

# Marshfield Zoning Board of Appeals (ZBA)

*Harbor Master asking Marshfield ZBA to approve 94 New Parking Spaces & 18 Trailer Spaces in a wetland area*

## JOIN US

TUESDAY  
NOVEMBER 9, 2021

6:30 PM

MARSHFIELD TOWN  
HALL  
2<sup>nd</sup> Floor

CAN'T ATTEND IN PERSON

ZOOM:

Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law.

**Join Zoom Meeting**

<https://us02web.zoom.us/j/83276773239?pwd=TUw0bzhVMU01RytqTUlyNm1aUUw3Zz09>

**Meeting ID:** 832 7677 3239 **Passcode:** 346432. One tap mobile.

Must have microphone or you will not be able to speak. Must have camera if you want to see video. If dialing in on a phone, please use \*6 to mute and unmute.

AGENDA

**#21-59A: Town of Marshfield/Harbormaster**

The Petitioner is seeking a **Special Permit** in accordance with §305-10.10, §305-10.12 and §305-13.02 for the **extension and alteration of an existing nonconforming use** and Site Plan approval under §305-12.02 of the Marshfield Municipal Code to **regrade the Town's existing Dredge Spoils Area (DSA)** to provide additional parking for a total of ninety-four (94) parking spaces and eighteen (18) trailer spaces for use by Harbor Park visitors and overflow parking for the Town Pier on the property located at Joseph Driebeek Way which is further identified on the Assessors' Maps as being on parcel M07-03-01 and is located in an R-3 zoning district.

MARSHFIELD ZONING BOARD OF APPEALS

CASE No:  
NAME: Marshfield Harbormaster  
PROPERTY: Parcel M7-03-01  
PHONE: 781-834-6655 Ext 175  
EMAIL: [mjimeo@marshfieldpolice.org](mailto:mjimeo@marshfieldpolice.org)

FORM 2C – REQUESTED FINDINGS OF FACT – SPECIAL PERMIT

Now comes the applicant, Town of Marshfield, Harbormaster who applies to the Board of Appeals according to Section(s) 305-10.10 and 305-13.02 of the Zoning By-law for property located at Joseph Driebeek Way, Parcel M07-03-01 and asks the Board to make the following findings of facts in accordance with the provisions of law:

1. The use is allowed in the Coastal Wetlands District as a Municipal Use: essential services, parks and a maritime service and safety facility in §305-13.02, C., Permitted Uses with a permit from the Zoning Board of Appeals. The use is also allowed in the underlying R-3 Residential District in the Table of Use Regulations as a Community Facility #4., as is the accessory use thereto under Accessory Uses, #14.
2. That the requested use is essential or desirable to the public convenience or welfare for the following reasons:  

The requested use is an expansion of an existing accessory use for off-street parking and loading. With the renovation of Harbor Park and the construction of Harbor Walk, the demand for parking in the area has increased. Additionally, a redesign of the Town Pier is underway and loss of some of the trailer parking at Town Pier is expected. The redirected trailer parking in this new expansion will help decrease congestion and traffic accidents and increase visibility and pedestrian safety in the current Town Pier parking area. The expansion of the gravel parking lot across from Harbor Park would provide the additional parking for Town Pier as well as for events at Harbor Park.
3. That the requested use will not create undue traffic congestion or unduly impair pedestrian safety for the following reasons:  

The requested use is an expansion of the existing accessory use. The proposed project will improve vehicular access and movement within the site due the expanded parking area. Pedestrian safety will also be improved by moving the entrance to the parking lot away from the existing north cross walk.

MARSHFIELD ZONING BOARD OF APPEALS

CASE No:  
NAME: Marshfield Harbormaster  
PROPERTY: Parcel M7-03-01

FORM 2C (page 2)

4. That the requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other are of town will be unduly subjected to hazards affecting health, safety or the general welfare for the following reasons:  

There will be no connection to the Town's water system. Runoff from the expanded parking area within the Town's Dredge Spoils Area (DSA) will be directed north and east to the remaining low area on the property where it will infiltrate into the ground. Therefore there will be no impact on the municipal drainage system. There will be no impact on the municipal sewer system because no connection is proposed. It is expected that users would use the Public rest rooms (portable) that are located at Town Pier.
5. That any special regulations for the use, set forth in Article XII of the Zoning By-law are fulfilled, specifically:  

The proposed lighting will be located on existing utility poles, will be dark-sky compliant, downward facing, directed away from the road and adjacent properties. No other environmental impacts are anticipated as there are no activities that would produce emissions other than vehicle exhaust which already exists on the property and surrounding area (Town Pier / Wastewater Treatment Facility).
6. That the requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals or welfare for the following reasons:  

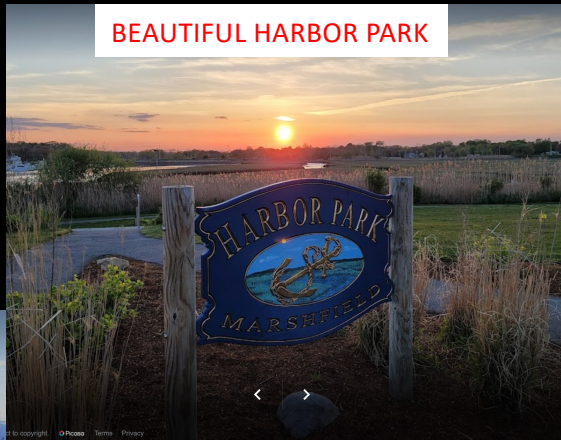
The requested use is an extension of the existing accessory use as off-street parking and loading and will have no negative effect on the principle use as Community Facility in the R-3 and Municipal Use in the Coastal Wetlands District.

Date: 7/14/21 Respectfully submitted by:  
  
Michael A. DiMeo, Harbormaster

NOTE: For petitioners for Expansion of a Non-Conforming Use or Structure, please complete Form 2C, Page 3.

