

**PROVINCETOWN CONSERVATION COMMISSION  
VIRTUAL MEETING**

**May 4, 2021**

**6:00 P.M**

**Members Present Virtually:** Alfred Famiglietti, Oriana Conklin, Joseph Cooper, Brett McNeilly, Thomas Skinner, and Loretta Butehorn.

**Members Absent:** Nathaniel Mayo (excused).

**Others Present:** Tim Famulare (Conservation Agent).

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

Chair Alfred Famiglietti called the meeting to order at 6:04 P.M.

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

Chair Alfred Famiglietti reviewed some rules and regulations, including the Commission's purview of protecting the environment. This includes enforcing the state Wetlands Protection Act and the local wetlands protection by-law. He added that all members of the public need to go through the Chair in order to speak and there is no crosstalk or talking over anyone. Any member of the public can speak for 3 minutes.

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

2) **Public Hearings:**

a) **CON-21-19 225 Commercial Street** (continued from the meeting of April 20, 2021) **After the Fact Notice of Intent** filed by **Topknot Properties**, 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 install an underground propane tank behind concrete bulkhead and place renourishment sand. Work took place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach. There was a request from the applicant to continue to the meeting of May 18, 2021. ***Oriana Conklin moved to grant the request to continue CON-21-19 to the meeting of May 18, 2021 at 6:00 P.M., Joseph Cooper seconded and it was so voted, 6-0 by roll call.***

b) **CON-21-28 225 Commercial Street**  
**Request for Determination of Applicability** filed by **Topknot Properties** 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 build a palletized deck adjacent to an existing

rear deck. Work took place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

**Presentation:** Gordon Peabody, of Safe Harbor Environmental, on behalf of the applicant, was in the meeting to present the application. He said that the deck will provide a hard surface for the seating beneath a tent area, as sand, which is unstable, would create issues. It is a well-defined area and he noted it on a photograph of the designated location. He said that the deck has been permitted. Mr. Famulare corrected the dimensions of the deck as 8' wide by 17' long, not 8' wide by 27' long, a 10' difference in the length. Mr. Peabody said that the applicant wanted to get approval from the Commission before he began to put the palletized deck together.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly questioned Mr. Peabody. Mr. Famulare reviewed the draft conditions. He said that most of them were standard and noted that condition #7 was consistent with what is required of decks in the flood plain. The decks must be structurally independent of the existing structure and must be constructed using flood-resistant materials, as this palletized material is, all fasteners must be made of erosion-resistant material and must be specifically designed to resist uplift and lateral loads, and hardscape materials, including wood decks, must be designed to promote infiltration, specifically must have sufficient gaps between the boards to allow for stormwater to flow between the joints. It will be constructed like other palletized decks. He added that the Commission could add a condition that prior to any coastal storm with a predicted storm surge and coastal flooding, the pallets must be removed and secured. The Commission agreed to the condition.

***Oriana Conklin moved to grant a Negative #2 and #3 Determination for CON-21-28 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 build a palletized deck adjacent to an existing rear deck for the property located at 225 Commercial Street with the Order of Conditions as presented, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

c) CON-21-20 175 Commercial Street (continued from the meeting of April 20, 2021) **Notice of Intent** filed by **175 Beach House, 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 install pervious pavers; pump, fill, and abandon 2 leaching pits and 3 geothermal pits; remove existing asphalt and install new asphalt on an access drive and parking areas; remove an existing propane tank and install a new 500-gallon propane tank. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach. There was a request from the applicant to continue to the meeting of May 18, 2021.

***Oriana Conklin moved to grant the request to continue CON-21-20 to the meeting of May 18, 2021 at 6:00 P.M., Joseph Cooper seconded and it was so voted, 6-0 by roll call.***

### 3) **Requests for Certificates of Compliance:**

a) CON-21-27 407 Commercial Street (reconstruction of an existing building): Mr. Famulare reviewed the project that goes back to 2001. There is an old Order of Conditions and a Certificate of Compliance was never requested. The building had been demolished and rebuilt in the early 2000s. He said that the request highlighted some inconsistencies with the approved plan regarding the landscaping within the developed limits of the property. These were installed at the time of construction and have been in place for over 15 years, and include a jacuzzi, raised garden

beds, and a generator. According to the engineer, the project was in substantial compliance with the Order of Conditions. He recommended the issuance of a full Certificate of Compliance.

***Oriana Conklin moved to issue a full Certificate of Compliance for CON-21-27/407 Commercial Street, Alfred Famiglietti seconded and it was so voted, 5-0 by roll call.***

b) CON-21-29 **19 Commercial Street** (seawall reconstruction)

c) CON-21-30 **21 Commercial Street** (seawall reconstruction): Mr. Famulare reviewed these projects. The properties are owned by the same person. Seawalls on both properties were deteriorating and had to be replaced and fender piles were installed. Some had been permitted before and some had not. Now the fender piles follow a consistent line. In addition, aluminum stairs, capable of being elevated up and off the beach when there is a storm, were required to be installed and ***Oriana Conklin moved to issue a Certificate of Compliance for CON 21-29/19 Commercial Street and CON 21-20/21 Commercial Street with the on-going condition that the aluminum stairs need to be elevated during coastal storms in perpetuity, Thomas Skinner seconded and it was so voted, 5-0 by roll call.***

d) CON-21-31 **437-439 Commercial Street** (renovation of an existing structure): Mr. Famulare said that the Commission recently approved a project that involved the elevation of a building on this property. This Certificate is for an Order of Conditions that was issued in 2005. The property is being sold and the title needs to be cleared. There are no on-going conditions. The project involved the reconstruction of the pile base of another building on the site, not the one to be elevated. He recommends the issuance of a full Certificate of Compliance. ***Oriana Conklin moved to issue a full Certificate of Compliance for CON-21-31/437-439 Commercial Street, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

4) **Approval of Minutes:**

**April 13, 2021:** ***Oriana Conklin moved to approve the minutes of April 13, 2021, Joseph Cooper seconded and it was so voted, 5-0.***

**April 20, 2021:** ***Oriana Conklin moved to approve the minutes of April 20, 2021, Joseph Cooper seconded and it was so voted, 5-0.***

5) **Conservation Agent Update:** Mr. Famulare said that the B Street Garden construction is progressing. Completion should occur within the next 10 days.

6) **Information**

a) CON-21-21 **419 Commercial Street** (demolition). Mr. Famulare said that the demolition should be starting this week.

7) **Any Other Business that shall properly come before the Commission:** Thomas Skinner said the Commission appreciated Mr. Famulare for his excellent presentation of the Conservation warrant articles at Town Meeting. Mr. Famulare said that the regulations will become permanent when they are approved by the Massachusetts Attorney General.

Mr. Famulare said that on April 26<sup>th</sup>, he had a pre-construction site visit at 99 Commercial Street. The parties have settled the appeal and the work will begin soon. The final Order of Conditions, issued by the Dept. of Environmental Protection, said that the work had to be completed by June 15<sup>th</sup>.

***Oriana Conklin moved to adjourn the Public Hearing at 6:34 P.M., Brett McNeilly seconded and it was so voted, 5-0 by roll call.***

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2021  
Alfred Famiglietti, Chair