

**Marblehead Conservation Commission
Minutes October 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 Brian LeClair, Walt Haug, Fred Sullivan, Ken Fisher and Don Tritschler. Also present were Willy Lanphear, Conservation Administrator and Jan Smith.

The hearings were conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw.

Note: The commission currently has five 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 three members.

Approve Minutes: The minutes of September 8, 2011 were approved by four members. D. Tritschler arrived after this vote.

Request for change in project scope:

40-966 7 Fort Sewall Terrace: During a site visit on Friday, 16 September 2011, the ConCom requested the following information:

1. The applicant will request Childs Engineering to submit a letter to the Marblehead Con Com stating that the slope of the restructured slope of land facing the ocean is of an appropriate incline to support vegetation and maintain a stable embankment.
2. The applicant will indicate on the site plan where a fence is proposed.
3. The final landscaping will show a berm of 2-3 inch height at the edge of and along the entire length of the new flat lawn. This berm is intended to prevent the flow of nutrients/pollutants from the lawn flowing over the bank into resource waters.

Mr. Knickrehm appeared to submit a letter from Childs Engineering dated October 11, 2011, whereby Childs confirmed the ability of the new embankment slope to control soil erosion with support plantings. (see Childs drawing, SK-01 dated 10/12/11) The fence was not shown but this will be corrected and submitted to the commission. The berm was shown on the sketch accompanying the Childs letter. Based on this information, the commission voted all in favor to regard these changes as not requiring an amendment.

40-1053 151 GREEN STREET MULDOON

Resource Area: BVW and Stream

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

Control Drawing: Green Street Condominiums, dated May 3, 2011, latest revision October 3, 2011 prepared by RIM Engineering

Reference: Stormwater Management for Green Street Condominiums, prepared by RIM Engineering, dated August 16, 2011, latest revision October 11, 2011.

Wetland Replication Methodology Report, dated October 10, 2011, prepared by ECR

Application for a Land Disturbance Permit for Green Street Realty Trust, dated October 11, 2011

Appeared: P. Lynch, atty. and B. Holmes of Environmental Consulting & Restoration

The first item discussed was the letter from DEP dated September 28, 2011 wherein DEP requested additional information as listed.

Stormwater forms and calculations: subsequently submitted by the applicant

Wetland Replication plan: submitted by the applicant, see ECR dated October 10, 2011

Construction Sequence plan: submitted by the applicant, see LDP application dated October 11, 2011

Soil Test Pit Data: applicant to verify if this is the data contained in the Stormwater Management for Green Street Condominiums, dated August 16, 2011, latest revision October 11, 2011, prepared by RIM Engineering Co., Inc.

The applicant will contact Gary Bogue of the DEP to insure all necessary documentation is submitted. The applicant will confirm in writing to the commission if all documentation has been supplied or what is still to be submitted.

Following the guidelines contained in 310 CMR 10.58 (2)(a), the commission agreed the stream is intermittent. The amount of replicated wetland will be 5,530 sq. ft. (replacing 2,419 sq. ft.). The commission noted that the site is severely degraded, surrounded by Japanese Knotweed and Phragmites. They agreed that the minimum effective way to re-plant the replicated wetland will be sufficient due to eventual future encroachment by the foregoing vegetation. All members voted to continue this hearing to November 10, 2011.

RDA 37 FRANKLIN STREET LYNCH

Resource Area: Coastal Bank

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

Control Drawing: Plot Plan of Land, 37 Franklin Street, dated June 23, 2011, prepared by North Shore Survey Corporation

Appeared: P. Lynch, atty.

This site is located across the street from the coastal bank and the work area lies between the 50 foot and 100 foot buffer zones. This application would have qualified for a Minor Activity permit but it contains the building of a storage shed and, thus, required the filing of a RDA. All members voted to close this hearing. All members voted to issue a negative DOA with no conditions.

40-1056 3 KENNETH ROAD TRAUTMAN

Resource Area: Coastal Bank

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

Control Drawing: John + Holly Trautman, 3 Kenneth Road, dated 08/27/2011, prepared by Second Nature Land Design. Also submitted was the drawing entitled, Plot Plan 3 Kenneth Road, dated June 29, 2007 (latest revision 03/18/08), prepared by Kane Land Surveyors

Appeared: M/M Trautman and P. Lynch, atty.