**HARBOR MASTER HAS NOT SHOWN OR DOCUMENTED NEED. PARKING IS ONLY BUSY A FEW TIMES A YEAR. NO TRAFFIC STUDY FINDINGS? NO BOATER COMPLAINTS? NO SIDEWALKS IN BRANT ROCK.**

**BEAUTIFUL HARBOR PARK**



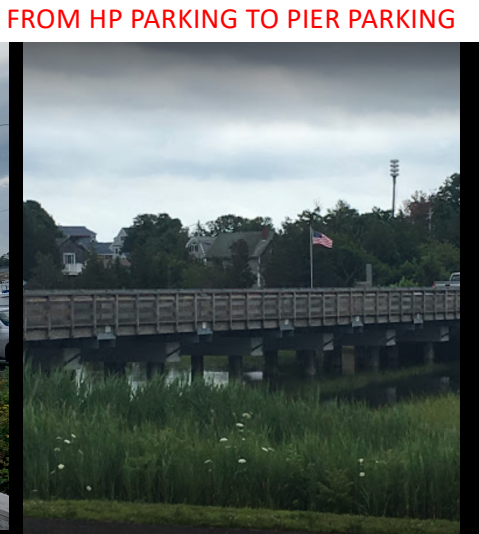
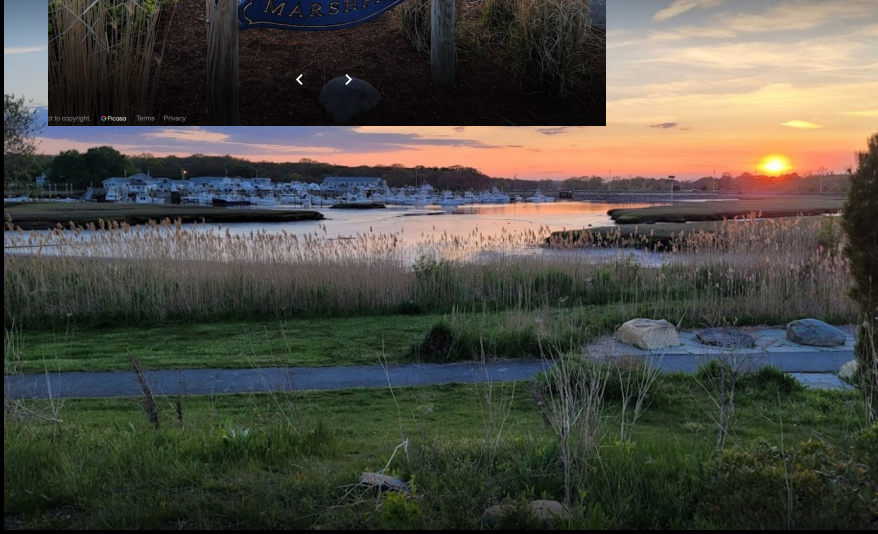
**HARBOR PARK PARKING**



**PIER PARKING**



**NARROW BRIDGE FROM HP PARKING TO PIER PARKING**

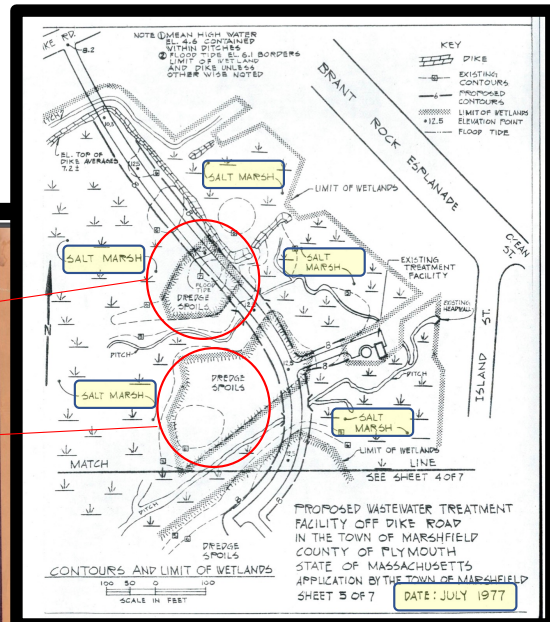


# HISTORY OF PROPOSED SITE AS DOCUMENTED IN APPLICATION HAS BEEN A DSA SITE SINCE 1931

Rec'd Apr. 22, 1931 at 9.30 A.M. & Recorded.

Proprietors of Green Harbor Marsh et al to Town of Marshfield Taking

WHEREAS at the Annual Town Meeting of the Town of Marshfield, held on March 3, 1930 it was unanimously voted that the Selectmen be instructed to petition the General Court for legislation to borrow money for the improvement of Green Harbor and reclaiming land for an aviation field, and WHEREAS at the same meeting it was unanimously voted to raise and appropriate the sum of Five thousand (\$5000.00) Dollars for the purpose of improving Green Harbor and reclaiming land for an aviation field, and WHEREAS under Chapter 199 of the Acts of 1930 the Town of Marshfield was authorized to borrow certain sums of money for the purpose of meeting its share of the expenditures required to dredge and fill certain tidewater and foreshores and construct other necessary works in Green Harbor with a view to improving the said harbor for aviation, and to reclaiming land for use as an aviation field, and WHEREAS at a regular meeting of the Voters of the Town of Marshfield held on Friday, September 5, 1930 it was voted that the Town accept the provisions of Chapter 199 of the Acts of 1930, and WHEREAS at the same meeting it was voted that the Treasurer, with the approval of the Selectmen or a majority thereof, be and hereby is authorized to borrow Thirty thousand (\$30,000.00) Dollars for the purpose of paying the Town of Marshfield's share of the expenditures provided for under Chapter 199 of the Acts of 1930 . . . . and WHEREAS at the same meeting it was unanimously voted that the Selectmen be authorized and instructed to take by right of eminent domain or otherwise, under the General Laws as amended by Chapter 280 of the Acts of 1929, such part of Green Harbor marshes South of the Dike as may be necessary or proper for the purpose of Chapter 199 of the Acts of 1930, and WHEREAS the sum of One thousand (\$1000.00) Dollars was appropriated for said purpose; and said appropriation was made by



1610

unanimous vote, and WHEREAS the Selectmen deem it necessary and proper that the following described parcels of land be taken for the purpose of improving Green Harbor and providing land for an aviation field, and other purposes referred to in Chapter 199 of the Acts of 1930, NOW, THEREFORE, We, Ralph C. Small, Frank L. Sinnott, and Charles C. Langille, Selectmen of the Town of Marshfield, by virtue of the authority granted to us by the above mentioned act and votes, and every other power and authority us hereto enabling, do hereby take in fee simple on behalf of the Town of Marshfield, the following described parcels of land in MARSHFIELD, with the buildings and trees thereon, for the purposes above mentioned. The land so taken is shown on a plan entitled "Plan of land in Marshfield, Mass., March 1931, Lewis W. Percival, Town Engineer," a copy of said plan is on file in the Office of the Selectmen of the Town of Marshfield and another copy is to be filed at the Registry of Deeds at Plymouth, Massachusetts. Entry on the premises described being made this twenty-first day of April, 1931. The whole tract of land taken is bounded as follows: One: Commencing at a point on the Easterly side of the Dike Road about five hundred (500) feet Northerly from the dike bridge; thence running North eight degrees twenty minutes no seconds East by land of the Proprietors of Green Harbor Marsh, one hundred thirty-five (135) feet; thence running on a curve to the right of a radius of nine hundred sixty (960) feet by said land of the Proprietors of Green Harbor Marsh and by land of the Estate of B. S. Bryant, six hundred ninety-three and 06/100 (693.06) feet; thence running North forty-nine degrees forty one minute fifty seconds East by said land of the Estate of B. S. Bryant, eight hundred twenty-three and 56/100 (823.56) feet to a point; thence turning and running South forty-six degrees nineteen minutes fifty seconds East by land of the Estate of B. S. Bryant, Seada Hadad, Della J. Barrow, Horace B. Maglathlin, land of heirs of Frank G. Andrews, Fred Beckard, and by land of owner unknown, one thousand three hundred seventy-eight and 24/100 (1378.24) feet to a point; thence turning and running North sixty-six degrees twelve minutes thirty seconds East by land of owner unknown, ninety three and 10/100 (93.10) feet to a point; thence turning and running South ten degrees twenty-nine minutes twenty seconds East by land of owner unknown, by land of George M. Washit, W. A. Reed, H. E. Murphy, William J. Morse, and Anna M. Madden, four hundred two and 49/100 (402.49) feet to a point; thence turning and running

