

Marblehead Conservation Commission
Minutes May 10, 2012

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

Meeting was called to order at 7:00 PM

Present were: Commission Members Walt Haug, Fred Sullivan, Don Tritschler, David VanHoven, Ken Fisher and Brian LeClair. 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.

Approve Minutes of 03/08/2012: A motion was made and seconded "to approve the minutes of 03/08/2012". All voted in the affirmative.

Approve Minutes of 04/12/2012: A motion was made and seconded "to approve the minutes of 04/12/2012". All voted in the affirmative.

40-1053 151 GREEN STREET MULDOON

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Green Street Condominiums, sheets 1 through 4, dated April 12, 2012, prepared by RIM Engineering Co., Inc. Also submitted is the Application for a Land Disturbance Permit, signed by Susan Muldoon, dated 04/17/2012.

Reference: Spread Sheet, Application Fee Calculation, DEP 40-1053

Appeared: P. Lynch

This was a continuance from 09/08/2011, 10/13/2011, 11/10/2011, 12/08/2011, 01/12/2012, 02/09/2012, 03/08/2012 and 04/12/2012. This application involves a permit under the Wetlands Protection Act / local wetlands bylaw and also involves a permit under the Stormwater Management and Erosion Control Bylaw. The first issue addressed at this hearing was the fees for both permits. Per a letter from P. Lynch dated 13 April 2012, he contested the process by which the fees under the local wetlands bylaw were promulgated. The commission stated this matter has been referred to Town Counsel and must await an answer. The Lynch letter did not address or contest the fees under the Stormwater Management and Erosion Control Bylaw. However, no fees were paid by the applicant under this bylaw. See the referenced spread sheet

for a detailed analysis of fees due and paid. This spread sheet was emailed to Lynch on 26 March 2012. The commission informed Lynch the hearing under this bylaw must be continued without further action until the fee is paid. The commission further informed Lynch the documentation supplied with his letter of 20 April 2012 was incomplete. The commission suggested a non-hearing meeting to review the documentation with all pertinent parties to address lacking data. Lynch agreed to this and a date will be determined. A motion was made and seconded "to continue this hearing to 14 June 2012". All members voted in the affirmative.

40-1074 12 COOLIDGE ROAD RICCIO: This hearing was delayed. See below.

40-1073 10 COOLIDGE ROAD RICCIO: This hearing was delayed. See below.

40-1075 9 GOODWIN'S COURT GDBRT

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 Deck, 9 Goodwin's Court, dated April 4, 2012, prepared by P. Lynch

Appeared: P. Lynch and the applicant

In a letter from Lynch, dated 19 April 2012, a narrative explaining the procedures to be followed during the repair, was included. The commission noted that the NOI, on page 4 of 7, should be checked on B.2.f, Coastal Banks. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

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:

51. 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”.**

40-1077 174 JERSEY STREET LYONS

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: Plot Plan, 174 Jersey Street, Catherine Lyons, dated 21 February 2012, prepared by Kane Land Surveyors

Appeared: M/M Lyons

The proposed deck will be supported on sono tubes, located over the existing concrete patio. A previous garage door will be re-installed. This door had been previously converted to windows and a door. 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 or streets.

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.

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:

51. 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 11 STRAMSKI WAY SMITH

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Traveled Way A/K/A "Stramski Way", no date

Appeared: Darryl Smith

After review, all members voted to close this hearing. All members voted to issue a negative determination without special conditions.

40-1076 191A GREEN STREET PIG ROCK LLC

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Pig Rock, LLC, 191A Green Street, dated 04/25/2012, prepared by Griffin Engineering Group

Appeared: Robert Griffin

The commission questioned the term "slightly" on page A-4 of the narrative, referring to the post-development runoff. Griffin agreed this term meant insignificant but the commission may require a peer review of the proposed drainage. Another question was how the surface runoff over the common driveway will be handled. The drainage must conform to the Stormwater Management and Erosion Control Bylaw, section II C. The commission also said it wants to review the "soil and erosion control plan" before any permit is issued. Further, the commission wants a homeowner's maintenance plan for the entire drainage system, said plan to be registered at the Essex County Registry of Deeds. A further question from the commission dealt with the term "remainder" under 4.0 Mitigation Measures of the narrative. Griffin said this means

exterior, non-construction. The commission said it needs the name, telephone number and address of the construction supervisor.

