

**Marblehead Conservation Commission Minutes
May 9, 2024**

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 Chairman David VanHoven, Kristopher Meola, Jessica Norton, Dave Oster, Carole McCauley, 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 7:02 PM.

DISCUSSION:

The Commission voted unanimously to approve the minutes of the prior hearing: April 11, 2024.

40-1559 3 Mooring Road. Suzanne Iovanna- [Emmanuel] – landscape plan **Scott Patrowicz and James Emmanuel were present representing Suzanne Iovanna. They presented a landscape plan for a project previously approved by the Commission for the reconstruction of a garage and creation of an outdoor living space. The landscape plan includes a permeable paver patio with a retaining wall and walkway, an outdoor kitchen setup, and various plantings. The Commission voted unanimously to approve the plan.**

Transcript of Motion and Vote:

Chair David VanHoven: I would entertain a motion to approve the landscape plan for 40-1559.

Jessica Norton: So moved.

Kris Meola: Second.

David: All right, all those in favor, we'll just go around. Kris?

Kris: Yes.

Carole: Yes.

Dave: Yes.

Jessica: Yes.

David: And myself is a yes. All right, thank you.

40-1505 291R Ocean Ave – Robert McCann - [Emmanuel] – landscape plan **Scott and James also represented Robert McCann. They presented a landscape plan for his previously approved site plan for a driveway, water quality swale, and garage. The plan included regrading lawn to handle runoff, various plantings around the building, and a stone path with gravel in between as well as the gravel driveway. The Commission voted unanimously to approve the plan.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the landscape plan for 40-1505.

Carole: So moved.

David: A second?

Jessica: Second.

David: All right, all those in favor, we'll go around. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: All right, and I am a yes. Landscape plan is approved, thank you.

ORDER OF CONDITIONS EXTENSION REQUEST/IS/:

40-1437 21 Sunset Rd – Charles F. Smith et ux – seawall repairs **The Commission voted unanimously to approve.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the Order of Conditions extension request for 40-1437.

Kris: So moved.

David: Is there a second?

Jessica: Second.

David: All right, all those in favor. Kris?

Kris: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Carole: Yes.

Jessica: Yes.

David: And myself is a yes.

40-977 Pond St/Redd's Pond – Marblehead Rec. & Park - [Biff Martin] – weed control **The Commission voted unanimously to approve.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the Order of Conditions extension request for 40-977.

Kris: Yes, so moved.

David: Second?

Carole: Second.

David: All right, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: And myself is a yes.

40-1192 22 Foster Street- Ralph Sevinor – home reconstruction **The Commission voted unanimously to approve.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the Order of Conditions extension request for 40-1192.

Kris: So moved.

David: Is there a second?

Carole: Second.

David: Okay, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: And myself is a yes.

CERTIFICATE OF COMPLIANCE REQUEST[S]:

40-1462 12 Gregory Street - James Bryant – [Paul Lynch] – home repairs **The Commission voted unanimously to approve.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the Certificate of Compliance request for 40-1462.

Carole: So moved.

Kris: Second.

David: All right, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: And myself is a yes.

40-1549 18 Churchill Rd – Sean Kelly – sitework **The Commission voted unanimously to approve.**

Transcript of Motion and Vote:

David: I would entertain a motion to approve the Certificate of Compliance for 40-1549.

Kris: So moved.

David: And a second.

Jessica: Second.

David: Okay, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: And myself is a yes.

MINOR ACTIVITY PERMIT REQUEST[S]:

Chandler Hovey Park – Town of Marblehead Rec and Parks Dept. – invasive species removal **No one was present from Recreation and Parks for this matter.**

MINOR MODIFICATION REQUEST[S]:

40-1494 201 Ocean Ave – Margaret Cook – [Ulrich] - landscape plan Scott also represented Margaret Cook. He and Matt Ulrich presented a landscape plan which involved repairing and replacing existing elements such as a walkway, retaining wall, and stairs. Matt explained that the new materials and design would complement recent extensive renovations to the house. David VanHoven noted that this is more a minor modification as the original Notice of Intent (NOI) did not include the replacements. The Commission agreed and applicants agreed to the change. The Commission then unanimously voted to approve this as a minor modification request.

