

Marblehead Conservation Commission
Minutes 13 June, 2013

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 Fred Sullivan, Don Tritschler, Brian Leclair, Ken Fisher David Vanhoven, Walter Haug and David Depew (arrived just after the meeting started). 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.

Town Sexual Harassment Policy: Six members signed, agreeing to abide by the Sexual Harassment Policy.

Approve Minutes: Six members voted to approve the minutes of 9 May 2013 as corrected.

Emergency Certificate: A motion was made and seconded and six members voted to ratify the Emergency Certificate issued to Dr. Blando on 23 May 2013.

Depew arrived and signed the Sexual Harassment Policy.

South Essex Sewerage District: A letter dated May 29, 2013 was received from Mr. Knight alerting the commission to emergency repairs made and investigative work being performed on the sewage pipes under Salem Harbor. Per the letter, the commission will be contacted before any further final work is started.

Enforcement Orders:

40-1053 151 Green Street: Mr. Muldoon was present but his lawyer had not yet appeared. A motion was made and seconded and the commission voted to ratify the E.O. issued against Mr. Muldoon on 4 June 2013 but agreed to await the arrival of his lawyer for any further discussion.

Henry's Way (Parcel 118-19): An E.O. was issued against the Marblehead School Department on ? June 2013. A motion was made and seconded and the commission voted to ratify this E.O.

NOI 40-1117 40 BARTLETT STREET ROSENTHAL

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

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

Control Drawing: Site Plan for Proposed Expansion of a Patio and Firepit, dated March 24, 2013, latest revision 05/29/2013, prepared by Patrowicz Land Development Engineering

Reference: Sketch, "Cross Section ", dated 05/29/2013, prepared by S. Patrowicz

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and S. Hynes

This was a continuance from 04/11/2013 and 05/09/2013. The afore referenced sketch shows the proposed seawall/retaining wall construction. No railing is now required with this new patio design. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

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.).

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.**

53. 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.

54. 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 40-1120 21 GOODWIN'S COURT GALLAGHER

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

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

Control Drawing: Site Plan, 21 Goodwin's Court, Gallagher, dated June 12, 2013, prepared by Al Dennis Construction LLC

Reference: Sketch "Water Depths", dated 12/05/2012, prepared by S. Gallagher.
Sketches showing details of the proposed "A" frame lift
Marblehead Harbormaster letter dated April 9, 2013

FIRM Map

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, Mr. Gallagher and Mr. Dennis

This was a continuance from 04/11/2013 05/09/2013. Before any work is started, the applicant will apply for a Chapter 91 license. Dennis presented the design and location of the proposed stairs and float. The float will be anchored using concrete blocks. Since the ocean bottom in this area is hard/ledge, helical anchors are not feasible. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

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.

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.

37. 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 shall conform to the requirements of Chapter 91.

39. 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:

45. 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.**

46. 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.**

47. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at low tides. **This condition shall survive this order.**

53. 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.

54. 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".**

40-1129 91 NAUGUS AVENUE NAUGUS HEAD ASSOCIATION

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

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

Control Drawing: Attachments "A" (Proposed Activities on Beach at 91 Naugus Avenue) and "B" (Beach Use Management Plan at 91 Naugus Avenue) and drawing "Beach Area at 91 Naugus Avenue", no date, prepared by Naugus Head Association.

Reference: Letter from Lawrence Lessard dated 6 May 2013

Appeared: No one.

This was a continuance from 05/09/2013. The DEP file number was received. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions. The below referenced Attachments and Beach Regulations are on file with the Conservation Commission.

- 1: The regulations and conditions for using this beach are delineated in Attachment “ A “ (Proposed Activities on Beach at 91 Naugus Avenue) and Attachment “ B “ (Beach Use Management Plan at 91 Naugus Avenue). This is a surviving condition.
- 2: The Beach Regulations dated 2013 will be permanently posted at the beach at 91 Naugus Avenue. This is a surviving condition.
- 3: All areas designated for specific purposes will be clearly and permanently marked. This is a surviving condition.

