

**Marblehead Conservation Commission
Hearing Minutes 2022-8-11**

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 7:04 PM

Present were: Commission Members David VanHoven who is acting as chair, Kate Melanson, David Oster, Jesse, Harlan Alderman, Kristopher Meola, and Carol M. 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.

Approval of Minutes - move to end

Approval of July meeting notes – need to be revised to be continued

Discussion:

Graystone Beach Association - Bench installation -

- Charlie recused himself from the discussion
- No enforcement order so far, and the applicant has a minor activity permit.

Order of Conditions Extension Request

NONE

Certificate of Compliance Requests

40-1468 - 32 Foster St - Eyk Van Otterloo et al - Pier Repairs - approved

40-1389 - 30 Pequot Rd - John McGiver - pier, ramp and float - construction materials being stored in the buffer zone of the resource area. Can issue certificate of compliance subject to those items being removed - approved

MINOR ACTIVITY PERMITS:

5 Beacon Street - Mistreet Corp - Hooper Goodwin - Water service at shanties -will be moved to next month when the plan is submitted

3 Mooring Road - Suzanne Iovanna - tree removal - will commit to a one to one replacement for the three trees taken down. Will be producing a landscaping plan for future work. Condition the minor activity permit to include the approved landscape plan before the November hearing meeting. Motion to approve the minor activity permit with the condition that the trees will be replaced in kind, and the plan to do so will be submitted for the Nov 2022 meeting. - Approved

Side Discussion - Would like to add a bylaw on tree replacement - discussion for next meeting.

- The tree warden does have a standard that he uses. Depending on the size of the tree that is taken down what needs to be replaced
- Tree warden can come to the next meeting.

Graystone Beach Association - bench installation- Complete the replacement of existing wooden benches, with new wooden benches. work was done for granite benches, including three concrete bases that will need to be removed.

- Will dig below the frost line, and the posts would be filled in with dirt and fill. If they cant get below because of the ledge - will use sona tubes

Approve motion for minor activity permit with standard conditions

Minor Modification

40-1463 - 50C Cloutman's Ln - Barry & Julie Kelly - Tree Replacement - were supposed to come back with a landscaping plan and a minor modification. Trees were cut down before the landscaping plan was approved, so the vote is to approve the minor modification with the submitted landscaping plan. – Approved

40-1495 - 9 Roydon Rd - Ryan O'Conner et al - relocate garage - work was approved by the conservation commissioner, and then the project went through ZBA and planning and the result was reducing the size of the garage, and moving it further away from the resource area. The driveway will now become Pea stone. - Approved

CONTINUED PUBLIC HEARINGS:

40-1511 - 0 Brackett Place - being requested to be withdrawn - Approved

40-1513 - 0 Brackett Place - being requested to be withdrawn - Approved

40-1512 - 0 Brackett Place - being requested to be withdrawn - Approved

40-1514- 0 Brackett Place - being requested to be withdrawn - Approved

40-1509 - 10 Harvard Street - Jamie Tedford et ex - new pier -

Two Takeaways

- Could the design be altered to remove the concrete foundations?
- Could the applicant present a more complete evaluation of compliance with the performance standards?

Applicants need to receive rebuttal from hired consultants, and will continue the hearing into September with a deadline of Aug 24th to submit all materials.

Hemenway and Barns LLP - walked through their understanding of the Commission's ability to disapprove projects that impact the resource area's ability to provide recreation.

Goddard Consulting, LLC - walked through their letter on the applicants ability to meet performance standards.

The Commission will accept additional information from notified abutters. Submission should

How does the commissioner contact the Town Council to use their expertise? Send a specific question to Charlie and he can forward it to the town council for advice. The Commission can have a special closed session to discuss with the Town Council the items submitted.

Motion to continue this hearing to the September Meeting - Approved

40-1519 - 325 Ocean Avenue- Hugh K Scandret et ux.

- Peter S. Rosen spoke to the resource area being a solid piece of bedrock. Area under construction of bedrock.
- plans removed the seating wall, and had a rain garden put in place to catch runoff.

Motion to close the hearing - approved

Motion to approve an order of conditions - 32, 33, 34, 35, 36, 40, 50, 55, 107,

Approved unanimously

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.).

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.

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

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.** Environmental Protection). **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"**.

107. Before any landscape work begins, the applicant shall submit a landscape plan to the Commission for approval. No landscape work may commence until the Commission has approved the landscape plan.

PUBLIC HEARINGS:

40-1522 - 0 Stramski Way - Town of Marblehead - John Dick

Motion to close the hearing - approved

Motion to approve an order of conditions - 36, 40, 50, 55

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40-1521 - 43 Rockaway Ave - Timothy Sullivan -

Purchased the property in January, the knotweed is in the wetlands, and 30 percent of the property is covered with knotweed. Will not do work in the wetlands.

DEP Comments - Insufficient information provided to determine if project meets performance standards. Project description notes; manage 500 square feet of knotweed within wetlands, but NOI notes Buffer Zone only project. Impacts to BVW must be quantified on the NOI and a detailed restoration plan submitted to ensure 10.55(4) is met. No information submitted describing how knotweed will be managed (e.g., cut at surface and treated with herbicide, excavated, etc.).]-invasive species management- site improvements

Applicant offered to remove knotweed on Town owned property, and it was suggested to consult with the conservancy. Usually the commission received more detailed plans on invasive species management.

Motion to approve and order of condition with the following conditions

32, 33, 34, 35, 36, 41, 50, 53, 55, 107, 111,

following additional conditions that a multi-year invasive species management plan will be submitted for approval. Any work done in addition to what's in condition 111, should be performed by the cut and dab method pending approval of the management plan going forward.

Approved.

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.

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.

53. This OOC specifies a vegetated buffer strip be planted along and abutting the coastal bank and/or the BVW. After the vegetated buffer strip has been planted, at the end of the second growing season, the applicant must submit a report to the commission evidencing that the plantings have reached a minimum 75% survival rate. If the 75% rate has not been achieved, the applicant will re-plant/replace all non-surviving plants at the start of the third growing season and verify such replanting by appropriate evidence to the commission. These reports are mandatory even after a COC has been issued. After the third growing season, the maintaining of a 75% survival rate, but not the reporting, is a surviving condition. This condition shall survive this order.

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Enforcement Orders –

40-1391 - 3-5 Gilbert Heights - Judith Schmid - Alteration to a wetland.

NOI will need to be filed to document what was done, and what's proposed to be done. Will need to see what was previously done, and will be proposed to be done. Should be filed in the next few months.

Applicants will provide the amount of vegetation that was removed.

Vote to ratify the enforcement order unanimously,

OTHER ITEMS FOR DISCUSSION

Vote to close the hearing - 10:04

The hearing was adjourned.