Transcript of Motion and Vote:

David: I would entertain a motion to approve the minor modification request for 40-1494.

Kris: So moved.

Carole: Second.

David: All right, all those in favor, we'll go around. Kris?

Kris: Yes.

Carole: Yes.

Dave Oster was still muted but signaled to the Chair that he is a yes.

Jessica: Yes.

David: All right, and I am a yes.

40-1536 172 Front St – Herve Sedky – [Patrowicz] – house addition Scott Patrowicz was present representing the applicant Herve Sedky. The original approved site plan included an addition that the Historical Commission did not approve of. This changed where the front stoop will be entered. As a result of the change, there is 36 square feet less impervious surface than before. The Commission voted unanimously to approve this request.

Transcript of Motion and Vote:

David: I would entertain a motion to approve the minor modification request for 40-1536.

Kris: So moved.

Dave Oster: Second.

David: Alright, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave: Yes.

Jessica: Yes.

David: Myself is a yes.

40-1495 9 Roydon Rd – Ryan O'Connor et ux – [Jacob Arch's.] - house rebuild Architect Walter Jacob represented the applicants. The previously approved site plan included a two-car garage and granite paver driveway. After going through planning and zoning, they changed to a one-car garage and a pea stone driveway. This also reduces the impervious surface by 43 square feet and moves the garage further away from the resource area. The Commission voted unanimously to approve this request.

Transcript of Motion and Vote:

David: I would entertain a motion to approve the minor modification request for 40-1495.

Carole: So moved.

Kris: Second.

David: All right, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave: Yes.

Jessica: Yes.

David: And myself is a yes.

DEP file#	ADDRESS	APPLICANT	PROJECT DESCRIPTION
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PUBLIC HEARINGS:

40-15_____ 421 Ocean Ave- Peter Noyes - [Hayes] – [DEP: no comments available yet] – seawall repair Elizabeth Wallis from Hayes Engineering represented the applicant. The DEP number was not issued before the meeting. Since a hearing cannot be closed without the DEP number as the work is in a resource area, the hearing was continued to the next meeting without opening.

Transcript of Motion and Vote:

David: I would entertain a motion to continue the hearing for 421 Ocean Avenue to the June meeting.

Kris: So moved.

David: Is there a second?

Jessica: Second.

David: Okay, all those in favor. Kris?

Kris: Yes.

Carole: Yes.

Dave: Yes.

Jessica: Yes.

David: And myself is a yes. Continued to next month, thank you.

40-1570 444 Atlantic Avenue – Robert M. Ogan et ux – [Patrowicz] – [DEP: no comments] – seawall repair Scott Patrowicz represented applicant Robert Ogan. He outlined the plan to repair a failing seawall that stretches for about 88 linear feet, belonging to the applicant's property. The seawall, which consists of various types of concrete blocks, is undermined and has rusting rebar. Scott's team plans to dig down a minimum of 3 feet and cut back an overhanging concrete section to avoid seaward expansion. The plan is to replace the damaged sections with concrete, in 6 to 8 foot sections, as the tide allows. The goal is to complete one section a day, starting with the most damaged area. The project also involves re-pointing the wall as needed. The Commission voted unanimously to approve an Order of Conditions (OOC) with special conditions.

Transcript of Motion and Vote:

David: I would entertain a motion to issue an order of conditions with the following special conditions: 33, 35, 36, 41, 54, 55, 102, 105 – so Scott you see there is two different ones depending on the different pieces of work that you're doing, and then 111 for the concrete.

Carole: So moved.

David: Is there a second?

Kris: Second.

David: Alright, all those in favor, we'll go around. Carole?

Carole: Yes.

Dave: Yes.

Jessica: Yes.

Kris:

David: And myself is a yes. Thank you.

Special Conditions:

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.

Post-construction/in perpetuity:

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.**

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.

111. Concrete, mortar or grout shall not be placed that may be subject to wetting from rain, or seawater, within the curing time plus ½ hour the concrete being hard to the touch.

