

Marblehead Conservation Commission
June 8, 2017

Meeting was held in the lower conference room at the Mary A. Alley Building, 7 Widger Road, Marblehead, MA

Meeting was called to order at 7:03 PM

Present were Commission Members Chair Brian LeClair; David DePew; Fred Sullivan; Barbara Collins-Rosenberg; David VanHoven; Michael Smith and Jesse Alderman. Also present was Conservation Administrator and Town Engineer, Charlie Quigley.

MINUTES

The minutes of May 11, 2017 meeting were not discussed or voted upon. A vote to ratify the minutes of the May 11, 2017 meeting will occur at the next meeting.

DISCUSSION

Crestwood Road – tree removal 100' buffer, trimming on or near Coastal Bank – Patrick Andreason

No one appeared. Matter continued.

10 Blueberry Road – Maurine Elise steps to resolve encroachment on conservation land.

Mr. Quigley reported that a survey has been distributed and abutters notified of steps to be taken.

12 Blueberry Road – Steps to resolve encroachment on conservation land

Mr. Quigley reported that the property owner will take down his fence.

Ware Pond – Tom Stover

Mr. Stover appeared after the Executive Session discussion. He presented different ways to aerate Ware Pond. The Commission had interest in a possible pilot program. Equipment, methodology and budget need to be decided before this effort can proceed.

Schooner Ridge Sump Pump Encroachment -

Mr. Quigley explained that the owner of 33 Cloutman's Lane, with the Town's assistance, helped install a sump pump in a drainage basin. The pump drains via a pipe across conservation land along an easement out onto Schooner Ridge. The issue has attracted complaints from Schooner Ridge residents about pooling water and ice. Mr. Quigley asked how the Commission would like to proceed.

The Commission members by consensus asked the Mr. Quigley instruct the pump owner (owner of record at 33 Cloutman's Lane) to appear before the Commission. If the pump owner does not appear, the Commission will issue an enforcement order.

Requests for Minor Modification

Conservancy: Request to change granite curb steps back to field stone steps.

Motion to approve the Minor Modification request; Motion seconded; all members voted to approve the Minor Modification request.

OOC 40-1213 - 83 Naugus Ave – Seawall Repair: Collins Engineering appeared on behalf of applicant. Applicant requests modification to Order of Conditions approving seawall repairs. Applicant represents there will be no change to impacts to resource area, no change to footprint of work, no change to impervious surface calculations. The applicant proposed that the new scope of work include: (1) providing reinforced shotcrete facing over the front face of the seawall; (2) repairing stairs (in kind); and (3) filling the void in ledge adjacent to the seawall with concrete (as detailed in June 1, 2017 letter from Collins Engineering).

Mr. Quigley that a new set of concrete stairs had been formed from the property to the beach that is much larger in scope than shown on the plan.

Mr. LeClair noted that the applicants plan drawings need to be revised to show the details of the newly formed stairs. The notation "repair of stairs" as shown on the plan is not accurate, as new stairs have been formed.

Motion to approve the minor modification request to allow only the work described in Items 1 and 3 of the June 1, 2017 letter from Collins Engineering; Motion seconded; all members voted to approve the minor modification request to allow only the work described in Items 1 and 3 of the June 1, 2017.

OOC 40-1260 - 57 Naugus Ave: No one appeared on behalf of the applicant. Mr. Alderman noted that the request purports to be on behalf of the applicant and an abutter, however the request is signed only by two attorneys representing the applicant. Matter continued.

Requests for Determination

Requests for Extension

OOC 40-1164 - 22 Crowninshield – Home renovations landscaping [Williams & Sparages] exp'd

Motion to approve; motion seconded; all members voted to approve.

OOC 40-1137 - 21 Goodwins Ct – Home renovation [Stephen Gallagher]

Motion to approve for maximum period allowable; motion seconded; all members voted to approve.

OOC 40-1120 - 21 Goodwins Ct – Float Project [Stephen Gallagher]

Motion to approve for maximum period allowable; motion seconded; all members voted to approve.

Requests for Certificate of Compliance

Mr. Quigley visited all sites and confirmed compliance.

