

Marblehead Conservation Commission
Minutes November 12, 2015

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

Meeting was called to order at 7:10 PM

Present were: Commission Members Fred Sullivan, Michael Smith, Brian LeClair, David VanHoven and David Depew. Also present was Willy Lanphear, Conservation Administrator.

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

Approve Minutes: Approval of the meeting minutes of October 8, 2015 was continued to December 10, 2015. All members voted in the affirmative.

Discussion Item: Site plans were submitted by the Tower School for abandonment by the Town of a portion of Colgate Rd. Although no approval of the plans was requested, the Commission noted that the site plans had a note stating, "Filling of Wetland". Any work including work of any retaining walls or other "improvements" within the wetland or buffer zones will require a NOI. The Commission also requested that a permanent designation of a walking path or easement be included to link the Conservation Area as is currently used by the community.

Discussion of the 2016 Conservation Commission schedule was continued to 12/10/15.

40-1218 18 Gregory St

Appeared: Tom Jacobs, contractor and Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Additions to and re-construction of the existing house. Install wood decking over an existing concrete deck and construct a new wood patio. Construct new walkways, a driveway, seasonal parking area and landscaping.

Continued from 10/8/15 without opening the hearing.

Control Drawing: Site Plan Showing Proposed Work to Accompany NOI, 18 Gregory St, dated September 18, 2015 prepared by Patrowicz Land Development Engineering.

Applicant presented plans as provided in application.

All members voted to close the hearing. All members voted to issue an OOC 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.**

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.**

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. Progress reports shall be submitted by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Commission based on the scope and anticipated duration of the project. 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"**.

XX. The work site shall be cleaned up daily. If a dump truck is used on the site, it shall be covered at night.

40-1221 173 Jersey St

Appeared: Tracey Pfister and Jon Pfister, Peter Ogren from Hayes Engineering

Proposed: Repairs to the existing seawall

Continued from 10/8/15 without opening the hearing.

Control Drawing: Plan to Accompany NOI, 173 Jersey St, dated September 22, 2015 prepared by Hayes Engineering, Inc..

Applicant presented plan to make repairs to riprap seawall using shotcrete and new rocks to fill voids. Means and methods for using a backhoe to perform the work is included in the application materials.

All members voted to close the hearing. All members voted to issue an OOC 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.).

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.**

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.**

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. Progress reports shall be submitted by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Commission based on the scope and anticipated duration of the project. 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".**

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.

104. Prior to the commencement of construction activities on the site, the Applicant shall provide written proof of any necessary approval and/or insurance coverage required by the Town Administrator or the Board of Selectmen for the installation of erosion controls and/or a construction security fence within the limits of the way known as Marion Road Extension.

40-1222 5 Mooring Rd (beach parcel with pier)

Appeared: Bill Fallon, President of Fluen Point Associates, Inc., Peter Ogren from Hayes Engineering

Proposed: Repair/reconstruction of an existing riprap shore protection to include adding new boulders and raising the top elevation height about one foot.

Continued from 10/8/15 without opening the hearing.

Control Drawing: Plan to Accompany NOI, 5 Mooring Rd, dated September 18, 2015 prepared by Hayes Engineering, Inc..

Applicant presented plan to make repairs to riprap. Discussion about access point for the work being an opening for water and washing out behind the wall was raised. Applicant stated that the goal of the repairs is to keep debris off the road.

Commission noted that if changes want to be made to the plan once construction starts, an amendment will be required.

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

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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.

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:

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.**

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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40-1224 73 Naugus Ave

Appeared: Doug and Hadley MacLean, and Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Additions and renovations to the existing house, new decks and porch, new driveway and landscaping.

Control Drawing: Plan to Accompany NOI, 73 Naugus Avenue, dated October 17, 2015 prepared by Patrowicz Land Development Engineering.

Applicant presented plans and stated that the new stairs will have concrete underneath the stairs removed and replaced with crushed stone.

It was noted that the applicant needs to check with the Highway Department regarding the proposed pavers within the street Right-of-Way. In addition, if the existing sonotubes cannot be used for the work, a request for project change will be required.

No comments had been received from the DEP, but because the work is only in the buffer zone, all members voted to close the hearing. All members voted to issue an OOC with the following special conditions:

During construction:

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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.**

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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. Progress reports shall be submitted

by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Commission based on the scope and anticipated duration of the project. 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.

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RDA, 247 Ocean Avenue

Appeared George Prince

Work was presented as described in the application for removing existing wood steps and landing, constructing an expanded landing with retaining wall and stone steps, and planting with native plants. The area is within Land Subject to Coastal Storm Flowage only.

All members voted to close the hearing. All members voted to issue a Negative Determination with the following special conditions:

During construction:

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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.).

