

Marblehead Conservation Commission Minutes May 13, 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, Michael Smith, William Colehower, Jesse Alderman, 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 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:

The April 2021 minutes were approved. The March 2021 minutes will be reviewed for the June meeting.

DISCUSSIONS:

- **Marblehead Conservancy**— education signs, conservation land unauthorized alterations. Water box installation. Temporary pump house for watering wildflowers will require temporary enclosure and hoses. The Commission requested details of signs, locations, etc. Additional details and plans shall be submitted prior to any implementation.
- It was discussed that it is necessary to provide a business record practice for members of the Conservancy or member of Commission (note: members) to document restoration or remediation work on conservation land. The proposed process:
 1. Submitted form to Police Dept and Conservation Agent (and to the Chair if Agent is unavailable, and then to any Commission member if the chair is unavailable)
 - If graffiti, after police have investigated, the graffiti may be removed with approved methods
 - If more than graffiti, the form shall be approved by Agent, Chair or other Commission member. The work shall be limited to the type consistent with standard trail maintenance activities.
 2. It was noted that members of the community have access to this process through the Conservation Commission members

ORDER OF CONDITIONS EXTENSION REQUEST:

40-1129 Naugus Head Association –Robert York - beach operations and maintenance. The Commission voted unanimously to approve.
40-1343 61 Naugus Ave- Alan November – addition. The Commission voted unanimously to approve.
40-1341 29 Beacon St – Alexander Arnold – seawall repairs. The Commission voted unanimously to approve.
40-1274 21 Harbor Ave- Stephan Peabody- addition, d’way. The Commission voted unanimously to approve.
40-1329 21 Harbor Ave- Stephan Peabody-garage add’n. The Commission voted unanimously to approve.
40-1337 45 Beacon St- Jonathan Putnam-seawall repairs. The Commission voted unanimously to approve.
40-1338 45 Beacon St- Jonathan Putnam-pier repairs. The Commission voted unanimously to approve.

MINOR MODIFICATION REQUEST:

40-1384 65 Naugus Ave-Edward Breed- wooden steps. The proposed modification request was unanimously not approved as submitted.
40-1428 36 Crestwood Rd- Jennifer Panza Trustee-garage changes
Drawing: Site Plan #36 Crestwood Road dated April 21, 2021 by Patrowicz Engineers. The Commission voted unanimously to approve.

CERTIFICATE OF COMPLIANCE REQUEST:

40-1403 Parker Ln, Peabody Ln, Harbor ave- Town of Marblehead- waterfront maintenance, seawall repairs.
40-1038 6 Fuller Ln-Neil Shore-concrete steps
40-1038 6 Fuller Ln-Neil Shore-seawall and revetment repairs
40-1456 325 Ocean Ave- Serpentine Holdings, LLC- seawall repair and scour protection
40-1146 446 Atlantic Ave- Steve Kapsalis- [Griffin Engineering]-revetment repair
40-1147 450 Atlantic Ave- Steve Kapsalis- [Griffin Engineering]-revetment repair

The Commission voted unanimously to approve all of the above COCs.

40-1395 313 Ocean Ave — Kazim Bayus — seawall, sitework_– The Conservation Agent noted that at his inspection, he observed an expansion of the deck versus what was approved. The Commission would like to see an As-Built Plan and specifics on all area and materials not approved. A COC was not issued for 40-1395.

MINOR ACTIVITY PERMIT REQUEST:

12 Crowninshield Rd — Paul Redmond et ux —[Kara Pascal]- tree removal - The Commission voted unanimously to approve with the condition that native white pines will be planted in the 50-foot buffer zone.

230 Ocean Ave — Ward Osgood-[Hayes]- resurface driveway, replant lawn. The applicant proposes to plant 10 trees, remove grass, loam and seed, and replace driveway. The Minor Activity Permit request is in conjunction with NOI 40-1477, which requests a garage replacement. The Commission voted unanimously to approve, with the condition that the applicant will take steps to prevent erosion.

CONTINUED PUBLIC HEARINGS:

40-1470 12 Davis Rd- Davis Point LLC- [Hayes] — [DEP; no comments]- seawall modification sitework, retaining wall, landscaping – (1) proposal is to raise the existing seawall from 11.8 ft to 14.9 ft, with a cap and railing installed; (2) proposal regarding two existing walls behind seawall, aluminum stairs, and concrete platform; and (3) placing boulders in front of a tree as shown on the plan.

The Commission does not approve #2 above.

Motion to close hearing; second. Motion to approve an Order of Conditions only for the following work as shown on the plan: proposal is to raise the existing seawall from 11.8 ft to 14.9 ft, with a cap and railing installed; and placing boulders in front of a tree as shown on the plan, and no other work, and with the following Special Conditions: 33-36, 40-42, 50, 55, 102, 107. Unanimous.

40-1477 230 Ocean Av-Ward Osgood-[Hayes]- [DEP: no comments]-prop. Garage – There is BVW on neighboring property; proposed garage is 75’ from the wetland. It’s a 7-foot extension in 75-100 zone. Motion to close hearing; second. Motion to approve an Order of Conditions with the following Special Conditions: 33-36, 40, 50, 55.

40-1483 228 West Shore Drive-Ilenia Gonzalez-Gusmao-[John Dick]- [DEP: no comments] — deck addition, basement egress, and spa accessory – The proposal is to expand a deck 150’ in the 25’ No Disturb area and build a spa almost entirely in the 25’ No Disturb area. The applicant confirmed it is not proposed mitigation other than landscaping; no rain garden; no detention basin. Commissioners Colehower and Alderman noted a lack of effort at mitigation. Charlie Bisegna, 230 West Shore Drive, stated he is not opposed. Katherine Grunwald, 120 Jersey Street, is concerned about water as the area is already very wet.

Motion to Continue for the applicant to consider mitigation or alternation of the project to have less impact in the 25’ No Disturb Zone. Unanimous.

ENFORCEMENT ORDERS:

13 Ramsey Rd — Cheryl Brill-310 CMR 10.00 violation: alteration in a buffer zone to a resource area without filing a NOI.

There was unpermitted cutting. The property owner states that trees came down in storms and she removed downed trees. She stated she removed “swampy vegetation.” The Conservation Agent stated there was cutting of vegetation. Motion to Ratify Enforcement Order and Continue the matter for Discussion until meeting. Unanimous.

40-1053 151 Green St- Green St Realty Tr.- expired order of conditions. Motion to Continue. Unanimous.

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 J.

0 Beacon Street — Pat Milner- 310 CMR 10.00 violation: alteration in a resource area without filing a NOI.

0 Beacon Street — Edward Harvey- 310 CMR 10.00 violation: alteration in a resource area without filing a NOI.

Motion to propose remediation plan. Unanimous. The Commission did not order removal of bicycling features, which were in the 100’ buffer zone. The parties will file a NOI. The Commission stated that if the remediation is performed, it is not inclined to issue fines or ratify the Enforcement Order.