RDA 47 CHESTNUT STREET DOYLW

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

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

Control Drawing: Site Plan, 47 Chestnut Street, dated April 3, 2013, prepared by North Shore Survey Corporation

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and Ms. Doyle

A small portion of the work is just within the 50 ft. No Build Zone but this work is repairing a deck and enclosing a portion of a porch. All members voted to close this hearing. All members voted to issue a negative determination with no conditions.

40-1130 22 NONANTUM ROAD AMOROSO

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

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

Control Drawing: Site Plan, 22 Nonantum Road, dated May 15, 2013, prepared by Patrowicz Land Development Engineering

Reference: Letter from Bessom Associates, Inc. dated April 11, 2013

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

After discussion, all members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

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.

37. 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 shall conform to the requirements of Chapter 91.

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

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.**

53. 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.

54. 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".**

40-1131 26 FOSTER STREET BLANDO

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

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

Control Drawing: Plan NOI #26 Foster Street, dated May 28, 2013, prepared by Williams & Sparages

Reference: Sketch, Cross Section at Blow Out Area, dated June 13, 2013 prepared by Williams & Sparages

Appeared: Dr. Blando and C. Sparages

An Emergency Certificate was issued for this site on ?????? As of the date of this hearing, no work has been started. The referenced sketch addresses the comments of the DEP. Sparages stated that they intend to erect staging with planking along the seaward side of the wall for the re-pointing. It has not yet been determined if a barge will be employed. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

XX. If a barge is used, it will not be allowed to “bottom out” onto the ocean floor.

XX. No heavy equipment is allowed on the beach.

XX. If staging with planking is used, the planking will be removed at the completion of each day and stored in a safe area. In the event of a forecasted storm, the staging will be dismantled and stored in a safe area.

XX. Before any work is started, the contractor will submit a letter to the commission stating how he/she will handle concrete or such material so as to ensure that such material does not enter resource waters.

XX. Once the blow hole in the seawall has been repaired, the applicant may dig holes behind the seawall to pump more concrete behind the seawall if necessary.

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.

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. 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.**

53. 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.

54. 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"**.

40-1132 295 OCEAN AVENUE GERATY

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

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

Control Drawing: Site Plan, 295 Ocean Avenue, Garity, dated May 23, 2013, prepared by North Shore Survey Corporation and Sketch Cross Section of Foundation, dated 05/23/2013, prepared by S. Patrowicz

Reference: Sketches showing details of stair construction, dated 05/25/2013, prepared by The Essex Building Company

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, Mr. Geraty and D. Clark, contractor

All work on the seawall will be done by hand. The repair of the seawall base proposes to extend into the resource area (coastal outcropping) by about 12 inches beyond its existing footprint. The

commission told the applicant to design the repair so that it does not protrude further into the resource area. The commission wants the comments from the DEP in this matter. Also, the commission requires the support of the stairs at the top landing be changed. The current design calls for the landing to be supported by brackets attached to the seawall of the neighbor. The brackets will be changed so they are supported from the applicant's seawall. The commission also requires more detail as to how the landing at the base of the stairs will be anchored. It was agreed to continue this hearing to 11 July 2013. In the event an OOC is issued, the special conditions will be as follows.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

XX. All work will be done by hand.

XX. A drawing showing how the landing at the bottom of the stairs will be submitted for approval before any work is started.

XX. A revised drawing showing the support brackets for the top landing of the stairs anchored to the seawall of the applicant will be submitted before any work is started.

XX. A revised plan for repairing the base of the seawall so the repair does not extend beyond the current footprint of the seawall will be submitted before any work is started.

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.

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.

37. 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 shall conform to the requirements of Chapter 91.

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

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. 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.**

53. 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.

54. 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".**

RDA 20 CLOUTMAN'S LANE JACOBS CONSTRUCTION

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

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

Control Drawing: Site Plan, 20 Cloutman's Lane, dated May 20, 2013, prepared by S. Patrowicz

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

All work is outside the 50 ft. No Build Zone. All members voted to close this hearing. All members voted to issue a negative determination without any conditions.

40-1133 307 OCEAN AVENUE RICH

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

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

Control Drawing: Sketch, Cross Section Seawall Repair, 307 Ocean Avenue, dated May 23, 2013, prepared by S. Patrowicz

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

The repairs to the seawall will be within the existing footprint and the overall dimensions of the wall remain the same. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

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.