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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.**

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40-1225 11 Crown Way

Appeared: Andrew Oliver and Peter Ogren from Hayes Engineering

Proposed: Construction of stone and mortar wall to replace a failed concrete block wall, repair of existing pool deck edge, repair and repointing of an existing stone retaining wall, and repair of stone steps to the beach at the seawall.

Control Drawing: Plan to Accompany NOI, 11 Crown Way, revised date of October 20, 2015 prepared by Hayes Engineering, Inc.

Applicant presented plan to make repairs to walls.

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

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movement of silt or debris onto adjacent properties, streets and Resource Areas.

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XX. Check for payment of Town Filing fee required before any work is to proceed.

40-1223, 140 Evans Rd Extension

Appeared: Aaron Lord and John Dick of Hancock Associates.

Proposed: Construction of an addition on an existing house, new deck and new patio.

Control Drawing: Exhibit Plan of Land prepared for Aaron W Lord, 140 Evans Street Ext, dated October 14, 2015 prepared by Hancock Associates.

Work was presented as described in the application and shown on the drawings.

A site visit was scheduled for 11/14/15 at 8am at the property.

No DEP comments had been received and since there is work in the resource area, the Commission voted to continue this hearing to the December 10, 2015 meeting.

New Business:

- 10 Blueberry Rd, tree cutting and encroachment on Conservation land. Geno Alissi of 46B Peach Highlands appeared to present a complaint about tree cutting that appears to be on Conservation land. It was noted that a survey will be required for the 20-foot strip of Conservation land. There is a backlog of this type of issue within Marblehead and this location will be placed on a priority list to be addressed as soon as feasible. A motion was made to authorize the Conservation Agent to solicit bids for survey of the property in question. The Commission members all voted in the affirmative.
- 43 Rockaway Ave, request to trim bush on Conservation land that is blocking view of the pond. The owner, Thomas Stover, did not appear. Commission, however, discussed the request and generally agreed that this type of request will not be approved.
- 40-930, Lead Mill Site, 2015 Annual Monitoring Report. Report has been submitted and once again, Walter Haug, former Commission Chair, will review and provide feedback to the Commission. It was noted that better survival of the seagrass may occur if more planting is done. A motion was made to solicit a professional opinion from a wetland

scientist. All members of the Commission voted to approve the authorization for the Conservation Agent to solicit a wetland scientist.

Emergency Certificates issued:

- 91 Naugus Avenue, Marblehead Water & Sewer Commission, electrical failure in the substation. The Commission voted to ratify the emergency certificate.

Request for changes in project scope:

- 40-1126, 263 Ocean Ave, Steven & Amy Callahan. October 20, 2015 letter by Patrowicz Land Development Engineering and Landscape Plan, Callahan Residence, 263 Ocean Avenue, dated 10/20/15 by HJ Collins & Associates. Scott Patrowicz appeared along with Hugh Collins from HJ Collins & Associates. A motion was made and seconded to approve the change. All members voted to approve as a minor design change.
- 40-1175, 3 Kenneth Rd, John & Holly Trautman, unauthorized project changes. John and Holly Trautman appeared along with David Smith from GZA. October 26, 2015 letter and revised plans (2) for Proposed Pier, Gangway, and Float and Wall Repair Project dated 10/23/2015 by GZA document the project changes. A motion was made and seconded for issuing a \$600 fine for the violation as a second offense. The Commission voted 4 to 1 to issue the fine. A motion was made and seconded to approve the change pending payment of the fine. All members voted in the affirmative.
- 40-1195, 1 Front Street, Boston Yacht Club, field changes approved by Conservation Administrator. A motion was made and seconded to approve the change. All members voted to approve as a minor design change.

Enforcement Orders issued:

- 40-1129, 91 Naugus Avenue (association beach parcel). Robert York of 9 Roydon Rd appeared to address the October 15, 2015 letter from William Lanphear, Conservation Administrator and Enforcement Order. Jim Zisson, president of beach association, was present as well. Pressure washing was occurring on the beach and the hose was connected to 9 Roydon Rd. It was noted that parking trucks on the beach is also a violation of the OOC. A motion was made to issue a \$300 fine. All members voted in the affirmative.

Request for COC:

- 40-1062, Lafayette St, Boston Gas Co, new gas main. All members voted to approve.
- 40-1196, 6 Pig Rock, Ln, Brian Miller & Sherry Rubinstein. All members voted to approve.
- 40-618, 173 Jersey St, John & Tracey Pfister. All members voted to approve.
- 40-1214, 83 Naugus Ave, Matthey Herring. All members voted to approve.
- 40-1175, 3 Kenneth Rd, John & Holly Trautman. All members voted to approve pending payment of the fine issued earlier in the evening.

Sign Documents: All documents per the agenda were signed including bills payable.

The meeting adjourned at 9:00 PM.