This NOI covers a retaining wall that was constructed without an OOC. See the comments at the end of this paragraph. Note that the driveway shown on the above referenced control drawing by Second Nature Land Design is shorter in length from that shown on the Kane drawing. The Second Nature driveway is the current proposal. No details of the proposed drywell are shown. The commission voted all in favor of closing this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

Prior to the start of any work, a drawing of the proposed drywell, showing location and design, will be submitted to the commission for approval.

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.

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:

40. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

47. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

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

51. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

At the conclusion of this hearing, the commission reviewed the violations of the earlier NOI, 40-938, the Enforcement Order and the Emergency Order. The current NOI, 40-1056, is the result of the Enforcement Order. Per section 9.2 (k) of the local regulations, the filing fee is doubled. The applicant has paid \$50.00 for this NOI 40-1056 but must pay an additional \$50.00. In addition, per the local fines schedule, the applicant must pay \$300.00 for failure to comply with OOC, 40-938.

RDA BLACK JOE'S POND CAMPBELL + TOWN OF MARBLEHEAD

Resource Area: Land Under Water (Pond)

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

Control Drawing: As submitted with the RDA

Appeared: C. Campbell

Reference: DEP Superseding Order, 40-0880, dated June 12, 2007

This work is preliminary to complying with condition no. 26 of the DEP SOC, develop a long-term pond management plan. W. Haug explained that he is working with the people who will be performing the work but that he will not recuse himself as a member of the commission from the hearing since he has no financial interest for himself or his relatives. R. Zarelli said that he is aware of a sonic system being used in the Great Pond in Andover, MA to maintain its waters. The commission will pursue this comment. All members voted to close this hearing. All members voted to issue a negative DOA with no conditions.

RDA GOLDTHWAIT RESERVATION GOLDTHWAIT RESERVATION, INC.

Resource Area: BVW and Land Subject to Coastal Storm Flowage

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

Control Drawing: As submitted with the RDA

Appeared: G. Lubbock, D. Schluter and C. King

This work is basically maintenance of the marsh. All members voted to close this hearing. All members voted to issue a negative RDA with no conditions.

Old/New Business:

Enforcement Orders:

40-1015 25 Pinecliff Drive: Lauren Lautner, landscape designer, appeared on behalf of the applicant. Due to the repeated violations by the applicant, the commission decided it was imperative that the applicant appear in person to discuss the violations. All members voted to continue this discussion to the regular November 10, 2011 meeting. Ms. Lautner will inform the applicant.

Request for change in project scope:

40-1046 24 Beacon Street Long: See drawing Site Plan, Proposed House Addition at 24 Beacon Street, dated June 28, 2011, latest revision October 8, 2011, prepared by Patrowicz Land Development Engineering. All members voted to approve the changes as changes, not requiring an amendment.

40-1042 12 Rolleston Road Demakes: Appeared R. Zarelli to discuss the changes. After review, the commission voted to require a new NOI since the area of the work (in the coastal bank) and its scope is of a significant nature.

40-1025 15 Spray Avenue Groom: See Plan for NOI, Showing Proposed Additions & Grading, 15 Spray Avenue, dated December 15, 2010, latest revision dated October 12, 2011. The changes are a small increase in the front entrance way and a small covered porch off the garage. Both changes are landward of the house. All members voted to approve the changes as changes, not requiring an amendment.

40-1015 25 Pinecliff Drive: Due to repeated violations by the applicant, the commission voted to continue this review to November 10, 2011.

40-1040 Glover Landing: After review with Scott Patrowicz, all members voted to approve the changes as changes.

40-966 7 Fort Sewall Terrace: see above

Requests for COC:

40-930 Lead Mills NL Industries: Some trees in Wyman Woods need to be re-located. The commission voted to continue this request to November 10, 2011.

40-933 452 Atlantic Avenue Falk: All members voted to approve this COC.

40-953 28 Crestwood Road Miller: All members voted to approve this COC.

40-940 354 Atlantic Avenue Blaney: All members voted to approve this COC.

40-982 10 West Orchard Street Hart: All members voted to approve this COC.

Sign Documents: All documents per the agenda were signed.

The meeting was adjourned at 10:05 PM.