

**Marblehead Conservation Commission**  
**Meeting Minutes**  
**December 13, 2021**

The 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.

The hearing was called to order at 7:00 PM

Present were: Commission Members Brian Leclair, Jesse Harlan Alderman, David Van Hoven, and David Oster and Kate Melanson. Also present was Conservation Administrator and Town Engineer, Charlie 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.

Marblehead Conservation Commission Meeting Minutes

1. Review of November 2021 Meeting minutes – all commissioners vote to approve
2. 26 Hawthorne Rd – Tree removal – all commissioners vote to approve
3. 28 Pequot Rd – tree removal. Commissioners said it was hard to tell from the submittal if the tree was damaged or dead. Commission said tree is in resource area and should not be removed just for convenience. Agent for owner said tree is dying and drops branches in storms.
  - a. Commission votes to approve pending site inspection by Charlie to determine if condition of tree warrants removal.
4. 325 Ocean Ave – tree removal – all commissioners vote to approve
5. 10-12 Hillside Ave – outstanding order of conditions. Owner not present
6. Certificate of compliance, 40-1438, 11 Kimball st. All commissioners vote to approve
7. Order of conditions extension request, 40-137, 18 Gregory St. all commissioners vote to approve extension.

8. Order of conditions extension request – 40-1389, 30 Pequot rd. All commissioners vote to approve extension.
9. 12 David rd., 40-1470 – no one present for project, all commissioners vote to continue hearing in January
10. 201 Ocean Ave – 40-1494 – Updated plans submitted to commission. Discussion held about the impact of stone steps to beach. Brian stated that the proposed concrete pins may not be acceptable, applicant said they could alter design. Further discussion where commissioners expressed concern about proposed construction and disturbance outside existing building footprints in the no disturb and no build zones.
  - a. All commissioners vote to continue hearing in January.
11. 9 Roydon Rd – 40-1495. Scott Patrowicz, representing the owners, presented an overview of project. Abutting property owner said proposal may impact their view. Commission informed them we cannot consider concerns about views and to go to the zoning or planning boards. Another member of public expressed concern about runoff. Representative of property owner discussed the runoff mitigation measures they propose.

All commissioners vote to approve with order of conditions with the following special conditions:

**Prior to construction:**

A revised site plan showing a dry well or lip on the proposed wall to detain run-off shall be submitted to the commission agent for approval.

**During construction:**

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties, streets and Resource Areas.

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.

**Post-construction/in perpetuity:**

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.**

41. Maintenance pointing and repairs of existing stone masonry walls and concrete walls including the replacement of an occasional missing stone or patching cracks and minor defects in a concrete wall are allowed as a surviving condition to this Order of Conditions. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repointing or repair work on existing walls.** All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Any future razing, rebuilding or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. **This condition shall survive this order.**

42. The repair/replacement of small sections of damaged caps on seawalls is allowed as a surviving condition. All dislodged and removed caps will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. Prior to any work, the scope of the proposed repair/replacement must be approved by the Conservation Commission. If the cap on a major length or on an entire wall needs to be repaired/replaced, this requires an NOI. **This condition shall survive this order.**

43. When the repair of a seawall entails the use of existing rip-rap which was previously located at the toe of the seawall but has been distributed onto the beach seaward of the seawall by wave action, the following applies. The rip-rap lying above the mean high tide line can be re-located to the toe of the seawall. The rip-rap lying at or below the mean high tide line cannot be disturbed. This special condition is not a surviving condition and is valid only for that work specified for this particular application. **The property owner shall inform the Conservation Commission in writing at least seven days prior to any proposed repair work on an existing existing riprap revetment.**

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](http://www.mnla.com) or [www.newfs.org](http://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".**

12. Marblehead conservancy

- a. No hunting signs – commission determined that unless hunting becomes a recurring or frequent problem, then we do not need no hunting signs
- b. Vernal pools – Don Morgan and Rich Thibedeau of the Marblehead Conservancy gave an overview of vernal pool science, regulations, and the vernal pool located in Forest River bordering the cemetery.
- c. RDA – commission and conservancy agree to create updated RDA to cover the conservancy's maintenance of town conservation areas so they do not have to file minor activity permits for each of their activities
- d. Open space plan – commission and conservancy agree to update the open space plan and associated goals with a working group.

The hearing adjourned at 9:00pm