

## PROVINCETOWN CONSERVATION COMMISSION

May 2, 2023

6:00 P.M

**Members Present:** Nathaniel Mayo, Oriana Conklin, Joseph Cooper, and Emma Fillion.

**Members Absent:** Alfred Famiglietti (excused) and Mark Adams (excused).

**Others Present:** Melyssa Millett (Conservation Agent).

Vice Chair Nathaniel Mayo called the meeting to order at 6:00 P.M. and called the roll. He reviewed the purview of the Commission and said one of its charges is to implement the Massachusetts Wetlands Protection Act, G.L. c. 131, s. 40. The Act protects important water-related lands bordering wetlands and the sea. Examples include swamps, beaches, dunes, vegetated inland wetlands and wet meadows, floodplains, and vernal pools, all of which are protected from alteration or destruction. Most work performed in these areas requires permitting from the local Conservation Commission's Agent. Another charge of the Commission is to implement a Provincetown ordinance, the Provincetown Wetlands Protection By-Law, Chapter 12, which may, in some cases, be stricter than the state WPA.

1) **Public Comments:** None.

2) **Public Hearings:**

a) **CON-23-50 2 Fortuna Road**

**Request for a Determination of Applicability** filed by **Susan Lyman** 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 replace concrete foundation piers. Work to take place within a Buffer Zone to a Bordering Vegetated Wetland.

**Presentation:** Susan Lyman appeared to present the application. She reviewed the request to replace foundation piers that had become tilted over many years. She had submitted documents, including a topographical survey prepared by Coastal Engineering Co., and a geotechnical report from Larry Dwyer, a soil engineer. The latter also contained recommendations for remediation. She reviewed the three options and proposed the replacement of the existing sono-tube deck foundation with a diamond pier pin foundation system. The slope on the property is acceptable for this type of system and she provided diagrams and instructions for its installation. She met with her contractor to review the project. There will be minimal soil disturbance and no enlargement of the deck.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Lyman. Ms. Millett recommended a Negative #3 Determination of Applicability because it is only a buffer zone project. Ms. Lyman reviewed how the piers would be installed. The pins are 63" long and silt fencing backed with straw wattles will be installed along the limit of work. Ms. Millett asked Ms. Lyman if she would replant the slope, possibly with native grass seed mix, in order to prevent erosion once the sediment controls are removed. She agreed. Mr. Mayo reviewed several draft Special Conditions, including delineating the limit of work, replanting the slope, installing deck supports as pin piles or sono-tubes, and installing, pre-construction, silt fencing backed by straw wattles.

***Oriana Conklin moved to issue a Negative #3 Determination of Applicability for CON-23-50, 2 Fortuna Road, subject to the draft Conditions as discussed, Joseph Cooper seconded, and it was so voted, 4-0.***

b) CON-23-52 **633 Commercial Street**

**Request for a Determination of Applicability** filed by **Hal Winard** 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 replace beach access stairs. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Hal Winard appeared to present the application. He said there are two sets of beach access stairs that need replacing. Both sets will be rebuilt in the same configuration with stronger materials. The existing width, length, tread depth, and riser height will be used. Galvanized steel brackets will be used, as well as pressure-treated wood. The new stringers will be 50% thicker and treads will be 'let-in' a minimum of ¾". In addition, Simpson stair brackets will be added to support the treads and a threaded rod will be installed under every third tread to prevent spreading. The proposed rail system will be similar to the existing, except the handrail will extend past the bulkhead at the top of the stairs and new posts will be fastened with TimberLOK screws. An intermediate 2x4 rail will be added halfway between the top 2x4 handrail and the stair stringer. Ms. Millett reviewed the Commission's discussion that occurred at the last meeting about options for replacing beach access stairs. She said that in certain circumstances, it is not always feasible to remove access stairs for the winter when the bulkhead is high. At the last meeting of the Commission, a very sturdy set of access stairs was proposed for 655 Commercial Street to withstand strong wind and wave action. The design was based upon a survey of the access stairs that survived the December storm. She said that this proposal would be built similar to the access stairs for 655 Commercial Street.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Winard. Ms. Millett said that one of the conditions for those properties that need to replace beach access stairs is to require the property owner's contact information be marked on the stringers at least, if not on other elements of the stairs as well. If the stairs are lost in a storm, the owner can be contacted, or the stairs can be returned. Mr. Winard said that all cutting of lumber will be performed on land. Ms. Millett reviewed other Special Conditions, including that there be no vehicle access on the beach, that the stairs are constructed and securely attached to the seawall, and that the property owner is responsible for proper and regular maintenance of the stairs to prevent degradation and loss of structural integrity. The Commission briefly discussed how far down the stair posts should be dug into the sand. Ms. Millett said that that topic still needs to be discussed. She said at least two treads should be buried in the sand and that the stringers should extend into the sand as well.

