



TOWN SEAL  
tel: 781-631-1529

fax: 781-631-2617

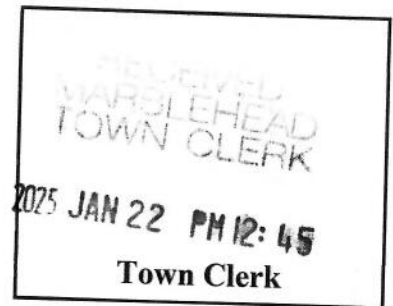
Revision Date: 12-02-20

# Town of Marblehead **ZONING BOARD OF APPEALS**

Mary A. Alley Municipal Building  
7 Widger Road, Marblehead, MA 01945

## **ZBA APPLICATION**

PAGE 1 of 3



Project Address 4 Point o Rocks Lane

Assessor Map(s) 923 Parcel Number(s) 13-0

### **OWNER INFORMATION**

Signature \_\_\_\_\_ date \_\_\_\_\_

Name (printed) Christopher Willett & Mary Sunday

Address 4 Point o Rocks Lane, Marblehead, MA 01945

Phone Numbers: home \_\_\_\_\_ work (919) 699-6727

E-mail christopher.willett@duke.edu fax \_\_\_\_\_

### **APPLICANT or REPRESENTATIVE INFORMATION** (if different from owner)

Signature [Signature] date 1/22/25

Name (printed) D. Bruce Greenwald, Architect

Address 32 High Street, Marblehead, MA 01945

Phone Numbers: home \_\_\_\_\_ work (617) 794-2234

E-mail bruce@brucegreenwald.com fax \_\_\_\_\_

### **PROJECT DESCRIPTION & RELIEF REQUESTED** (attach additional page if necessary)

Construction of new additions at the side and rear of the existing property. The new construction will be in the rear and side yard set-backs for an existing non-conforming property with less than the required lot area, rear yard set-back and exceeds the height requirement.

- Please schedule a Zoning / Application review with the Building Department by calling 781-631-2220.
- Obtain the Town Clerk's stamp and submit 12 copies of each of the following to the Town Engineer's Office:
  - the signed and stamped application (3 pages);
  - current survey plan (not older than 90 days) as prepared by a Registered Professional Land Surveyor;
  - the project design plans as required;
  - check for the applicable fee payable to the Town of Marblehead.
- Any relevant permit(s) that were previously issued must be available for review by the Board of Appeals at the scheduled hearing. (Section 3(D), Board of Zoning Appeals Rules & Regulations).

### **REQUIRED SIGNATURES**

1. Building Commissioner (pages 1, 2 and 3) [Signature] 1-22-2025
2. Town Clerk's stamp (upper right corner)

Reviewed by  
Building Department  
For Zoning Board  
Of Appeals

**View Bylaws - (Chapter 200, Zoning) - online at: [www.marblehead.org/](http://www.marblehead.org/)**

## Page 2 of 3

Building Official  Date 1-22-2025

**Town of Marblehead**  
**ZBA-APPLICATION**  
 Page 3 of 3

Revision Date: 12-02-2020

Project Address 4 Point o Rocks Lane

Map(s) / Parcel(s) 923-13-0

**NET OPEN AREA (NOA)**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>
Lot area = A	<u>24,500</u>	<u>24,500</u>
Area of features		
footprint of accessory building(s)	<u>507</u>	<u>535</u>
footprint of building	<u>2157</u>	<u>2277</u>
footprint of deck(s), porch(es), step(s), bulkhead(s)	<u>437</u>	<u>589</u>
number of required parking spaces <u>2</u> x (9'x 18' per space)	<u>324</u>	<u>324</u>
area of pond(s), or tidal area(s) below MHW		
other areas (explain) _____		
Sum of features = B	<u>3425</u>	<u>3725</u>
Net Open Area (NOA) = (A - B)	<u>21,075</u>	<u>20,775</u>

**GROSS FLOOR AREA (GFA)**

accessory structure(s)	<u>507</u>	<u>535</u>
basement or cellar (area >5' in height)	<u>0</u>	<u>0</u>
1st floor (12' or less in height) NOTE: [for heights exceeding	<u>2157</u>	<u>2277</u>
2nd floor (12' or less in height) 12' see definition	<u>1424</u>	<u>1424</u>
3rd floor (12' or less in height) of STORY §200-7]		
4th floor (12' or less in height)		
attic (area >5' in height)		
area under deck (if >5' in height) Large Overhang	<u>200</u>	<u>200</u>
roofed porch(es)	<u>148</u>	<u>164</u>
Gross Floor Area (GFA) = sum of the above areas	<u>4436</u>	<u>4600</u>