NOTE: (This drawing prepared from aerial photograph) Figure 201-31-100B.

SAFETY DAYS

DEPARTMENT OF THE ARMY  
WATERWAYS DIVISION  
CONTRACT NUMBER

GREEN HARBOR  
MARSHFIELD, MASS  
MAINTENANCE DREDGINGS  
CONDUCTED BY CONTRACTORS  
6-FT ANCHORAGE AND BARGE

DATE: JULY 1977  
SCALE: AS SHOWN  
SHEET 5 OF 7

# Is the site safe to dig?

- “DPW will test but not until ZBA decides on how to proceed.”  
Tom Reynold, DPW Superintendent
- Department of Environment Protection (DEP) 401 rules (established in 1980) started to test DSA material prior to disposal. Anything after 1980 has been tested. Anything before 1980 is unknown.
- DEP Waste/Solid Waste Management reviewing now internally as Conservation contacted DEP Wetlands. Final findings will not be available until after ZBA meeting on 11/8.

# What are all these laws quoted in Agenda?

## AGENDA

### #21-59A: Town of Marshfield/Harbormaster

The Petitioner is seeking a Special Permit in accordance with **§305-10.10, §305-10.12 and §305-13.02** for the extension and alteration *of an existing nonconforming use* and Site Plan approval under **§305-12.02** of the Marshfield Municipal Code **to regrade the Town's existing Dredge Spoils Area (DSA)** to provide additional parking for a total of ninety-four (94) parking spaces and eighteen (18) trailer spaces for use by Harbor Park visitors and overflow parking for the Town Pier on the property located at Joseph Driebeek Way which is further identified on the Assessors' Maps as being on parcel M07-03-01 and is located in an R-3 zoning district.

By-Laws	By-Law Name
<b>§305-10.10</b>	Special Permits.
<b>§305-10.12</b>	Permit for extension or alteration of nonconforming use or structure.
<b>§305-13.02</b>	Coastal wetlands district.
<b>§305-12.02</b>	Site plan approval.

# Marshfield Town Bylaw - Article XIII

## § 305.10.10

Special Permits. Table of use on ZBA application is a Refuse Facility – not parking lot.

Do we need additional parking at Harbor Park and the Town Pier? Harbormaster wants (94) parking spaces and eighteen (18) trailer spaces. Law states: it needs to be “essential or desirable to public convenience or welfare” and it “will not create undue traffic congestion or unduly impair pedestrian safety.” Come to the ZBA meeting. NOVEMBER 9. 6:30PM. Town Hall. Come and have your voice heard.

Chapter 305. Zoning

Article X. Administration and Enforcement

§ 305-10.10. Special permits.

Certain uses, structures or conditions are designated as allowed by special permit in Article V, Table of Use Regulations, and elsewhere in this bylaw. Upon written application duly made to the Board, the Board may, in appropriate cases subject to the applicable conditions set forth in Articles XI and XII of this bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures and conditions. When site plan approval is required, the granting authority shall be the Board of Appeals except in the Planned Mixed-Use District where a special permit is also required and that special permit granting authority is the Planning Board. In that case, the special permit granting authority for the site plan approval shall be the Planning Board.

A. Before granting an application for a special permit, the Board, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

- (1) The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this bylaw.
- (2) The requested use is essential or desirable to the public convenience or welfare.
- (3) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- (4) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
- (5) Any special regulations for the use, set forth in Article XI, are fulfilled.
- (6) The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.

B. The Board shall also impose in addition to any applicable conditions specified in this bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

C. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan shall be submitted, in quadruplicate, to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

- (1) The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.
- (2) The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.

D. The special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown, and provided further that such construction once begun shall be actively and continuously pursued to completion within a reasonable time.

E. The Board shall hold a public hearing within 65 days after the filing by the applicant of the appropriate forms and plans with the Town Clerk who shall forthwith transmit said application to the Board. It shall act within 90 days of the hearing on the petition; failure to do so shall be deemed approval.

F. The Planning Board may appoint an associate member. The term of office of such associate member shall be two years. The Chairperson of the Planning Board may designate the associate member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any members of the Planning Board or in the event of a vacancy on the Board.

[Amended 4-24-2017 ATM by Art. 12]

# Marshfield Town Bylaw - Article XIII

## § 305.10.12

Permit for extension or alteration of nonconforming use or structure.  
What is allowed for extending or altering property that's nonconforming.

Chapter 305. Zoning  
Article X. Administration and Enforcement  
§ 305-10.12. Permit for extension or alteration of nonconforming use or structure.

Upon written application duly made to the Board and subsequent public hearing duly advertised by the Board, the Board may, in appropriate cases, subject to the applicable conditions set forth in Articles XI, XII, XIII, and XV of this bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for an extension or alteration of a nonconforming use or structure. The Board may, subject to the same conditions, grant a special permit for expansion of parking and other accessory uses appropriate to said nonconforming use or structure or expanded nonconforming use or structure.

A. Before granting a special permit for extension or alteration of such nonconforming use or structure, the Board, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

- (1) The use requested for extension or alteration is listed in the Table of Use Regulations as permitted, or permitted by special permit, in at least one district within the Town.
- (2) The requested extension or alteration of the use or structure is essential or desirable to the public convenience or welfare.
- (3) The requested extension or alteration of the use or structure will not further create undue traffic congestion or unduly impair pedestrian safety.
- (4) The requested extension or alteration of the use or structure will not further overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
- (5) Any special regulations for the use or structure as set forth in Article XII are fulfilled.
- (6) The requested extension or alteration of the use or structure will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.
- (7) The requested extension or alteration of the use or structure will not bring the use or structure into violation of, or further violation of, the regulations set forth in Article VI, Table of Dimensional and Density Regulations, unless a variance is also granted subject to the provisions of § 305-10.11 of this bylaw.
- (8) The extended or altered use or structure will not be substantially different in character.
- (9) The extended or altered use or structure will not be more detrimental or objectionable to the neighborhood.
- (10) The extended or altered use or structure does not cause violation or further violation of Article VIII of this bylaw.

