

**Marblehead Conservation Commission**  
**Minutes February 9, 2023**

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, Jesse Alderman, David VanHovan, Carole McCauley, 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**

Motion to approve 01/12/2023 Minutes – **unanimously approved**

4 Ft Sewall Terr – Walker Holding Trust – [Patrowicz] - revised landscape plan for approval as required per OOC 40-1536 - **unanimously approved**

Steer Swamp – Kevin Moss – Geocaching request- Kevin Moss explained what geocaching involved. The Chairman asked that items left on ConComm property be monitored so they won't become trash.  
**unanimously approved**

**Order of Conditions Extension Requests**

40-1408            9 Goodwin's Ct- Goodwin's Ct. Cond. Tr. – building, grounds and seawall maintenance-  
**unanimously approved**

40-1422            22 Whittier Rd- David Quade et ux - site restoration- **unanimously approved**

**Certificate of Compliance request**

40-1447            142-148 Lafayette St –Forest River Est. Condo. III Tr. - tree mitigation- **unanimously approved**

40-1481            151 Green St – John Muldoon – condo complex, sitework-**not approved need more information**

- 40-1232 Goldthwait Reservation – Tim Geraghty – [DeRosa Environmental] Wetlands restoration, invasive species mgmt., drainage [applicant request invasive species management surviving condition be added to the COC] - **unanimously approved**
- 40-1405 61 Naugus Ave – Alan November – pier, ramp, float and landing- **unanimously approved**
- 40-1384 65 Naugus Ave – Edward Breed et ux – pier, ramp, float and landing- **unanimously approved**

#### **Minor Activity Permits**

- 12 Intervale Rd.- Doris Sims – tree removal- **unanimously approved on condition they are replaced with 4 Native Species.**
- 20 Pequot Rd - Dorothy L. Kaulbach – Tree removal- nobody appeared **Hold**
- 10 Goldthwait Rd – Blake Liggio – [Fred Clark] – site work- **need a more accurate detailed plan, more definition on the water feature-continued till March**
- 11 Bartlett St – Lillian Lieberman –[Stephen Paterson] – driveway pavers after the fact-**continued till March**
- 4 Indianhead Cir – Cheryl Booth – tree removal replacement-**need report from an Arborist- continued till March**

#### **CONTINUED PUBLIC HEARINGS:**

- 40-1535 84 Harbor Ave. – Stephen L Krebs, Trustee – [Patrowicz] – [DEP: project requires a chapt. 91 Lic.] fixed pier, seasonal gangway & floating dock- **At the January hearing the applicants representative requested the hearing be continued to the March 9<sup>th</sup> hearing.**

#### **PUBLIC HEARING[S]**

- 40-1533 6 Harbor View- Kevin Crosby et ux- [Kara Pascal] - [DEP: no comments] - after the fact patio install, masonry repair-**Peer review required to determine top of Coastal Bank. Applicant given option to proceed with presentation prior to peer review-continued till March.**

**The hearing was opened. Prior to hearing the applicants presentation, the Chairman suggested to the applicant's representatives, John Dick and Kara Pascal, that since there is a discrepancy between the location of the top of coastal bank on the applicants NOI and an NOI filed on the same property in 2007, the commission would like the location to be reviewed by an independent peer reviewer. The results being the determination of whether the proposed alterations are in a buffer zone or a coastal bank resource area.**

**The chairman gave the applicant the opportunity to present their case at the hearing or after hearing the results of the peer reviewer's findings. The hearing was continued to the March 9<sup>th</sup>, 2023 hearing.**

40-1537      325 Ocean Ave. – Hugh Scandrett – [Patrowicz] – [DEP: no comments] - uniting two existing drain lines together-**The Commission suggested the hearing be continued to the March 9<sup>th</sup> hearing so discussions by the applicant with DPW could occur. It was voted to continued till March**

40-1538      70 Nanepashemet St. – Slogood Properties, LLC – [Patrowicz] - [DEP: no comments] – house re-construction-**Sarah Arnold asked when will Landscaping be restored? She was told 2 months prior to work in 2024. The Applicant will apply for a certificate of compliance [COC] for the previous open order of conditions [OOC] to close that OOC. The COC will note that no construction work occurred. The commission voted to close the hearing and approve a new OOC with the following special conditions: 32, 33, 34, 35, 36, 40, 45, 50, 55.**

**Special Conditions:**

**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.**

45. When a pool/spa/hot tub is to be drained, no chlorine or other chemicals are to be added to the pool water for a period of at least four (4) days prior to draining to allow for the chlorine and other chemicals to dissipate; and there shall be an appropriate sign placed permanently at or immediately adjacent to the pool/spa/hot tub drainage valve or mechanism indicating this requirement. The method of pool drainage shall be such as to prevent any soil erosion by the draining water and to allow the draining water to seep into the ground prior to entering any resource waters. No direct discharge to resource waters is allowed. **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](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".**

40-1539                      3-5 Gilbert Heights – Judith Schmidt – [De Rosa] - [DEP: no comments available yet] - resource and buffer zone restoration- **The applicant's representative, Evin Guvinderin from DeRosa Environmental, reported on the sloped stabilization, invasive species management and planting mitigation proposal.**

**Two of the commissioners commented that there was no mitigation shown for the 11 trees that were removed in the buffer zone above the coastal bank and the coastal bank.**

**The Commission voted to unanimously issue an order of conditions with the following special conditions.**

**32, 40, 50, and 55. Also All the planting are to be monitored annually with reports to the commission for 3 years. All non-surviving plants are to be replaced. The applicant shall locate 7 locations on the coastal bank for planting trees. It was noted that there were several large trunks of removed trees located on the coastal bank suggesting planting trees on the bank**

**was viable. All planting was to be completed by June 30th, 2023 unless extended by the Commission.**

**All invasive species plants are to be removed and disposed of at a special facility design to prevent the spread of invasive species**

**Special Conditions:**

**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.

**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.**

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**Additional Special Conditions:**

All the planting are to be monitored annually with reports to the commission for 3 years. All non-surviving plants are to be replaced. The applicant shall locate 7 locations on the coastal bank for planting trees. It was noted that there were several large trunks of removed trees located on the coastal bank suggesting planting trees on the bank was viable. All planting was to be completed by June 30th, 2023 unless extended by the Commission. All invasive species plants are to be removed and disposed of at a special facility design to prevent the spread of invasive species.

**ENFORCEMENT ORDER[S]:**

40-1391                      3-5 Gilbert Heights-Judith Schmid- alteration to resource area without a permit per 310 CMR 10.00.-**Keep open until work is completed.**

6 Harbor View - Kevin Crosby et ux - making alterations in an area subject to protection per MGL ch131 §40 without a permit.-**Keep open until we understand the facts and circumstances.**

**DISCUSSION**

**Unanimously approved to adjourn 9:00 PM.**