

**Marblehead Conservation Commission
Minutes October 9, 2014**

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, Chair, Fred Sullivan, David Depew, David VanHoven and Don Tritschler. 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 six 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 September 11, 2014. All members voted in the affirmative.

HEARINGS:

NOI 40-1178, 26 Harbor Avenue

The Commission received a letter asking for a continuance to the November 13, 2014 meeting.

The Commission voted to continue the hearing.

NOI 40-1180, 9 Corn Point Road

Appeared: Melissa Campbell and Curt Young, Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Removal of invasive plant species and re-vegetation program adjacent to coastal beach

Continued from 9/11/2014 (LeClair, Depew, Sullivan, Tritschler, VanHoven)

Control Drawing: Invasive Species Control Program & Revegetation Zones, (Figure 3 in the NOI)

All members voted to close this 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.

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.

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.**

51. 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.**

53. This OOC specifies a vegetated buffer strip be planted along and abutting the coastal bank and/or the BVW. After the vegetated buffer strip has been planted, 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 replanting by appropriate evidence to the commission. These reports are mandatory even after a COC has been issued. After the third growing season, the maintaining of a 75% survival rate, but not the reporting, is a surviving condition. **This condition shall survive this order.**

54. The control drawing/s for this project were prepared by a licensed Professional. 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”.**

NOI 40-1182, 11 Bartlett Street

Applicant: Gillian Lieberman, Attorney Rob McCann, Steven Petersen, Peter Ogren from Hayes Engineering, Gregor McGregor from McGregor Associates, Ellie Baker from the Horsley Witten Group

Proposed: Demolition of the existing house and construction of a new house with a new driveway, retaining walls, walkways, patio, drainage system, landscaping and all other associated site work and amenities

Continued from 9/11/2014 (LeClair, Depew, Sullivan, Tritschler, VanHoven)

Still under review by the DEP; there are no comments from the DEP

Control Drawing: prepared by Hayes Engineering, revised September 23, 2014

Other submitted material:

- A letter dated September 29, 2014 from the Horsley Witten Group
- A letter dated September 11, 2014 from McGregor & Associates
- A project narrative dated September 29, 2014 from Hayes Engineering

Changes to the plan are detailed in project narrative. A pervious/impervious table was added to the plan.

Ms. Baker questioned the sizing of the planned storm water system. She requested that storm water be treated, and that the system be maintained on a regular basis. She also requested hay bales be placed at the line of work for erosion control.

She maintained that the NOI was not complete as it lacked the following:

- A description of the limit of work
- A description of the construction process
- A plan for the pavers

She stated that approving this project would be precedent setting as the project is essentially a new house within the buffer zones and not a remodel as characterized by applicants.

The question was asked why the abutting lots could not be used. The applicants stated that the individuals owned the parcels separately, not jointly; therefore the lots did not need to be considered.

There will be new retaining walls.

There may be blasting within the 25' no disturb zone at the corner of the new construction and possibly for retaining wall footings.

There will be 6' of plantings as a buffer against the walls.

The size of the parking area was questioned. The applicants felt it was necessary given how narrow Bartlett Street is.

All members voted to close this hearing. The Commission then voted to issue an OOC with the following special conditions. (Four members voted in favor of issuing the OOC for the Project and one member voted against. Don Tritschler felt the project violated the 50' no-build zone and that there was enough space on the property to situate the house without the violation).

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.**

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.**

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.**

53. This OOC specifies a vegetated buffer strip be planted along and abutting the coastal bank and/or the BVW. After the vegetated buffer strip has been planted, 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 replanting by appropriate evidence to the commission. These reports are mandatory even after a COC has been issued. After the third growing season, the maintaining of a 75% survival rate, but not the reporting, is a surviving condition. **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.

The Commission also requested a driveway plan and an engineering maintenance plan for storm water receptors.

NOI (Local Bylaw only), 13R Green Street (Joel W. Reynolds Playground) off Lime St

Continued from 9/11/2014 (LeClair, Depew, Sullivan, Tritschler, VanHoven)

The Commission received an email asking for a continuance to the November 13, 2014 meeting.

