently has only five 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 three members

**Approve Minutes:** The minutes of 04/26/07 were approved by four members.

**3 Davenport Road Redmond:** A discussion was held to decide if test pits could be included as a minor activity per 310 CMR 10.02(2)(b)g. It was recognized that test pits are more intrusive as compared to borings but it was also recognized test pits are temporary and, per the opinion of the commission, essentially serve the same purpose as the other activities referred to above. The commission voted four in favor to consider test pits as allowed under 310 CMR 10.02(2)(b)g. For this site, the test pits will be dug and replaced in one day, a paved roadway separates the site from the resource area and the site is slightly depressed below the roadway.

**RDA: 45 TICEHURST LANE HENCH**

Resource Area: Pond

Interest of WPA and Bylaw: Protection of Fisheries, Protection of Wildlife Habitat, Prevention of Pollution

Appeared: Ms. HENCH.

Control Document: Plot Plan of Land, 45 Ticehurst Lane, dated March 21, 2007, prepared by North Shore Survey Corp.

The cellar walls will be totally above ground, requiring excavation only for the footings. This will be done by a bobcat excavator. Two members visited the site and reported that the ground in the area is quite flat and they estimated it has a slope less than 15%. The proposed siltation fence shown on the control drawing, properly maintained, should

suffice to prevent any erosion into the pond. Four members voted to close this hearing. Four members voted to issue a negative determination 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. 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.

**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.

**Post-construction/in perpetuity:**

6. 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.
7. 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).

## **40-000 147 FRONT STREET M'HD HARBOR CONDOMINIUM TRUST**

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

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, E. Moll of Structures North and R. Haley, Trustee of M'hd Harbor Condominium Trust

Control Documents: As submitted within the NOI and including a project memo from Structures North re: Adams House, dated 10 May 2007

The applicant was informed that no DEP file number or form had been received and that the application will be discussed but must be continued. The commission accepted the construction details and focused more on the containment structure (debris netting) to be erected to prevent any debris or construction material from entering the resource waters. The debris netting as well as the demolition and new construction is described in detail in the project memo written by Structures North. The commission agreed to allow re-shingling (where necessary) on the building to be included under this NOI. The commission required that the debris netting extend around the corners of the building to insure the capture of debris. The debris netting is intended to capture stray bits of material since all debris will be moved into the building as it generated. Four members voted to continue this hearing to May 24. If an OOC is issued, it will have 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. 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. The debris netting is to be inspected and approved by D. Saal before any demolition is started.
3. Re-shingling of the sides of the building, where required, is allowed under this OOC.

### **During construction:**

4. 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.).
5. 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.

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

7. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use (contacting with soil) 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 MADEP which is less polluting and harmful to the salt water and its environment.

**Post-construction/in perpetuity:**

8. Upon completion of the work allowed under this OOC, the applicant shall within 30 days apply for a Certificate of Compliance (COC) and, if required by the commission, submit an “as built” drawing with the application for the COC.

**40-920 11 BRADLEE ROAD RAND**

Resource Area: Coastal Bank, Rocky Intertidal Shores, Land Subject to Coastal Storm Flowage

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

Appeared: D. Lynch of D.J. Lynch Engineers and M. Welch of J J Welch & Co., contractor

Control Documents: Proposed Replacement Pier, 11 Bradlee Road, dated 03/30/07, latest revision 05/09/07, prepared by D.J. Lynch, Engineers and a document prepared by J J Welch describing the temporary repairs proposed until the new pier is constructed.

This was a continuance from 04/26/07. M. Klopfer arrived. The applicant's representatives revised their presentation to reflect that a new pier is to be constructed and that a new Chapter 91 license is required. Further, they stated that the applicant wishes to make temporary repairs to the existing pier. The latest revision for the new pier shows a new lifting mechanism and only four instead of six proposed bays. Welch stated that the water depth under the float is much more than 18 inches at low tide and that the term “bottom anchored” referring to the float means the float will be anchored via mooring blocks (already existing). The commission then discussed the special conditions for the new pier and reviewed the proposed temporary repairs. Of major concern to the commission was the removal and re-construction of the footings for the four bents lying

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

**SPECIAL CONDITIONS**  
**Marblehead Conservation Commission**

**Pre-construction:**

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

**During construction:**

2. 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.).

3. 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.

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

5. 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.

6. Any pressure-treated wood proposed to be used in the construction of a structure for land -based use (contacting with soil) 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 MADEP which is less polluting and harmful to the salt water and its environment.

7. 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. Float stops are permitted provided they meet the aforementioned guidelines.

**Post-construction/in perpetuity:**

8. 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.

9. 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.

10. 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.

11. 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.

12. A structural engineer will review and confirm in writing to the commission that the repaired pier is structurally sound and safe for its intended use.

13. Upon completion of the repair work allowed under this OOC, the applicant shall within 30 days apply for a partial Certificate of Compliance (COC) and, if required by the commission, submit an "as built" drawing with the application for the COC. Upon completion of the new pier the applicant will apply for a final COC within 30 days of its completion and, if required by the commission, submit an "as built" drawing with the application for the COC.

**Old/New Business:**

**Approve Minutes:** See above.

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

**Other Matters:**

Sexual Harassment Policy was signed by B. Rickards, all other members having signed it earlier.

3 Davenport Road, Redmond: See above.

The meeting was adjourned at 8:45 PM.