B. The Board shall also impose in addition to any applicable conditions specified in this bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purpose of this bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearances of the structures; limitation upon the size, number of occupants, method or time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required by the bylaw. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

C. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan prepared by a registered land surveyor or registered professional civil engineer shall be submitted with six copies to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal, and for surface water drainage, wetlands, and all landscape features, such as fences, walls, planting areas and walks.  
[Amended 4-24-2017 ATM by Art. 12]

- (1) The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.
- (2) The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.



# Marshfield Town Bylaw - Article XIII

## § 305.13.02

### § 305-13.02. Coastal Wetlands District.

A. Purpose of district. The purpose of this district is to promote:

- (1) The health and safety of the occupants of lands subject to seasonal or periodic tidal flooding.
- (2) The preservation of the salt marshes and tidal flats and their attendant public benefit.
- (3) The safety and purity of water; control and containment of sewage; safety of gas, electric, fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting, electrocuting or any other dangers due to flooding.

B. Definition of district. The Coastal Wetlands District is superimposed over any other districts established by the bylaw. All lands in Marshfield covered by water of the average lunar monthly high tides and all other lands which have been identified in the report, "Soil Survey, Plymouth County, Massachusetts" issued July 1969 by the Soil Conservation Service of the U.S. Department of Agriculture as being tidal marsh and thereby subject to tidal flooding are included in this district.

C. Permitted uses. Municipal uses such as wastewater treatment facilities, waterworks, pumping stations, a maritime service and safety facility, essential services, and parks are permitted in this district. Land in the Coastal Wetlands District may be used for any purpose otherwise permitted in the underlying district except that: **[Amended 4-24-2017 STM by Art. 2]**

- (1) No structure intended for human occupancy or use on a permanent basis having water or sewerage facilities, and no other building, wall, dam, or structure (except flagpoles, signs and the like) intended for permanent use shall be erected, constructed, altered, enlarged or otherwise created or moved for any purpose except for piers, boathouses, walkways, and similar facilities as which may be granted by a special permit from the Board. However, without a special permit, a structure existing at the time this bylaw becomes effective may be reconstructed or repaired after a fire or other casualty and a dwelling or building accessory to a dwelling existing at the time this bylaw becomes effective may be altered or enlarged provided no other provisions of these bylaws are violated.
- (2) Dumping, filling, excavating, or transferring of any earth material within the district is prohibited. However, this subsection does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this bylaw becomes effective.
- (3) No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, marine agricultural uses, scenic features or drainage improvements or any other uses, unless a special permit from the Board is issued.
- (4) No use shall be permitted to develop in such a manner as will adversely affect

**The Coastal Wetlands District.** The zoning only allows for a few municipal uses, and outside of that it does not allow for structures or filling of land. **DEP states land needs to be capped 3ft or higher to be safe.**

the natural character of the area.

- D. Permit and procedure. Any person(s) desiring such a permit shall submit an application to the Board which shall comply with the conditions and submittal requirements as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Department of Transportation under MGL c. 130, acts relating to the protection of coastal wetlands of the commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for special permit to the Board of Appeals with accompanying plans shall also be sent to the Building Commissioner/Zoning Enforcement Officer, Board of Health, the Conservation Commission, and the Planning Board for their recommendations to the Board as to their approval, disapproval or appropriate recommendations.
- E. Required submittals.
- (1) Submission of a location plan at a scale of one inch equals 1,000 feet showing the lot(s) to be developed, lot lines within which the development is proposed and tie-in to the nearest road intersection.
  - (2) A site plan at a minimum scale of one inch equals 40 feet shall be prepared by a registered land surveyor or a registered professional engineer. The site plan shall be submitted to the Board and shall show at least the following:
    - (a) The location, boundaries, and dimension of each lot in question.
    - (b) Two-foot contours of the existing and proposed land surface.
    - (c) The location of existing and proposed structures, watercourses and drainage easements, means of access and drainage.
- F. Board of Appeals procedure.
- (1) The Board shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board or until 30 days have elapsed after receipt of such plan without submission of a report. The Board shall give due consideration to all reports and, where its decision differs from the recommendations received, shall state the reasons therefor in writing.
  - (2) The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.
- G. Certificate of occupancy. No certificate of occupancy shall be issued until the Board, the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board have received a

§ 305-13.02

§ 305-13.02

certified plan showing the foundation and floor elevations, elevations of the completed construction, and that all requirements of all permits are satisfied.

- H. Areas and yard regulations. A lot, a portion of which is in the Coastal Wetlands District, meets minimum area regulations under Article VI of this bylaw provided that not more than 20% of the lot area which is required to meet the minimum requirements of the zoning district is within the Coastal Wetlands District.

# Marshfield Town Bylaw - Article XIII

## \$305-12.02

## Site Plan Approval. Guidelines for execution and used to evaluate the impacts of a proposed project.

Town of Marshfield, MA  
Friday, October 22, 2021

### Chapter 305. Zoning

#### Article XII. Special Regulations

##### § 305-12.02. Site plan approval.

Site plan review shall be used to evaluate the impacts of a proposed project. Any request for a permit for construction, additions, exterior alteration, relocation, or change in use of nonresidential use permitted by right or by special permit in any district shall not be granted until a site plan for such use has been submitted to and approved by the Board, except that the Board may waive the requirement for site plan approval where the proposed alteration or change in use is found to be minor.

