

Marblehead Conservation Commission
February 14, 2019

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 7:06 PM

Present were Commission Members Chair Brian LeClair; David DePew, David Van Hoven, Jesse Alderman, Lindsey Serafin, and William Colehower. Also present was Conservation Administrator and Town Engineer, Charlie Quigley.

MINUTES

The minutes of January 10, 2019 were voted upon and approved.

DISCUSSION

1. 99 Naugus Ave – enclosing deck 2nd floor deck minor activity request

Paul Lynch on behalf of the property owner. There is no ground disturbance, no landscaping.

Motion to approve Minor Activity with the typical conditions on silt fencing, debris cleanup, etc; motion second; all members voted to approve.

Requests for Certificate of Compliance

OOO 40-1292 – 27 Ballast Ln – Michael Tyrrell et ux – pier repair

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

Requests for Order of Conditions Extension

OOO 40-977 – Redd's Pond – Town of Marblehead – [Bill Martin] Pond Weed removal

OOO 40-1209 – 212 Humphrey St – Oliver's Pond Condo Tr. – invasive and vista pruning

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

Discussion, cont.

OOO 40-1261 – 133 Front St – Rosenberg – Pool, landscaping, sitework

OOO 40-1231 – 133 Front St – Rosenberg – Additions, driveway [see addendum]

Discussion of Enforcement Order for unapproved work on both Orders of Conditions, Order of Conditions Amendment Requests for Orders of Conditions, and Requests for Certificates of Compliance for both Orders of Conditions.

John Dick, James Emanuel and Attorney Mike Sullivan on behalf of Mr. Rosenberg. With regard to OOC-1231, Dick states that unapproved work not shown on the plans submitted with the NOIs for both projects are now shown on plans submitted with the amendments. The as built plans show drainage of the roof and landscaping near the pool, including unapproved pavers. There are 231 square foot of unapproved pavers that replaced pea stones. Dick states that the rain garden is showing no discharge under what he called “normal conditions.” He also stated that there was no evidence of erosion or siltation in an overflow pipe. The pipe also was not shown on the plans. Commissioner Van Hoven asks if the roof drains to the rain garden. Mr. Dick responds that it does. The Chair confirms that the drainage and pavers are between the 50- and 100-foot buffer.

With regard to OOC-1261, Mr. Dick reports there are 123 sf of pavers around the pool that were not shown on plans approved by the Commission. Mr. Dick says the pavers do take in water. He also says he has not seen water in the weephole of the seawall/coastal bank. The Chair stated that additional hardscape requires details plans and impervious surface calculations – while it may be nominal, this is a breach of the Commission’s regulations. The Chair proposes a \$350/fine.

Commissioner Van Hoven also notes how serious the violation is because the unapproved work is mostly in the 25-foot buffer.

Motion to issue a \$350 fine for performing unapproved work for OOC-1231 and a \$350 fine for performing unapproved work for OOC-1261; motion seconded; all members voted to approve.

Motion to approve Amendments to the plans submitted with OOC-1231 and OOC-1261; motion seconded; all members voted to approve.

Motion to approve Certificates of Compliance for OOC-1231 and OOC-1261; motion seconded; all members voted to approve.

Minor Modification Requests

NOI – 40-1366 – 9 Neptune Road – Thomas Cares – [Paul Lynch] adjust proposed house location

Attorney Paul Lynch requests to shift the location of the house and stairs.

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

PUBLIC HEARINGS

NOI – 40-1387 – 91 Pitman Road – Emanuel Argiros [Samiotes Engineering] [DEP: No Comments] – deck construction

Charles Samiotes, PE for the applicant. Most of the deck will be on an existing pad. A short portion will be on the existing wall. Stairs will be built of stone. Commissioner Van Hoven asks what type of wood will be used? The applicant responded that pressure treated wood will be used for the joists.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

33, 34, 35, 36, 38, 40, 50, 55.

NOI – 40-1375 – 19 Neptune – Andrew Santella et. ux. – [Patrowicz] [DEP: No Comment] – after the fact construction in a resource area

Scott Patrowicz and James Emanuel for the applicant. The hearing is continued from December. The Commission asked for a landscaping plan. The applicant states that the proposal is to use coastal zone native plants. No trees will be removed.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

33, 34, 35, 36, 38, 40, 50, 55.

NOI – 40-1381 – 44 Foster St – Eastern YC [Hayes] [DEP: No comments] – Proposed Pier Deck Replacement

Peter Ogren and Joy Connolly for the applicant. The proposal is to redo decking on pier. The work is in Land Subject to Coastal Storm Flow. They will unbolt the decking planks. The Chair confirms that no work is proposed on the pilings. The Chair asks if there will be drilling because it will cause debris, so they would have to use tarps. Connolly states that they would prefer to pre-drill rather than use tarps. Commissioner Alderman notes the OOC should be conditioned on using tarps or pre-drilling.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

34, 35, 36, 37, 38, 39, 40, 46, 47, 48, 50, 51, 52, 54, 55, 105, 106, 109 and the additional special condition that is joists or planking or any material is drilled in place, tarps will be installed under work to capture all debris.

NOI – 40-1385 – Karl Strohmeyer et ux. [Susan St. Pierre] [DEP: no comments] reconstruct pier

Susan St. Pierre and Al Dennis for the applicant. Ms. St. Pierre reports that there is an existing float and it bottoms out in eel grass. The proposed floating dock will rest in minimum 7-ft of eel grass at all times. She says that 141 ft is as far the pier can go. The piles for the new pier will be driven by pile driver, except that will be hand pinned to ledge. The resource area is land under the ocean. The mooring blocks will be 4-ft and held by galvanized mooring chain. All are in areas of documented and observed eel grass and soft shell crab habitat.

