

Marblehead Conservation Commission Minutes July 14, 2022

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 7:07 PM.

Present were Commission Members Chair Brian LeClair; David Van Hoven, Kate Melanson, Carole McCauley, and Conservation Agent 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

- The June 2022 minutes were approved unanimously.

DISCUSSION

- **Greystone Beach Association** – bench installation, potential enforcement order – postponed to August meeting
- **Railroad right of way Salem branch** – Marblehead Municipal Light Department clear cutting and maintenance; colloquially called Rail Trail but actually a utility corridor; exempt from the requirement to file a Notice of Intent per 310 CMR 10.02(2)(a)2 .
 - Joe Kowalik, GM of MMLD presentation
 - High voltage utility lines; October 2021 tree damage to main lines necessitates major survey and maintenance work to prevent such impacts in future
 - MMLD conductor line clearance specification; hope to get Right of Ways done by October 2022
 - Contractor references (Mayer Tree Service), independent utility arborist (Jim MacArthur)
 - Village 13 substation upgrade access
 - Discussion and next steps
 - Request of MMLD for GIS map of work as well as tree survey data so that healthy trees can be selectively excluded as possible; coordinate with Marblehead Conservancy about continuing work to minimize invasive species and other conservation work already being done

ORDER OF CONDITIONS EXTENSION REQUEST(S):

- **40-1352** **165 Green Street**, Stephen Chaisson – new house
- **40-1481** **151 Green Street**, John Muldoon – 10 duplex condo development
- **40-1137** **21 Goodwins Court**, Stephen Gallagher – house renovations

All extensions were approved by unanimous vote.

CERTIFICATE OF COMPLIANCE REQUEST(S):

- **14-1468** **32 Foster Street**, Eyk Van Otterloo et al – pier repairs
- **40-1452** **10 Goldthwaite Road**, Shelton Frisch – additions and site work

All Certificates of Compliance were approved by unanimous vote.

MINOR ACTIVITY PERMIT(S):

- **15 Brown Street**, Patrick Jancsy – tree removal; looking to remove 3 trees that are causing hazards to family, esp in winter
 - Approved with condition to plant 3 new trees in kind on the property
- **5 Beacon Street**, Mistress Corp [Appeared: Hooper Goodwin] – water service at shanties; 5 resident members who make up “First Harbor Associates”; looking for summer seasonal water service/spigot, no sewerage; there is already water going into several underground water utilities in the area, catch basement on property; will likely require excavation/trench digging; Water Dept Superintendent Amy McHugh advised applicant to get permission before proceeding with any plans and appeared to confirm applicant’s claims thus far
 - Applicant will come back with site plan.

MINOR MODIFICATION(S):

- **40-1485** **32 Nonantum Road**, Lester McLaughlin [no appearance] – patio; approved minor modification; re: enforcement order
 - Approved issue of \$300 fine for making alterations in resource area without a permit.

CONTINUED PUBLIC HEARING(S):

- **40-1515** **28 Pequot Road**, Andrew Thompson et ux – [Appeared: Bill Emanuel from Wetlands and Land Management Inc.] – [DEP: no comments] – new decks and landscaping; deck materials will be PT lumber for framing and natural wood or composite for decking; sonotubes in no disturb zone, but not deck expansion; applicant asked why perceived change from previous meeting where he felt the deck would be okay with mitigation, that perception was not shared by commission insofar as No Disturb zone concerned

The Commissioners voted to approve the OOC with special conditions; remove deck expansion from the plans; shed only put on blocks;

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.**

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".**

- **40-1509 10 Harvard Street**, Jamie Tedford et ux [Appeared: Scott Patrowicz] – [DEP: no comments] – new pier
 - Applicant requests to continue hearing to August 11, 2022; approved

PUBLIC HEARING(S):

- **40-1516 32 Flint Street**, Roy Steinman et ux [Appeared Jeff Tucker from Tucker Architecture] – [DEP no comments] – addition; removal of 3 ~trees (12-16"); Katherine Bradford of 12 Power Terrace asked to clarify that trees to be taken down are onsite, which they are

The Commissioners voted to approve the OOC with special conditions: A revised plan is to be submitted showing runoff from the driveway directed to the grassy area immediately south of the driveway with storage calculations; replacement of 5 trees of >2.5";

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- **40-1520 8 Nashua Avenue**, Donald Souter et ux. [Appeared: Peter Ogren from Hayes Engineering] – [DEP no comments] – addition; place 2nd story on top of existing impervious deck; no gutters planned or change in runoff condition

The Commissioners voted to approve the OOC with the following special conditions ; no gutters directing rainfall away;

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- **40-1517 15 Brown Street**, Patrick Jancsy et ux. [Appeared: Peter Ogren from Hayes Engineering] – [DEP no comments] – house addition over existing deck and patio, same footprint;

The Commissioners voted to approve the OOC with the following special conditions::

A revised plan with steps removed and no planned work on retaining wall or garden area adjacent to it; also:

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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.

Post-construction/in perpetuity:

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- **40-1518 73 Naugus Avenue**, Karl Strohmeyer et ux [Appeared: Scott Patrowicz]
[DEP no comments] – sitework landscaping

The Commissioners voted to approve the OOC with the following special conditions :

A temporary fence is to be constructed, strong enough to capture spoil during the reconstruction of the retaining wall.

If the existing 36" tree near the retaining wall is removed, two trees are to be planted on site.

Sonatube are not to be use on the steps for the farmers wall.

During construction:

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- **40-1519 325 Ocean Avenue** – Hugh J Scandrett et ux [Appeared: Scott Patrowicz] [DEP no comments available] – porch modification and sitework; untenable to have building of new wall in no-build zone that protects reconfigured “yin yang” patio; extension by 36” of side patio within VE buffer zone
 - Hearing continued to August 11, 2022
- **40-1511 0 Bracket Pl Bldg #21 #6** Glover Landing Condo Tr [Appeared: Scott Patrowicz] [DEP no comments yet] 2nd means of egress; Scott Patrowicz requested to continue to the August 11 hearing without opening the hearing. No vote was taken.
- **40-1514 0 Bracket Pl Bldg #21 #7A** Glover Landing Condo Tr [Appeared: Scott Patrowicz] [DEP no comments yet] 2nd means of egress Scott Patrowicz requested to continue to the August 11 hearing without opening the hearing. No vote was taken.
- **40-1513 0 Bracket Pl Bldg #21 #7B** Glover Landing Condo Tr [Appeared: Scott Patrowicz] [DEP no comments yet] 2nd means of egress Scott Patrowicz requested to continue to the August 11 hearing without opening the hearing. No vote was taken.
- **40-1512 0 Bracket Pl Bldg #21 #8** Glover Landing Condo Tr [Appeared: Scott Patrowicz] [DEP no comments yet] 2nd means of egress applicant

Scott Patrowicz requested to continue to the August 11 hearing without opening the hearing. No vote was taken.

ENFORCEMENT ORDER(S):

- **45 Wharf Rd – Dolphin Yacht Club** – alteration in the buffer zone to a resource area without a permit per 310 CMR 10.00; at last meeting, enforcement order was discussed but no fine issued
 - David VanHoven recuses; no longer a quorum, postpone to August 11, 2022 meeting

DISCUSSION:

- Approve \$913 payment for annual membership dues to MACC
- Okay to use revolving funds to pay for minute-taker for future ConCom meetings; \$150 stipend available; not yet identified someone to take on this role, in progress and Charlie is working on it

ADJOURNMENT

- Meeting adjourned at 9:48pm.