The Commission voted to continue the hearing.

NOI 40-1181, 231 Ocean Avenue

Appeared: Jeff Chelgren Town Administrator

Proposed: Repairs/Re-construction of an existing armored coastal bank

Control Drawing: Submitted by Hayes Engineering Dated September 10, 2014

Green cards were submitted.

Hoyt Luddington and Hill Danforth wanted the utility poles on causeway removed and the utilities placed below ground. The Commission stated that work is not part of this application.

Bruce Rago stated that the water pressure needs to be relieved during storms. The Commission stated that work is not part of this application.

All members voted to close this 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:

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.**

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.

Additional special conditions:

- No equipment is allowed on the beach
- Concrete must be collected by hand
- A snow fence must be erected to capture debris and must be removed before serious forecasted storms

NOI 40-1183, 4 Corn Point Road

Appeared: Joseph Burke and Chuck Faia from Parsons and Faia

Proposed: Construction of a new pool, patio & landscaping

Control Drawings: Submitted by Parsons and Faia Inc. dated September 11, 2014

Green cards were submitted.

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

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.

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.**

45. 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 pool 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.**

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.**

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".**

OLD AND NEW BUSINESS:

Old Business:

40-1064, 212 Humphrey St (Oliver's Pond Condominiums)
Review/approve Storm water Operation & Maintenance Plan

The Commission approved the Storm water Operation & Maintenance Plan and required that a copy of the maintenance plan be recorded with the Certificate of Compliance.

Emergency Certificates issued:

4 Nonantum Rd, Debra Wonson,

Proposed: Remove failed column and install temporary supports for failing deck

The Commission voted to ratify the Emergency Certificate.

Enforcement Orders & letters issued:

40-1037, 7 Mooring Rd, Louisa & Nathaniel Greene

Continued from 9/11/2014

Commission received an email dated 10//2/2014 requesting a continuance to the November 13, 2014 meeting.

The Commission voted to continue the hearing.

40-1149, 39 Clifton Heights Ln,

Appeared: Matthew Finn

Continued from 9/11/2014

Control Drawing: Submitted by Patrowicz Engineering Dated Sept 29, 2014

Matthew Finn produced an as-built plan, and the gabions were built to tolerance.

Request for changes in project scope:

40-1149, 39 Clifton Heights Ln

Appeared Matthew Finn

Control Drawing: Submitted by Patrowicz Engineering Dated Sept 29, 2014

The Commission voted to approve the changes

40-1145, 28 Foster Street, 28 Foster Street Realty Trust

Appeared Katie Kellogg

The Commission voted to approve the changes.

40-1101, 9 Wilson Rd

Control Drawing: Submitted by Northshore Survey Corp Dated September 26, 2014

The Commission voted to approve the changes.

40-1155, 6 Corn point Rd, Mark & Sandra Pocharski

Proposed: Small landscape change and installing a n underground propane tank

Control Drawing: Submitted by Patrowicz Engineering and submitted by H.J. Collins & Associates

The Commission voted to approve the changes.

40-1089, 9 Corn Point Road

A revised Landscape plan dated September 24, 2014 by Keith LeBlanc Landscape Architecture, Inc. was submitted for approval.

Work to remove pavement from the access roadway and replace it with crushed stone was withdrawn from this request pending approval from the Marblehead Water & Sewer Department.

The Commission voted to approve the revised Landscape plan.

40-1169, 75 Naugus Av

Appeared: Heidi Herlihy and Peter Carlton

Proposed: Build a new retaining wall instead trying to repair a cracked cinder block retaining wall

The Commission voted to approve the changes with the cleanup conditions.

Requests for COC:

40-1064, 212 Humphrey St, Oliver's Pond Condominium Trust

40-1025, 15 Spray Av, Groom Construction Company, Inc.

40-1029, 15 Spray Av, Groom Construction Company, Inc.

40-1153, 10 Cliff St, Deborah & Craig Cerretani

40-1128, 25 Marion Rd, Steven and Amy Solomon

The Commission voted to approve all the requests for Certificates of Compliance.

Meeting was adjourned at 9:50 PM.