

**Marblehead Conservation Commission  
Minutes July 14, 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, Ken Fisher and Craig Smith. 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 of a majority of commissioners currently serving. The quorum for this meeting is therefore four members.

**40-1029 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., P. Ogren of Hayes Engineering and T. Groom of Groom Construction

Control Drawing: Plan for NOI, Showing Proposed Additions & Grading, 15 Spray Avenue, dated December 15, 2010, latest revision dated July 8, 2011

This was a continuance from 03/10/2011, 04/14/2011, 05/12/2011 and 06/09/2011. The chair noted that this is the fifth hearing on this application. He stated that based on the latest information, the commission is still not able to determine the viability of the project and whether it will meet the performance standards of the WPA and local Bylaw. Taking into consideration the inability of the applicant to submit the report required in OOC 40-1025 regarding the stability of the seawall, the chair recommended a denial of this project due to lack of information and the issuance of an Enforcement Order to stop work on 40-1025. Two members of the commission did not accept his recommendation and the hearing continued. The chair did point out that the consultant for the commission has already met twice at the site and has submitted various interim reports. The chair alerted the applicant there might be additional charges from the commission's consultant to continue to review the new designs being presented.

The latest site drawing showed yet another new seawall design (a double wall) at the southern end of the property. Refer to the "Engineering Report, 15 Spray Avenue", prepared by P. Ogren, dated June 1, 2011. Ogren stated that this latest seawall design will perform in the same manner as he described in his report, specifically, in the paragraph "Evaluation of Potential Impacts to Abutting Properties from the Proposed Project". Note that the term "buttress wall" in this paragraph refers to a small length of the new wall, said length projecting at an angle from the main length of the new wall and located in the curved section of the original granite seawall.

Ogren stated that Childs Engineering has visited the site with him and he said he had a report from them. **The commission needs to obtain a copy of this report.**

The commission pointed out some inconsistencies/mistakes on the current site drawing, viz., two cross sections are not identified and, in one area, the cross section does not reflect the actual wall design, the center dimensions for some of the steel reinforcing bar in the same locations gives three different dimensions, there is no detail for the reconstruction of the upper concrete seawall at the northern end of the seawall and there is no detail for the new seawall design at the southern end of the seawall (see section C-C on the site drawing). This is the seawall with the buttress wall. Ogren said he will correct the foregoing mistakes and agreed to request approval of the commission before any reconstruction of the upper concrete seawall at the northern end of the seawall.

A representative from Bourne Consulting Engineering, requested the following information which Ogren said he would supply.

1. Identify the base of the granite seawall.
2. Show construction details of the new proposed seawall at the southern end.
3. Show the elevations of the new proposed seawall at the southern end.
4. Indicate if the buttress wall is sloping toward the ocean or is a full height, horizontal wall.
5. Show how the rip rap on the corner terminates.

The commission briefly referred to 40-1025 and the condition of the granite seawall. It said it had observed spaces under the lowest layer of granite blocks and the beach. It said this indicated to them that there might not be any deeper footing or base for the wall. It stated again that the cracks in the granite blocks indicated great stresses on these blocks, in an axis that the blocks are weakest (bending as opposed to compression). The commission also asked why it is taking so long to receive the report as requested in the OOC 40-1025 verifying the structural integrity of the granite wall. Ogren stated they had not done any test borings at the base of the wall and were not sure of the depth of the footing or on what the granite blocks are resting. He acknowledged there were aspects of the wall that could not be definitively resolved. From his report, "Engineering Report, 15 Spray Avenue", the commission noted the following statement: "The applicant and engineer understands that there are some risks in not having complete engineering data and reports on the existing walls and backfill, but, based on past experience, it is believed that those risks are minimal and are not a risk to abutting properties."

Another matter of concern to the commission is that the applicant has cut the cement decking at the northern end of the property into slices and the commission questions if this action will compromise the stability of the cement wall in this area if this decking is attached to and forms a part of the cement wall. A similar concern exists due to the cutting of the cement floor under the wooden deck. The commission asked if this floor is connected to the cement wall and what effect will the cutting have on the concrete buttresses behind this wall. If this cutting does affect the stability of the granite seawall, this is a violation of the special condition in 40-1025.

C. King, attorney representing the abutters, stated that the current owners of 15 Spray Avenue do not yet have clear title to the some of the property in question. The commission declined to pursue this and focused only on the wetland issues.

