

Marblehead Conservation Commission Minutes November 10, 2022

This 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 Chairman Brian LeClair, Dave VanHoven, Kristopher Meola, David Oster, Kate Melanson and Conservation Agent Charles Quigley.

The hearing was 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 hearing is therefore four members.

Discussion

367 – Ocean Ave – Heather Cairns –

Discussion – no additional hardscape then what's presented on the map

Unanimously approved

Order of Conditions Extension request

40-1419 – 20 Crowninshield Road – David Rosenzweig – **Unanimously approved**

Certificate of Compliance Requests – All Unanimously approved

40-1460 – 4 Foster Street – Don Heinrich – addition, pool deck

40-1476- 6 Arrowhead Road – Edward Todd Piver – addition

Minor modification request -

40-1497 and 40-1382 – 20 Crowninshield Road

Discussion – any increase in impervious surfaces? Two areas with additional pavement – which will be 70 and 41 square feet.

Will need to be resubmitting with calculations included. Suggestion to make sure rain gardens are capturing runoff from new impervious surface.

Hearing will be continued next month

Minor Activity Permit

34 Crestwood Road – Patrick Andreasen-vista pruning – **Continue next month**

450 Atlantic Avenue – Gary Canner – Replace existing stairs on coastal bank – not pursuing the metal ladder, but would like to replace the stairs.

Discussion – any digging? Would be drilling into the boulders and using epoxy to hold the pins in. No increase in footprint of the stairs and will utilize any already existing holes in the boulder.

Approved with the following additional conditions no cement used, work will all be done with hand tools, any cutting will be done above the coastal bank with prompt clean up, no increase to footprint, and existing holes will be used.

Continued Public Hearings

40-1526 – 20 West Orchard St – Sandra Forziati – Masonry Wall Replace and landscaping – John Dick represented the applicant. The hearing was closed and the applications were unanimously approved with the following special conditions.

Speciation conditions – 32, 33, 34, 25, 26, 40, 41, 42, 50, 55

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.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

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.

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".

Unanimously Approved –

40-1528- 16 Liberty Road – 16 Liberty LLC – demo ex house, construct new house, deck sitework, drainage – **voted to continue to next month.**

Public Hearings

40-1532- Devereux Beach – Town of Marblehead – Replace 2 Pavilions

Discussion – will be steal frame – uprights will rest of 8-10inch sono tubes. No deck, sides or slab under the roofs. Will replace existing sono tubes.

The Commission voted to approve the application with the following special conditions.

Order of condition with special conditions - 32, 33, 35, 36, 38, 40, 50, 55,

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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.

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Unanimously approved

40-1529 – 12 A Liberty Road Jo-Ann Andaloro – invasive species management

The firm will be present to oversee the entire process, to ensure stabilizing of the land so it doesn't get washed away

Public Question – Kathy Breslin – 55 Brackett Place – are invasives composted? – Usually used marshals in Gloucester and another place in Hamilton

Public Comment – 20 Liberty Road Michelle & David Ferragamo – already experience a lot of erosion and wondering if there is any photos of anything coming out on that side. Concern around the removal of the blue stone patio and the creation of excess water.

Approved with the following special conditions.

Order of conditions with the following special conditions – long term maintenance plan 32, 34, 35, 36, 40, 50, 55

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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.

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194, Section 11E. See Attachment “C” for “Schedule of Fines”.

Unanimously approved

40-1530 -1 Flint Street William J McLoughlin – addition, renovations, sitework

Discussion – Will lawn be restored – yes – anything impacted with be restored.

Approved with the following special conditions.

Order of conditions with the following special conditions 32, 33, 34, 35, 36, 40, 50, 55

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Unanimously approved

40-1531 – 3 Mooring Road – Suzanne Iovanna – Addition, renovations, sitework landscaping

Approved with the following special conditions

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Unanimously approved

Enforcement Orders –

3-5 Gilbert Heights – Owner was asked to hire a landscape architect who will put together a plan, and then they would file a plan and present for the Conservation Commission.

Will need to provide a notice of intent by December or conservation commissioner will start fining. If they can't then the landscaper will need to be present at the meeting.

4 Gregory Street – Brian Rice – Disposal of paint in an area subject to protection. – **600 dollar fine unanimously approved.**

4 Ft Sewall Terrace – Kenneth Walker – making alterations in an area subject to protection without a permit.

Needs to file a notice of intent and then a fine will be assessed.

Meeting Adjured at 9:01