

PROVINCETOWN CONSERVATION COMMISSION
VIRTUAL MEETING
August 18, 2020
6:00 P.M.

Members Present Virtually: Nathaniel Mayo, Robert Brock, Joseph Cooper, and Thomas Skinner.

Members Absent: Alfred Famiglietti (excused), Brett McNeilly (excused) and Oriana Conklin (excused).

Others Present: Tim Famulare (Conservation Agent).

Conservation Agent Tim Famulare as the moderator introduced the remote participation meeting, called the roll, determining that a quorum was present.

Vice Chair Nathaniel Mayo called the Work Session to order at 6:00 P.M. and reviewed the purview of the Commission. He reviewed the protocol of the meeting, including not speaking until recognized by the Vice-Chair, and requested that all phones be muted unless called on to speak by the Vice-Chair. He explained how to unmute a phone and requested that all speakers state their names prior to speaking.

Mr. Famulare explained why a virtual hearing was being conducted and how applicants and the public can view the meeting on PTV and participate by calling a number that is shown on the screen and then entering the conference ID number.

1) **Public Comments:** None.

2) **Public Hearings:**

a) **CON-20-2003 107 Commercial Street**

Request for a Determination of Applicability filed by **Gary Reinhardt** 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 remove an existing lawn and replace it with beach grass and raised garden beds and to install a free-standing swim spa on a concrete pad. Work to take place within Land Subject to Coastal Storm Flowage (V Zone) and a Buffer Zone to a Coastal Beach.

Presentation: Gary Reinhardt was in the meeting to present the application. He reviewed the project, which proposes to remove an existing lawn that is held up by a seawall, He said that the chemical fertilizer needed to maintain the lawn is leaching into the harbor and he would like to remedy that situation. The proposal includes removing the entire lawn on the side of the house and replacing it with beach grasses, in the rear, farther away from the house, planting two long raised garden beds for vegetables, and closer to the house, installing a swim spa. Pathways will be installed between the garden beds and the spa and between the garden beds in order to access the gate to the beach. No work will be undertaken from the beach.

Public Comment: Mark Schlesinger, an abutter, spoke in support of the application.

Commission Discussion: The Commission questioned Mr. Reinhardt. He said that only organic fertilizer will be used in the vegetable garden. Gravel, for permeability, will be used on the

pathways with large, stepping stones placed above. Mr. Mayo asked about if there would be any chemical discharge from the spa. Mr. Reinhardt explained that according to the manufacturer, an ionic filter was installed in order to purify the water, which eliminates or lessens the need to use chlorine. He is the only person that will be using the spa. The spa will be filled or drained via a pump truck from the street, however the water can stay in the spa over the winter, according to the manufacturer. Mr. Famulare recommended a Negative #2 and #3 Determination with the conditions as drafted, including a pre-construction condition that the applicant submit a copy of an engineer's certification, as required by the Building Commissioner, to describe how the swim spa will be anchored to the concrete pad, as it is located within a flood plain, and a post-construction condition stating that the swim spa water shall not be discharged onto the site or into any adjacent wetland resource areas and shall instead be emptied into a tank truck and removed for off-site disposal. In addition, the dune grass shall be monitored for a period of three years for survivability, and that no pesticides, and only organic fertilizers shall be used in the garden beds.

Robert Brock moved to approve a Negative #2 and #3 Determination of Applicability for CON-20-2003, 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 remove an existing lawn and replace it with beach grass and raised garden beds and to install a free-standing swim spa on a concrete pad on the property located at 107 Commercial Street with the conditions as discussed, Thomas Skinner seconded and it was so voted, 4-0 by roll call.

3) Work Session:

a) Review of conditions regarding temporary, seasonal use of Provincetown Harbor beaches for food and beverage service: Mr. Famulare reviewed the previously approved conditions, which he has amended as a result of questions received related to service areas below the mean high-water mark. He reminded the Commission that it allowed the use of this area for food and beverage service, but with the caveat that all items, including tables, chairs, trash barrels and other accessories, be removed from the beach within 2 hours before and after high tide. This situation has presented some logistical issues. He has since gauged the sense of the Commission and has decided to modify some conditions. He had initially envisioned that restaurants would be using disposable table and flatware and paper napkins and the distance from the tidewaters would help reduce the amount of wind-blown debris from getting into the water. He also thought that temporary plastic chairs and tables could potentially be washed away. That has not been the case, as he has subsequently learned, and, as it has turned out, the rule is difficult to enforce and is, in his opinion, unnecessary. He reviewed the revised text and explained that the main concern is a potential source of pollution and the temporary and short-term placement of tables and chairs in the area seaward of the mean high water mark and at the water's edge, would not pose a problem and have only minimal impact on the resource area, except where food or drink happened to be spilled. He noted that the Commission could re-visit this issue next tourist season if the practice expands and becomes more popular, causing the impact to the resource area to become more widespread, however he doesn't foresee that happening. In Condition #2, he recommended that service seaward of the mean high-water mark be approved if the service does not include disposable items that can become wind-borne trash or debris, such as paper or plastic plates and utensils. In Condition #1, he recommended that the number of trash barrels, given that the above condition has been revised, be reduced to one and placed as far landward within the service area

as feasible and that any broken glassware or other service items or debris shall be removed immediately. Mr. Famulare reminded the Commission that service on the beach ends on October 15th. He said that he has spoken to the Commission's Chair, Alfred Famiglietti, and said he was in support of the changes. The Commission briefly questioned Mr. Famulare and discussed the issue. There was no public comment.

Thomas Skinner moved to approve the revisions to the CONDITIONS FOR TEMPORARY FOOD AND BEVERAGE SERVICE ON COASTAL RESOURCE AREAS previously approved by the Commission on June 2, 2020, as shown in Attachment A and as further discussed by the Commission, Joseph Cooper seconded and it was so voted, 4-0 by roll call.

b) Discussion of Permitting Review Thresholds: Mr. Famulare said that this issue was previously continued, but the Commission decided to table it until the Work Session at the next hearing.

4) **Approval of Minutes of July 14 and 21, 2020:**

July 14, 2020: *Joseph Cooper moved to approve the minutes as written, Thomas Skinner seconded and it was so voted, 4-0-0 by roll call.*

July 21 2020: *Robert Brock moved to approve the minutes as written, Thomas Skinner seconded and it was so voted, 4-0-0 by roll call.*

5) **Conservation Agent Update:**

a) Annual Town Meeting – September 21, 2020. Mr. Famulare said that this is the new date for Town Meeting. The warrant has been re-opened so the warrant articles must be voted on again. It will likely be held outdoors and the warrant has been pared down. The Commission will be considering the warrant articles at the next hearing. In addition, Lynne Martin, the Town's MIS analyst, will be reviewing the new data software that the Town is using. The meeting will start at 5:30 P.M.

6) **Information**

a) CON-20-2005 1 Duncan Lane (fence installation) – Mr. Famulare said that this was an Administrative Review that he approved involving a fence to deflect exhaust from the dryer system on an abutting property. Mr. Mayo said that a member of his family owns the property and he has not any discussions regarding the matter.

7) **Any other business that shall properly come before the Commission:** None.

ADJOURNMENT: Thomas Skinner moved to adjourn the Public Hearing at 6:48 P.M., Joseph Cooper seconded and it was so voted unanimously by roll call.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2020
Alfred Famiglietti, Chair