The Chair and other Commissioner disapproved of the plans. They noted that while the Commission is not inclined to approve piers that have adverse eel grass impacts, this proposal does not even attempt to mitigate impacts. The Chair noted the mitigating measures cited in DMF's comment letters, such as elastic lines instead of chains, helical anchors, etc. The Commission also noted that driving piles in eel grass is not recommended, and any new proposal should avoid those impacts. Hearing continued to March Commission meeting.

NOI – 40-1386 – 204-208 Ocean Avenue – Thomas Mathers [Hancock] [DEP: No Comments] site improvements, landscaping

Ann McMenemy from Hancock Associates and Michael Nowicki for the applicant. The entire site is LSCSF. They report no increase in impervious surface and no removal or addition of fill. The proposal is to replace the existing wall and piers off Ocean Avenue and decrease width by a foot. There will be new pavers and paving, but 338 foot reduction in impervious. The grade will be reduced from 7% to 3% on the lawn area. New planting beds in the pool area will reduce impervious by 515 sf. A stepping stone path and bluestone patio within the 100-ft buffer will increase impervious by 200+ feet.

Additionally, 11 trees will be removed, including large Norway Maples, which are invasive, and junipers and crab apples. 11 deciduous plantings and arborvitaes will be planted. There will landscape lighting, including uplighting.

Hill Danforth, an abutter, appeared on behalf of several neighbors. The property is near the Audubon Sanctuary and the uplighting not appropriate for the night sky in the area in general. He called it "Las Vegas in Marblehead." The Commission expressed sympathy, but noted that lighting is not within its jurisdiction.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

33, 34, 35, 36, 40, 46, 47, 48, 50, 55, 107 and a surviving condition for minor pointing and repair of walls.

NOI – 40-1383 – Frank McNamara et. ux. [Patrowicz] [DEP No Comments] sitework, landscaping

Scott Patrowicz for the applicant. The proposal is for grading and landscaping in the 50-to-100 ft zone. Also for tree removal. A stockade fence is on the 25-foot buffer. Some driveway work in the 100-ft buffer zone of a vernal pool. Straw waddles will be used here. Patrowicz states they will come in with a landscape plan at a later date.

Scott Cameron appears on behalf of Bob Burr, an abutter. The concerns are with the stockade fence apparently being shown in a location in which it won't be placed; and the vagueness on the plan of which trees will or won't remain.

Commissioner Alderman states that Plan presented to Commission stating “Tree to Remain, If Possible” is not sufficient. The Plan must definitively state the tree remains or is to be removed, if within a jurisdictional area.

Applicant and Patrowicz confirm that the only trees to be removed are those clearly listed as to be removed on the Plan. Confirmation that the only tree to be removed within a buffer zone is a 6’ pine shown on plan.

The abutter’s wetland consultant, Tom Hughes, suggests that the vernal pool is closer to the rear area of the property than is shown on the plan. Patrowicz states that wetlands delineation was performed, and no obligate species for vernal pools was observed. Hughes responded that the survey was performed at “the worst time of the year” for species observation.

Hughes next contends that 6’ spacing on the fence does not benefit wildlife movement. He suggests no fence and no tree removal be approved, because it is common practice for pruning not to contain trees as large as proposed for removal by the Applicant (i.e., trees above 4-6" in diameter). Patrowicz responds that only one tree is being removed within the 50’ buffer.

The Chair notes that the fence type will be on a landscape plan, and the abutter will be given notice of that submission to the Commission to further comment.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

34, 35, 36, 40, 50, 55, 107 and a further special condition that other than the one 6’ pine shown on the Plan, no further trees shall be removed within the buffer zones until submission of the Landscape Plan, and that stockade fence is not approved and will be addressed in the Landscape Plan, which shall have sufficient detail of all work to be performed.

NOI – 40-1382 – 20 Crowninshield Rd. - David Rosenzweig [Patrowicz] [DEP No Comments] foundation replacement, sitework, landscaping renovations.

Scott Patrowicz for the applicant. The work to be performed is in the same footprint as the existing structure to fix foundation in a 100’ buffer. The flagstone patio is being replaced in a “similar” footprint with similar materials.

Motion to close hearing; second. Motion to approve; motion seconded; all members voted to approve an Order of Conditions with the following Special Conditions:

33, 34, 35, 36, 40, 50, 55, 107.

NOI – 40-1382 – 65 Naugus Rd. – Edward Breed et. ux. [Patrowicz] [DEP No Comments] replace existing pier, sitework.

Scott Patrowicz and Collins Engineering on behalf of the applicant has submitted a response to the letter from DMF. The applicant states the clearance for the float is 4 feet and the proposal cannot place the float further out in the deeper water because there is eel grass. There will be

driving piles for the hoist of a 50 foot gangway. The gangway is needed to avoid shallow and receding water. Applicant confirms that the float is 2 times bigger.

The Chair asked if the “bend” in pier could be bigger to angle away from eel grass and to have a smaller float. The Conservation Agent further noted that in addition to increasing the angel of the pier, the float could be angled away from the eel grass and position it in deeper water. The applicant will consider the feasibility of the suggestions. Hearing continued.

New Condition. The Chair proposed the Commission adopt a new general condition to restore conservation land after work, and that it be a general condition of OOCs and Minor Activity Permits.

Motion to Adopt the New Condition; Seconded; All members voted to approve.

Meeting Adjourned