

Marblehead Conservation Commission
Minutes June 10, 2021

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, William Colehower, and David Smith. (David VanHoven joined the meeting 10 min after the start) 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 five 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 three members.

Approval of Minutes:

Motion to approve the March 11, 2021 minutes was made and minutes were approved.
May meeting minutes - held for the next meeting

ORDER OF CONDITIONS EXTENSION REQUEST:

40-1352 165 Green St- Stephen Chaisson- new house - The Commission voted unanimously to approve.

40-1273 5 Sunset Road - Julis Sokol - house reconstruction - The Commission voted unanimously to approve.

CERTIFICATE OF COMPLIANCE REQUEST:

40-907 12 Cliff St - Linda Sullivan - house additions The Commission voted unanimously to approve.

40-916 22 Cliff St - Linda Sullivan -house additions: no work performed The Commission voted unanimously to approve.

40-1449 2,4,6 Foster St- Donald Henrich et al-new pier The Commission voted unanimously to approve.

40-1348 8 Ft Sewall Terr-William Parks et al- seawall repair, new deck, shed The Commission voted unanimously to approve.

40-1191 9 Roydon Rd- Robert York- seawall repair, new deck, shed The Commission voted unanimously to approve.

40-1359 75 Naugus Ave- Heidi Herlihy et al- new pier The Commission voted unanimously to

approve.

40-500 24 Lee St-Harborside Condominium Tr-deck The Commission voted unanimously to approve.

40-362 24 Lee St- Harborside Condominium Tr-seawall repairs, planter, deck and porch work
The Commission voted unanimously to approve.

40-1208 24 Lee St- Harborside Condominium Tr-seawall repairs The Commission voted unanimously to approve.

40-1359 75 Naugus Ave- Heidi Herlihy et ux- pier The Commission voted unanimously to approve.

40-1387 91 Pitman Rd -Emanuel Argiros-deck The Commission voted unanimously to approve.

40- 1404 100 Evans Rd - Joshua Brandes et ux- new house The Commission voted unanimously to approve.

CONTINUED PUBLIC HEARINGS:

40-1483 228 West Shore Drive - Ilenia Gonzalez-Gusmao-[John Dick]- [DEP: no comments]- deck addition, basement egress, and spa accessory.
All members voted to close the hearing. All four (4) 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.).

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.**

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".**

PUBLIC HEARINGS:

40-1480 Salem Harbor at Bennett Rd- Ocean Park Civic League-[Dave Hostetter]- [DEP: no comments] Changing the Number of previously approved 40-1448 to 40-1480. Because of a mix up by the state, two file numbers were issued for the same project. The Town Engineer (Quigley) requested that the commission transfer the previous approval (40-1448 to 40-1480) and indicate that the same exact order of conditions will apply and there will be a different file number. All members voted to close the hearing. All four (4) members voted to issue an OOC with the exact same special conditions approved with 40-1448.

40-1485 32 Nonantum Rd - Lester MacLaughlin/Bessom Associates- [John Dick] - [DEP: no comments]- deck

All members voted to close the hearing. All four (4) members voted to issue an OOC with the following special conditions:

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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.

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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40-1484 289 Ocean Ave - Howard Rich-[James Emmanuel]-[DEP comments-Based on V Zone elevation of 47, and based on the information contained in the NOi, the project as designed does not appear to be permissible. Plan must correctly delineate location of V Zone using correct elevation. Structure is not elevated appropriately to allow required freeboard. Revisions with plan elevation views should be provided to demonstrate compliance with Mass Building Code height for structures located in V Zones. Should provide reflection and refraction analysis for stormflow and velocity to demonstrate effects to the site and abutting property.]- house additions

The proposed project includes a one story addition with a deck outside the no-build zone. At question is an interpretation of the DEP on the delineation of the V Zone relative to the proposed work. John Dick, speaking for the applicant, explained that there are two walls constructed on the site. The seaward wall and a second retaining wall closer to the house. Between the two walls is a meandering line (at elevation 30) that delineates the V Zone. and indicates the V Zone. Mr. Dick believes that DEP may be misinterpreting the line and suggesting that the home is within the area subject to coastal zone flowage. Mr. Dick acknowledged that if DEP does not agree with his interpretation, that the applicant will need to file an appeal.

All members voted to close the hearing. All four (4) members voted to issue an OOC with

the following special conditions:

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NO FILE - Public hearing to amend the Marblehead Conservations Commission public hearing general instructions document entitled: 'Public Hearings before the Marblehead Conservation Commission', last revised 3/27/2015, for the purpose of requiring electronic copies in addition to hard copies of Notice of Intent submittals and Amendment or Determination Requests.

All four (4) members voted to approve the proposed changes

DISCUSSION

Un-permitted Floats - Town Engineer will draft a form letter for the Chair to approve that will then be sent to the owners of floats which have not been permitted.

Proposal to change the name of a trail at the lead mills - Expanding name of Curtin Trail in Wyman Woods - All four (4) members voted to approve the proposed change

Proposal to continue to hold meetings virtually - If the legislature authorizes the commission to continue virtual public meetings. All commissioners agreed to hold the July meeting virtually if permitted.

Proposal to move the November 11 meeting to November 10, 2021 - All four (4) members voted to approve the proposed change .

Process for Reporting and Removing Un Permitted Bike Jumps in Conservation Lands - The Marblehead Conservancy is having difficulty getting the town to enforce the unpermitted construction of bicycle jumps in land owned by the Conservation Commission. The Town Engineer agreed to address the issues and requested the Conservancy to send the requests to him directly.

ENFORCEMENT ORDERS:

13 Ramsey Rd - Cheryl Brill-310 CMR 10.00 violation: alteration in a buffer zone to a resource area without filing a NOL - Pam Kelly, 4 Waterside Road - representing Cheryl Brill. Chair explained that to address the issue that Cheryl will need to file a NOI and hold a public hearing. This enforcement order will be carried on the agenda next month.

40-1053 151 Green St- Green St Realty Tr.- expired order of conditions. Work has stopped on the outside. The OOC was not properly filed. An attorney is currently working on addressing the paperwork and recording the information. This enforcement order will be carried on the agenda next month.

0 Beacon Street - Town of Marblehead School Dept.- 310 CMR 10.00 violation: alteration in a resource area without filing a Notice of Intent[NOI] . All four (4) members voted to close the enforcement order

0 Beacon Street - Pat Milner- 310 CMR 10.00 violation: alteration in a resource area without filing a NOI. All four (4) members voted to close the enforcement order

0 Beacon Street - Edward Harvey- 310 CMR 10.00 violation: alteration in a resource area without filing a NOI. All four (4) members voted to close the enforcement order

Meeting adjourned – 8:15PM