

PROVINCETOWN CONSERVATION COMMISSION
VIRTUAL MEETING
January 5, 2021
6:00 P.M

Members Present Virtually: Nathaniel Mayo, Brett McNeilly, Oriana Conklin, Joseph Cooper, and Thomas Skinner.

Members Absent: Alfred Famiglietti (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 meeting to order at 6:02 P.M.

Mr. Mayo 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 a conference ID number. He asked that all participants keep their phones on mute when not speaking.

Mr. Mayo reviewed the purview of the Commission and explained 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.

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

2) **Public Hearings:**

a) **CON-20-2061 49A Commercial Street** *(continued from the meeting of December 15, 2020)*

Notice of Intent filed by **Artemis Simopoulos and Daphne Pinkerson, Trustees of Alan Pinkerson Family Trust**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law, to extend an existing timber bulkhead return, improve a deck foundation system, and reinstall fender piles seaward of the timber bulkhead. Work to take place within Land Subject to Coastal Storm Flowage (V Zone), a Coastal Beach, and a Buffer Zone to a Coastal Beach.

Presentation: Charlie Agro, from Coastal Engineering, was in the meeting to present the application. He reviewed the project, which includes extending the return of a timber bulkhead. It is a similar design as the existing return. He said just beyond the limit of the existing return, there is an area of 2-3' which had been scoured out. He said this occurred because of the existing beach grade on the east side of the wall had dropped and caused the scour to occur. To eliminate the issue of scouring on the property, the proposal includes extending the return of the existing timber seawall. This is a small project and can be done either by hand or small machinery. Access will be from Commercial Street. Another aspect of the proposal will include re-shimming an area of a deck that is slightly slumping, due to a timber pile beneath the deck that has begun to settle. In the

past the deck has been shimmed to correct this issue, which has been going on for some time. The shimming, however, is only a temporary fix and eventually a more aggressive solution needs to be undertaken to shore up the deck. The shimming can be done by hand as well. The final portion of the project involves reinstalling the fender piles that used to be in front of the timber bulkhead, which were removed, and never reinstalled, in the early 2000s when the site was renovated. Those piles are already licensed by Chapter 91. The owners would like to recycle fender piles from another project. The fender piles will reduce and break up the wave energy hitting the timber bulkhead and will be driven 10' downward into the beach. Mr. Famulare reviewed the photographs of the bulkhead and return to illustrate the project.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Agro and discussed the project. Mr. Agro said that the fender piles could be installed with a mini-excavator, and two piles will be installed for the bulkhead return. Their depth will be 10' beneath the surface of the beach. The installation of the fender piles will require beach access for the mini-excavator. He said the work should be able to be done in a day, after some pre-excavation work, and when the tide is low and below the mean high-water line. Mr. Famulare reviewed the draft conditions, noting that a beach access permit would be needed if an excavator on the beach is used, no work will happen when the level of the tide is within 20' of the toe of the existing bulkhead, there must be a minimum of 10' from the path of travel of the mini-excavator and the level of the tide, and any appropriate containment techniques should be used to prevent construction debris and loose sediments from moving into Provincetown Harbor. Mr. Agro agreed to the draft Order of Conditions.

Oriana Conklin moved to approve the Local By-Law filing, CON-20-2061, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law, to extend an existing timber bulkhead return, improve a deck foundation system, and reinstall fender piles seaward of the timber bulkhead at the property located at 49A Commercial Street with the conditions as discussed, Thomas Skinner seconded and it was so voted, 4-0-1 (Joseph Cooper not present) by roll call.

b) CON-20-2065 29 Bradford Street Extension (to be continued to the meeting of January 19, 2021)

Local By-Law Filing application filed by **The Foxberry Inn, LLC**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law, to enclose existing two-story decks and construct new two-story decks. Work to take place within a Buffer Zone to an Isolated Vegetated Wetland. There was a request from the applicant to continue CON-20-2065 to the January 19, 2021 Public Hearing at 6:00 P.M. ***Oriana Conklin moved to grant the request to continue CON-20-2065 to the Public Hearing of January 19, 2021 at 6:00 P.M., Thomas Skinner seconded and it was so voted, 4-0-1 (Joseph Cooper not present) by roll call.***

3) Requests for Certificates of Compliance

a) CON-20-2064 951-R Commercial Street (new residence) Mr. Famulare reviewed the project, which was for new construction. The project has been completed, however there was, during the construction process, a realignment of a sewer line and the driveway. This change led to less of a disturbance of the dune vegetation in the area. There were no on-going conditions and the only Special Condition was an approval of the planting plan by the Conservation Agent. There

was an Administrative Review request to change the plantings to accommodate the realignment of the sewer line and driveway. That request was approved, however that work is still outstanding. The applicant will have to come back for the approval of that aspect of the project. He recommended a partial Certificate of Compliance. ***Oriana Conklin moved to issue a partial Certificate of Compliance for CON-20-2064, 951-R Commercial Street, Thomas Skinner seconded and it was so voted, 4-0-1 (Joseph Cooper not present) by roll call.***

b) CON-20-2068 149A Commercial Street (dune enhancement) Mr. Famulare said that he has not been able to make a site visit, so it will be on the agenda on the next meeting.

4) **Work Session**

a) Discussion of Commission's 2020 Annual Report (see 2019 Annual Report at p. 175) Mr. Mayo asked that these two items could be tabled to the next meeting. Mr. Famulare said that the Annual Town Meeting would be postponed to May 1st. He suggested that Commissioners look at last year's Annual Report and let him know if there were any additions to make.

b) Discussion of possible amendments to the Wetlands Protection By-Law. Mr. Famulare reviewed his thoughts regarding this issue. He noted the noticing requirements for Local By-Law filings and Requests for Determinations of Applicability are currently costly and burdensome for applicants and that the types of projects that need this approval are often simple and not costly to the applicant, who is usually just a homeowner. He is considering amending the by-law to not require applicants to notice abutters, but to have the Town do the noticing. Other Town Boards use postcards sent by staff to notice abutters and he would like to follow that process. The Commission briefly questioned Mr. Famulare.

5) **Approval of Minutes of December 15, 2020:**

December 15, 2020: *Oriana Conklin moved to approve the minutes as written, Thomas Skinner seconded and it was so voted, 4-0-1 (Joseph Cooper not present) by roll call.*

4) **Conservation Agent Update:** Mr. Famulare announced that Oriana Conklin has been appointed to fill the seat that Robert Brock vacated, as a regular member of the Commission. He said that he has someone interested in the alternate seat that is now open. This person will be at the next hearing.

Mr. Famulare reviewed some suggestions he has gotten from Mr. McNeilly, including about rosa rugosa, which is very common in this community, but is not a native species. He said he has had some discussion with other Agents on the Cape and even though it is not a native plant, rosa rugosa does not spread as aggressively as other plants such as Japanese knotweed, provides stability to dunes, and is a food source and habitat for birds. He said that some other Cape Commissions require the use of Rosa virginiana as a substitute for rosa rugosa. He suggested discussing the issue. The Commission questioned Mr. Famulare and briefly discussed the issue.

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

ADJOURNMENT: *Oriana Conklin moved to adjourn the Public Hearing at 6:49 P.M., Thomas Skinner seconded and it was so voted unanimously by roll call.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2021
Alfred Famiglietti, Chair