

Marblehead Conservation Commission
September 12, 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 August 15, 2019 were voted upon and approved unanimously.

DISCUSSION

A motion to correct a typographic error in the minutes of the June 13, 2019 hearing to change file number '30-1367' where appearing on page 2 to '40-1367' was approved unanimously.

1. Enforcement Order – 4 Nonantum Road – issued to Debra Wonson for violation of 310 CMR 10.00 alteration in resource area without filing NOI.

The Conservation Agent reports that the Enforcement Order has issued; no one appeared.

2. Enforcement Order – 23 Pinecliff Road – issued to Alex and Nicole Bender for violation of 310 CMR 10.00 alteration in resource area without filing NOI.

The Conservation Agent reports that the Enforcement Order has issued; no one appeared.

3. Enforcement Order – 22 Whittier Road - issued to David C. Quade for violation of 310 CMR 10.00 alteration in resource area without filing NOI.

Mr. Quade, the property owner appeared and reported he will be filing an NOI. The Chair stated that the Commission would address the Enforcement Order and any applicable fine at the hearing on the NOI.

4. Minor Activity Request – 11 Kimball Street – Leonard Conlin et. ux. – tree removal in buffer zone.

Jesse Alderman recused himself from participation. The applicant proposed to remove a tree it said was rotted and a danger. It was within a 100-foot buffer zone. The Chair asked if a new tree will be planted. The applicant agreed to do so. Motion to approve Minor Activity with the condition that a tree of like size and type is replanted; Motion seconded; all in favor.

Minor Modification Request:

OOO 40-1389 – 30 Pequot Rd – John McIver – minor modification to shorten ramp.

The applicant reported that the plan is not ready; matter continued

OOO 40-1389 – 3-5 Gilbert Heights Lane – Judith Schmid – add deck

Colin Flavin appeared on behalf of the applicant. The applicant is requesting to increase the size of an existing deck. The applicant states the deck will not disturb the coastal bank. A balcony has been approved for the property and the deck is now requested to be added to the plan. The Commission needs copies of the plans because of potential impacts to the resource area; matter continued.

Requests for Certificate of Compliance

OOO 40-1288 – 2 & 3 Eustis Rd – Eamonn Healy – home renov., sitework, landscaping

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

OOO 40-1008 – 289 Ocean Avenue – Howard Rich et. ux. – house addition

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

OOO 40-493 – 115 Front Street – Janet Sheehan – house and deck additions

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

OOO 40-858 – 5 Nashua Avenue – Cara B. Niles – kitchen addition

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

OOO 40-1346 – 5 Nashua Avenue – Cara B. Niles, Brian Lucas et. ux., Donald Souter et. ux. – granite stairs installed

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

OOO 40-1309 – 5 Nashua Avenue – Cara B. Niles – rebuild wall, re-point rip rap, site work

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

OOO 40-1310 – 8 Nashua Avenue – Donald Souter et. ux. – rebuild wall, re-point rip rap, site work

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

OOO 40-1227 – 87 Beacon Street – Moira James et ux – Tree pruning, removal, invasive mgn't

Curt Young appearing on behalf of the applicant. There was invasive management and the work as approved has been completed. The applicant would like perpetual conditions added to the COC, which per what Mr. Young represents are DEP's requirements, are "tied to the original conditions." The two perpetual conditions that the applicant would like are (1) a condition to control invasives; and (2) a condition to maintain the viewscape by pruning an existing tree. The Commission does not believe the second condition is justified or within the scope of the original order. There are no concerns with the first requested condition provided that the management is limited to the same method and restrictions in the OOC (the 'cut and swab' method).

Motion to issue Certificate of Compliance with an additional perpetual condition for managing invasive plants subject to the same restrictions and conditions contained in the Original Order of Conditions.

PUBLIC HEARINGS

NOI – 40-1403 – Ocean Avenue, Harbor Avenue, Peabody Ln., Parker Ln., Harvard St. – Town of Marblehead [Charles Quigley P.E.] – Seawall and revetment repair and maintenance

DEP had no comments. John Dick and Charles Quigley appearing on behalf of applicant Town of Marblehead. The Town is seeking surviving conditions for ongoing maintenance in the named streets to repair and replace displaced stones in seawalls and revetments.

Anita Ross, Harvard St., wants to make sure Harvard St. work is included in the Plan. The steps there are displaced. The Town put them back but they are not mortared. She wants them permanently able to be fixed.

Phil Helms, Harvard St., notes that there should be curbing so runoff could be channeled into the surface drain.

Mr. Colehower notes that Harvard Street is not listed in the NOI. Mr. Quigley notes that the NOI narrative will be updated to include all of the Harvard St. work discussed, including stair replacement. This was the intent.

