

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
June 4, 2019
6:30 P.M.

Members Present: Alfred Famiglietti, Robert Brock, Joseph Cooper, Brett McNeilly, and Oriana Conklin.

Members Absent: Nathaniel Mayo (excused).

Others Present: Tim Famulare, Conservation Agent, and Ellen C. Battaglini, Permit Coordinator.

Chair Alfred Famiglietti called the Public Hearing to order at 6:37 P.M. and briefly summarized the Commission's purview.

1) **Public Comments:** on any item not on the agenda below: None.

2) **Public Hearings:**

a) CON-19-081 0-Foot Gosnold Street (Ryder Street Beach) *(TO BE CONTINUED TO THE MEETING OF JUNE 18, 2019)*

Notice of Intent filed by the **Town of Provincetown Shellfish Department** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, to construct a coastal dune on Ryder Street Beach; project to include removal of invasive species, installation of sand drift fencing and seasonal mats for pedestrian access, and a planting plan for the dune. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach and a Coastal Dune. The matter is being continued to the meeting of June 18, 2019. ***Robert Brock moved to continue CON-19-081 to the meeting of June 18, 2019, Alfred Famiglietti seconded and it was so voted, 5-0.***

b) CON-19-071 21 Commercial Street

Notice of Intent filed by **AJ Santos Construction, Inc.** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the reconstruction of an existing timber bulkhead as a cantilevered steel sheet pile bulkhead, and in-kind reconstruction of an existing deck, beach-access stairs, and a pier. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach. Mr. Famulare informed the Commission and the public that Mr. Cooper had signed an affidavit pursuant to the Mullin Rule, attesting to the fact that he had viewed a recording of a meeting he had missed when the matter was discussed and is thus qualified to sit on the matter.

Presentation: AJ Santos and Charlie Agro appeared to discuss the application. The Commission has received revised plans based upon discussions at the last meeting, including details for the proposed temporary work platform. Mr. Famulare addressed the Dept. of Marine Fisheries letter regarding the project expressing concerns about how erosion of the beach will affect offshore shellfish resources. He said that the DMF had also received copies of the revised plans and he read from its email regarding continuing concerns about shoreline stabilization and its effect on abutting properties and stating its recommendation that the applicant consult with Coastal Zone

Management given their expertise in what kind of shoreline stabilization project would best be suitable for this site. In general, the email stated, the DMF does not recommend vertical bulkheads as an effective shoreline stabilization method because they can cause more erosion on abutting properties. It advised the applicant to consider a sloped revetment with a roughed surface with no chinking in lieu of a vertical bulkhead. Mr. Agro reviewed the temporary platform location and its construction details and noted how the crane will be situated on top of it. He indicated that the Delft Haven Condominium Association was scheduled to discuss the applicant's use of its property for staging during the construction phase at its next meeting in the September. However he reiterated that the applicant was prepared to make use of the boat ramp at the West End Parking Lot to access the site and would use the temporary platform if permission to use the Delft Haven site were not granted. The number of trips would be reduced even if the platform were used. The specifications of the fender piles are that they will be 12" diameter timber piles and Mr. Agro had submitted a copy of the Chapter 91 license and plans. He responded to DMF email read about the bulkheads in the area and argued that a vertical sheet pile would service the property better, in terms of dissipating wave energy, than the ramped, smooth, concrete seawall that currently exists. He said that there were vertical seawalls on either side of the site. He added that the Dept. of Environmental Protection does not usually allow a revetment on a coastal beach and there was nowhere to put a revetment on the site. He added that he didn't know of any revetments in Town.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Santos and Mr. Agro. The Commission questioned Mr. Santos and Mr. Agro about how the dynamics of the beach would be altered as a result of the project, including possible beach scouring in front of the bulkhead and asked about adding rocks in front of it to prevent that action. Mr. Agro explained why the dynamics of the beach would not be changed as a result of the project. Mr. Famulare questioned Mr. Agro about the property's Chapter 91 license. He reviewed the revisions to his draft conditions, including when work can be conducted in relation to the height of the tide, and allowing flexibility in the location and height of the work platform, if necessary, and language about monitoring the height of the tide by using the tidal gauge at MacMillan Pier, and the requirement of using removable beach access stairs. He said he also changed conditions regarding the storage of equipment, materials and debris and added that if the Delft Haven property is used, written permission to do so must be provided and revised the material to go between the walls as concrete or flowable fill.

