

PROVINCETOWN CONSERVATION COMMISSION

Judge Welsh Room

October 1, 2019

6:00 P.M.

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

Members Absent: Nathaniel Mayo (excused).

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

Chair Alfred Famiglietti called the Work Session to order at 6:02 P.M. and briefly summarized the Commission's purview and reminded those present that, pursuant to Robert's Rules of Order, all questions to the applicant by the public have to be directed through the Chair.

1) **Work Session:**

Presentation by Greg Berman, Coastal Processes Specialist, Woods Hole Sea Grant/Cape Cod Cooperative Extension, on coastal processes and coastal engineering structures. Mr. Berman spoke about sediment transport and how to deal with the existing coastal engineering structures in Town. He reviewed shoreline geological processes that were occurring and how they affected sediment transport and spoke about glaciers and their movements in the area throughout history. He said that erosion processes and transport formed a significant portion of Chatham and all of Provincetown. He reviewed types of coastal engineering structures in Town and how sand is transported, both parallel and perpendicular to the coast, along Cape Cod. He reviewed nourishment requirements that compete with erosion processes and strategies that increase coastal resiliency on Cape Cod.

He reviewed vertical cement sea walls, and other vertical structures and how they can affect beach width and how they are vulnerable to collapse after battering by intense storms, either by water over-topping or undermining the structure. Many of these structures are grandfathered and pre-date the WPA, so he recommends that the Commission can only work with what already exists in this respect and work to mitigate their effects on the beach. He noted how and why the Town shoreline has changed because of erosion and nourishment from 1938 to the present. There is a problem now in that these vertical structures are now interfacing with the intertidal zone and reflecting wave energy and are now considered the worst way to reflect this energy. He discussed several types of coastal engineering structures and how each reflects wave energy and how each can reflect waves onto both the beach and neighboring properties. He reviewed a specification sheet with recommendations from Coastal Zone Management on how to repair and reconstruct these structures if damaged, including horizontal or vertical placement and pitch, re-curving and creating a lip on the top of the wall, and using a rough surface and how to then transition them to sand. The best practice to deal with the issues presented by vertical structures is to provide nourishment and to maintain the beach directly in front of bulkheads, keep the structure covered with a sloping sand configuration, and by supplying down-drift beaches and dunes. The Commission should endeavor to direct property owners on the beach to maintain the coastal system and have a moderating plan and triggers in place to mitigate the loss of sand. He reviewed examples of compensatory nourishment and how the volume of sand replacement is calculated.

Sloped revetments are always better than bulkheads, but that is not always feasible in Town. The Commission questioned Mr. Berman.

Chair Alfred Famiglietti called the Public Hearing to order at 6:50 P.M.

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

3) **Public Hearings**:

a) **CON-19-081 0-Foot Gosnold Street (Ryder Street Beach)** (*continued from the meeting of September 17, 2019*)

Notice of Intent filed by the **Town of Provincetown**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the 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. There was a request to continue CON-19-081 to the meeting of November 5, 2019. **Robert Brock moved to continue CON-19-081 to the Public Hearing of November 5, 2019 at 6:30 P.M., Alfred Famiglietti seconded and it was so voted, 5-0.**

b) **CON-19-063 149A Commercial Street** (*continued from the meeting of September 17, 2019*) (**TO BE CONTINUED TO THE MEETING OF SEPTEMBER 17, 2019**)

Notice of Intent filed by **Sandbar Village Condominium** 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 proposed bulkhead. Work to take place within Land Subject to Coast Storm Flowage, a Coastal Dune, a Coastal Beach, and a Buffer Zone to a Coastal Dune and a Coastal Beach.

Presentation: Roger Michniewicz, of Coastal Engineering Co., appeared to present the application. He said that the original proposal was for the installation of a new vinyl bulkhead as a continuation of the vinyl bulkhead on the abutting property. The abutting seawall was built on the basis of an old existing concrete seawall on that property and was allowed to be installed seaward of it. It was installed and its end turned 90° and traveled away from the beach and did not maintain a straight line to this property. He said that after a great deal of discussion about the potential detriment of a vinyl bulkhead to the resource area, it was determined that an engineered structure could not be installed because there was no permitting mechanism to allow it in this location. There may have been a bulkhead at some point in time, but no evidence could be found and therefore the applicant would not be able to now build such a structure. Thus, the project now proposes to maintain a well-vegetated coastal dune on the property in front of the deck area and to build it up, in addition to building up the area where there is currently no dune. The proposal includes the installation of a double row of drift fencing, with posts and rails and slats, to facilitate the collection of wind-blown sand on the beach and a proposal to add 10 cu. yds. of sand for beach nourishment.

Public Comment: Laura Rood, a unit owner at the property, asked a question about what effect the wave attenuator being installed off MacMillan Pier would have on the beach and if there was

anything other than vegetation and the drift fence to help hold the sand on the beach. Mr. Michniewicz suggested soft solutions, primarily coconut fiber or coir rolls, which are biodegradable, have to be covered over and planted on, and require continual maintenance. Mr. Berman commented on soft alternatives for erosion control.

