

Marblehead Conservation Commission
May 14, 2020

This hearing was held remotely in accordance with Governor Baker's March 12, 2020 Order Superseding Certain Provisions of the Open Meeting Law, G.L. c.30A, section 18 and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place.

Meeting was called to order at 7:05 PM

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

MINUTES

The minutes of March 12, 2020 were voted upon with the two amendments discussed, and approved unanimously.

DISCUSSION

1. Enforcement Order – 146 Lafayette Street – Forest River Estates Condominium Trust III – Patricia Hart Tr. – making alterations without a permit in an area subject to protection under MGL 131 section 40 and the Town of Marblehead Wetlands bylaw Chapter 194. Clear cutting on a coastal bank. Kim Barber, property owner, appeared.
2. Enforcement Order – 10 Surf Street – making alterations without a permit in an area subject to protection under MGL 131 section and the Town of Marblehead Wetlands bylaw Chapter 194. Clear cutting on coastal bank. Abutters appeared to state that the cutting created a dangerous condition and potential liability. They said vegetation was cut on private property. Town Engineer will visit the site to assess.
3. Enforcement Order – 11 Susan Road – Stevie G. Browning – making alterations without a permit in an area subject to protection under MGL 131 section and the Town of Marblehead Wetlands bylaw Chapter 194. Clear cutting on coastal bank. Cutting vegetation / trees, sitework. Stevie Browning, property owner, appeared.

The Enforcement Orders were handled in omnibus fashion. The Commission voted unanimously to ratify all three Enforcement Orders. All three property owners subject to the Enforcement Orders must submit NOIs by the July meeting at which time fines will be discussed. If an NOI cannot be submitted by the deadline to be placed on the July meeting agenda, the applicant must notify the Commission at the June meeting.

4. 11 & 13 Goldthwait Rd. – Susan Dumas et. ux. & Max Clay – [Curt Young rep.] soil removal and cobble beach method. The property owners would like to make the dune level. There is a topographic break in the dune where stones wash away. They would

also like to treat invasives. They will cover the area with tarp and sift stones using a rock bucket. The tree in the work area will be preserved. The work can be performed under the existing LOI. The Commission has no concerns with the method proposed.

5. 2 Fort Sewall Terrace – Richard Coffman – [Christina Campa rep.] – sitework. Mr. Quigley reported that this is a bylaw project only. It is in 100 ft. of a FEMA flood zone. A minor activity permit is approved.

Minor Modification Request:

OOO 40-1405 - 61 Naugus Avenue - Alan November - Alternative footing detail for pier – Scott Patrowicz and engineer Curtis Cheney on behalf of the applicant. The applicant requests a proposed alternative to the approved design if the foundation of the pier cannot be set into bedrock. The alternative design will have the same number of pilings. Mr. Alderman asks if the mapped eel grass and an eel grass survey was performed per Commission regulations. The applicant responds that that surveyed eel grass was more extensive than the mapped eel grass. Motion to approve; seconded; all members voted to approve.

Brian LeClair recused himself from participating.

The Conservation Agent announced that a properly requested Order of Conditions Extension request for [DEP file# 40-1129 – Naugus Head Association – for beach maintenance and use activities] was inadvertently omitted from the agenda. The Commission acknowledged the request and approved a one year extension.

OOO 40-1379 - 45 Beacon Street — Jennie Putnam et ux — [Kara Pascal rep.] tree removal and replacement. Applicant proposes to replace two Norway Maples with more tolerant trees. Motion to approve; seconded; all members voted to approve.

OOO 40-1389 - 30 Pequot Road — John McIver — [John Dick rep.] — stairway near pier. A condition for approval of a Certificate of Compliance for the original Order was that the applicant come back before the Commission with a plan for a walkway to the approved pier and float. This is the plan. Motion to approve; seconded; all members voted to approve.

Brian LeClair recused himself from participating.

Requests for Certificate of Compliance

OOO 40-495 - 102 Harbor Avenue - Angelo & Alice Arena - No work performed - Motion to approve; motion seconded; all members voted to approve.

OOO 40-697 - 102 Harbor Avenue - Angelo & Alice Arena - pier repairs - Motion to approve; motion seconded; all members voted to approve.

OOO 40-760 - 102 Harbor Avenue - Angelo & Alice Arena - house addition - Motion to approve; motion seconded; all members voted to approve.

