

**Marblehead Conservation Commission
Minutes September 10, 2015**

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

Meeting was called to order at 7:15 PM

Present were: Commission Members Brian LeClair, Fred Sullivan, David Depew, Barbara Collins Rosenberg, and David VanHoven. 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.

Approval of Minutes: A motion was made and seconded to approve the minutes of August 13, 2015. All members voted in the affirmative.

HEARINGS:

NOI 40-1208, 24 Lee Street

(DEP: No Comments)

Appeared: Peter Ogren, Hayes Engineering

Proposed: Maintenance repair of an existing seawall.

Continued from 8/13/15 (LeClair, Smith, Rosenberg, Sullivan, VanHoven)

Control Drawings: Site plan prepared by Hayes Engineering (original July 24, 2015, revised September 10, 2015)

DEP has no comment

All members voted to close the hearing. All members voted to issue an order of conditions with the following special conditions:

During construction:

33. 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.).

35. All demolition debris shall 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.

Post-construction/in perpetuity:

41. Maintenance pointing and repairs of existing stone masonry walls and concrete walls including the replacement of an occasional missing stone or patching cracks and minor defects in a concrete wall are allowed as a surviving condition to this Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repointing or repair work on existing walls.** All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Any future razing, rebuilding or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

42. The repair/replacement of small sections of damaged caps on seawalls is allowed as a surviving condition. All dislodged and removed caps will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Prior to any work, the scope of the proposed repair/replacement must be approved by the Conservation Commission. If the cap on a major length or on an entire wall needs to be repaired/replaced, this requires an NOI. **This condition shall survive this order.**

43. When the repair of a seawall entails the use of existing rip-rap which was previously located at the toe of the seawall but has been distributed onto the beach seaward of the seawall by wave action, the following applies. The rip-rap lying above the mean high tide line can be re-located to the toe of the seawall. The rip-rap lying at or below the mean high tide line cannot be disturbed. This special condition is not a surviving condition and is valid only for that work specified for this particular application. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repair work on an existing existing riprap revetment.**

44. The back-filling of small areas of erosion landward of a seawall is allowed as a surviving condition provided the erosion is not on a coastal bank. This back-filling applies to areas defined primarily as Land Subject to Coastal Storm Flowage. Any work on a coastal bank requires an NOI. The back-fill material must be clean and compatible with the eroded material. Prior to any back-filling, the scope of the proposed back-filling must be approved by the Conservation Commission. **This condition shall survive this order.**

46. 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.**

47. 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.**

50. 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. **This condition shall survive this order.**

54. The control drawing/s for this project were prepared 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/s. 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.

55. 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".**

NOI 40-1204, 2 Foster Street

(DEP: No Comments)

Applicant: Norman Lavoie, Two Foster Street Nominee Trust

Proposed: Maintenance repair of an existing seawall.

Continued from 8/13/15 (LeClair, Smith, Rosenberg, Sullivan, VanHoven)

All members voted to close the hearing. The Commission voted to issue an order of conditions with the following special conditions:

During construction:

33. 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.).

35. All demolition debris shall 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.

Post-construction/in perpetuity:

40. 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.**

41. Maintenance pointing and repairs of existing stone masonry walls and concrete walls including the replacement of an occasional missing stone or patching cracks and minor defects in a concrete wall are allowed as a surviving condition to this Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repointing or repair work on existing walls.** All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Any future razing, rebuilding or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

42. The repair/replacement of small sections of damaged caps on seawalls is allowed as a surviving condition. All dislodged and removed caps will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Prior to any work, the scope of the proposed repair/replacement must be approved by the Conservation Commission. If the cap on a major length or on an entire wall needs to be repaired/replaced, this requires an NOI. **This condition shall survive this order.**

44. The back-filling of small areas of erosion landward of a seawall is allowed as a surviving condition provided the erosion is not on a coastal bank. This back-filling applies to areas defined primarily as Land Subject to Coastal Storm Flowage. Any work on a coastal bank requires an NOI. The back-fill material must be clean and compatible with the eroded material. Prior to any back-filling, the scope of the proposed back-filling must be approved by the Conservation Commission. **This condition shall survive this order.**

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55. 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"**.

102. A tarp will be laid down at the base of the seawall during all repair work to capture all construction debris. The tarp will be on the seaward side of the seawall. The tarp will be rolled up and dumped into a disposal trailer as required throughout the work day and will be removed at the end of each work day.

