

**Marblehead Conservation Commission Minutes
February 8, 2024**

This hearing will be held remotely in accordance with Governor Baker's March 12, 2020 Order Superseding Certain Provisions of the Open Meeting Law, G.L. c.30A, section 18 and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place.

Present were Commission Members David VanHoven (Chair), Carole McCauley, Jesse Alderman, Kristopher Meola, Kate Melanson, Jessica Norton, and Conservation Agent Charles Quigley.

The hearing was conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw. Note: The commission currently has seven members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this hearing is therefore four members.

The hearing was called to order at 7:02 PM.

DISCUSSION:

The Commission voted unanimously to approve the minutes of the prior hearing: January 11, 2024.

ORDER OF CONDITIONS EXTENSION REQUEST[S]:

The Commission voted unanimously to approve the following extension requests:

40-1428	38 Crestwood Dr. – Jennifer P. Panza, Trustee – [Patrowicz] – house addition
40-1432	10 Harvard St. – James L. Tedford, III et ux – [Patrowicz] – house re-construction

CERTIFICATE OF COMPLIANCE REQUEST[S]:

The Commission voted unanimously to approve the following certificate of compliance requests:

40-660	8R Naugus Ave – Martin G. Ray et ux - house addition and deck
40-348	8R Naugus Ave – Martin G. Ray et ux - house addition and deck

MINOR ACTIVITY PERMIT REQUEST[S]:

Chandler Hovey Park – Town of Marblehead Rec and Parks Dept. – invasive species removal **Charles Quigley reported the representative due to speak was not feeling well. This matter was continued to next month's meeting.**

42 Foster St – Eastern YC – [Jared Charney] – tree removal **Jared Charney spoke representing Eastern YC. They applied for a permit to remove two trees near the property line at the Yacht Club. One tree had damaged a pram and almost hit a neighbor's guest house after a recent storm, and the other was deemed dangerous by an arborist due to its growth. The plan was to remove these two trees and plant four new ones, despite questions about where these new trees would be**

planted. Charles and Jesse clarified that the trees could be removed and replanted elsewhere if they posed a hazard to structures. Jared confirmed that they had held off on removing the trees until they received approval for the second tree. The type of maple tree is unknown. Jared, Jesse, and Kristopher discussed plans for landscaping work on their property, including the planting of new trees and the removal of others. A point of contention was the fate of a third tree that was not near the waterfront, with Jared suggesting its removal. The team then sought approval for a minor activity permit request. The Commission discussed adding a special condition that a planting plan detailing the location of the trees be submitted before the work commenced. The request was unanimously approved this request with the special condition attached.

DEP file#	ADDRESS	APPLICANT	PROJECT DESCRIPTION
-----------	---------	-----------	---------------------

CONTINUED PUBLIC HEARINGS:

40-1566	10 Mariner’s Ln – Mason Daring	– [John Dick] – [DEP: no comments]	– invasive species management
---------	--------------------------------	------------------------------------	-------------------------------

John Dick spoke representing the owner of the property, Mason Daring. He explained the need to trim trees on that site to maintain the structural integrity of the land and foundation. Mason would like to get a landscaper to do the trimming. John presented two graphics related to a filing, one of which was an air photo highlighting areas to be trimmed. At David's request, John shared a copy of an old license plan drawn by an engineer. The discussion revolved around the clearing of vegetation, particularly the Atlantis, from the coastal ledge to prevent bank destabilization. John also mentioned the presence of ivy, which was deemed not necessarily in need of trimming. David then opened the floor for public questions, but none were raised. The Commission voted to close the hearing. David then moved to issue an order of conditions (OOC) with special conditions. The Commission voted to unanimously approve the OOC with the following special conditions:

Special Conditions:

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 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”.**

105 Tarps shall be spread and secured over the work area on top of the existing resource area for debris containment and collection during low to medium tides. The tarps and debris will be removed between tides and at the end of workday. At no time are the tarps to be inundated due to rain, tidal or wave action. The tarps are to be removed no less than ½ hour prior to expected inundation. At that time all work is to cease in the area near the resource area.

40-1567	6 Foster St. – Dominic Marinelli, Trustee	– [Patrowicz] – [DEP: no comments available yet]	– garage re-construction
---------	---	--	--------------------------

Scott Patrowicz, representing Dominic and Erica Marinelli, presented a plan to mitigate flooding issues by raising a building and creating a buffer zone of gravelly sand. Scott discussed the plan to remove several trees, including Norway maples, which are

considered invasive species in Massachusetts. Jim MacArthur, an independent professional arborist, recommended the removal of these trees due to safety concerns, including potential damage to the building and the garage, and hazards to pedestrians. Jim also identified trees that need to be replaced due to their healthy condition and location. The discussion also included plans to mitigate water issues with the construction. James Emanuel presented the landscaping aspects of the plan, focusing on the remaining trees. James presented a site plan for a new structure, detailing its alignment with the landscape, the use of permeable pavers, and the inclusion of trees and shrubs. The trees proposed, such as River Burge, Pagoda Dogwood, Green Pillar Oak, Japanese Maple, Magnolia, and Dogwood, were primarily native species, with the exception of the Japanese Maple. James also mentioned the inclusion of evergreens for winter interest and the placement of shrubs in specific areas. The plan also included a reduction in impervious surfaces by 575 square feet and the replacement of 19 trees. Scott opened the floor for questions and clarifications. There was deliberation on the selection of a particular tree species for a project, with James highlighting its benefits. The group also discussed the tree to building ratio, with Scott referencing a previous discussion about accepting one tree for every invasive species. Scott confirmed that they had proposed 19 trees and the client was comfortable with this number. David opened the floor for questions and comments from the public, but no one raised any. The Commission moved to close the hearing and then unanimously approved the OOC with the following special conditions:

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.**

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 or 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 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".**

ENFORCEMENT ORDER[S]:

40-1192 Ralph Sevinor – [Phil Helms] – work performed outside the scope of the approved plans. **Philip Helms spoke representing Ralph Sevinor. Phil reported he submitted a memo to the Commission updating the members on their status. He confirmed they have a full landscaping plan that has been a bit enhanced that they plan to submit the week of February 19th, 2024. He asked to arrange a site tour on either Thursday or Friday and a meeting the following week to review the draft plan before it is submitted. Philip's also mentioned having representatives from the**

Commission present at the site tour and meeting. Kristopher, Jesse, and David discussed issues related to the proposed plan, particularly concerning walkways and levels. Philip's clarified that they would make adjustments based on the Commission's feedback before the submission. Kristopher also suggested that the disagreement between the Commission and the neighbor should be resolved before meetings to avoid playing middleman. Phil reported that the client's previous attorney Michele is no longer involved as there is a new attorney on the case. A site visit and meeting were set up with Phil confirming they would give them enough time to be prepared for the March meeting and to submit a notice of intent beforehand. A motion was then made and approved to continue the meeting until March, with all participants agreeing to attend next week's meeting.

DISCUSSION:

Other matters as may appropriately be brought before the Commission.

Performance standards for new piers. **There was no discussion.**

The hearing was voted to be adjourned at 7:50 PM.