

**Marblehead Conservation Commission
Minutes December 8, 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, David VanHoven 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 six members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

The commission welcomed David VanHoven as the newest member of the commission and thanked him for his participation.

Approve Minutes: The minutes of November 10, 2011, as corrected, were approved by all members.

40-1053 151 GREEN STREET MULDOON

Resource Area: BVW

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

Control Drawing: Green Street Condominiums, dated May 3, 2011, latest revision November 21, 2011 prepared by RIM Engineering

Reference: Stormwater Management for Green Street Condominiums, prepared by RIM Engineering, dated August 16, 2011, latest revision November 21, 2011. This document includes the Pre-development to Post-development Comparison (dated November 14, 2011). Wetland Replication Methodology Report, dated October 10, 2011, prepared by ECR Construction Phasing for Land Disturbance Permit (sheets 1-6), dated October 11, 2011, prepared by RIM Engineering.

Application for a Land Disturbance Permit for Green Street Realty Trust, dated October 11, 2011, stamped by Ralph I. Maloon, RE, RIM Engineering Co., Inc.

Appeared: Atty. P. Lynch

This was a continuance from 09/08/2011, 10/13/2011 and 11/10/2011. There is a question about the fee which will be resolved between W. Lanphear and P. Lynch (see W. Lanphear email to W. Haug, dated 11/07/2011, subject: 151 Green Street, John Muldoon, Land Disturbance Permit).

Referring to the DEP notice, dated September 28, 2011 concerning missing data, to the email from Gary Bogue of DEP to Brad Holmes of ECR, dated October 24, 2011 and to the RIM letter to Gary Bogue of DEP dated November 23, 2011, the commission concluded that the missing data has been supplied.

The commission informed P. Lynch that it will engage an outside consultant to review the following: The Stormwater Management Report, the Wetlands Replication Methodology Report and the Application for a Land Disturbance Permit. W. Haug will prepare a request for a peer review in conjunction with P. Lynch, said request to be sent out for bid per Town requirements. Referring to the Homeowners' Association Agreement, this document will be reviewed/edited with P. Lynch and a special condition in the OOC to insure proper legal commitment by each homeowner will be drafted by B. LeClair. All members voted to continue this hearing to January 12, 2012.

40-1058 20 CROWNINSHIELD ROAD MURPHY/SOLOMON

Resource Area: Coastal Bank

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

Control Drawing: Site Plan, #20 Crowninshield Road (4 sheets), dated October 28, 2011, latest revision 11/29/2011, prepared by North Shore Survey Corporation and Patrowicz Land Development Engineering.

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Reference: Letter from Patrowicz Land Development Engineering, dated October 28, 2011
Letter from Geo/Plan Associates, dated November 18, 2011

This was a continuance from 11/10/2011. S. Patrowicz reviewed in detail the control drawing explaining current and proposed surface flow of stormwater, the location of various rain gardens and the areas of ledge removal. The commission noted that some of the proposed work was in the No Disturb Zone (NDZ) and read from the local regulations, section 5.4.1 dealing with this buffer. The commission pointed out that the site in this application is very large and the goal of the applicant to construct a large, flat lawn surface near the house could be accomplished without encroaching into the NDZ. The commission further noted that the work proposed in the NDZ is explicitly denied in section 5.4.1. In its present condition, the lawn on the site is mowed but not cultivated or manicured. In its proposed condition, with a cultivated lawn, the rain gardens are needed to prevent lawn chemicals from flowing into the resource waters. The commission suggested the rain gardens be located outside the NDZ which would still allow for the large, flat lawn surface and the other lawn enhancements.

It was agreed another site visit would be valuable to review this matter on site. The site visit will be Saturday, 11 December at 10:00 AM and Sunday, 12 December at 2:30 PM. All members voted to continue this hearing to January 12, 2012.

RDA 220 HUMPHREY STREET THE RESERVE AT OLIVER POND

Resource Area: BVW

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

Control Drawing: The Reserve at Oliver Pond, #220 Humphrey Street, Sheet C1, dated November 17, 2011, prepared by Engineering Design Consultants, Inc.

Reference: Letters from Souhegan Valley Engineering, Inc. dated October 27, 2011 and December 5, 2011.

Appeared: S. Frisch and Dr. Kauter, Trustee

Note that the sentence in the RDA, section C, "In addition, ... eroded surface at the base of the wall ...", per S. Frisch does not refer to the base (footing) of the wall but rather refers to the very end of the wall where the wall is only 2-3 feet in height. Frisch stated the base of the entire wall is sound. The repair work does not entail any excavation or concrete.

Some neighbors (represented by G. Loop) expressed concern about the algae and lily pads which seem to have increased in the pond since the construction on this site. The commission reiterated its suggestion made at the initial hearings for the original application to contact Aquatic Control Technology and explained the efforts being made at Black Joe's Pond for similar problems.

All members voted to close this hearing. All members voted to issue a negative determination with the condition that W. Lanphear be alerted before any work is started.

40-1059 11 CALUMET LANE

Resource Area: BVW

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

Control Drawing: Proposed Design for 11 Calumet Lane, dated 11/11/2011, prepared by Derek Bloom Architects.

Appeared: W. Manuell of Wetlands & Land Management and D. Bloom, architect
The representative said the applicant wishes to expand one corner of the proposed second floor cantilevered balcony from 4 to 6 feet and to make the proposed ground floor patio a squared footprint, slightly encroaching into the No Build Zone. The commission agreed with these changes and required a revised site plan. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

A revised site plan will be submitted to the commission for approval before any work is started. This revision will show the slightly expanded corner of the proposed second floor cantilevered balcony from 4 to 6 feet and to make the proposed ground floor patio a squared footprint,

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.).

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.

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

RDA 4 FORT SEWALL TERRACE WALKER

Resource Area: Coastal Bank

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

Control Drawing: Site Plan, 4 Fort Sewall Terrace, dated November 21, 2011, prepared by Patrowicz Land Development Engineering

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and T. Jacobs, contractor

The proposed work does not entail any excavation or expansion and is solely repair. This work will be mainly in the No Build Zone with some small patio surface repair in the No Disturb Zone. After review of the proposed work, the commission voted to close this hearing. The commission voted to issue a negative determination with following special conditions.

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.

Old/New Business:

Enforcement Order: Issued on 11/30/2011 against Oliver’s Pond Condominium Trust, 218 Humphrey Street. All members voted to approve this E.O.

Request for Change in Project Scope: 40-1012, 8 Corn Point Road (Harkins residence). See letter dated December 8, 2011 from Douglas Jones, Principal. The letter included a sketch, Proposed Propane Tank Location, dated 12/08/2011. All members voted to consider this change as minor, not requiring an amendment.

Request for COC:

40-447 11 Susan Road: All members voted to issue a COC without penalty due to new owner.

40-1048 1 Parker Lane: All members voted to issue a COC.

40-432 10 Corn Point Road: All members voted to issue a COC without penalty due to new owner.

40-1050 19 Neptune Road: All members voted to issue a COC.

Fines: At the January 2012 meeting, the commission will review its fine guidelines with regard to per diem fines for violations in the buffer zones and resource areas.

The meeting adjourned at 10:10 PM.