Robert Brock moved to approve the Notice of Intent, CON-19-071, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the reconstruction of an existing timber bulkhead as a cantilevered steel sheet pile bulkhead, and in-kind reconstruction of an existing deck, beach-access stairs, and a pier at the property located at 21 Commercial Street, with the draft conditions as amended, Oriana Conklin seconded and it was so voted, 5-0.

c) CON-19-072 **19 Commercial Street**

Notice of Intent filed by **AJ Santos Construction, Inc.** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the reconstruction of an existing concrete seawall as a cantilevered steel sheet pile bulkhead, in-kind replacement of existing fender piles, and the extension of an existing

deck to the top of a new bulkhead. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach and a Buffer Zone to a Coastal Beach. Mr. Famulare informed the Commission and the public that Mr. Cooper had signed an affidavit pursuant to the Mullin Rule, attesting to the fact that he had viewed a recording of a meeting he had missed when the matter was discussed and is thus qualified to sit on the matter.

Presentation: AJ Santos and Charlie Agro appeared to discuss the application. Mr. Agro reviewed the revisions to the project, including the removal of the incorrect detail mistakenly shown on the plans from the project at 21 Commercial Street. The specifics of the proposed 12” diameter timber fender piles had been submitted as well and are the same as the previous project. The existing pilings currently sit seaward of the toe of the concrete seawall. As a result of comments from last hearing regarding the necessity of those pilings, Mr. Agro said that they are now proposing to remove the offshore piles and place them closer to the proposed bulkhead, in line with the fender piles at 21 Commercial Street. He indicated that the applicant would be applying for a Chapter 91 license, as there currently is none. The number of piles will be reduced from 15 to 8. Mr. He addressed the DMF concerns, arguing that the current concrete bulkhead will cause more amplification of wave energy than a steel sheet pile bulkhead, which would better dissipate that energy, and further, by replacing concrete with steel, the situation would be improved and 350 sq. ft. of concrete debris will be removed from the resource area. He added that pursuant to a suggestion by Mr. Famulare, beach nourishment will be placed in the excavated areas and would be compatible fill and with a volume based on the holes that were created after the seawall was demolished. The grain size of the sand would match that of the sand on abutting beaches.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Santos and Mr. Agro about the specifics of the cantilevered bulkhead and the construction process, including the demolition aspect and the proposals for the containment and removal of debris. The construction notes on the site plan were reviewed and discussed, as was the beach nourishment fill and process. Mr. Santos said that the toe of the wall is already showing signs of being undermined. Mr. Famulare reviewed his revisions to the draft conditions, including adding a beach nourishment and maintenance of the abutting contour line requirement and the revision of other conditions similar to those made on the previous project. He also noted the requirement for removable, during the off-season, beach access stairs and the need to submit the Chapter 91 license before any construction begins.

Oriana Conklin moved to approve the Notice of Intent, CON-19-072, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the reconstruction of an existing concrete seawall as a cantilevered steel sheet pile bulkhead, in-kind replacement of existing fender piles, and the extension of an existing deck to the top of a new bulkhead at the property located at 19 Commercial Street with the draft conditions as amended, Robert Brock seconded and it was so voted, 5-0.

d) CON-19-080 173 Commercial Street

Notice of Intent filed by the **Dyer Family Trust** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the construction of a replacement seawall and a replacement deck. Work

to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach and a Buffer Zone to a Coastal Beach. The matter is being continued to the meeting of June 18, 2019. **Robert Brock moved to continue CON-19-80 to the Public Hearing of June 18, 2019, Joseph Cooper seconded and it was so voted, 5-0.**

3) **Request for Certificates of Compliance**

a) **CON-19-068 59 Provincelands Road** (continued from the meeting of May 21, 2019) (replace portions of parking area with landscaping and boardwalks, replace existing swimming pool, and construct retaining walls). Mr. Famulare said that there were questions about the stability of the slope and will be continued to the fall. **Oriana Conklin moved to continue CON-19-068 to the Public Hearing of September 17, 2019 at 6:30 P.M., Alfred Famiglietti seconded and it was so voted, 5-0.**

4) **Conservation Agent Updates:** (Votes may be taken)

Mr. Famulare said that the Municipal Vulnerability Preparedness program would be holding its final information session tomorrow on June 5th at 3:00 P.M.

5) **Approval of Minutes of May 21, 2019:**

Joseph Mayo moved to approve the minutes as written, Robert Brock seconded and it was so voted, 5-0.

6) **Any other business that shall properly come before the Commission:**

ADJOURNMENT: Joseph Cooper moved to adjourn the Public Hearing at 8:00 P.M., Oriana Conklin seconded and it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
Alfred Famiglietti, Chair