- A. All applicants for site plan review shall fully comply with the submission requirements set forth in the Town of Marshfield Board of Appeals rules and regulations except where said rules and regulations are waived by the Board. Except as provided in § 305-10.09E hereof, any person desiring approval of a site plan under this section shall submit nine copies of said plan, with application for approval thereof, directly to the Board. The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board, which said Board may, in its discretion, investigate the case and report in writing its recommendation to the Board. Applicants are encouraged to meet informally with the Building Commissioner/Zoning Enforcement Officer prior to making a formal submission of plans to discuss site plan requirements and consider possible waivers. The Board may provide a set of guidelines to assist applicants in meeting site plan, architectural and landscaping objectives.
- B. Consultant review. If in the opinion of the Board the project requires review by a consultant the applicant will be responsible for consultant review fees as may be required by the Board of Appeals rules and regulations and as governed by MGL c. 44, § 53G.
- C. A traffic study may be required by the Board as more fully described in § 305-11.10.
- D. The Board shall not take final action on such plan until it has received a report thereon from the Planning Board, or until said Planning Board has allowed 35 days to elapse after receipt of such plan without submission of a report thereon.
- E. In exercising its jurisdiction under this section, the Board shall conform to all procedural requirements applicable to the Board when deciding requests for special permits as set forth in MGL c. 40A, § 9, and Article X of this bylaw. [Amended 2009 ATM]
- F. Review criteria/required performance standards. In considering a site plan under this section, the Board shall assure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located:
  - (1) Protection of adjoining premises against detrimental or offensive uses on the site, including compliance with all dimensional requirements set forth in this bylaw, and provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscaped buffer along the street frontage.
  - (2) Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements, including compliance with § 305-11.10 where required.
  - (3) Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site.
  - (4) Adequacy of the proposed drainage system within and adjacent to the site to manage all increased runoff resulting from the development on site, and adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction. Site plan review shall also include review of an operations and maintenance plan for the approved drainage system to be certified by a registered professional engineer.
  - (5) Compliance with §§ 305-8.07 and 305-8.08 of this bylaw, including adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment.

- (6) Adequacy of lighting, including compliance with § 305-8.09 of this bylaw, such that all lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties.
  - (7) Building sites shall minimize any material or significant adverse impacts on steep slopes, floodplains, scenic views, grade changes and wetlands.
  - (8) In the B-1 Zoning District, the development shall be reasonably consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development. If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.
  - (9) Where a proposal is within the jurisdiction of the Water Resource Protection District (WRPD), compliance with § 305-10.03F, Performance and design standards for all activities. [Added April 2011 ATM]
  - (10) Conformance with all appropriate provisions of the Zoning Bylaw except where variance from such provision is applied for and approved by the Board. All permits issued under this bylaw shall be conditioned upon receipt of all other required permits, including Board of Health, Conservation Commission if necessary; all required permits set out in § 305-10.10, Article XI, Article XIII and Article XV, and others as required.
- G. Design objectives. The following objectives, in addition to any standards prescribed elsewhere in this bylaw, shall be utilized by the Board during its site plan review. These objectives are intended to provide specific guidelines for the Board and the applicant.
- (1) Architectural details. Architectural details of new buildings and additions, textures of wall and roof materials should be harmonious with the building's overall architectural style and should preserve and enhance the character of the surrounding area.
  - (2) Building articulation. Giving emphasis to architectural elements (including windows, balconies, porches, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.
  - (3) Building form and features. The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves and with those of the surrounding area.
  - (4) Building location. Proposed buildings and structures shall be integrated as much as possible within the existing building locations, landscape and terrain. The building's location shall be oriented parallel or perpendicular to the street. Where the minimum setback cannot be maintained by the building, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements which will maintain the street line.
  - (5) Building design. The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roofline, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
  - (6) Spatial definition. Define various areas both public and private with walks, plantings, walls, fences and other elements that are in keeping with the overall architectural design.
  - (7) Special features. Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets.
  - (8) Lighting. Lighting should match the architectural style of the building and comply with the Zoning Bylaw, § 305-8.09.
  - (9) Pedestrian furnishings. Benches, bollards, lighting, street trees, refuse containers, flowers boxes, and canopies shall be provided and shall be consistent with the character of the development.
  - (10) Protection of historic character. When renovating an historic building, character-defining exterior elements of the historic building shall be preserved. Signage should be compatible with the historic character of the building.
- H. The Board shall have the power to modify or amend its approval of a site plan on application of the owner, lessee or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this section shall, where apt, be applicable to such modification or amendment.
- I. The site plan submitted to the Board shall show, among other things as may be required by the Board in the proper administration of this section, all existing and proposed buildings, structures, parking areas, loading areas, driveway openings, driveways, walkways, access and egress points, service areas, recreation areas and other open spaces, including dimensions and all elevations, easements within the lot, existing and proposed on-site wells, water supply systems, storm drainage systems, utilities,

sites for enclosed refuse containers and location and capacity of septic systems; wetlands, streams, bodies of water, and drainage swales; the location and description of all existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot, including two-foot contours, walks, fences, walls, planting areas, and greenbelts; and the amount(s) in square feet of proposed building(s), impervious surface area and open space (natural and landscaped) of the lot. The Board may request additional information or data it judges to be necessary to render its decision.

