

Marblehead Conservation Commission
Minutes January 13, 2011

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, Brian LeClair, Craig Smith, Deb Payson and Ken Fisher. 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.

Approve Minutes: A motion was made and seconded to approve the minutes of 12/09/2010. All voted in the affirmative.

Fines: A revision to the ConCom fine schedule was discussed and all voted to approve. The approved revision is attached to these minutes and is dated January 13, 2011.

Requests for Extension: The following OOC's are awaiting one year extensions from our commission. The commission has been waiting for the decision of the DEP regarding their interpretation of the general state automatic two year extension for various permits. Due to the long delay of DEP and not yet having received their interpretation, the commission decided to proceed with its one year extension.

40-714 3 Brown Street: All members voted to grant a one year extension.

40-930 485 Lafayette Street: All members voted to grant a one year extension.

40-942 81 Naugus Avenue: All members voted to grant a one year extension.

40-1019 99 PITMAN ROAD THOMPSON

Resource Area: Coastal Bank

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

Appeared: No one

Control Drawing: Plot Plan, 99 Pitman Road, Thompson, dated October 20, 2010, prepared by North Shore Survey Corporation

This was a continuance from 11/18/2010 and 12/09/2010. An email dated 01/13/2011 from Patrowicz requested a continuance to 02/10/2011. All members voted to continue this hearing to 02/10/2011.

40-1021 10 MARINER'S LANE DARING

Resource Area: Coastal Bank

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

Appeared: No one

Control Drawing: None

This was a continuance from 11/18/2010. An email from Scott Patrowicz dated 01/13/2011 asked for a continuance to 02/10/2011. All members voted to continue this hearing to 02/10/2011.

40-1022 98 BEACON STREET WHITMORE

Resource Area: BVW

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

Appeared: J. Whitmore

Control Drawing: Plan of Land, 98 Beacon Street, dated December 1, 2010, prepared by Engineering Alliance, Inc.

Mr. Whitmore presented a revised site plan dated 01/13/2011 wherein the number of bays in the garage has been reduced to two and the entire house/garage has been moved closer to Beacon Street by twelve feet. In addition, Mr. Whitmore stated he will construct the driveway with a pervious surface and will drain the driveway into a hooded, deep sump catch basin, said basin connected to a drywell. This will prevent any stormwater from the driveway from collecting on Barnegat Lane. Further, he said no heavy vehicles working on this project will traverse Barnegat Lane. Finally, he said the existing stone wall located on the southerly side of the property (in the vicinity of the wetland) will be maintained in its current location and the land between this stone wall and the wetland will never be disturbed. Mr. Whitmore will further revise the above defined "Control Drawing" to reflect all the stipulated revisions. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior

to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1'x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1022"

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

Pre-construction:

28. Before any work is started, the applicant will submit a revised control drawing reflecting the driveway with a pervious surface draining into a hooded, deep sump catch basin, said basin connected to a drywell.

29. No heavy vehicles working on this project will traverse Barnegat Lane.

30. 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.

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

32. 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. The hay bales will be placed on the upland side of the existing stone wall at the southerly side of the property.

33. 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:

34. 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.

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

37. 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.

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

39. A landscape plan will be submitted for approval by the commission before any landscaping is performed.

Post Construction:

40. The existing stone wall located on the southerly side of the property (in the vicinity of the wetland) will be maintained in its current location and the land between this stone wall and the wetland will never be disturbed. This condition shall survive this order.

41. 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. 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.

43. 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.

44. 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-???? 18 GREGORY STREET MORELAND

Resource Area: Coastal Bank

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

Appeared: No one

Control Drawing: 18 Gregory Street, Existing Site Plan & Proposed Gangway and Float Plan, dated 11/08/2010, prepared by Vine Associates

An email from Mr. Moreland requested a continuance. All members voted to continue this application to 02/10/2011.

40-1023 42-44 FOSTER STREET EASTERN YACHT CLUB

Resource Area: Coastal Bank

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

Appeared: R. McCann, atty., P. Ogren of Hayes Engineering and B. Wales of the EYC.

Control Drawing: NOI Plan, Foster Street for Eastern Yacht Club, dated 11/18/2010, prepared by Hayes Engineering, Inc.

All work will be performed from the landside. This NOI covers the repairs to the pier and the rehabbing of two cranes, although only one crane will be done this year. Once the pier and one pier is completed, assuming in compliance with the OOC, a partial COC will be issued. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1'x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1023"

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

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. No erosion control is practicable for this project but no debris or construction material will be allowed to enter the resource waters.

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 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.).

34. 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.

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

36. 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.

37. 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:

38. 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.

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.

39. 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".