**Proposed total change in GFA** = (proposed GFA - existing GFA) = 164

**Percent change in GFA** = (proposed total change in GFA ÷ existing GFA) x 100 = 4 %

**Existing Open Area Ratio** = (existing NOA ÷ existing GFA) = 4.75

**Proposed Open Area Ratio** = (proposed NOA ÷ proposed GFA) = 4.52

This worksheet applies 1. plan by/dated \_\_\_\_\_  
 to the following plan(s): 2. plan by/dated \_\_\_\_\_  
 3. plan by/dated \_\_\_\_\_

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Building Official  Date 1-22-2025

REAR VIEW OF KITCHEN



REAR VIEW OF GARAGE AREA

4 POINT O ROCKS LANE

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STREET VIEW



REAR VIEW

4 POINT O ROCKS LANE

Reviewed by  
Building Department  
For Zoning Board  
Of Appeals



18  
RD



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
**40-1580**

MassDEP File #

eDEP Transaction #

**MARBLEHEAD**

City/Town

**A. General Information**

Please note:  
this form has  
been modified  
with added  
space to  
accommodate  
the Registry  
of Deeds  
Requirements

1. From: **MARBLEHEAD**  
Conservation Commission
2. This issuance is for  
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

**Scott**

a. First Name

**Patrowicz, P.E.**

b. Last Name

**Patrowicz Land Development Engineer**

c. Organization

**14 Brown Street**

d. Mailing Address

**Salem**

e. City/Town

**MA**

f. State

**01970**

g. Zip Code

4. Property Owner (if different from applicant):

**Bernard L. and Alice B.**

a. First Name

**Willett**

b. Last Name

c. Organization

**110 N. Corcoran Street, Unit #2403**

d. Mailing Address

**Durham**

e. City/Town

**NC**

f. State

**27701**

g. Zip Code

5. Project Location:

**4 Point O'Rocks Lane**

a. Street Address

**Marblehead**

b. City/Town

**923**

c. Assessors Map/Plat Number

**13**

d. Parcel/Lot Number

Latitude and Longitude, if known:

**42.5046d m s**

d. Latitude

**-70.8323d m s**

e. Longitude



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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City/Town

**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

**Essex South District**

a. County

**10151**

c. Book

b. Certificate Number (if registered land)

**471**

d. Page

7. Dates: **8/28/2024** **12/12/2024** **12/16/2024**  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

**(see Attachment A)**

a. Plan Title

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☐ Prevention of Pollution  
d. ☐ Private Water Supply e. ☐ Fisheries f. ☐ Protection of Wildlife Habitat  
g. ☐ Groundwater Supply h. ☐ Storm Damage Prevention i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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**MARBLEHEAD**

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**B. Findings (cont.)**

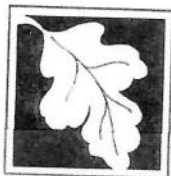
Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. **Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a)                      a. linear feet

**Inland Resource Area Impacts:** Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet	<u>                    </u> c. linear feet	<u>                    </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
	<u>                    </u> e. c/y dredged	<u>                    </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
Cubic Feet Flood Storage	<u>                    </u> e. cubic feet	<u>                    </u> f. cubic feet	<u>                    </u> g. cubic feet	<u>                    </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
Cubic Feet Flood Storage	<u>                    </u> c. cubic feet	<u>                    </u> d. cubic feet	<u>                    </u> e. cubic feet	<u>                    </u> f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u>                    </u> a. total sq. feet	<u>                    </u> b. total sq. feet		
Sq ft within 100 ft	<u>                    </u> c. square feet	<u>                    </u> d. square feet	<u>                    </u> e. square feet	<u>                    </u> f. square feet
Sq ft between 100-200 ft	<u>                    </u> g. square feet	<u>                    </u> h. square feet	<u>                    </u> i. square feet	<u>                    </u> j. square feet





Massachusetts Department of Environmental Protection  
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**B. Findings (cont.)**

**Coastal Resource Area Impacts:** Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input checked="" type="checkbox"/> Coastal Banks	<b>90 +/-</b>	<b>90 +/-</b>		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. linear feet	b. linear feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet		
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet	c. square feet	d. square feet
	a. square feet	b. square feet		
19. <input type="checkbox"/> Land Containing Shellfish	c. c/y dredged	d. c/y dredged		
20. <input type="checkbox"/> Fish Runs	a. square feet	b. square feet	c. square feet	d. square feet
	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	a. c/y dredged, <b>690 +/-</b>	b. c/y dredged, <b>690 +/-</b>		
	a. square feet	b. square feet		



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**B. Findings (cont.)**

\* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

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City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act**

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  
"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            **40-1580**            "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

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Building Department  
For Zoning Board  
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Massachusetts Department of Environmental Protection  
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**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

**40-1580**

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**MARBLEHEAD**

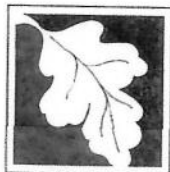
City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) ☐ is subject to the Massachusetts Stormwater Standards
- (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

**If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.

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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

SEE ATTACHMENT B

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The **MARBLEHEAD** Conservation Commission hereby finds (check one that applies):

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

**Marblehead Wetlands Protection By-Law**

**Ch. 194**

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

**(See Attachment B)**

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Building Department  
For Zoning Board  
Of Appeals



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

40-1580

MassDEP File #

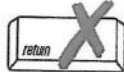
eDEP Transaction #

Marblehead

City/Town

**E. Signatures**

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

12/16/24

1. Date of Issuance

4

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.