On another matter, the commission agreed with Ogren that the report issued by CLE Engineering does not need the express consent of CLE to be used by interested parties. A restriction

regarding use of the report was included in the report from CLE and is hereby rejected by the commission.

With the consent of the applicant, the commission voted to continue this hearing to August 11, 2011.

#### **40-1037 7 MOORING ROAD - GREENE**

Resource Area: Coastal Bank

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

Appeared: R. McCann, atty., S. Cameron of McKenzie Engineering Group and Mrs. Greene

Control Drawing: Plan of Mr. Nathaniel and Louisa Greene to construct a Dock at 7 Mooring Road, dated May 4, 2011, revised July 7, 2011, prepared by McKenzie Engineering Group, Inc.

Reference: Letter from MA Division of Marine Fisheries, dated June 3, 2011. Also, the MA "Small Docks and Piers" guidelines, dated November 2003.

The eel grass beds were re-mapped and the floats will be within these beds. The end of the pier is outside the beds. The criteria specified in the guidelines will be met for the construction of the pier and a sign alerting the public of access under the pier will be posted. The anchoring of the floats will be with elastic ropes secured with helical anchors. 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 40-1037"

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.

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.

38. 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:**

39. 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.

40. 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.

41. 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.

42. 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.

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.

#### **40-1040 GLOVER LANDING – GLOVER LANDING CONDOMINIUM TRUST**

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

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Seawall Repair at Zero Brackett Place & 34 Gregory Street, dated May 15, 2011, revised July 14, 2011, prepared by Patrowicz Land Development Engineering

This was a continuance from 06/09/2011. The drainage spillway over the wall from the parking area has been deleted. The parking area has been regraded to allow the storm water from this area to drain into a hooded, deep sump catch basin. As this satisfies the concerns of the commission, 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 (1x 2) shall be displayed in a conspicuous place at the site with the words "DEP File 40-1040"

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.

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.

**Post-construction/in perpetuity:**

36. 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.

37. 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.

38. 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-???? LITTLE HARBOR ISLAND (AKA: GERRY ISLAND) – NOYES**

Resource Area: Coastal Bank

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

Appeared: Peter Ogren of Hayes Engineering. (Note: Ogren said Peter Noyes was present at the beginning of the meeting but left before the start of this hearing.)

Control Drawing: Plan to Accompany NOI in Marblehead, Showing Gravel Ramp, Little Harbor Island, dated May 25, 2011, prepared by Hayes Engineering, Inc.

This is a continuance from 06/09/2011. The applicant did not appear. P. Ogren explained that there is confusion regarding this application and asked to continue this hearing to August 11, 2011.

**RFA 31 NORMAN STREET PEACH**

Resource Area: BVW

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

Appeared: Ted Peach

Control Drawing: Sketch for Demolition of Building on 31 Norman Street, dated 06/22/2011

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

**40-1042 12 ROLLESTON ROAD DEMAKES**

Resource Area: Coastal Bank

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

Appeared: J. Emmanuel of James K. Emmanuel Associates and R. Zarrelli, Architect

Control Drawing: Demakes Residence, 12 Rolleston Road, Proposed Site plan, dated June 28, 2011, prepared by Robert Zarelli, Architect.

The width of the vegetated buffer strip will be ten (10) feet on average. A revised drawing will be submitted to show additional dry wells for roof drainage. 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 (1x 2) shall be displayed in a conspicuous place at the site with the words "DEP File 40-1042".

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.

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.

32. The site plan will be revised to show additional dry wells for roof drainage.

**During construction:**

33. The average width of the vegetated buffer zone will be ten (10) feet.
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.

**Post construction/in perpetuity:**

39. 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. 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.
41. 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.

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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

43. This OOC specifies a vegetated buffer strip be planted along and abutting the coastal bank and/or the BVW. After the vegetated buffer strip has been planted, at the end of the second growing season, the applicant must submit a report to the commission evidencing that the plantings have reached a minimum 75% survival rate. If the 75% rate has not been achieved, the applicant will re-plant/replace all non-surviving plants at the start of the third growing season and verify such replanting by appropriate evidence to the commission. These reports are mandatory even after a COC has been issued. After the third growing season, the maintaining of a 75% survival rate, but not the reporting, is a surviving condition.

44. 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.