These houses are being built on spec. Griffin said the actual house footprints might differ from that shown on the control drawing. He also said the final landscaping is not yet determined. The commission, referring to the control drawing, said the landscaping for the spec house 191A, can consist only of lawn between the silt fence and the common driveway. Any changes to this landscape plan will require a new permit.

Mr. Temme, a direct abutter, expressed concern about the drainage. To address his concerns and to acquaint the commission with the site, a site visit is planned for Wednesday, 16 May at 5:00 PM. The commission voted to continue this hearing to 14 June 2012.

RDA 191B GREEN STREET

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Pig Rock, LLC, 191A Green Street, dated 04/25/2012, prepared by Griffin Engineering Group

Appeared: Robert Griffin

The owner of this parcel is Ram Island Realty LLC. This property will be reviewed in conjunction with the site visit to 191A on 16 May. All members voted to continue this hearing to 14 June 2012.

RDA 16 RAINBOW ROAD ROWE

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Plot Plan of Land, 16 Rainbow Road, dated 11 April 2012, prepared by North Shore Survey Corporation

Appeared: M. Derosa of Derosa Environmental Consulting, Inc., Mr. Rowe and Mr. Muldoon of Siemasko + Verbridge

After discussion, the commission voted to close this hearing. All members voted to issue a negative determination with the following special conditions.

The silt fence will be located on the landward edge of the 25 foot No Disturb Zone and will represent the demarcation of the limit of work.

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.**

40-1079 1 CROWN WAY DONOVAN

Resource Area: Coastal Bank

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

Control Drawing: Plan Showing Seawall Repair & Stair Construction, #1 Crown Way, dated 11 April 2012, prepared by Hayes Engineering

Appeared: Peter Ogren of Hayes Engineering

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

During construction:

All new granite blocks and stairs will be securely pinned to maximize their ability to prevent displacement from storm events.

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 or streets.

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.).

The Guniting will be applied in such a manner so that no Guniting will be dispensed into the resource waters.

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.

All chipped material/debris from the existing walls will be contained and prevented from being dispensed into the resource waters.

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 of existing (a) stone masonry and (b) concrete walls including the replacement of occasional, missing stones in the stone masonry wall or the patching of cracks and minor defects in a concrete wall is allowed as a surviving condition to the Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any repointing work.** 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. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

50. 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.

51. 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"**.

40-1078 11 & 12 ROLLESTON ROAD

Resource Area: Coastal Bank

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

Control Drawing: Plan Showing Seawall Rebuild & Seawall, Patio Repair, #12 Rolleston Road, dated 13 April 2012, prepared by Hayes Engineering

Appeared: P. Ogren of Hayes Engineering

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

During construction:

In so far as it is possible, all new materials will be securely pinned to maximize their ability to prevent displacement during storm events.

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 or streets.

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.).

The Guniting will be applied in such a manner so that no Guniting will be dispensed into the resource waters.

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.

All chipped material/debris from the existing walls will be contained and prevented from being dispensed into the resource waters.

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 of existing (a) stone masonry and (b) concrete walls including the replacement of occasional, missing stones in the stone masonry wall or the patching of cracks and minor defects in a concrete wall is allowed as a surviving condition to the Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any repointing work.** 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. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

50. 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.

51. 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 26 CHURCHILL ROAD - SMITH

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Site Plan, Demolition of an existing Pool, 26 Churchill Road, dated 17 April 2012, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and M/M Smith

One issue needs to be resolved before this project can be started, i.e., the location of the owner's fence which is currently on Town owned land. The owner will review this with the Town and advise the commission in writing of the decision. All members voted to issue a negative determination with the following special condition: The owner's fence must be located per the instructions of the Town before any work is started.

RDA 147 FRONT STREET - MARBLEHEAD HARBOR CONDOMINIUM TRUST

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: See pictures and narrative

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

This repair work will take place on LSCSF and proper containment (such as a net and tarp) will be located to prevent any construction debris or material from entering the resource waters. All members voted to close this hearing. All members voted to issue a negative determination with the following special condition: Before any work is started, proper containment (such as a net and tarp) will be located to prevent any construction debris or material from entering the resource waters.