Signatures:

*[Handwritten signatures]*

*[Handwritten signature]*

☒ by hand delivery on

12/16/24

Date

☐ by certified mail, return receipt requested, on

Date

**F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

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Building Department  
For Zoning Board  
Of Appeals



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
**40-1580**

MassDEP File #

eDEP Transaction #

**MARBLEHEAD**

City/Town

**G. Recording Information**

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

**MARBLEHEAD**

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

**MARBLEHEAD**

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

**40-**

MassDEP File Number

Has been recorded at the Registry of Deeds of:

**Essex South District**

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

**(this is not registered land)**

Document Number

Signature of Applicant

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**Attachment A**  
**Order of Conditions 40-1580**

Final Approved Plans and Other Documents: 12/12/2024

1. WPA Form 3 – Notice of Intent, with attachments, filed 8/28/2024.
2. The public hearing record relating to 40-1580, which is documented in the minutes of the Marblehead Conservation Commission.

3. Plan and Documents

Title: Existing Conditions Plan  
Location: 4 Point O'Rocks Lane  
Date: 8/25/2024  
Sheet[s]: 1 of 3  
By: Patrowicz Land Development Engineering

Title: Site Plan  
Location: 4 Point O'Rocks Lane  
Date: 8/25/2024  
Sheet[s]: 2 of 3  
By: Patrowicz Land Development Engineering

Title: Details  
Location: 4 Point O'Rocks Lane  
Date: 8/25/2024  
Sheet[s]: 3 of 3  
By: Patrowicz Land Development Engineering

Title: Letter Report  
Location: 4 Point O'Rocks Lane  
Date: 8/25/2024  
Sheet[s]: 1 of 1  
By: Dr. Peter Rosen, Coastal Geologist

Title: Existing Conditions Plan (Revised)  
Location: 4 Point O'Rocks Lane  
Date: 9/25/2024  
Sheet[s]: 1 of 3  
By: Patrowicz Land Development Engineering



Title: Site Plan (Revised)  
Location: 4 Point O'Rocks Lane  
Date: 9/25/2024  
Sheet[s]: 2 of 3  
By: Patrowicz Land Development Engineering

Title: Details (Revised)  
Location: 4 Point O'Rocks Lane  
Date: 9/25/2024  
Sheet[s]: 3 of 3  
By: Patrowicz Land Development Engineering

Title: Letter Report (Supplemental Information)  
Location: 4 Point O'Rocks Lane  
Date: 9/25/2024  
Sheet[s]: 1 of 1  
By: Dr. Peter Rosen, Coastal Geologist

**Attachment B**  
**Order of Conditions 40-1580**  
**4 Point O'Rocks Lane**

**Special Conditions:**

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.
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 shall be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site.
35. All demolition debris shall be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.
36. All construction material shall be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.
38. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

**Post-construction/in perpetuity:**

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

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

45. 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.**

50. 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). **This condition shall survive this order.**

54. The control drawing/s for this project were prepared by a licensed Professional. The construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawing/s. Progress reports shall be submitted by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Conservation Administrator based on the scope and anticipated duration of the project. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

55. 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

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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"**.

102. A tarp will be laid down at the base of the seawall during all repair work to capture all construction debris. The tarp will be on the seaward side of the seawall. The tarp will be rolled up and dumped into a disposal trailer as required throughout the work day and will be removed at the end of each work day.

103A. A maintenance plan/schedule shall be submitted to the Conservation Commission for approval covering the entire subsurface drainage system prior to construction of the system. The maintenance plan/schedule shall be recorded at the Registry of Deeds with the final Certificate of Compliance and shall be binding upon the present owner and all subsequent purchasers of the land serviced by the system.

**Attachment C**  
**Order of Conditions 40-1580**

**SCHEDULE OF FINES**

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

**Administrative violations:**

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

1<sup>st</sup> violation for applicant: \$300 per year.

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

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

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

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

**Buffer Zone Violations:**

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

**Plus possible restoration in any of the above buffer zones.**

**Resource Area Violation:**

\$300.00 per violation and per day each violation exists

**Plus possible restoration of any altered wetland resource areas.**