45. 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 ðas 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 ðCö for ðSchedule of Finesö.

#### **40-1045 24 FOSTER STREET McKERNAN**

Resource Area: Coastal Bank

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan, #24 Foster Street, dated June 28, 2011, prepared by 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.

**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 6C6 for 6Schedule of Fines6.

21. Prior to any work authorized by this Order, a sign (16x 26) shall be displayed in a conspicuous place at the site with the words 6DEP File 40-10456

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 6C6 for 6Schedule of Fines6.

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.

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.

**Post-construction/in perpetuity:**

36. 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.

37. 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.

38. 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 ðas builtö 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 ðCö for ðSchedule of Finesö.

#### **40-1046 24 BEACON STREET LONG**

Resource Area: BVW

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, Heather Deshenes, Architect and Lorann Long, property owner

Control Drawing: Site Plan, Proposed House Addition & Wetlands Resource Improvement, dated June 28, 2011, prepared by Patrowicz Land Development Engineering

After discussion, it was agreed with the applicant to reduce the size of the existing garage to 12 ft. x 14 ft. (reducing it from 249 sq. ft. to 168 sq. ft.) and locate it furthest away from the existing wetland. A concrete apron currently existing along the side of the garage will be removed. The footprint of the proposed kitchen will be reduced from 142 sq. ft. to 112 sq. ft. The end result of these reductions is to increase the size of the replicated wetland and to reduce the amount of intrusion into the No Disturb Zone. 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 ðCö for ðSchedule of Finesö.

21. Prior to any work authorized by this Order, a sign (1~~ø~~ 2~~ø~~) shall be displayed in a conspicuous place at the site with the words ðDEP File 40-1046ö

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.

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. 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.

38. 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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

39. 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.

40. 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".

#### **40-1010 100 HARBOR AVENUE DOHERTY**

Resource Area: Coastal Bank and Beach

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan for, Repair & Maintenance Existing Landscaped Banking, #100 Harbor Avenue, and dated June 28, 2011, prepared by Patrowicz Land Development Engineering. Sketch of Proposed Cross Section for Repair of Existing Landscaped Banking, dated June 28, 2011, prepared by Groom construction Co. Inc.

This was a request for an amendment. This coastal bank acts as a vertical buffer and does not supply beach nourishment. The three (3) feet depicted on the sketch by Groom is seaward of the 4-6 feet showing plantings. If the applicant intends to use the public right of way (Harvard Street) as a staging area, he/she must obtain written permission from the Marblehead Board of Selectmen and submit proof thereof. All members voted to close this hearing. All members voted to issue an amended OOC with the following additional special condition.

If the applicant intends to use the public ROW as a staging area, he/she must obtain written permission from the Marblehead Board of Selectmen and submit proof thereof to the commission.

#### **40-1015 25 PINECLIFF DRIVE McKIERNAN**

Resource Area: Coastal Bank and Beach

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan, Landscape Wall & Steps, 25 Pinecliff Drive, dated June 28, 2011, prepared by Patrowicz Land Development Engineering

This was a request for an amendment. The steps on the path will be granite. There will be no clear cutting outside the width of the path. A list of invasive plants to be vista pruned will be submitted to the commission. All members voted to close this hearing. All members voted to issue an amended OOC with the following additional special conditions.

No clear cutting of vegetation is allowed on the coastal bank outside of the three foot (3 ft.) wide path. Only within the path itself can vegetation be clear cut.

A list of invasive vegetation to be vista pruned on the coastal bank will be submitted to the commission for its files.

#### **40-1044 8 DAVIS ROAD**

Resource Area: Coastal Bank and Beach

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

Appeared: P. Ogren of Hayes Engineering, R. McCann, atty., and Mr. Brauer

Control Drawing: Plan to Accompany NOI, 8 Davis Road, dated June 8, 2011, revised June 20, 2011, prepared by Hayes Engineering, Inc.

After discussion, 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 6C for Schedule of Fines.

21. Prior to any work authorized by this Order, a sign (1x 2) shall be displayed in a conspicuous place at the site with the words "DEP File 40-1044"

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.

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 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:**

36. 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.

37. 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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

38. 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".