#### J. Compliance and enforcement.

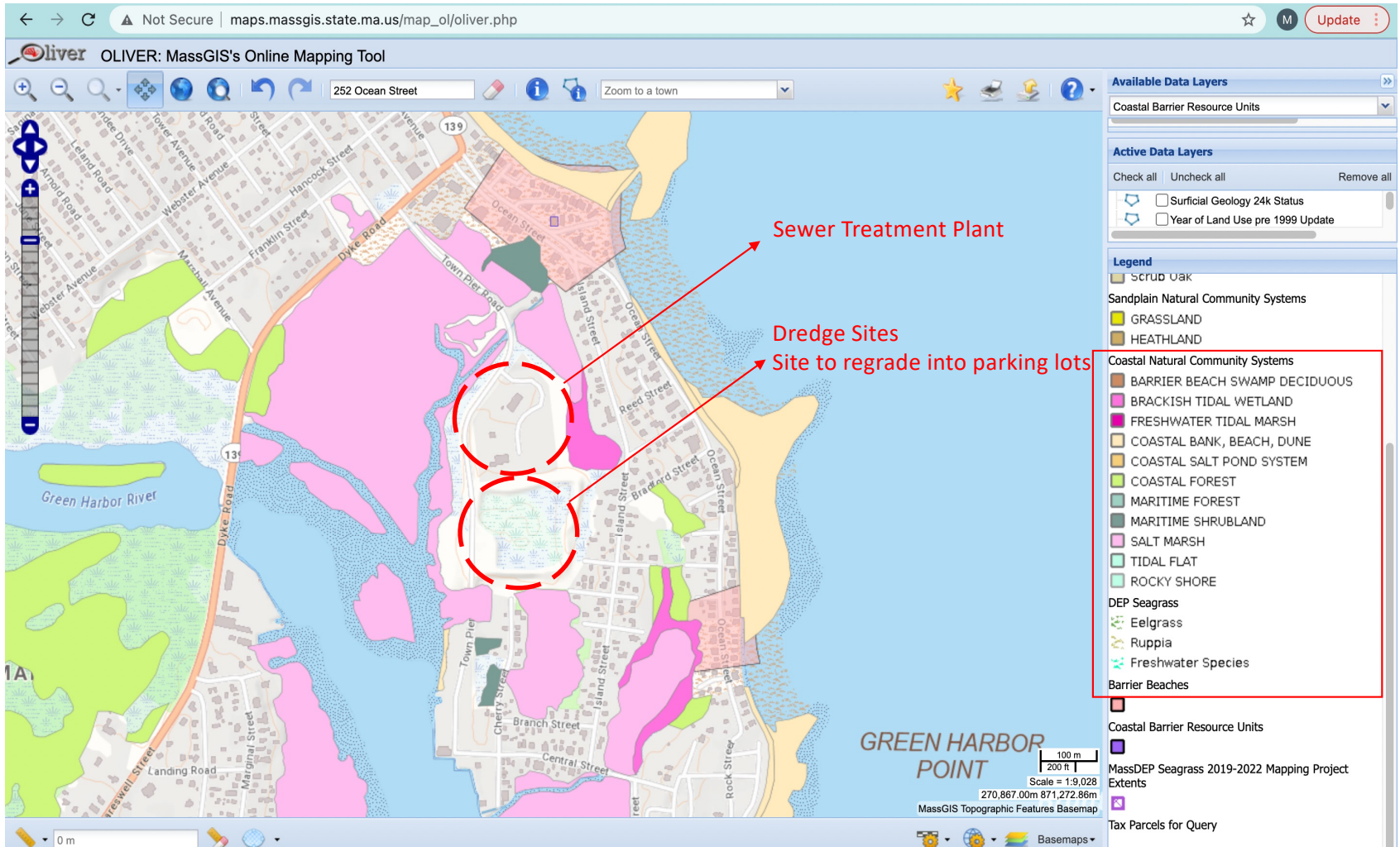
- (1) The final approved site plan will be valid for two years and not contingent on continued ownership. Failure to actively begin construction within that time will require a new submittal. Construction, once commenced, shall be prosecuted diligently to conclusion. [Amended 4-24-2017 ATM by Art. 12]
- (2) No building permit shall be issued by the Building Commissioner/Zoning Enforcement Officer for any development subject to this section and no construction or site preparation shall be started until a decision of the Board approving a site plan has been filed with the Town Clerk and all other required permits have been received and filed with the Town Clerk.
- (3) The Board may require submittal of an as-built plan, certified by a registered professional land surveyor and engineer, to the Board and Building Commissioner/Zoning Enforcement Officer before the issuance of a permanent certificate of occupancy. The as-built plan shall attest to a development's conformity to its approved site plan by indicating landscaping, buildings, drainage flow, number of parking stalls, and limits of parking areas and drives. No activity subject to site plan approval shall be conducted on the site unless, in the opinion of the Building Commissioner/Zoning Enforcement Officer, the development or approved phase thereof has been substantially completed according to the approved site plan, and unless the proposed activity was reviewed by the Board pursuant to the site plan approval procedure. [Amended 4-24-2017 ATM by Art. 12]
- (4) The owner(s) and/or developer(s) of any lot, and all successors in interest, shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.
- (5) A permanent landscaping irrigation system, sufficient in the Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or reused water, or wells, shall be used as the water source for the irrigation system.
- (6) Maintenance bond. The Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two growing seasons following completion of planting.
- (7) Any changes in the approved site plan or in the activity to be conducted on the site shall be submitted to the Board for review and approval.