OOO 40-235 - 26 Gingerbread Hill — Daniel Wiggin et ux - [Patrowicz] – addition - Motion to approve; motion seconded; all members voted to approve.

OOO 40-1245 - 325 Ocean Avenue - William & Meghan Cashel - [Patrowicz]- house addition, site work. An NOI on file will cover issues found at inspection; no action taken on request.

OOO 40-1433 - 325 Ocean Avenue - William & Meghan Cashel - [Patrowicz]- seawall repairs, site work. An NOI on file will cover issues found at inspection; no action taken on request.

OOO 40-1252 - 9 Bartlett St — Stephen Peterson — [Hayes Eng'g. rep.] addition. Mr. Quigley reports that the work under the Order was completed, but there is also an unapproved patio. The chair states no action will be taken on the request, and a submission will be needed for the unpermitted patio at the June meeting. Motion to continue to June meeting; motion seconded; all members voted to approve.

OOO 40-656 - 63 Naugus Ave — Lynda M. Cutrell — [Stephen Livermore rep.] — dock, pier & ramp. The applicant states that a pier, ramp and landing are permitted, but not a walkway. All is 20 years old, the applicant states, but there is no Certificate of Compliance for the pier. The applicant submitted as-built plans with the walkway. The chair requests a Minor Modification request for the Commission to review before the COC request can be acted upon. Motion to continue to June meeting; motion seconded; all members voted to approve.

CONTINUED PUBLIC HEARING(S):

NOI 40-1431 - 5 Sunset Road — Julius Sokol - [DEP: no comments]- pier reconstruction and expansion – Matter continued from March meeting. Proposal is for repairs to a crumbling 8 x 8 platform and a 13’ extension of the gangway and float. The question to address after the continuance was how the applicant would remove the gangway in storms. A cantilevered steel pickup has been added to the plan. 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, 37, 38, 39, 40, 46, 47, 48, 50, 51, 54, 55, 111, 112.

PUBLIC HEARINGS

NOI 40-14xx - Surf St. at Spray Ave. — [John Dick rep.] — [DEP: no comments available yet] — site improvements. Motion to continue to June meeting; motion seconded; all members voted to approve.

NOI 40-1440 - 1 Parker Ln — William Nutt - [Hayes Eng'g rep.] - [DEP: no comments] — seawall repair/replacement – The seawall runs under the house. Portions of the wall are under construction under the emergency order due to the storm this winter. There is a fissure in the wall and it is listing toward the harbor. The proposal calls for new mountings into the existing ledge. The chair notes that the Order will be issued subject to submittal to a section sketch of the rail stairway material. 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, 41, 42, 50, 54, 55, 102, 109, 111 and the requested Section Plan.

NOI 40-1434 - 27-29 Clifton Heights Lane — Laurence & Lori Groipen - [Patrowicz] - [DEP: no comments] — Existing house demolition, New house construction, Site work and landscaping. The proposal is to demolish the existing house and tennis court, compacted driveway and deck. A new home and other improvements is proposed. The applicant states that it is keeping the existing footprint of the wall and a new wall within the footprint. A 10' x. 16' pool will be inside the wall. The house will be moved back further with new landscaping. The applicant claims the impervious surface is decreasing in the buffer zones. Mr. Van Hoven notes that the gains in permeable surface is due to the removal of the tennis court, which is near the perimeter of the 100' ft buffer zone. There will be gains in impervious surface in the 25' no disturb zone and on the Top of Coastal Bank. In response to questions, the applicant confirms that no fill will be added and the roof will drain into a leaching chamber.

Ryan Wilson, an abutter, requests that less be work be performed within the 50' no build buffer zone.

The chair notes that to review the proposal, the applicant needs to provide impervious surface calculations as required. Motion to continue to June meeting; motion seconded; all members voted to approve.

NOI 40-1439 - 41 Orchard Street — Patrick & Jennifer Duffy - [Patrowicz] - [DEP: no comments] — Existing house demolition, New house construction, Site work and landscaping. The plans call for keeping the current pool and installing swales to filter water before it can reach the Goldwaith Reservation. There will be a new driveway and new home construction. Native plantings will be added. The Top of Coastal Bank runs through the house. In all, impervious surfaces will be increased by 774 feet.

