

Marblehead Conservation Commission
Minutes December 8, 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, Carole McCauley, Kristopher Meola, David Oster, Kate Melanson and Conservation Agent Charles Quigley. Dave VanHoven arrived circa. 7:30 pm later after the hearing began and prior to the 40-1528 hearing.

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.

Motion to approve 11/10/22 Minutes – unanimously approved

Order of Conditions Extension Requests – unanimously approved

- 40-1414 - 20 Crowninshield Road – David Rosenzweig, TR – embankment
- 40-1378 - 11 Crown Way- Robert P. Jacobs – new house
- 40-1377 - 18 Gregory St –Trevor G. Eddy et ux – lower patio repairs
- 40-1295 147 Front St David Francis, Tr – deck repairs

Certificate of Compliance request – Unanimously approved

- 40-1370 – 42 Gallison – storm cleanup in the buffer zone to a resource area

Minor modification requests

- 40-1497 and 40-1382 20 Crowninshied Road – David A. Rosenzweig – **Unanimously approved**

Minor Activity Permits

81 Beacon Street – Tree Removal – if its on the right of way the town needs to provide approval. If it's on conservation land – the commission requests that the tree be left on the conservation land –

Unanimously approved

19 Goodwin Court – Eric Walker – S and S construction – window replacement

Would need to add netting required below scaffolding to capture debris. In the event of any predicted storm – it must be temporarily removed.

Unanimously approved

CONTINUED PUBLIC HEARING[S]

40-1528 - 16 Liberty Road – **Kristopher Meola recused and Kate Melanson not voting.**

Entertain a motion to close the hearing – Brian, Dave, Carol and David all vote yes

Entertain a motion to issue an order of condition with the following special conditions

Special Conditions:

The condition of the drainage line on 12A liberty road must be resolved by camera inspection with the owner of 12A liberty road. If the condition is not adequate, then a notice of intent for repair of that drainage line must be filed and approved.

The owner must prevent any sediment from entering into the drainage pipe at the property line on liberty road.

Prior to construction:

1. The condition of the existing storm drains on the abutting parcels shall be evaluated using a video camera. If it is determined the pipe requires repair or replacement, another Notice of Intent shall be filed to perform the work.
2. Silt barriers/fabrics shall be maintained at the inlets to the drain system during and after construction until vegetation and landscaping is fully established.

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.**

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".**

Enforcement orders

40-1391 **3-5 Gilbert Heights** – Judith Schmid – alteration to resource area without a permit per 310 CMR 10.00

Coastal Zone Management – Elizabeth Rickards is providing technical assistance to the homeowners. Rickards has provided some technical assistance – while Judith has Schmid is looking for a professional to conduct the work.

Fiber blankets will need to be necessary- and the commission is asking that blankets will be installed before the next meeting, and the homeowner reports back on the hiring of a professional who can file the notice of intent.

Vote to require installation of fiber blanket, and hire a professional before the next meeting.
Unanimously approved.

4 Ft Sewall Terrace – Kenneth Walker – making alterations in an area subject to protection per MGL ch131 40 without a permit. Will continue the next month.

6 Harbor View – complaints of work being done without a permit. Charlie confirmed they had a permit for repairing of an existing wall and fix some pavers. The construction crew put down a patio with blue stone, which went beyond the minor activity permit.

Homeowner will need to file a notice of intent, and then the commission will decide if it can remain as is under that notice of intent, and then the commission would decide upon a fine.

Motion to ratify the enforcement order – **unanimously approved**

Brian, Dave, Carol and David all vote yes to approve

Move to adjure – at 8:12pm