# In a coastal wetland

FEATURE:  
Coastal Natural  
Community  
Systems

SOURCE:  
MASS GIS  
OLIVER

10/21/21

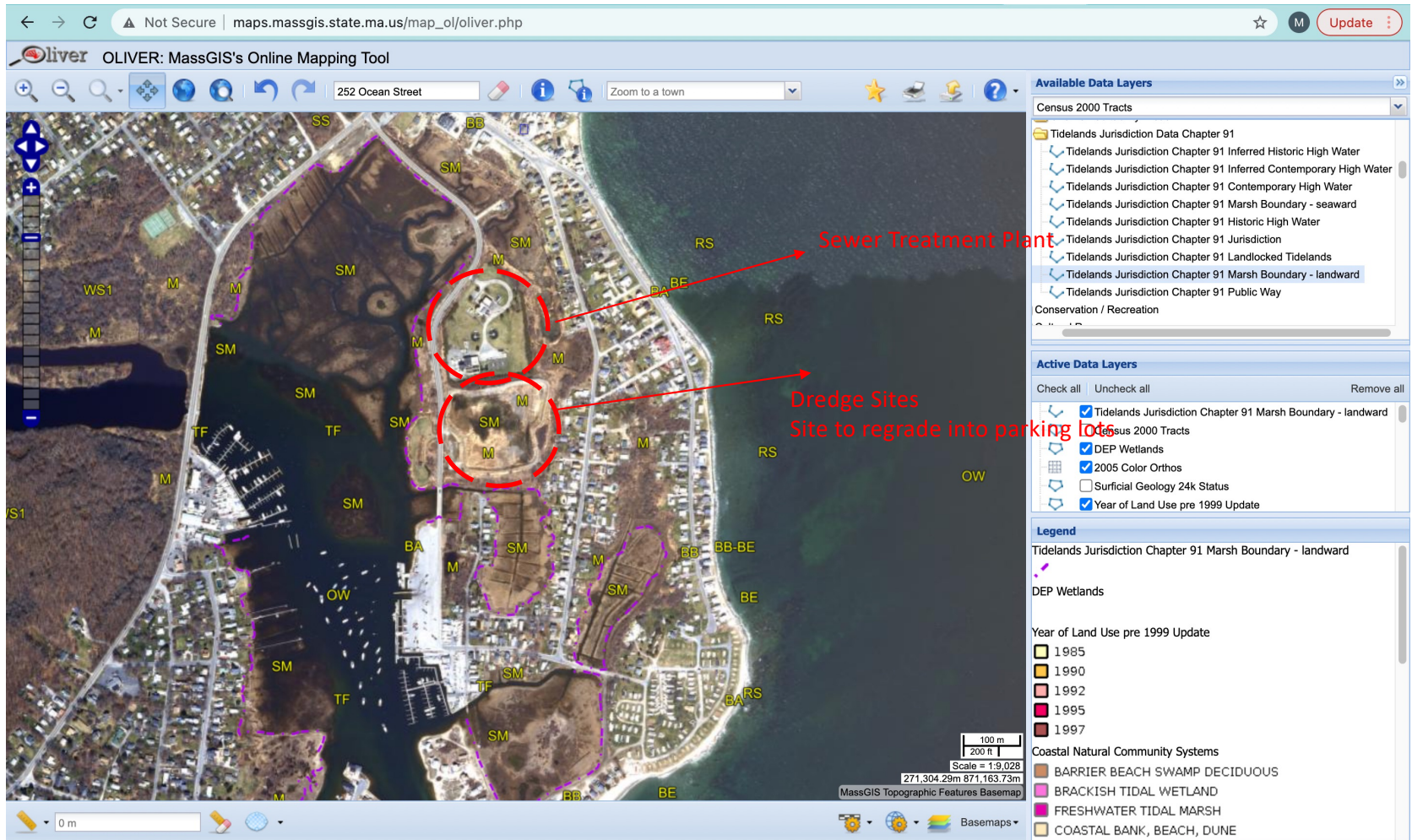


# In a coastal wetland

**FEATURE:**  
Tidelands  
Jurisdiction  
Chapter 91  
Marsh  
Boundary -  
landward

**SOURCE:**  
MASS GIS  
OLIVER

10/21/21



# State law is clear

## Wetlands Protection Plans of 1972

*still in effect today*

The screenshot shows the official website of the Massachusetts Legislature. The browser address bar displays the URL: [malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter131/Section40](http://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter131/Section40). The page header identifies the institution as "THE 192ND GENERAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS". A navigation menu includes "Bills & Laws", "Budget", "Legislators", "Hearings & Events", "Committees & Commissions", and "State House". A breadcrumb trail reads: [General Laws](#) » [Part I](#) » [Title XIX](#) » [Chapter 131](#) ». A search bar is present with the placeholder text "Search the Legislature...". The main content area is titled "SECTION 40" and features a sub-header: "Section 40: Removal, fill, dredging or altering of land bordering waters". To the left, a "GENERAL LAWS" sidebar lists titles from I to XVI. The main text of Section 40 reads: "Section 40. No person shall remove, fill, dredge or alter any bank, riverfront area, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, sewer, water, telephone, telegraph and other telecommunication services, without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment and without receiving and complying with an order of conditions and provided all appeal periods have elapsed. Said notice shall be filed by delivery in hand to the conservation commission or its authorized representative or by certified mail, return receipt requested, to said commission, or, if none, to the board of selectmen in a town or the mayor of a city in which the proposed activity is to be located. Upon such filing, the receipt of such notice shall be acknowledged in writing on the face thereof and shall include the time and date so received. A person delivering said notice by hand shall be given a receipt in writing acknowledging the time and date of such filing. Copies of such notice shall be sent at the same time by certified mail to the department of environmental protection. To defray state and local administrative costs each person filing such a notice shall pay a filing fee, determined on a sliding scale basis by the commissioner of administration after consultation with the secretary of environmental affairs. Fifty percent of any filing fee in excess of twenty-five dollars shall be made payable to the department of environmental protection, in a manner to be determined by the commissioner of environmental protection, at the same time as the copies of the notice are sent to the department of environmental protection. The remainder of said fee shall be made payable to the city or town; provided, that said remainder shall be expended solely by the local conservation commission for the performance of its duties under this chapter and shall accompany the copy of the notice sent to the city or town. No such notice shall be sent before all permits, variances, and approvals required by local by-law with respect to the proposed activity, which are obtainable at the time of such notice, have been obtained, except that such notice may be sent, at the option of the applicant, after

# Massachusetts Wetlands Protection Act, G.L.c.131,§40

## Section 40: Removal, fill, dredging or altering of land bordering waters

Print Page

< Prev

Next >

Section 40. No person shall remove, fill, dredge or alter any bank, riverfront area, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, sewer, water, telephone, telegraph and other telecommunication services, without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment and without receiving and complying with an order of conditions and provided all appeal periods have elapsed. Said notice shall be filed by delivery in hand to the conservation commission or its authorized representative or by certified mail, return receipt requested, to said commission, or, if none, to the board of selectmen in a town or the mayor of a city in which the proposed activity is to be located. Upon such filing, the receipt of such notice shall be acknowledged in writing on the face thereof and shall include the time and date so received. A person delivering said notice by hand shall be given a receipt in writing acknowledging the time and date of such filing. Copies of such notice shall be sent at the same time by certified mail to the department of environmental protection. To defray state and local administrative costs each person filing such a notice shall pay a filing fee, determined on a sliding scale basis by the commissioner of administration after consultation with the secretary of environmental affairs. Fifty percent of any filing fee in excess of twenty-five dollars shall be made payable to the department of environmental protection, in a manner to be determined by the commissioner of environmental protection, at the same time as the copies of the notice are sent to the department of environmental protection. The remainder of said fee shall be made payable to the city or town; provided, that said remainder shall be expended solely by the local conservation commission for the performance of its duties under this chapter and shall accompany the copy of the notice sent to the city or town. No such notice shall be sent before all permits,

Harbormaster is seeking a  
**Special Permit** in accordance  
with §305-10.10, §305-10.12  
and §305-13.02 for the  
**extension and alteration of**  
**an existing nonconforming**  
**use**

# DEP RESPONSE REGARDING USE OF DREDGE AREA FROM 1930s

Southeast Regional Massachusetts Department of  
Environmental Protection, Bureau of Air and Waste Solid Waste  
Management Section

**Douglas Coppi- Environmental Analyst**  
Bureau of Air & Waste/Solid Waste Management Section  
Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

Phone – (508) 946-2833  
[Douglas.coppi@mass.gov](mailto:Douglas.coppi@mass.gov)



Proposed Town Project at Harbor Park

Proposed Town Project at Harbor Park

Coppi, Douglas (DEP) <douglas.coppi@state.ma.us> 1:28 PM

To Mary M. Murphy Copy Dakers, Mark (DEP) and 4 others

Reply Forward Delete

2 attachments View Download

Good afternoon Mary,

As you requested, the Southeast Regional Massachusetts Department of Environmental Protection, Bureau of Air and Waste Solid Waste Management Section staff (Solid Waste) is providing this email to you regarding a proposed Town project to expand an existing gravel parking lot located across from Harbor Park to include additional spaces for public parking. Based on your account of the proposed project, it is anticipated that the project will involve the movement of old dredge spoils (i.e., dredge spoils area-"DSA") located in the vicinity of the gravel parking lot to accomplish the goals of the project. The DSA has historically been used as a dewatering site for materials that had been dredged from the Marshfield Harbor. The DSA is currently overgrown with vegetation.

According to MassDEP records the project does not involve the reuse of any proposed incoming dredge spoils from other areas. In several discussions with you to date, you have expressed concerns with the potential impacts to the local environment and public that the project may pose given the nature of dredge materials (i.e., contamination). The Department understands that you have recently submitted a public records requests to the Department to review historic files (i.e., testing, etc.) associated with the project site. Solid Waste is in the process of identifying records responsive to your request.