COC 40-1219 - 11 Bradlee Rd – Pool and Sitework

Motion to approve; motion seconded; all members voted to approve.

COC 40-1200 - 11 Bradlee Rd – House and Sitework

Motion to approve; motion seconded; all members voted to approve.

COC 40-1140 - 7 Bradlee Rd - House and Sitework

Motion to approve; motion seconded; all members voted to approve.

COC 40-351 - 1 Flint Street – House and Sitework

Motion to approve; motion seconded; all members voted to approve.

HEARINGS

NOI 40-1261 - 133 Front Street

Applicant: David Rosenberg

Proposed: New swimming pool and Landscaping walls.

John Dick, James Emanuel and Attorney Michael Sullivan appeared on behalf of the applicant. Mr. Dick handed up a May 22, 2017 e-mail showing that DEP had no comments and represented that the e-mail had been presented to Mr. Quigley earlier in the week.

Mr. Emanuel explained that the new swimming pool is in the 50' no build zone and a large amount of fill and retaining wall will be in the 25' no disturb zone.

In response to concern from several members, Mr. Dick explained that between 2012 and 2015, the Commission approved six swimming pools within the 25' no disturb zone, one of which was in a resource area.

Mr. Alderman noted that the Commission does not set “precedent,” but must judge every application by the same standard. That standard presumes work in the 25’ and 50’ buffer zones will adversely impact the resource area and places the burden on the applicant to rebut that presumption.

Mr. Dick explained that the resource area is the top of coastal bank, which in this case, is a wall at the property line. The applicant shows there will be no destabilization of the wall/bank. Mr. Dick stated his conclusions that there will not be erosion, there won’t be flooding, and there won’t be groundwater impacts because the fill and pool will be placed on ledge.

Mr. LeClair notes that the wall is very old, which is confirmed by Mr. Dick.

Mr. Emanuel explains that pool construction will involve no blasting that would destabilize the bank.

Mr. Dick asserts that the presumption of impact to the coastal bank here has been rebutted by the structural engineer’s report accompanying the application. Under questioning about stormwater impacts, Mr. Dick notes the backyard could flood in a “100 year storm” and flow into the resource area (harbor), but there is a vegetated area in front of the weepholes in the wall.

Ms. Collins-Rosenberg asks abutter in audience if she is concerned about impacts. Abutter states that the applicant is a “great neighbor.”

Ms. Collins-Rosenberg asks if digging into the ledge to construct the pool will destabilize the bank. Mr. Dick again notes there will be no blasting, and that more ledge was taken out with other swimming pool projects approved by the Commission in the past.

Ms. Collins-Rosenberg states she is persuaded by the abutter’s non-objection and the structural engineering report. Mr. DePew agrees. Mr. Sullivan agrees.

Mr. Smith thinks granting the application is consistent with past practice of the Commission.

Mr. Alderman said the presentation was professional and persuasive, but remained concerned about the (1) the placement of so much fill in the buffer zone; (2) the loss of impervious (or at least vegetated) surface; (3) stormwater impacts; and (4) chemicals from the pool.

Mr. VanHoven noted he has voted against many of the swimming pool projects discussed in Mr. Dick’s presentation and was opposed due the placement of 6’ of fill in the no disturb zone. He believes placing fill in the no disturb zone is impact enough to deny the application.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 41, 42, 45, 50, 54, 55, 102 and the following nonstandard condition: “no blasting will occur in connection with the work authorized by the Order of Conditions.”

Motion seconded; Motion Passed by Vote of 5-2. LeClair, Sullivan, DePew and Smith and Ms. Collins-Rosenberg in favor; VanHoven and Alderman opposed.

NOI 40-1267 - 14 Crowninshield Rd.

Applicant: David Rosenzweig

Proposed: Demo of Houses and Construct new house

There are no DEP comments. Scott Patrowicz and Attorney Robert McCann appeared on behalf of the applicant. Mr. Patrowicz explained that two houses currently sit on the site, and the plan is to construct one single family home. The application updates previous plans and includes new impervious surface calculations based on comments received at the last meeting.

Mr. McCann explained that that the initial plans moved the home further away from an abutter at abutter's request.