40-1571 0 Bracket Pl. – Glover Landing condo. Tr. – [Patrowicz] – [DEP: no comments] – seawall repair **Scott Patrowicz represented Glover Landing Condominium. He reported a breach in the seawall there of about 25 feet, which occurred during a storm 3-4 weeks prior. Repairs were carried out under an emergency order. This NOI request is technically retroactive and was a requirement of the order. Scott noted most of the work is finished, in particular the safety aspect. He also noted beach access and site work component ended up not being needed at all. There were no members of the public present for the discussion. The Commission voted unanimously to close the hearing and issue an OOC with special conditions.**

Transcript of Motion and Vote:

David: I would entertain a motion to close the hearing.

Dave: So moved.

David: Is there a second?

Jessica: Second.

David: All right, we'll go around. All those in favor, Carole?

Carole: Yes.

Dave: Yes.

Jessica: Yes.

Kris: Yes.

David: And myself is a yes. And so now that it is closed, I would entertain a motion to issue an order of conditions with the following special conditions: 33, 35, 36, 41, 54, 55, 105. And that is it.

Carole: So moved.

David: Is there a second?

Jessica: Second.

David: All right. All those in favor, we'll go around. Carole?

Carole: Yes.

Dave: Yes.

Jessica: Yes.

Kris: Yes.

David: And myself is a yes. All right, so that approves 40-1571.

Special Conditions:

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.

Post-construction/in perpetuity:

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.**

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".**

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.

And so retroactively,

I would like to entertain a motion to close 40-1570.

Kris: So moved.

David: Is there a second?

Jessica: Second.

David: All those in favor, Carole?

Carole: Yes.

Dave: Yes.

Jessica: Yes.

Kris: Yes.

David: And myself is a yes, ad we've already voted on the OOC with special conditions.

DISCUSSION:

0 Edgewood Road - Tom Martin – complaint regarding alterations at 21, 23 Prince Street

Thomas Martin of 0 Edgewood Road was present as an abutter to discuss his complaint about previously approved minor landscaping activity at 21, 23 Prince St. He explained his concerns regarding water issues and the impact on the surrounding wetlands. He noted there have been water issues here for 25 years, and that every time something goes on at 23 or 21 Prince St, material gets left and water floods in. He shared photos showing the water levels. Thomas is requesting that a water plan put into place and a wetlands survey established for 21 Prince St before any further work is done. He presented minutes from the January 2015 Conservation Commission meeting, in which a previous homeowner was trying to get approval to add a building so it could be sold as a buildable lot. David VanHoven explained for the current Commission that it had been essentially declined and would have required a full wetlands survey and other things, but the applicant then just dropped it and stopped trying to get it approved. Thomas expressed his concerns about the pond being poisoned if anything like lube oil leaked into it, especially for wildlife such as the mallard ducks that breed there each spring. David proposed he and Charlie Quigley go out for a site visit, then reporting back to the Commission. Ralph Khouri, homeowner of the property where the work is being done, was also present and offered to meet with David and Charlie at the site to discuss the previously approved permit and the actual work that has been done since. They set a time to meet on Monday, May 13, 2024. Charlie will bring a copy of the approved minor activity permit to the meeting.

Norman Blanchard was also present with Nancy Nash of 27 Prince St to inform the Commission that Nancy has had to install two to three extra pumps running 24/7 to pump out the water that she has had flooding in since the work began. Norman noted Nancy's whole basement is being flooded. Laura Gallant mentioned that the owner was supposed to file a Restoration plan as part of an enforcement order but did not think that was ever done.

The hearing was voted to be adjourned at 8:08 PM:

Transcript of Motion and Vote:

David: I'd like to entertain a motion to close the meeting.

Kris: So moved.

David: Is there a second?

Dave: Second.

David: All right, all those in favor. Carole?

Carole: Yes.

Dave: Yes.

Jessica: Yes.

Kris: Yes.

David: All right, and myself is a yes, thanks.

Minutes taken by: Amanda Viecegli