As communicated to you previously, Solid Waste (myself and my supervisor, Mark Dakers Solid Waste Section Chief) and David Wong, of Boston's Bureau of Water Resources 410 Water Quality Certification program, met previously to initiate discussions regarding your inquiry. Since the Department didn't have any details on the project at the time, it was a premature for the Department to provide any comment on the project. Solid Waste subsequently contacted the Town to obtain more information on the Project, in particular, as it relates to the disposition of the dredge spoils. We understand that the Town Engineering staff that is the lead for the project has been out sick and you recommended that we reach out to Tom Reynolds of the DPW office (also copied in this email) who is also familiar with project.

Solid Waste intends on reaching out to the Town in the coming week(s) to obtain additional information on the project and determine if there are any state requirements (i.e., assessment, testing, etc.) that the Town may need to incorporate into the project. Once the Department has completed its review of the project and submitted any formal correspondence to the Town, Solid Waste can provide you with copies of the materials for your records.

Thank you, Doug

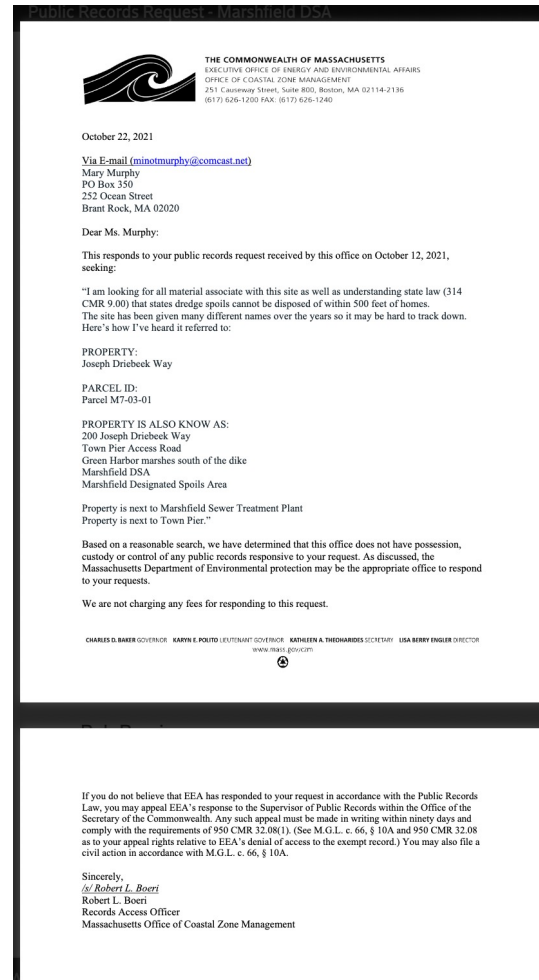
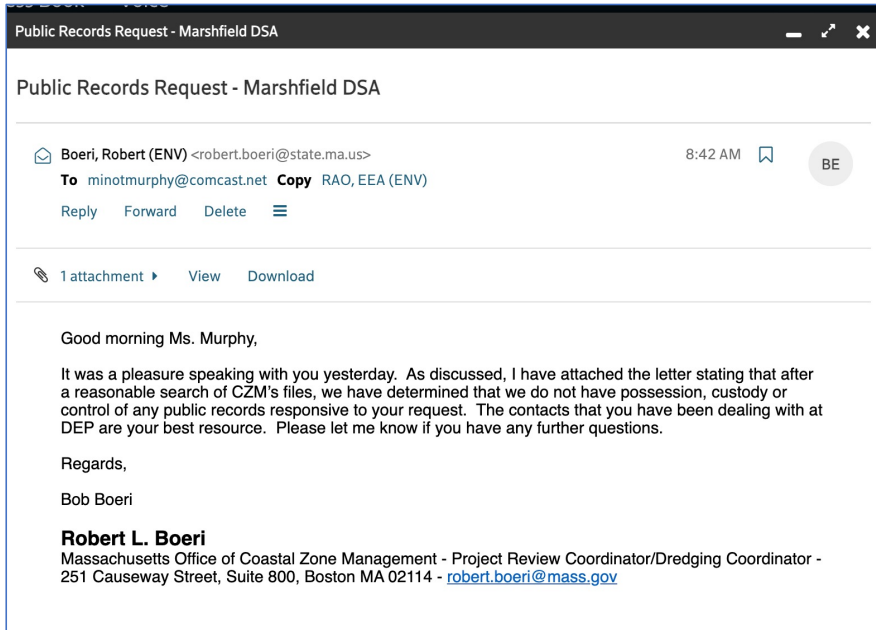
**Douglas Coppi- Environmental Analyst**  
Bureau of Air & Waste/Solid Waste Management Section  
Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

Phone – (508) 946-2833  
[Douglas.coppi@mass.gov](mailto:Douglas.coppi@mass.gov)

MassDEP Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs  
Department of Environmental Protection

CONTACT

# DEP RESPONSE TO FREEDOM OF INFORMATION REQUEST



**COORDINATOR**

Irene J. Lavoie  
 Mass DEP  
 20 Riverside Drive  
 Lakeville, MA 02347



## Brant Rock Dredge – News and History

Date	Description	URL
May 1, 2013	Selectman, Town Planner, Businesses meet on need for additional parking.	<a href="https://marshfield.wickedlocal.com/article/20130501/NEWS/305019629">https://marshfield.wickedlocal.com/article/20130501/NEWS/305019629</a>
	US ARMY CORE OF ENGINEERS, Page 32 - history of dredging harbor	<a href="https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1044&amp;context=uh_i_pubs">https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1044&amp;context=uh_i_pubs</a>
May 1984	Impact Report, Town Pier Access Roadway and Parking, Marshfield, Mass., EOE A -#:4840, May 1984, Prepared by Edwards and Kelcey, Inc.	IN PROCESS
1974?	NEWSPAPER CLIPPINGS – 1970s election on site to build voted down at Town Meeting due to environment	IN PROCESS



Related Topics: [NEPA](#)

[CONTACT US](#)

# What is the National Environmental Policy Act?

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions. The range of actions covered by NEPA is broad and includes:

- making decisions on permit applications,
- adopting federal land management actions, and
- constructing highways and other publicly-owned facilities.

Using the NEPA process, agencies evaluate the environmental and related social and economic effects of their proposed actions. Agencies also provide opportunities for public review and comment on those evaluations.

On this page:

- [What does NEPA require?](#)
- [How do federal agencies carry out the NEPA requirements?](#)

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## What does NEPA require?

Title I of NEPA contains a Declaration of National Environmental Policy. This policy requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony.

Section 102 in Title I of the Act requires federal agencies to incorporate environmental considerations in their planning and decision.