

Marblehead Conservation Commission Minutes September 10, 2020

Meeting 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 7:00 PM

Present were: Commission Members Brian LeClair, Jesse Alderman, David Depew, Lindsey Serafin, and David VanHoven. Also present was Conservation Administrator and Town Engineer, Charles Quigley.

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 August 13, 2020, was made and minutes were approved.

DISCUSSIONS:

- **11 Susan Road** – Enforcement order issued to Stevie G Browning for violation of 310 CMR 10.00 making alteration in the resource area without filing a notice of intent. The enforcement order was continued to the October meeting.
- **Doak's Lane Seawall** – A failed seawall was identified that needs to be addressed. Ted Moore appear and provided history of the sheetpile seawall. It was agreed that Mr. Moore will meet with the Town Engineer to discuss options to stabilize the bank and plans for the Town property segment.
- **Robinson Farm** – Will Ehrenberg presented on his proposal to replace a bridge as part of his Eagle Scout project. The Commission voted to approve by unanimous vote.

Certificate of Compliance Request

- **40-1264 – 42 Ticehurst Ln** – Amy Judd – sitework, retaining wall, landscaping. The Commission voted to approve by unanimous vote.
- **40-358 – 137 Front St** – Cheri Saltzman et ux – windows/siding. The Commission voted to approve by unanimous vote.
- **40-1244 – 0 Bracket Pl** – Glover Landing Condo. Tr. – fire escapes. The Commission voted to approve by unanimous vote.
- **40-1314 – 0 Bracket Pl** – Glover Landing Condo. Tr. – seawall repairs. The Commission voted to approve by unanimous vote.

- **40-1080 – 0 Bracket Pl** – Glover Landing Condo. Tr. – building repairs. The Commission voted to approve by unanimous vote.
- **40-1031 – 0 Bracket Pl** – Glover Landing Condo. Tr. – seawall repairs. The Commission voted to approve by unanimous vote.
- **40-1392 – 46 Gallison Ave** – Fabrice Durand et ux. – garage, sitework. The Commission voted to approve by unanimous vote.
- **40-517 – 16 Harbor Ave** – Philip Seaver. – house repairs. The Commission voted to approve by unanimous vote.

Minor Activity Permit Request

- **490 Seaview Ave** – Courtney Lobraico – swimming pool. It was noted to the homeowner that because the property is in the FEMA V zone, they need to provide a detailed grading plan to document that no storage is being removed as part of the project.

HEARINGS:

NOI 40-1445, 11 Susan Road – Stevie G Browning.

Appeared: Stevie Browning

Proposed: Restoration of buffer zone and resource area.

All members voted to continue the hearing to the October meeting.

NOI 40-1448, Salem Harbor at the end of Bennet St – David Hostetter – Ocean Park Civic League of Marblehead.

Appeared: N/A

Proposed: Pier and waterfront structure repairs.

All members voted to continue the hearing to the October meeting without opening.

NOI 40-1450, 18-18R Crowninshield Rd – Justin Scott.

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Embankment restoration.

Control Drawing: Site Plan Proposed Scope of Work, #18-18R Crowninshield Rd, dated August 24, 2020 by Patrowicz Land Development Engineering.

Applicant presented plans as provided in application.

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

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.**

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".**

NOI 40-1449, 2, 4 & 6 Foster St – LaVoie, Heinfich, Abati

Appeared: Scott Patrowicz, Patrowicz Land Development Engineering

Proposed: Pier Repairs.

Control Drawing: Site Plan 2-4-6 Foster St, dated August 22, 2020.

Applicant presented plans as provided in application.

All members voted to close the hearing. All members voted 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.).

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.

38. Any pressure-treated wood proposed to be used in the construction of a structure for land - based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

39. All piers, docks and floats must follow the guidelines established in the document, “Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers” dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

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.**

46. All gangways, docks or other items not permanently secured to the earth shall be stored during the “off season” (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. **This condition shall survive this order.**

47. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. **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.**

51. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. **This condition shall survive this order.**

54. The control drawing/s for this project were prepared by a licensed Professional. The construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawing/s. Progress reports shall be submitted by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Conservation Administrator based on the scope and anticipated duration of the project. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the

completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

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"**.

105. Tarps shall be spread and secured over the work area on top of the existing resource area for debris containment and collection during low to medium tides. 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.

106. Coatings used shall be approved by the DEP.

The Manufacturers 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.

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.

XX1. The last seaward section of the decking shall be in accordance with the DEP recommended material for decking, not pressure treated wood.

XX2. If 8 or more feet of continuous deck boards are replaced, the material used shall be in accordance with the DEP recommended material for decking, not pressure treated wood.

XX3. Miscellaneous deck boards may be replaced with pressure treated wood as long as the total area is less than 10% of the deck area in any given year.