

Marblehead Conservation Commission
Meeting Minutes
January 10, 2019

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

Meeting was called to order at 7:06 PM

Present were: Commission Members David Depew, Michael Smith, Lindsey Serafin, Bill Colehower, and David VanHoven. Also present was Conservation Administrator and Town Engineer, Charles Quigley.

Absent were: Commission Members Brian LeClair, Jesse Alderman,

The hearings were 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 meeting is therefore four members.

Approval of Minutes:

Motion to approve minutes of meeting held on December 13, 2018, was made and minutes were approved.

DISCUSSIONS:

- **19 Neptune Ave** – Alteration to resource area/buffer zone without a permit. Appeared: Scott Patrowicz, Patrowicz Land Development Engineering; Andrew Santella, owner. Mr. Santella hired landscape architect to complete plans which are not available at the time of the meeting; Owner paid fine issued at the December 2018 meeting; landscape architect will have a plan document permeable surface) continued to February Meeting to review landscape plan.
- **133 Front St** – Non-compliant alternation in a resource area. Discussion was postponed to the February meeting pending calculations on impervious surface being submitted to the board.

REQUESTS FOR CERTIFICATE OF COMPLIANCE

The below was approved by the Commission:

- **40-1034**, 22 Foster Street – Ralph Savinor – Additions, sitework.

The below COC requests were postponed until a future date:

- **40-1261**, 133 Front St – Rosenberg – Pool, landscaping, sitework. The work failed inspection for unapproved changes.
- **40-1231**, 133 Front St – Rosenberg – Additions, driveway. The work failed inspection for unapproved changes.

ORDER OF CONDITIONS EXTENSION REQUEST:

- **40-1187**, 44C Cloutmans Lane – Cole’s Pier Assoc – Pier Repairs The commission voted unanimously to extend the OOC for 1 year.
- **40-1058**, 20 Crowninshield Road – David Rosenzweig – Sitework The commission voted unanimously to extend the OOC for 1 year.
- **40-1232**, Goldthwait Reservation – Goldwaith Reservation, Inc. – Invasive species management. The commission voted unanimously to extend the OOC for 1 year.

PUBLIC HEARINGS:

NOI 40-1371, Tower School

Appeared: Bob McCann, Dean Seidel, and Christian Huntress, RLA

Proposed: Playing field improvements

School is going to the Board of Appeals on February 26 to receive permission to remove soil.

As requested by the Board in December, 2018, plans have been revised to show a delineation of the fence and netting system; and details for the construction of the turf anchor footing at the corner of the proposed field by the wetlands; and a report documenting ground water quality.

Commission Member Serafin asked about sheeting for forming the concrete wall. Mr. Huntress stated sheeting was not needed for the project.

All members voted to close the hearing. All members voted unanimously to issue an OOC with the following special conditions:

- i. The Town of Marblehead storm sewer line crossing the property will be inspected with a video camera prior to construction to document it’s condition and any damage caused to this drain line by the contractor during construction will be repaid by the property owner.

During construction:

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.

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.**

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".**

107 Before any landscape work begins, the applicant shall submit a landscape plan to the Commission for approval. No landscape work may commence until the Commission has approved the landscape plan.

NOI 40-1380, 13 Goldthwait Rd

Appeared: Kurt Young, Wetlands Preservation Incorporated

Proposed: Storm Cleanup

There were no comments from DEP.

Commissioners discussed special conditions and agreed that the same special conditions that were approved for the adjacent properties which were approved in November 2018.

No comments from the public.

All members voted to close the hearing. All members voted unanimously to issue an OOC with the following special conditions:

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.

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.**

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108. Stones, coarse sand and rock deposited by wave action may be relocated to the beach following review and authorization by the Marblehead Conservation Commission administrator or an authorized member of the Marblehead Conservation Commission. Relocated material will be clean of soil and other debris such as organic plant material, metal, tires, plastic, trash or other debris that may result in a hazard in the resource area or a navigational hazard if refloated. All unsuitable material shall be removed and properly disposed of off-site. Hand loading of mechanical equipment may be required to avoid the indiscriminant placement of unsuitable material in the resource area. No soil or plant material will be allowed to be placed on the beach. Any resulting invasive or other plant material which grows from replaced material is the responsibility of the property owner to control and remove following review and approval of the Marblehead Conservation Commission administrator. Material must be placed on the lot from which it was removed or in a location approved by the Marblehead Conservation Commission

administrator. Property owners will be required to provide photo documentation of preexisting beach conditions and restore the dune areas to the preexisting conditions which is expected to be a relatively gradual slope to the high water line. Stones will not be piled in a manner that obstructs access to the beach from properties or easements.

Failure to comply with these guidelines to the satisfaction of the MCC may result in the revocation of the perpetual condition, the issuance of an enforcement order and the need to refile to reinstate the condition.

The post storm topography of the resource area shall match the pre-storm topography. A topographic survey may be required at the discretion of the Marblehead Conservation Commission.

The Conservation Commission may for any reason require the material to be removed and properly disposed of off-site away from the resource area. **This condition shall survive this order.**

109. Petitioner shall not place stones or other materials on the property of others without the prior written permission of the relevant property owner.