Mr. LeClair asks why it is necessary for construction to occur in the 50' "no build" zone?

Mr. McCann responded that the lot configuration is "strange" and moving away to accommodate the abutter occasioned the placement of some construction in the buffer zone. The setback requirements will not enable the construction to be moved out of the buffer zone.

Mr. LeClair noted that areas in the 100' ft zone appear available.

Mr. VanHoven noted that there should be water quality swales placed under the existing retaining wall in the resource area.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 50, 55 and the following nonstandard condition: "the applicant will submit a revised plan showing placement of a water quality filter by the retaining wall shown on the plan."

NOI 40-1269 - 37 Clifton Heights Lane

Applicant: Fenel Eloi

Proposed: Seawall Stabilization and sitework

Applicant requested continuance. Matter continued.

NOI 40-1270 - 10 Mooring Road

Applicant: Lan Se De Hai, LLC

Proposed: Demolish ex. House, Construct new house and sitework.

DEP comments that if foundation is in V-zone, then will need a pile foundation. Scott Patrowicz and Attorney Robert McCann appeared on behalf of the applicant. Mr. Patrowicz explained that the proposed new home is a little smaller than the existing home. The increase in impervious surface comes from a new asphalt driveway. There is a crown on the driveway so runoff is managed.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 50, 55 and the following nonstandard condition: “the applicant will construct a crown on the driveway to divert water toward the rain garden shown on plan and will submit revised plan evidencing this.”

NOI 40-1273 - 5 Sunset Road

Applicant: Julius Sokol

Proposed: Demolish ex. Home, Construct new home

There are no DEP comments. Bill Manuell appeared on behalf of the applicant. He stated there will be no construction outside of the existing footprint of the current home. A cantilevered deck will extend beyond the footprint on the second story. There will be about 160 square feet of fill between the two buildings shown on the plan, which will increase impervious cover. As mitigation, the applicant proposes to “attack” invasive species on the coastal bank.

Mr. LeClair points out that the application does not include impervious surface calculations as required by the Town Bylaw.

Ms. Collins Rosenberg asks if there is any less toxic herbicide than Roundup that can be used to control the invasives.

The applicant notes that this the preferred treatment, and the herbicides will be applied by the “cut and dab” method to control usage.

Mr. VanHoven notes that the herbicides must be applied by a licensed applicator.

Attorney Steven Lubley appeared on behalf of neighbors concerned about scope of project. He states concerns that there have been no meetings with neighbors. It is noted that the project will have to obtain zoning relief after Commission approval and that is also an opportunity for dialogue with neighbors.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 50, 55 and the following nonstandard conditions:

1. Mitigation described on page 5 of the application must be completed;
2. Submission of revised plans with impervious surface calculations consistent with bylaw is required;
3. All herbicides must be applied by a licensed herbicide applicator.

NOI 40-1272 - 25 Norman Street

Applicant: Deanna Chandonnet

Proposed: New Addition, Demolish ex. Deck, New deck

There are no DEP comments. Bill Manuell appeared on behalf of the applicant.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 50, 55 and the following nonstandard conditions: “the hot tub on deck shall be covered at all times when not in use.”

NOI 40-1275 - 18 Harbor View

Applicant: Diane E. and Michael B. Christian

Proposed: Replace existing Gangway

Applicant requested continuance. Matter continued.

NOI 40-1274 - 21 Harbor Ave.

Applicant: Stephen D. Peobody and Aimee K. Lombardi

Proposed: New Addition, New Driveway, resurface ex. D’way

There are no DEP comments. Scott Patrowicz appeared on behalf of the applicant. Mr. Patrowicz explained that the applicant would like to construct a new foundation where there currently is a three-season porch. To mitigate drainage onto the street, the applicant will create straw waddles.

It is also noted that there are not impervious surface calculations.

Mr. VanHoven stated that such erosion control is necessary.

Mr. LeClair makes a motion to close; motion is seconded.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 40, 50, 55 and the following nonstandard conditions:

- Submission of revised plans with impervious surface calculations consistent with bylaw is required;
- Plan will be resubmitted showing erosion control methods along upper 75-feet of fence depicted on plan.

[EXEC. SESSION]

[ADJOURN]