Commission Discussion: The Commission and Mr. Famulare questioned Mr. Michniewicz. Mr. Famulare requested that Mr. Michniewicz submit a revised performance standard narrative and construction protocol and revisions to the impacts on the resource area for the new proposal. He reviewed the draft conditions. The Commission wanted to track the volume of sand that would be deposited to nourish the beach and require it as an on-going condition. The Commission discussed the condition with Mr. Michniewicz. Mr. Berman joined the discussion on the issue of how much beach nourishment should be undertaken every year. Mr. Famulare suggested requiring annual reporting and allowing the applicant to nourish with up to 20 cu. yds. of sand and, if more is needed, the permit can be amended to require it. There were two revisions to the conditions; the first, that once the initial deposition of sand is completed, the level is marked and annually filled to that level, and the second, that condition #20 be revised to state that the property owner shall submit to the Conservation Agent the Chapter 91 authorization issued by the Dept. of Environmental Protection.

Joseph Cooper moved to approve Notice of Intent, CON-19-063, 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 proposed bulkhead at the property located at 149A Commercial Street with the revised draft conditions as discussed, Robert Brock seconded and it was so voted, 5-0.

c) CON-20-010 **435 Commercial Street**

After-the-Fact-Filing of a Request for Determination of Applicability filed by **435 Commercial Street, LLC**, 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 repair and/or replace block retaining walls, relocate and install exterior stairs, replace existing boardwalk and pavers with crushed stone, and to install a new foundation at the base of a new stair. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Dune.

Presentation: William Ashmore appeared to present the application. Mr. Famulare noted that the Commission had two sets of plans for the property, showing existing and proposed conditions. Mr. Ashmore reviewed the project, the site plans, and the proposed changes. The project involves the repair and/or replacement of block retaining walls as necessary, removal of a wood boardwalk and the pavers beneath it and replacing it with porous crushed stone, installation of a flush block driveway separator on the west lot line, and repair of a failing foundation system. In addition, a spiral staircase is being added, for egress purposes, from the upper level to the first floor deck and he is requesting that the applicant be allowed to place stairs from the existing rear deck below the spiral staircase down to the ground and to relocate stairs from the west end of the deck to the west side of the deck. He added that once work had begun, it was found that portions of the deck that were attached to the building were rotten and needed to be replaced. He noted that the area beneath the deck was cleared of debris. He is proposing to remove debris from the site on a daily basis.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Ashmore. Mr. Famulare was concerned about pedestrian traffic to the beach and discussed with Mr. Ashmore how to prevent that from occurring. He agreed to add a sand fence to discourage walking over the resource area. In addition, moving the stair to the west side of the deck would also discourage people from walking across the resource area to the beach. It was suggested that beach grass be planted on the seaward side of the drift fence. Mr. Famulare reviewed the draft conditions. He modified them to add the replacement of the deck in kind and the change in the stairways from the deck.

Robert Brock moved to grant a Negative #3 Determination for CON-20-010 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 repair and/or replace block retaining walls, relocate and install exterior stairs, replace existing boardwalk and pavers with crushed stone, and to install a new foundation at the base of a new stair at the property located at 435 Commercial Street with the amended conditions as discussed, Joseph Cooper seconded and it was so voted, 5-0.

3) **Request for Certificates of Compliance:**

a) **CON-19-068 59 Province Lands Road** (replace portions of parking area with landscaping and boardwalks, replace existing swimming pool, and construct retaining walls). Phil Cheney, a landscape designer, appeared to discuss the request. Mr. Famulare reviewed the project and the issues at the property, including some problematic conditions at the edge of the roadway and the stability of the embankment. The Commission discussed with Mr. Cheney how to rectify the situation. The latter suggested placing biodegradable wattles down to stabilize the embankment until the vegetation matures. The Commission suggested planting a dense strip of beach grass along the edge as a better solution. Mr. Famulare suggested a partial Certificate of Compliance until the beach grass was established. Mr. Cheney will have the wattles removed. The matter was tabled.

Chair Alfred Famiglietti recused himself from the remaining Certificates of Compliance. Robert Brock was voted as interim Chair.

b) **CON-20-007 157A Commercial Street** (construction of bulkhead). Mr. Famulare briefly reviewed the project. He said that there was still hardscape to be finished and there were three on-going conditions related to beach nourishment and maintenance, conditions #9, #13 and #18. A partial Certificate of Compliance could be approved. ***Robert Brock moved to grant a partial Certificate of Compliance for CON-20-007 with the on-going conditions as discussed, Oriana Conklin seconded and it was so voted, 5-0.***

c) **CON-20-011 151A Commercial Street** (construction of bulkhead). Charlie Agro appeared to discuss the request for a partial Certificate of Compliance. He reviewed the project and the Order of Conditions, including a monitoring and beach nourishment plan, which he reviewed, and on-going conditions. There was still an issue with a tree to be removed and replaced with some sort of native planting on the property. Mr. Famulare reviewed the project. ***Joseph Cooper moved to grant a partial Certificate of Compliance for CON-20-011 with on-going conditions of beach nourishment and performing quarterly and annual monitoring, Oriana Conklin and it was so voted, 5-0.***

d) CON-20-012 153 Commercial Street (construction of bulkhead). Mr. Famulare reviewed the project and recommended a partial Certificate of Compliance. **Robert Brock moved to grant a partial Certificate of Compliance for CON-20-012 with on-going conditions of beach nourishment and performing annual and quarterly monitoring, Oriana Conklin seconded and it was so voted, 5-0.**

4) Conservation Agent Update: None.

5) Approval of Minutes of September 3, 2019:

September 3, 2019: *Joseph Cooper moved to approve the minutes of September 3, 2019 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 8:45 P.M., Oriana Conklin seconded and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
Alfred Famiglietti, Chair