

Marblehead Conservation Commission  
December 14, 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 7:11 PM

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

**MINUTES**

The minutes of November 9, 2017 were voted upon and approved.

**DISCUSSION**

37 Clifton Heights Peer Review Fund – Applicant is entitled to unused portion of deposit, \$2,437.20. Motion to return funds to application; motion seconded; all members voted to approve.

257 Ocean Avenue – Steven Kapsalis – Discussion involved working in a resource area without filing an NOI. Mr. Kapsalis explained that he just purchased the property. A tree fell down before he bought the house, causing damage. The tree was removed. He spoke with the Town Engineer and has filed the required paperwork.

Requests for Extension

OOC 40-1187 – 44C Cloutman's Lane – Cole Pier Association – Pier Replacement and raising deck height.

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

OOC 40-865 – 63 Beach Street – Matter continued.

**PUBLIC HEARINGS**

NOI 40-1296 – 1 Flint Street

Applicant: Gregory Birtwell

Proposed: Landscaping in buffer zone and LSCSF

John Dick appeared on behalf of the applicant. The proposal is to replace a tennis court and replace it with lawn. 130 square feet of sidewalk will be removed and an existing stone wall will be refaced. A picket fence and landscaping will go along frontage.

The chair asks if the plans show a tree being removed. A tree will be removed, but it is outside of the buffer zone.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 34, 35, 36, 41, and 55.

Motion seconded; all members voted to approve.

NOI 40-1291 – 4 Cliff Street

Applicant: Town of Marblehead (Harbor Master)

Proposed: Repairs to concrete piers.

Mr. Sullivan recuses himself from the discussion. The Town Engineer submitted the NOI on behalf of the Town. The pier repairs will occur within the same footprint. No members have questions.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 35, 39, 41, 46, 47, 51, 52, 54, 55 and that:

1. Tarps shall be spread and secured over the work area on top of the resource area for debris containment and collection. 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.
2. Coating used shall be approved by the DEP. The Manufacturer's written specification for curing time shall be furnished to the Conservation Agent prior to mobilization. Coating shall be applied only as specified in the Manufacturers written specifications. Coating shall not be applied if the surface is expected to undergo exposure to rain or seawater within the manufacturers specified curing time plus ½ hour.

Motion seconded; all members voted to approve.

NOI 40-1292 – 27 Ballast Lane

Applicant: Michael and Laura Tyrell

Proposed: Maintenance of Existing Pier

Scott Patrowicz appeared on behalf of the applicant. He states that netting will be used to collect debris created during repairs and work will only be done at low tide. The pier columns are underwater at high tide.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 35, 36, 37, 38, 39, 40, 46, 47, 50, 51, 52, 55 and that:

1. The Description of the Proposed Work on the Second Page of the NOI narrative submittal is incorporated in the Order of Conditions and must be followed;
2. Best Management Practices for the debris boom, tarps, and debris collection must be used; and
3. Tarps shall be spread and secured over the work area on top of the resource area for debris containment and collection. 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.
4. Coating used shall be approved by the DEP. The Manufacturer's written specification for curing time shall be furnished to the Conservation Agent prior to mobilization. Coating shall be applied only as specified in the Manufacturers written specifications. Coating shall not be applied if the surface is expected to undergo exposure to rain or seawater within the manufacturers specified curing time plus ½ hour.

Motion seconded; all members voted to approve.

NOI 40-1293 – 444 Atlantic Avenue

Applicant: Robert and Leslie Ogan

Proposed: House addition, new garage, deck, spa, and sitework

Scott Patrowicz appeared on behalf of the applicant. The proposal calls for a deck, spa and grill on a concrete slab (use of sonotubes). There is also a 115 square foot home addition. The slope of the property is toward Atlantic Avenue.

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.

Motion seconded; all members voted to approve.

NOI 40-1294 – 8 Foster Street

Applicant: Pamela Castner

Proposed: Demolish tennis court; construct new single family home; sitework

Mr. LeClair disclosed that he has done pro bono legal work for the Allie Castner foundation. No objections.

Scott Patrowicz appeared on behalf of the applicant. The project would be in a buffer to LSCSF.

Appearing on behalf of neighbors at 6 Foster Street was attorney Robert McCann. He submitted a letter into the record. He noted there are zoning issues with the property, and acknowledged those are not properly raised at the Conservation Commission. He notes that at Tab 4 of his Letter there is a picture of an 8-ft retaining wall on the property. He questions whether the wall can support blasting.

Mr. Castner interjects that there will be no blasting involved in the project.

Mr. Alderman noted that the interest protected in LSCSF is flood prevention.

Mr. LeClair noted that if anything happened to the wall, “that would not be covered by any Order of Conditions,” so the Conservation Commission could be involved at that time.

It was the sense of the Commission that the integrity of the retaining wall and its connection to construction was an issue for the Building Inspector; not the Conservation Commission.

Mr. McCann also asks why trees will be cut, as shown on plan. He also asks about whether there are any contaminants in the fill that would be used on the site, noting that asbestos was found in fill nearby.

Mr. LeClair explains to neighbors in attendance that the ZBA requires applicants to come to Conservation Commission first, but that most of the issues they raise are not within the jurisdiction of the Con Com.