40-1080 GLOVER LANDING

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: See pictures and narrative

Reference: OOC for 40-888

Appeared: Scott Patrowicz of Patrowicz Land Development Engineering

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

All special conditions under OOC 40-888 will apply with three exceptions. The first exception deals with the condition "All major repairs require a separate NOI". This condition will now read: All major repairs require a separate NOI. Major repairs typically are the complete rebuilding of the outer wall of a residence, the building of new outside stairs, etc.

The second exception is the condition "This Order of Conditions (OOC) does not ..." This condition still applies but the part dealing with a containment system will be a separate condition.

The third exception regards "An annual work plan/schedule ..." This condition will now read as follows: Seventy two (72) hours before any repairs in a buffer zone are to be made, a written description of the proposed work will be provided to the Conservation Commission Administrator to insure the proposed work is not considered "major".

40-1081 4 HUNSLEY LANE CUSHMAN

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: See pictures and narrative

Appeared: Scott 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.

Before any work is started, the applicant shall submit a construction plan to the commission for approval. This plan must show how the old beams being replaced will be moved from the site so as not to enter the resource waters.

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:

35. All demolition debris will 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 will 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 will 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 of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. 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. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

43. 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.

44. 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.

45. 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.

48. 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.

51. 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”.

Note: Lanphear noted that there is an outstanding NOI for this address. The number is 40-550. The OOC was never recorded nor was a COC requested. Lanphear will contact R. McCann to resolve the fine.

40-???? 203 WEST SHORE DRIVE ROSE

Resource Area: BVW

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Propsed Landscape Plan, 201 West Shore Drive, dated 25 April 2012

Reference: Letter from Michael Rose, dated 25 April 2012

Appeared: Michael Rose

No DEP file number had been issued so this hearing cannot be closed. All members voted to continue this hearing to 14 June 2012. In the event an OOC is issued it will contain the following special conditions.

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.

47. 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.

51. 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".

40-1074 12 COOLIDGE ROAD - RICCIO

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 Conservation Commission, Riccio Residence, dated 03/16/2012, latest revision 05/02/2012, prepared by Poore & Co.

Reference: Wetlands Preservation Inc. letter dated 28 March 2012

Appeared: Curt Young of Wetlands Preservation Inc., Dr. Peter Rosen, J. Poore and Peter Williams of Vine Associates.

This is a continuance from 04/12/2012. Young gave a very brief review of the project changes. One of these changes (required by the commission) was the elimination of a proposed path along the southern edge of the revetment below the pool. Rosen stated his opinion as to the type of bank (vertical protection against storm damage, not providing sediment for beach nourishment). The commission continued to express concern about such a large projection out onto the coastal bank. However, upon a close reading of 310 CMR 10.30 (6) and (7), the commission felt compelled to agree with the opinion of Dr. Rosen. In addition, site visits did not show any erosion. Per Williams, at most, there might be "uprush" of waves at this site but not significant wave action. 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 or streets.

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

Post-construction/in perpetuity:

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.

42. 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.

47. 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.

50. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. 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 drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

51. 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".

40-1073 10 COOLIDGE ROAD - RICCIO

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 Conservation Commission, Riccio Residence, dated 03/16/2012, latest revision 05/02/2012, prepared by Poore & Co.

Reference: Wetlands Preservation Inc. letter dated 28 March 2012

Appeared: Curt Young of Wetlands Preservation Inc., Dr. Peter Rosen, J. Poore and Peter Williams of Vine Associates.

This was a continuance from 04/12/2012. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Post-construction/in perpetuity:

All bioretention areas and rain gardens will be constructed per the Specifications for the MA Stormwater Handbook, Structural BMP's - Volume 2, Chapter 2. This document will be provided to the owners of the property with a corresponding maintenance guide. Ongoing maintenance of the rain gardens is the responsibility of the current owner.

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.

47. 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.

50. 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. 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.

51. 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:

Fine:

40-684 **10 Davis Road Record:** Mr. Record claimed he was not involved with the project against which a fine was levied. The commission withdrew the fine.

40-1064 **212 Humphrey Street:** See below

Enforcement Orders:

40-1025 15 Spray Avenue: The following email chain was introduced by the chair.