Mr. Colehower asks if the swales should be placed closer to the home too not to inundate the swales closer to the reservation. Mr. Patrowicz responds that there is crushed stone under the deck and a leaching chamber near the house.

Mr. LeClair comments that the biggest threat to the reservation is silt going into seawater channels. Mr. LeClair would like the property line should have a filter installed to catch sediment. He would also like to see the swale extend along the entire property line at the Reservation boundary.

The applicant agrees to extend the swale.

Mr. Van Hoven cautions that the swale should be extended, but not cut into the hill.

Mr. Alderman states he would like to see a condition that there can never be an expansion of the footprint of the existing pool and existing impervious surface surrounding the pool. The Commission comments the condition should be no increase in impervious surface at all in the resource area in any future proposal.

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 following additional conditions:

1. The applicant will submit a revised plan showing the extend swale and other mitigation features at the edge of the salt marsh and depict a filter cloth that will retain solids.
2. There shall be no additional impervious surface added in the resource area in the future.

NOI 40-1435 - 17 Nonantum Road — Bessom Associates, Inc. - [Patrowicz] - [DEP: no comments] — House/deck reconstruction, Site work and landscaping. Applicant reports that all work will be in the same footprint. There is a net decrease in impervious surface. The applicant confirms no work will be performed below grade. In response to concerns, the applicant agrees to add more crushed stone in rear areas of the residence.

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, and the following additional condition: The applicant will submit a revised plan with a modified note showing the placement of additional crushed stone up to 24”.

NOI 40-1436 - 115 Front Street — George & Tannas Abatjoglou - [Patrowicz] - [DEP: no comments] — House/deck reconstruction, Site work and landscaping. The applicant states the work on the house will be performed in the existing footprint of the foundation. There will be repointing and repair of a stonewall with addition of removable stairs. A patio replacement is proposed as is the removal of a Norway Maple and Sycamore Maple to be replaced with landscaping.

Mr. Van Hoven is concerned about the stormwater impacts from sloping the driveway toward the street. The applicant proposes a leaching basin.

Mr. LeClair questions the increase of 100% impervious surface shown on the applicant’s calculations. The applicant responds that currently the surface is rated 85% impervious. The change is caused by the proposal to change a compacted earth driveway to asphalt.

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, 41, 42, 44, 50, 55, 102, 105, 107 and the following additional conditions:

1. The applicant will submit a revised plan showing a catch basin and leaching chamber to catch runoff from the driveway.
2. There will be daily debris pickup and cleaning of the resource area during work.

NOI 40-1438 - 11 Kimball Street — Leonard & Susan Conlin - [Patrowicz] - [DEP: no comments] — Existing garage demolition, New garage construction, Site work and landscaping.

The property is already subject to a minor activity permit to remove a diseased tree. That work is shown as part of this NOI. The plans call for a new garage with an increased footprint. A new walkway will increase impervious surface. There will be swales around the garage.

Mr. LeClair asks how of the approximately 400 foot increase in impervious surface is cause by the garage addition. The applicant responds that the cause is the garage as well as the bluestone

patio to the rear of the house. The applicant does not that almost all work is outside the 50-foot No Build Zone, between the 50-100 ft buffer zones.

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 40-1437 - 21 Sunset Road — Charles & Jane Smith - [Patrowicz] - [DEP: no comments] — Seawall repairs, Site work and landscaping. The proposal calls for reconstructing wall on the Top of Coastal Bank, support decking, invasive control, and an asphalt driveway. Mitigation for impervious increase will be installation of swales and use of crushed stone.

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, 41, 42, 43, 50, 55, 102, 105, 109.

NOI 40-1433 - 325 Ocean Avenue - William & Meghan Cashel - [Patrowicz] - [DEP: no comments] — Retro-active Seawall repairs, Site work and landscaping.

There is a 6/29/16 Order of Conditions and work was done, but in addition a very large amount of unpermitted work was performed. The Chair notes that the biggest problem was 115-feet of unpermitted seawall cap, as well as 115-feet of unpermitted seawall footings. The Commission is also very concerned about the amount of fill placed in jurisdictional areas.

The Commission unanimously approved a \$2,500 fine.

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, 41, 42, 43, 50, 55, 102, 107.

The Commission unanimously voted to approve Certificates of Compliance for OOC 40-1245 and OOC 40-1433.d

Meeting Adjourned