#### **40-1043 26 HARBOR AVENUE TRUSTEES OF BH REALTY TRUST**

Resource Area: Coastal Bank and Beach

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

Appeared: P. Ogren of Hayes Engineering

Control Drawing: Site Plan, 22 and 26 Harbor Avenue, dated June 13, 2011, prepared by Hayes Engineering (2 sheets)

The owners of 22 Harbor Avenue have withdrawn their participation in the NOI. The application is for 26 Harbor Avenue only. After discussion, the commission agreed to approve option number 2 (straight web sheet piling) for repairing the footing of the seawall. The repaired footing will protrude a maximum of 18 inches seaward beyond the existing footing. It was agreed that the concrete facing on the new footing will extend a minimum of two feet (2 ft.) below the ocean ground level. 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 6C for Schedule of Fines.

21. Prior to any work authorized by this Order, a sign (1x 2) shall be displayed in a conspicuous place at the site with the words "DEP File 40-1043"

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 6C 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, a revised control drawing will be submitted to the commission, said revision showing the concrete face of the new footing extending a minimum of two feet (2 ft.) below the surface of the ocean floor.
29. Before any work is started, a revised control drawing will be submitted to the commission, said revision showing the maximum seaward extension of the new footing to be eighteen inches (18 ") beyond the existing footing.
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.
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. 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.
37. 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:**

38. 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.

39. 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.

40. 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.

41. 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".

### **Local Bylaw Only 3 BEACON HEIGHTS LANE GARIBOTTO**

Resource Area: Isolated Land Subject to Flooding and BVW

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

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site Plan, 3 Beacon Heights Lane, dated April 27, 2011, prepared by North Shore Survey Corporation

This application was reviewed under the Marblehead Bylaw only since the wetland is an isolated wetland. The work is outside the 50 ft. No Build Zone and across the street from the wetland. 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 (10' x 20') shall be displayed in a conspicuous place at the site

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.

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.

**Post-construction/in perpetuity:**

36. 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.

37. 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](http://www.mnla.com) or [www.newfs.org](http://www.newfs.org).

38. 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 easement 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 283 OCEAN AVENUE RAISIDES**

Resource Area: Coastal Bank

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

Appeared: W. Jacobs, architect and Mr. Raisides

Control Drawing: Site Plan, 283 Ocean Avenue, dated May 11, 2011, prepared by North Shore Survey Corporation

The commission agreed that the proposed work, while within the 50 foot No Build Zone, will not increase the footprint of the existing house and will not affect the resource area. All members voted to close this hearing. All members voted to issue a negative determination without conditions.

### **RDA 24 LEE STREET SIDDALL**

Resource Area: Coastal Bank

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

Appeared: W. Jacobs, architect and Mr. Raisides

Control Drawing: Harborside Condominium, Unit B10, Proposed Patio Expansion, dated 03/08/2011

The proposed expansion is within the buffer zone to a coastal bank and in Land Subject to Coastal Storm Flowage. The commission concluded that neither the proposed work or the area will impact the resource area. (Note that there are no performance standards for LSCSF.) All members voted to close this hearing. All members voted to issue a negative determination without conditions.

### **Old/New Business:**

#### **Request for changes in project scope:**

40-991, 40-993 both 10 Intervale Road: The commission decided the changes requested did not require an amendment.

40-1021, 10 Mariner's Lane: Mr. Daring and Dave Peach explained the change in repairing the seawall. Basically, the failing seawall will be removed section by section and rebuilt in the same location. The commission decided the changes requested did not require an amendment.

#### **Request for Extension:**

40-888 Glover Landing Condominiums: A letter dated July 8, 2011 from Glover Landing Condominium Trust listed the projects approved by their board through June 30, 2012. The commission voted to extend this OOC to August 10, 2012.

**Requests for COC:**

40-749, 40-934, both 45 Wharf Path, Dolphin Yacht Club. The commission voted to issue the COC.

40-298, 40-967, both 120 Jersey Street, Lynch. The commission voted to issue the COC.

40-1035, 24 Harbor Avenue, Martin. The commission voted to issue the COC.

40-1028, 24 Foster Street, McKernan. The commission voted to issue the COC.

40-086, 40-780 and 40-872, all 12 Nonantum Road, Chalifour. For 40-086, the individual has died and no fine will be levied against the heirs. For 40-780, the current owner is responsible and is fined \$300. For 40-872, the current owner is responsible and is fined \$600 each for two violations.

**Sign Documents:** All documents per the agenda were signed.

The meeting was adjourned at 12:05 AM.