I visited 15 Spray Avenue Monday **7 May**. The curb had been cleaned, there was stone gravel at the entrance and the street was free of soil.

*From P. Lynch on **4 May**: Ken Steadman is cleaning every day i will pass along your message*

Sent on the Sprint® Now Network from my BlackBerry®

From: "WALTER S HAUG" <konrad_13@msn.com>

Date: **Fri, 4 May** 2012 16:43:44 -0400

To: Paul Lynch<pmlynch@marbleheadlaw.com>

Cc: William Lanphear<lanphearw@marblehead.org>

Subject: 15 Spray Ave.

Paul. I visited 15 Spray this afternoon (**Friday, 4 May**) and saw the "doughnut" around the catch basin. When was this erected? Please tell Dave to do one more thing: There is a curb where vehicles enter the staging area. Traffic drags soil from the site onto the street. Remove the soil on the street and place some kind of surface at the inside of the curb to prevent more soil from being dragged onto the street. The street at this location should be monitored every workday and, if dirt/soil has been dragged out, the street must be swept at this area.

Walt

From Haug to Lynch on **3 May**: Paul. Another thought. Rachael is most likely referring to the stock piling of materials in the subject area with which she is ok. Did Peter tell her of this run off?

----- Original Message -----

From Haug to Lynch on **3 May**: Paul. I was with Willy yesterday and reviewed some photos he had taken of run off from the site into the storm drain. A visual observation from the photos indicated this run off consisted of soils from the site and they were flowing via a pipe from the storm drain into the ocean (down the easement between the properties). Special Condition #30 addresses such issues. We have no choice but to fine this violation. Tell Dave to immediately place silt socks or some other type of erosion control to prevent this run off. Each day this violation remains cost \$300 per day.

From: Paul M. Lynch
To: 'WALTER S HAUG'
Sent: Thursday, **May 03**, 2012 4:35 PM
Subject: 15 Spray Avenue

Walter:

David Groom just informed me that he got an enforcement order form Willy-I thought that we were ok on this -Rachael Fried is fine with what is happening-Peter Ogren spoke to her today-

Please explain what is happening.

Thanks-Paul Lynch

The commission voted to levy a fine of \$300.00 since the violation existed for only one day.

11 Susan Road, Stevie Browning: Curt Young accompanied Mr. Browning. Mr. Browning had been filling a BVW and the associated buffer. He immediately ceased any filing after receiving the E.O. (within the same day). All members voted to levy a fine of \$300.00 and he was instructed to submit a plan for restoring the BVW and Buffer.

Gerry Island, Moore: An E.O. is being issued to Mr. Moore, wherein he is told to appear before the commission. All members voted to issue this E.O.

Request for Change in Scope:

40-1040 Glover Landing: All members voted to consider this as a minor design change.

40-956 2 Gas House Lane: All members voted to consider this as a minor design change.

40-1068 201 Ocean Avenue: All members voted to consider this as a minor design change.

40-1057 2 Coolidge Road: All members voted to consider this as a minor design change.

Request for Extension:

40-977 Redd's Pond: In view of the MA automatic two year extension, this OOC is valid until 05/22/2014 and does not yet need a commission extension.

Requests for COC:

40-888 Glover Landing: All members voted to issue a COC.

40-1054 32 Foster Street: All members voted to issue a COC.

4-963 54 Evans Road: All members voted to issue a COC.

Other:

40-1015 25 Pinecliff Drive: All members voted to approve the landscape plan submitted by L. Lautner as described with her undated Embankment Restoration Plan, 25 Pinecliff Drive and with this email from the commission: Lauren. Round Up is ok as long as it is hand applied and not sprayed as described in your Embankment Restoration Plan for 25 Pinecliff Road (no date).

40-1064 212 Humphrey Street: See memo from W. Lanphear dated 16 February 2012. The documentation regarding this violation showed the lengthy non-response of the responsible parties after multiple attempts by the commission to have the violation addressed. Following the approved fine guidelines, the commission voted all in favor of levying a fine of \$13,800.00. This is comprised of a violation negatively impacting a wetland that existed for 44 days at \$300.00 per day plus \$600.00 as a second offender for failing to file an NOI prior to performing the work, which resulted in the violation.

Sign Documents: All documents per the agenda were signed.

The meeting adjourned at midnight.