110. The lot corners and lines shall be established by a registered professional land surveyor. Swing ties and ranges to fixed monuments, house corners, walls, etc. shall be documented so the corners and lot lines can easily be retraced and laid out in the field using a tape measure. The swing ties and ranges shall be documented with the Conservation Commission. Prior to the movement of any material, the corners and lines shall be staked out.

111. 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 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. The applicant may act to control any developing invasive plant species by either mechanical or chemical controls following, in the case of herbicide treatment, that applicable application procedures and controls. Only DEP approved chemicals may be used. Only a licensed firm may apply the chemicals.

112. Once the current storm damage and any Enforcement Order issues are satisfactorily resolved, 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 is started under the OOC or if some of the work will not be performed, the applicant must so note on the COC request. The Conservation Commission may require the submission of an “as-built” drawing (signed and stamped by a 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 11 E.

113. In the future, stones, coarse sand and rock deposited by wave action may be relocated to the beach following review and authorization by the MCC Administrator or an authorized member of the MCC, as a surviving condition. Relocated material will be clean of soil and other debris such as organic plant material, metal, tires, plastic, trash or other debris that may result in a hazard in the resource area or a navigational hazard if refloated. All unsuitable material shall be removed and properly disposed of off-site. Hand loading of mechanical equipment may be

required to avoid the indiscriminant placement of unsuitable material in the resource area. No soil or plant material will be allowed to be placed on the dune or beach. All material returned to the dune or beach will be placed on the applicant's property following establishment of property boundary lines developed in Condition 110 or as agreed to by the MCC Administrator.

114. Any resulting invasive or other plant material that grows from replaced material is the responsibility of the property owner to control and remove following review and approval of the MCC Administrator. Material must be placed on the lot from which it was removed or in a location approved by the MCC Administrator. The property owner shall be required to provide photo documentation of pre-existing beach conditions and restore the dune areas to the pre-existing conditions which is expected to be a relatively gradual slope to the high water line. Stones shall not be piled in a manner that obstructs access to the beach from properties or easements. Failure to comply with these guidelines to the satisfaction of the MCC may result in the revocation of the OOCs, the issuance of an enforcement order, and the need to refile to reinstate the OOC. The post-storm topography of the resource area shall match the pre-storm topography. A topographic survey may be required at the discretion of the MCC. The Conservation Commission may for any reason require the material to be removed and properly disposed of off-site away from the resource area.

NOI 40-1378, 11 Crown Way

Appeared: Scott Patrowicz Land Development Engineering; Sheriene Jacobs, property owner

Proposed: House Demo, new house, landscaping and sitework

Mr. Patrowicz noted that the owner intends to file a separate NOI if they expect to do any work on the pool.

Mr. Van Hoven asked for a clarification of the drainage plan. Mr. Patrowicz stated that storm water will be directed to water quality swales and will not go on to the abutting properties.

Christine Caldwell of 2 Crown Way asked about the drainage as that there is a lot of water that comes from the street goes onto her property. Mr. Patrowicz stated that all the water that falls on the property will remain on the property and flow into water quality swales.

Jay Epstein of 9 Crown Way stated that during storms, he gets a lot of water in his basement and would not want the project to exacerbate this condition.

Julie Donnavan 1 Crown Way asked if the drainage would be directed toward her property. Mr. Patrowicz stated that water will be directed into the water swale and go into the ground.

Mr. Epstein noted that there is a town easement with a main storm drain and water builds up at the concrete basin and floods up to Atlantic Ave. Is there a chance to fix the problem as part of the project? David Depew noted that the property owner did not have responsibility to fix all the drainage problems in the neighborhood and agreed that the property should not make the problem worse.

Mr. Patrowicz said that some redesign could direct waters to the back of the pool and not onto Crown Way.

Mr. Van Hoven asked if it would be possible to reduce the paved surfaces so that there to eliminate the proposed increase of 600 square foot of impervious surfaces in the resource area. Mr Patrowicz and Ms. Jacobs agreed to modify the plan to reduce the paved area so there is no impact in the resource area.

Ms. Jacobs, the property owner, noted that additional trees will be planted on the property as part of the project.

Mr. Epstein asked questions about a right-of-way that existed in the area of Crown Way. Mr. Quigley indicated this was a question to discuss with the Town Legal department or the Town Engineer.

Mr. Depew indicated that part of the conditions will be to submit an amended plan as well as a landscape plan that will reflect the proposed changes in impervious surface and drainage changes.

Carl Bradshaw 10 Crown Way asked about the height and massing of the home. A. the height the building is not under the prevue of the Conservation Commission.

All members voted to close the hearing. All members voted unanimously to issue an OOC with the following special conditions:

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.

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.**

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NOI 40-1379, 45 Beacon Street

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering; Jonathan and Jenny Putnam, Owner

Proposed: Pool replacement, home repairs and improvements, invasive species management.

No comments from DEP

No questions from the Commission

No questions or comments from the Public.

All members voted to close the hearing. All members voted unanimously to issue an OOC with the following special conditions:

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.).

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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.

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Continued Hearings:

NOI 40-1376, 6 Harbor View

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering representing Kevin and Holly Crosby

Proposed: Sitework, masonry and landscaping.

Applicant requested a continuance to February 14, 2019

All members voted to continue to the February meeting.

NOI 40-1375, 19 Neptune Street

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering representing Andrew Santella

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Applicant requested a continuance to February 14, 2019

All members voted to continue to the February meeting.

Meeting was adjourned at 8:00pm.