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, 35, 36, 40, 41, 42, 43, 50, 55.

NOI – 40-14xx – 4 Nonantum Rd. – Debra Wonson [John Dick, P.E.] – After the fact filing, alterations in resource area protected by 310 CMR 10.00

John Dick appearing on behalf of the applicant reports that the filing was made in response to an enforcement order, but the plans are not ready.

Motion to continue without opening until October 10 Meeting; motion seconded; all members voted to approve.

NOI – 40-1406 – 293R Ocean Avenue – Peter Noyes et. ux [Hayes Engineering] – new house, garage foundation, utility and site work

No DEP comments. Peter Ogren, Hayes Engineering, on behalf of the applicant. The project involves (1) construction of a pool; (2) new foundation under the house; (3) an underground garage with surface access (partially in the 100-ft buffer zone); and (4) installation of a forced main sewer.

The Commission questions the lap pool located in the 25-foot no disturb zone. Ogren responds that the area is previously disturbed and ledge and fill. The Commission points out that it is lawn today. Sense of Commission is that the pool is problematic under its bylaw pertaining to the No Disturb zone, and there is no plan showing its design, construction methods and materials, etc. Much more information is needed.

The house will remain on the same footprint.

Sheila Gearty, an abutter, notes that the area near the pool can flood. Another abutter questions if there will be blasting to construct the pool, and notes that lot is small and questions how access for construction of garage and foundation will occur.

The Chair notes that no permission is granted by an Order of Conditions to enter the property of others.

Motion to close hearing; second. Motion to approve except for the request to construct the swimming pool, which is denied; motion seconded; all members voted to approve an Order of Conditions for the work described in the NOI and shown on the plans, except for the swimming pool, which is denied, and with the following Special Conditions:

33, 34, 35, 36, 40, 41, 50, 55, 107 and additionally there shall be no blasting.

NOI – 40-1405 – 61 Naugus Ave. – Alan November – [Patrowicz] – new pier gangway, float, site work

Applicant requested to continue without opening.

Motion to continue without opening until October 10 Meeting; motion seconded; all members voted to approve.

NOI – 40-1410 – 61 Naugus Ave. – Alan November – [Patrowicz] – new deck addition, masonry repairs, site work, and landscaping

Scott Patrowicz appearing with the Applicant. Grading started under an existing Order of Conditions, but the hill is too big and the applicant would like to amend re-grade, including on a portion of abutters property. The applicant is also seeking new deck pilings in the resource area.

Mr. Smith notes that the NOI cannot be submitted without being signed by the abutter, on whose property work will occur, or with the abutter's written authorization. Applicant states that he has consent and a lawyer advised him NOI did not need to be signed by abutter. Commission disagrees and suggests a continuance. The Commission also questions if new pilings in the resource area are allowed under the bylaw.

Motion to continue; seconded; all members vote to approve.

NOI 40-1407 – 22 Cliff St. – Daniel Sullivan et. ux. – [Patrowicz] – conc. landing, lifting hoist, dock, site work, landscaping etc.

Applicant requested to continue without opening.

Motion to continue without opening until October 10 Meeting; motion seconded; all members voted to approve.

NOI 40-1409 – 2 Mill Pond – Hadley MacLean – [Patrowicz] – new pool, site work and landscaping

Scott Patrowicz appearing on behalf of the applicant and explains proposal. He reports a landscape plan will be submitted one month prior to any hardscape work or any planting. The Commission makes clear that trees cannot be removed in a resource area without approval.

Jen Howe, an abutter, supports the project. She has lived in the neighborhood for 61 years and believes that the work proposed will help with drainage.

Gary Kenner, an abutter, also supports the project. He says the proposed rain garden will help with drainage.

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, 45, 50, 55, 107 and the condition that no trees can be removed without the submission of a Landscaping Plan.

Additionally, a minor activity permit is issued to 2 Mill Pond for work on tree shown on plan.

NOI 40-1408 – 7 Redstone Ln – Lawrence R. Clark et. ux. – [Patrowicz] – new emergency egress landing, site work, invasive species management

Scott Patrowicz appearing on behalf of the applicant and explains 60 linear feet of emergency egress are needed for basement exit. Also the applicant requests poison ivy and invasive management. The Chair asks if the roots of invasives and ivy hold soil. The applicant will not remove any roots; trees will be pruned only so not to pull soil down. The Chair asks if anything else will be done to stabilize soils. The applicant will plant grey sumac and will show that on a Landscape Plan.

Andy Sanford, Glover's Landing, notes that the applicant is calling poison ivy an invasive, but it is a native plant. The applicant notes that poison ivy will only be managed, not cut, so it doesn't pull down existing trees.

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, 36, 40, 50, 55, 107

Meeting Adjourned