

Marblehead Conservation Commission Minutes July 13, 2023

This hearing was held remotely in accordance with former 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 served as Chairman, David Oster, Kate Melanson, Jesse Alderman , 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 7:05pm

DISCUSSION:

Approve minutes of prior hearing: June 8, 2023 **The Commission voted unanimously to approve**

Gerry Playground, Stramski Way – Peter James, Rec. and Parks Superintendent to discuss the beach erosion. **The Commission voted unanimously to approve a temporary Kayak ramp from grass edge to sand 20ft long 10ft wide.**

40-1537 325 Ocean Ave – [Patrowicz] Request for approval of a required landscaping plan **The Commission voted unanimously to approve**

ORDER OF CONDITIONS EXTENSION REQUEST[S]:

The Commission voted unanimously to approve the following extension requests:

40-1445	11 Susan Road - Leah Waldo- site restoration, invasive species management
40-1442	17 Goodwins Ct – Michael Berman – seawall repairs
40-1137	21 Goodwins Ct – Stephen Gallagher et ux – house renovations

CERTIFICATE OF COMPLIANCE REQUEST

The Commission voted unanimously to approve the following certificate of compliance requests:

40-1534	1 Parker Ln – William Nutt [Hayes Eng'g] – pier repairs
40-1462	4 Broadmere – Stephen Thompson et ux – pier repairs
40-1366	9 Neptune R - Thomas Cares – new house, sitework
40-1527	367 Ocean Ave – Cairns Realty Tr – outdoor kitchen area

MINOR ACTIVITY PERMITS:

11 Susan Road - Leah Waldo- install heat pump, replace windows and plant trees **The Commission voted unanimously to approve**

42 Gallison Ave. – Mark Cruickshank – dormers expansion, wall removal **Veronica Hobson represented the homeowner. The Commission voted unanimously to approve**

4 Beacon Heights Ln – Cheryl Garrett – invasive species mgm't.and clean-up of adjacent town owned land **The Commission voted unanimously to approve needs to replace one tree and is subject to approval from the Select Board. Work performed on town property by a commercial company requires a certificate of insurance naming the town as an additionally insured party.**

MINOR MODIFICATION[S]:

40-1544 22 Cliff St – Ralph Roberto et ux – Scott Patrowicz representing the owner introduced **Ed Moll, Structural Engineer, who spoke to requesting to alter the consstruction method with a better solution to fix the Bulge in the wall .The Commission voted unanimously to approve**

<u>DEP file#</u>	<u>ADDRESS</u>	<u>APPLICANT</u>	<u>PROJECT DESCRIPTION</u>
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PUBLIC HEARINGS:

40-1551	19 Goodwins Ct - Eric Walker et ux – Scott Patrowicz represented the owners for building and foundation maintenance, install basement openings Ed Moll and Jeff Tucker spoke.		
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The Commission voted to close the hearing and approve an Order of Conditions with the following special conditions.

Special Conditions:

Prior to construction a plan shall be submitted to the Conservation Agent for his approval specifying temporary scaffolding construction, tarp deployment, debris collection and disposal, and activities limitation based on weather.

During construction:

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.

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".**

102. A tarp will be laid down at the base of the seawall during all repair work to capture all construction debris. The tarp will be on the seaward side of the seawall. The tarp will be rolled up and dumped into a disposal trailer as required throughout the work day and will be removed at the end of each work day.

105 Tarps shall be spread and secured over the work area on top of the existing resource area for debris containment and collection during low to medium tides. The tarps and debris will be removed between tides and at the end of workday. At no time are the tarps to be inundated due to rain, tidal or wave action. The tarps are to be removed no less than ½ hour prior to expected inundation. At that time all work is to cease in the area near the resource area.

40-1550 38 Crestwood Rd – Kim Belf et al – Scott Patrowicz representing the owner introduced Jeff Tucker, Architect, to propose demolishing an existing house and construct a new single family house with sitework and landscaping.

The Commission voted to close the hearing and approve an Order of Conditions 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.

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.**

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.**

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".**

CONTINUED PUBLIC HEARINGS:

40-1545 10 Coolidge Road – Daniel J. Riccio, Tr –Scott Patrowicz representing the owner for a house addition landscaping, site work [revised plan] **A motion to continue till August meeting was approved.**

40-1549 18 Churchill Rd – Sean Kelly – John Dick representing the owner for proposed sitework, grading. **Commissioner Jesse Alderman, not present for the May hearing, watched the video from the hearing and provided a written acknowledgment that he did so and was therefore qualified to vote on the matter. The Commission voted to close the hearing and approve an Order of Conditions 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.

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.

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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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ENFORCEMENT ORDER[S]:

17 Prince St Ralph Khouris – possible alteration to the buffer zone to a resource area without a permit per 310 CMR 10.00. **Peter Ogren from Hayes Engineering spoke, the Commission voted the owner must submit a minor activity permit to cover the work that has been done to date and to close out this enforcement order without any additional fines. It's been established there is a resource area there and the homeowner has been asked to file minor activity permits for any future work.**

40-1391 3-5 Gilbert Heights-Judith Schmid - alteration to resource area without a permit per 310 CMR 10.00. **Evin Guvendiren represented the owner, describe the work completed to date and noted the restoration plan has been completed.**

The Commission agreed the plan was completed. The Commission voted unanimously to issue a fine in the amount of \$3000.00 noting the nearly 6 month delay by the applicant in filing a notice of intent for the work that was performed in the buffer zones and resource area without a permit. After the fine is paid, the Commission will close the enforcement order.

40-1192 Ralph Sevinor – [Hayes Eng'g.] – work performed outside the scope of the approved plans. **Peter Ogren Hayes Engineering** spoke representing **Ralph Sevinor**, **Michelle Hunton** represented **William Nutt** a neighbor at 20 Foster St. Motion to continue to the August meeting.

DISCUSSION:

Other matters as may appropriately be brought before the Commission:

The Conservation Administrator requests approval to pay the \$929.00 annual dues for Mass. Assoc. of Conservation Commissioners [MACC]. **The Commission voted unanimously to approve**

Performance standards for new piers. **We made need an amendment to the bylaw if we don't want to see every property have its own pier. We could examine additional performance standards and get legal opinion on the ability to incorporate recreation considerations.**

Tree replacement continued discussion. **We need to complete a draft discuss it at the next public meeting and then adopt it in a public meeting, it then needs to be advertised for two weeks.**

The hearing was voted to be adjourned at 9:58pm