With regard to the trees proposed for cutting, he notes that the Commission requires a Landscaping Plan.

Mr. Castner stated his opinion that the current tennis court places more pressure on the retaining wall than the project; and that fill would be treated according to legal requirements.

Peter Weise, an abutter at 6 Foster Street, wants to know how he can be assured the retaining wall won’t come down on his property?

Mr. LeClair states that risk is on the owner, but that is an issue for the Town, not the Commission.

Mr. Depew asks if there might be any drainage issues.

Mr. Van Hoven notes that there is less impervious surface with the project than the Tennis Court and that landscaping would help with drainage. He notes that the Landscaping Plan should “would help.”

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 a Landscaping Plan must be submitted to the Commission.

Mr. Sullivan abstained from the vote.

Motion seconded; all members except Mr. Sullivan voted to approve.

NOI 40-1295 – 147 Front Street

Applicant: Mark H. Driscoll

Owner: Marblehead Harbor Realty Trust (David Francis, Trustee)

Proposed: Renovation and maintenance of deck/façade

Scott Patrowicz appeared on behalf of the applicant. All work on the project will be conducted from the inside of the building. The project involves the removed and replacing of the building's façade, siding and windows.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 35, 36, 40, 50, 55 and the Description of the Proposed Work in Paragraph 3 of the NOI narrative submittal is incorporated in the Order of Conditions and must be followed, and:

1. Tarps shall be spread and secured over the work area on top of the resource area for debris containment and collection. 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.
2. Coating used shall be approved by the DEP. The Manufacturer's written specification for curing time shall be furnished to the Conservation Agent prior to mobilization. Coating shall be applied only as specified in the Manufacturers written specifications. Coating shall not be applied if the surface is expected to undergo exposure to rain or seawater within the manufacturers specified curing time plus ½ hour.

Motion seconded; all members voted to approve.

NOI 40-1297 – 100 Harbor Avenue

Applicant: Scott Patrowicz, P.E., Patrowicz Engineering

Owner: Daniel J. Doherty III, Trustee, Daniel J. Doherty III Family Trust

Proposed: Pier Repair and Maintenance

The concern from the Commission was how the pier supports would be cleaned. Patrowicz said the applicant would scrape, then powerwash the columns. There are specifications for the products to be used in the NOI filing.

Mr. LeClair asks if the product specifications have been approved by DEP. Patrowicz said he did not know.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 35, 36, 37, 38, 39, 40, 41, 46, 47, and:

1. Tarps shall be spread and secured over the work area on top of the resource area for debris containment and collection. 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.
2. Coating used shall be approved by the DEP. The Manufacturer's written specification for curing time shall be furnished to the Conservation Agent prior to mobilization. Coating shall be applied only as specified in the Manufacturers written specifications. Coating shall not be applied if the surface is expected to undergo exposure to rain or seawater within the manufacturers specified curing time plus ½ hour.
3. To the maximum extent possible, scraping will be utilized before power washing.
4. During the spraying from powerwashing or other activity, the tarps used must be large enough to catch debris traveling as far as the spray.
5. Best Management Practices for scraping and powerwashing in a marine environment must be used.
6. Work will only be performed during tide conditions where debris will not end up in the ocean.
7. The Conservation Agent must approve staging for spray prevention prior to commencement of work.

Motion seconded; all members voted to approve.

NOI 40-1297 – 396 Ocean Avenue

Applicant: Scott Patrowicz, P.E., Patrowicz Engineering

Owner: Belinda Termeer

Proposed: Pier Repair and Maintenance

Mr. Patrowicz explains that the project involves installing a sleeve that will be bolted into existing concrete footings. The bolt is proposed to have a sacrificial zinc coating.

Mr. Sullivan asks if the project involves pouring new concrete foundations. Mr. Patrowicz answers 'no.'

He also explains that the concrete will be sealed and the applicant is proposing a leveling pad.

Mr. LeClair instructs the applicant to provide a revised project description with information regarding the leveled concrete.

Mr. LeClair makes a motion to issue the Order of Conditions with all standard conditions, the following special conditions: 33, 35, 36, 37, 38, 39, 40, 41, 46, 47, and:

1. Tarps shall be spread and secured over the work area on top of the resource area for debris containment and collection. 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.
2. Coating used shall be approved by the DEP. The Manufacturer's written specification for curing time shall be furnished to the Conservation Agent prior to mobilization. Coating shall be applied only as specified in the Manufacturers written specifications. Coating shall not be applied if the surface is expected to undergo exposure to rain or seawate within the manufacturers specified curing time plus ½ hour.
3. To the maximum extent possible, scraping will be utilized before power washing.
4. During the spraying from powerwashing or other activity, the tarps used must be large enough to catch debris traveling as far as the spray.
5. Best Management Practices for scraping and powerwashing in a marine environment must be used.
6. Work will only be performed during tide conditions where debris will not end up in the ocean.
7. The Conservation Agent must approve staging for spray prevention prior to commencement of work.
8. A revised description of level concrete will be submitted.

Motion seconded; all members voted to approve.

Meeting was adjourned.