

Marblehead Conservation Commission Minutes

September 14, 2023

This hearing will be 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.

Present were Commission Members David VanHoven acting as Chairman, Jesse Alderman, Kate Melanson, Kristopher Meola, 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.

The hearing was called to order at 7:25 PM.

DISCUSSION:

Elect new chairperson of the Conservation Commission **David VanHoven was unanimously voted in as new chairperson of the Conservation Commission.**

The Commission voted unanimously to approve the minutes of the prior hearing: August 10, 2023.

ORDER OF CONDITIONS EXTENSION REQUESTS

40-1450 18-18R Crowninshield Rd. – Benjamin Simon Kornitzer – embankment **The Commission voted unanimously to approve.**

40-1412 7-7R Sunset Rd. – Mary Smith – pier & deck repairs **The Commission voted unanimously to approve.**

CERTIFICATE OF COMPLIANCE REQUEST[S]

40-1466 Offshore Atlantic Ocean-Edge Cable Holdings-[ERM]- submarine cable installation **The Commission voted unanimously to approve.**

40-842 14 Corinthian Ln – Lisa Suydam – landscaping **The Commission voted unanimously to approve.**

MINOR ACTIVITY PERMITS:

9R Spray Ave – Linda Garnitz TTE – adding dormers within the existing roof limits/footprint.
The Commission voted unanimously to approve.

8 Corn Point Rd. – Charlotte R. Lewis et ux – [Patrowicz] – house addition within the existing roof limits/footprint. **The Commission voted unanimously to approve.**

MINOR MODIFICATION REQUEST[S]:

40-1538 70 Nanepashemet St – SloGood Properties, LLC – [Patrowicz] – smaller house, larger pool **The Commission voted unanimously to approve.**

40-1437 & 40-1382 20 Crowninshield Rd – David Rosenzweig - [Meaghan Keefe] – expand deck and walkway **The Commission voted unanimously to approve.**

40-1192 22 Foster St – Ralph Sevinor – Sitework **The commission discussed that this is not a minor modification and instead will require an amended NOI and a site visit by commissioners, as well as possible removal. Amended NOI is also being requested by abutter William Nutt, represented by Michelle Hunton. The Commission voted unanimously to deny minor modification request.**

DEP file#	ADDRESS	APPLICANT	PROJECT DESCRIPTION
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CONTINUED PUBLIC HEARINGS:

40-1545 10 Coolidge Road – Daniel J. Riccio, Tr – [Patrowicz] - [DEP: no comments] – house addition landscaping, site work [revised plan] **The Commission voted to unanimously continue this matter to the October hearing.**

40-1556 2 Nonantum Rd – Paul Murphy. Pres. Bessom Associates Inc. – [Patrowicz] - [DEP: no comments] – demo and rebuild a new house, sitework, landscaping. **After testimony from Patrowicz that the proposed house is further from the coastal bank and the house elevation is higher per FEMA regulations there was continued discussion regarding the removal of a large tree. The Commission voted unanimously to continue the hearing to the October hearing.**

PUBLIC HEARINGS:

40-1554 24 Nonantum Rd – Paul Murphy – [John Dick] - [DEP: Technical Comments: Portions of the proposed work are proposed in a velocity zone. It is unclear from the submitted plans what work will be performed on the existing seawall. Plans should be submitted that detail the existing seawall and its elevations and a proposed seawall plan that details the proposed

improvements with elevations. Side profiles of the seawall should also be provided. The structures that are located in the flood hazard areas subject to high velocity wave action must be elevated so that the bottom of the lowest horizontal structural member supporting the lowest floor is located at an elevation that is at least two feet above the base flood elevation. The proponent must describe how/whether proposed changes to the site's topography (including changes to the seawall) will result in changes to floodwater flow paths and/or velocities that could impact adjacent properties or the functioning of the floodplain. The floodplain analysis should compare existing and proposed elevations. The analysis should also describe how the coastal floodwaters will flow onto and off the site during a coastal storm, specifically, how will the floodwaters flow in and drain out.]- deck, railings landscaping and repairs **The Commission voted to approve with the submission of a revised plan with the following special conditions:**

Special Conditions:

The applicant shall submit a revised plan showing definitively the limits and scope of work to be performed including the installation of erosion control measures.

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.

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.

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".

40-1560 24 Cloutman's Lane – Patrick Connolly et ux – [Hayes]- [DEP: no comments available yet] – Addition **Commission member Jesse Alderman recused himself from this hearing due to his professional relationship with applicant. Motion to continue without opening to October hearing was unanimously approved.**

40-1559 3 Mooring Rd – Susanne Iovanna – [Patrowicz] -[DEP: no comments available yet] – garage addition **After a presentation by Scott Patrowicz, the Commission voted to unanimously approve with the following special conditions:**

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.

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.

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.

54. The control drawing/s for this project were prepared by a licensed Professional. The construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawing/s. Progress reports shall be submitted by said professional at regular intervals while work is progressing on the project. The reporting interval shall be determined by the Conservation Administrator based on the scope and anticipated duration of the project. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawing and setting forth any deviations that may exist between the completed work and the plan approved by the Conservation Commission.

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".

40-1558 84 Harbor Ave. –Holly A. O’Neill et ux – [Patrowicz] –[DEP: no comments available yet] - new house **Scott Patrowicz, representing the O’Neills, presented a partial demo of waterfront side to create a large outdoor area and move house back with a new pool addition. The Commission requested a site visit and voted to continue hearing to the October meeting.**

40-1557 175 Beacon St. – 4J Homes, LLC – [Patrowicz] – [DEP: no comments available yet] -new house **The Chairman indicated that there was questions regarding whether the amount of time provided to the abutters to review the materials. A request for more time to review was submitted by several abutters. Guy Tully of 5 Beacon Hill Rd spoke to the unique nature of the land in question and the significant environmental impacts the presented plan would have on that land. Buzz Snyder of 6 Beacon Hill Rd spoke to the conditions at the bottom half of the road, which is below street level. He discussed concerns about the drains overflowing and the potential to freeze over in the winter. Robert Howie of 7 Beacon Hill Rd echoed prior abutter comments and is concerned with the allotted time abutters had to review such a permanent change. Amy Tully of 5 Beacon Hill Rd recommended a site visit and would like to see a landscaping plan for replacement tree locations. David McKay of 3 Beacon Hill Rd stressed the significance of the depression and the density of vegetation that would be affected by presented plan. Phoebe Magee of 185 Beacon St spoke to the flooding tendencies at her home and expressed concerns about the slope where work will take place**

if approved. All abutters requested continuance for more time to review the presented plan.

ENFORCEMENT ORDER[S]:

40-1539 5 Gilbert Heights - Judith Schmidt- would like to appeal the \$3,000 fine issued at the July hearing **There was no one present at hearing to appeal fine.**

40-1192 Ralph Sevinor – [Hayes Eng’g.] – work performed outside the scope of the approved plans. **The Commission continued this order to the October meeting due to upcoming site visit.**

DISCUSSION:

Other matters as may appropriately be brought before the Commission.

Performance standards for new piers. **The Commission moved to discuss at next meeting.**

Tree replacement continued discussion. **The Commission moved to delay vote to October meeting.**

The hearing was voted to be adjourned at 10:36 PM.