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. 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.**

53. 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.

54. 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".**

40-1134 9 & 11 BARTLETT STREET MITCHELL

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

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

Control Drawing: Site Plan, 11 Bartlett Street, dated May 24, 2013, prepared by S. Patrowicz

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Repair and re-point a seawall, replace part of a fence on the seawall and back fill some erosion on the lawn. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

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

30. 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.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

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.

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. 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.**

53. 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.

54. 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/New Business:

40-1124 425 Ocean Avenue: Site Plan dated April 22, 2013, latest revision 05/30/2013. This latest revision provides more detail for the rain garden and fence, said items required by the commission during the hearing on 9 May 2013. This OOC has already been approved and no further action was required by the commission.

40-1128 25 Marion Road: Site Plan dated April 24, 2013, latest revision 05/20/2013. This latest revision removes the shed and patio as required by the commission during the hearing on 9 May 2013. This OOC has already been approved and no further action was required by the commission.

Enforcement Order for 40-1053 151 Green Street: Appeared J. Muldoon and atty. Barry Fogel of Keegan Werlin LLP. Fogel said he was requested by Paul Lynch to represent Muldoon. Reference is made to a memo from Haug dated 7 June 2013. Submitted were photos labeled "A" through "H" taken on 4 June 2013 and photos labeled "I" through "R" taken on 5 June 2013, all taken by Lanphear.

The E.O. listed the following general conditions as being violated: 9, 10, 17, 18 and the special conditions 20, 21, 22, 23, 34 and 36. The memo from Haug listed only special conditions, 20, 21, 22, 34 and 36. With regard to general condition 17, Lanphear said he had not walked the site to confirm if all wetland flags were still in place. With regard to special condition 23, Lanphear said he could not refute the claim of Muldoon made at this meeting that the required drawings were on site in the house. All other conditions were confirmed by the commission as being violated.

The commission then focused on the special conditions 20, 21, 22, 34 and 36 since all these conditions contained wording as: 20 ("... record this original OOC ... prior to the commencement of any work ..."); 21 ("Prior to any work ..."); 22 ("Prior to any ... earth moving activities ..."); 34 ("A Licensed Site Professional ... before any work is started."); 36 ("Soil testing ... before any work is started. ..."). It was pointed out to Fogel that 22 was even written in bold type to emphasize its requirement.

Fogel said he had not been present when the E.O. was ratified earlier in this meeting and his client had, therefore, not been properly represented. The commission pointed out the issuance of an E.O. does not require the presence or representation of the violator. However, to address his

concern, at this time the commission again ratified the E.O. At this point, it was agreed Lanphear would work with Muldoon to allow work at the site to go forward. The commission also reviewed any appropriate fines and referred to its published guidelines for fines and determined the following: an Administrative fine of \$300.00 for failure to comply with the OOC per special conditions 20, 21, 22, 34 and 36 (all these violations were consolidated into a single violation) and a Buffer Zone fine of \$300.00 for performing work in a buffer zone without erecting an erosion control barrier to prevent disturbed soil from washing into the wetland resource area. Since the work was stopped upon the E.O. being served, the buffer zone fine will apply for only one day and the administrative fine applies only as a one-time fine. The total fine is therefore \$600.00. Muldoon was told to make the check out to the Town of Marblehead and deliver it to Lanphear for recording.

Request for changes in project scope:

40-1076 191A Green Street: Mr. Kehn presented another change in the orientation of the house on this lot. The commission voted to regard this as a minor design change, not requiring an amendment.

40-950 11 Neptune Road: The applicant had replaced a dry laid up wall with a mortared stone wall. He also presented a final landscape plan. The commission voted to regard the wall as a minor design change and approved the landscape plan. The applicant had not recorded the OOC. The commission voted to levy a fine of \$300.00 for failure to record the OOC (per the commission fine guidelines).

Requests for COC:

40-991 Intervale Road: All members voted to ratify this COC.

40-993 Mound Road: All members voted to ratify this COC.

Sign Documents: All documents per the agenda were signed.

The meeting adjourned at 10:00 PM.