NOI 40-????, 11 Crown Way (No DEP file #. No project plan submitted)

Applicant: Andrew Oliver

Proposed: Repair of an existing seawall.

Continued from 8/13/15 (LeClair, Smith, Rosenberg, Sullivan, VanHoven)

All members voted to continue the hearing to the October 8, 2015 meeting.

RDA 5 Abbot Court

Appeared: Mark H. Driscoll, Driscoll Properties, LLC

Proposed: Second floor addition on the existing house.

Control Drawings: Site plan prepared by North Shore Survey Corp (received August 7, 2015)

All members voted to close the hearing. The Commission voted to issue a negative determination with conditions.

NOI 40-1212, 21 Edgemere Road (DEP: Under Review)

Appeared: Gary Eisenhower

Proposed: Repair & repointing of an existing seawall

All members voted to continue this agenda item without opening the hearing.

NOI 40-1211, 45 Beacon Street (DEP: Under Review)

Proposed: Repair & repointing of an existing seawall

All members voted to continue this agenda item without opening the hearing.

NOI 40-1210, 232 Ocean Avenue (DEP: No Comments)

Appeared: Peter Ogren, Hayes Engineering

Proposed: Additions to an existing house

Control Drawings: Site plan prepared by Hayes Engineering (November 25, 2013, revised July 14, 2015)

Ogren submitted green cards. The applicant filed a new NOI.

All members voted to close the hearing. All members voted to issue an order of conditions with the following special conditions:

During construction:

32. 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, streets and Resource Areas.

33. 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.).

34. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces shall be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site.

35. All demolition debris shall 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.

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

Post-construction/in perpetuity:

40. 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.**

50. 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. **This condition shall survive this order.**

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NOI 40-1213, 83 Naugus Avenue

(DEP: No Comments)

Appeared: Matthew Herring

Proposed: Installation of a gangway & float on an existing pier and repairs to an existing seawall.

The Commission requested the green cards and a receipt.

A Marine Fisheries letter stated that the proposed float was in an eel grass area. Smith Marine was retained by the applicant, and they found, on average, one clump of eel grass per square yard in the area covered by the proposed float. The Commission suggested that the applicant have another dive survey done to confirm and update the findings of Smith Marine regarding the status of any eel grass in the vicinity of the proposed float. The applicant's engineer indicated that his office could do the re-survey.

A Marine Fisheries letter recommended that the dock use elastic rodes and helical anchors.

All members voted to continue this hearing to the October 8 meeting date.

NOI 40-1214, 83 Naugus Avenue

(DEP: No Comments)

Appeared: Matthew Herring

Proposed: Seeking an Order of Conditions for an existing underground sewage chamber and ejector pump system that was installed to replace a former septic tank system during the construction of a new house in 2007.

All members voted to close the hearing. All members voted to issue an order of conditions with the following special conditions:

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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.).

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OLD AND NEW BUSINESS:

Enforcement Orders & letters issued:

11 Bradlee Rd, Kathleen O'Connor Truscott & William F. Truscott
Appeared: Paul Lynch and Scott Patrowicz

All members voted to close the hearing. All members of the Commission voted to ratify the enforcement order and impose a \$300 fine.

Request for changes in project scope:

NOI 40-1205, 16 Indianhead Cr

Appeared: Carl & Lynn Paschetag, Robert Griffen, Griffen Engineering Group, LLC

Control Drawings: Site plan prepared by Collins Engineering Group (July 29, 2015)

The applicant will apply for a new DEP waterways license.

The commission deemed the change a minor design change not requiring an amended to the OOC.

NOI 40-1094 5 Woodfin Tr, Town of Marblehead Board of Health

The commission deemed the change a minor design change not requiring an amended to the OOC.

NOI 40-1156, 151 Green St, Town of Marblehead Board of Health

The commission deemed the change a minor design change not requiring an amended to the OOC.

Requests for COC: All were approved by the commission.

- 40-1173, 19 Sargent Rd, The 19 Sargent Rd, Realty Trust
- 40-1174, 15 Sargent Rd, Ralph Rotman
- 40-165, 10 Foster St, M. Denise Rockett
- 40-591, 10 Foster St, M. Denise Rockett

Meeting was adjourned at 8:40 PM.