40-1025 15 SPRAY AVENUE GROOM

Resource Area: Coastal Bank

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

Appeared: P. Lynch, atty. and P. Ogren of Hayes Engineering

Control Drawing: Plan Showing Proposed Additions and Grading for 15 Spray Avenue, dated 12/15/2010, prepared by Hayes Engineering

Ref: Letter from Bourne Consulting Engineering dated 01/11/2011

Mr. Ogren gave an overview of the project. The commission questioned the accuracy of the Project Narrative, section "Seawall Work" which states the seawall will be raised by ca. six inches. Per Cross Section #1 of the control drawing, one section of the seawall is proposed to be raised by six feet. This matter opened up a lot of discussion by neighbors and their representative, Carl King, atty., and their consultant, Russell Titmuss of Bourne Consulting Engineering. Among the neighbors, B. Selenkow, abutter to the project site and W. Walsh Rigolsky expressed serious concern about raising the height of the existing seawall at the junction where it directly abuts the property of Mrs. Selenkow. It was stated by many individuals living in the general area who have witnessed storms that major storms attack the seawall with great force and cause volumes of spray that reach up to and above the roof line of the existing house at 15 Spray Avenue. The neighbors and their representatives believe that the higher seawall could negatively impact abutting properties, especially that of Mrs. Selenkow, by directing wave energy along the abutting seawall. The commission will engage a professional engineer with experience in coastal structures to advise the commission. The applicant will pay for this engineer.

Another possible problem is the proposed grading landward of the higher seawall (see Cross Section #1 as above). The requirement of a new or revised Chapter 91 license was also raised. It was agreed to conduct a site visit on Saturday, February 5 at 8:30 AM when the tide is still relatively low. It was further agreed to continue this hearing to 02/10/2011.

40-1024 1 NAHANT STREET CORINTHIAN YACHT CLUB

Resource Area: Coastal Bank

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

Appeared: R. McCann, atty., P. Ogren of Hayes Engineering and P. Guertin and T. Knox
Control Drawing: Plan Showing Proposed Conditions, Corinthian Yacht Club, dated 12/06/2010, latest revision 12/23/2010, prepared by Hayes Engineering.

Brian LeClair recused himself from the commission for this application. All work is landward of a seawall. This seawall has a fence on it. Silt socks with a snow fence will be laid along this fence to prevent debris and construction material from entering the resource waters. The proposed drainage through this seawall onto ledge is roof runoff (not from a metal roof) and thus does not need any BMP and will not cause any erosion. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation

Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1'x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1024".

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

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. Silt socks with a snow fence will be laid along the fence on top of the seawall in the area of the pool.

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 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.).

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

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:

37. 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.

38. 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.

39. 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:

Approve Minutes: see above

Requests for Extension: see above

Requests for COC: All members voted to issue COC's for 40-970, 40-923 and 40-882.

Sign Documents: All documents per the agenda were signed.

Other Matters: Re: 40-1020, the minutes of November 2010 state that Mr. Ogren will respond to the comments from DEP for this application with copy to the commission. He was asked to address this matter and respond to the commission.

The meeting adjourned at 9:30 PM.

See revised Fine Schedule below

SCHEDULE OF FINES
Revised January 13, 2010

The following schedule applies to violations of the Massachusetts Wetlands Protection Act, the Marblehead Wetlands Protection By-Law and any permits issued pursuant thereto.

Administrative violations:

Failure to apply for an Order of Conditions or Request for Determination
Failure to record an Order of Conditions
Failure to apply for an amendment to an Order of Conditions
Failure to record an Amended Order of Conditions
Failure to comply with conditions in an Order of Conditions
Failure to comply with conditions in a Determination of Applicability
Failure to apply for a Certificate of Compliance

1st violation for applicant: \$300 per year.

2nd violation for same applicant on same or different site: \$300 per every six (6) months.

Applicants who voluntarily report their failure to apply for a COC before discovery by the commission will not be fined for this particular violation. All other fines will still be levied.

The administrative fines will be levied per the above schedule for all administrative violations occurring on or after 01/01/2010. For all administrative violations occurring before 01/01/2010, a fine of \$300 per violation for the first administrative violation and \$600 per violation for each additional administrative violation committed by the same applicant on the same or another property will apply. These fines apply regardless of the length of time the administrative violations have existed and are not to be multiplied by any specific time period provided the administrative violations occurred prior to 01/01/2010.

The following fines may be levied in addition to the Administrative fines.

Buffer Zone Violations:

No Disturb Zone (0-25 ft. from wetland boundary): \$300 per every six (6) months
No Build Zone (25-50 ft. from wetland boundary): \$225 per every six (6) months
50-100 ft. Zone: \$300.00 per year

Plus possible restoration in any of the above buffer zones.

Resource Area Violation:

\$300.00 per violation and per day each violation exists

Plus possible restoration of any altered wetland resource areas.