***Oriana Conklin moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-52, 633 Commercial Street, subject to the draft Conditions as discussed, Joseph Cooper seconded, and it was so voted, 4-0.***

c) CON-23-53 **531 Commercial Street**

**Request for a Determination of Applicability** filed by **West Core Properties, 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 replace beach access stairs. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Laurie Ferrari, from Peters Property Management, representing the applicant, appeared to present the application. She reviewed the project, which includes the installation of posts on both sides of the seawall and their attachment, on the waterside, with a pressure-treated ledger board and angle brackets. 7" or 8" through bolts will be used to attach the posts to the seawall and many brackets. Two of the treads will be buried in the sand.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Ferrari. Ms. Millett reviewed the draft Special Conditions, which are similar to the previous project. She said that there is a patio at the top of the stairs and posts will be installed in that location. On the landward side, the posts will be sunk at least 2'- 3' into the ground. No vehicle access on the beach is needed. The draft Conditions are the same as for the previous project, including no vehicle access via the beach, that the stairs will be built as designed, planned, and securely attached to the seawall, that the stairs are permanently marked with the property owner's contact information, and that the property owner is responsible for the regular and proper maintenance of the stairs to prevent degradation and loss of structural integrity. The Commission briefly reviewed the design of the stairs, which have additional brackets and through bolts. The Commission requested that the Special Conditions consider including stringer compression rods, as well as a doubling of the stringers as precautions.

***Oriana Conklin moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-53, 531 Commercial Street subject to the draft Conditions as discussed, Emma Fillion seconded, and it was so voted, 4-0.***

d) CON-23-55 453 Commercial Street

**Request for a Determination of Applicability** filed by **Eli Ingraham** 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 replace beach access stairs. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Laurie Ferrari appeared to present the application. She reviewed the design and said she would add the stringer compression rods and would also consider doubling the stringers.

**Public Comment:** None.

**Commission Discussion:** Ms. Millett asked Ms. Ferrari how the stairs would be connected to the seawall. Ms. Ferrari said that a 2x10 ledger would be used and 5/8" lag bolts. Ms. Millett said the draft Conditions were the same with the additions as discussed.

***Oriana Conklin moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-55, 453 Commercial Street subject to the draft Conditions as discussed, Emma Fillion seconded, and it was so voted, 4-0.***

e) CON-23-54 645 Commercial Street

**Request for a Determination of Applicability** filed by **William Heron** 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 replace beach access stairs. Work to take place

within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Gordon Peabody, of Safe Harbor Environmental, was in the room, and Eric Larsen, from Aline Architecture, was online to present the application. Mr. Peabody commended the Commission for working on a modular design for beach access stairs. He thought that much of the damage from wave energy was due to junk being pushed by water into other structures. He said that a heavier design that was connected to a mass so it would be less likely to break away so quickly was a promising idea. Mr. Larsen said they are replacing an existing upper platform to get from the deck proper to the edge of the bulkhead. He described the design of the stairs and said the intent was to integrate them into the more permanent parts of the bulkhead. The stairs will have three stringers and will have two treads buried in the sand. The 4" x 4" posts that support the handrails and stringers will be installed in concrete-filled buckets. He said that he had designed it for a solid degree of permanence and these stairs will not float away in the event of a severe storm with intense wave action hitting the property.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Larsen. Ms. Millett said that the draft Conditions would be the same as for the previous requests for beach access stair replacement. *Emma Fillion moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-54, 645 Commercial Street, subject to the draft Conditions as discussed, Oriana Conklin seconded, and it was so voted, 4-0.*

f) CON-23-56 429 Commercial Street

**Notice of Intent** filed by **New Hop Holdings, 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 add sand nourishment, plant beach grass, and install seasonal fencing. Work to take place within Land Subject to Coastal Storm Flowage and a Coastal Beach.

**Presentation:** Gordon Peabody appeared to present the application. He said the way to protect structures was to use a natural system, which in this case would be sand built up a couple of feet that is planted with native vegetation. It will not protect structures from a catastrophic event, but it is important to let people know that there are ways to protect themselves using low-profile, low-cost, low-maintenance, and sustainable responses, one of which is the sand dune. He reviewed the project. The owners are replacing sand lost in a winter storm with approximately 50 yards of white Provincetown, compatible beach sand, adding approximately 22.5' of sand. This will restore a small, protective dune in front of the restaurant. The replacement sand will be planted with American beach grass and use seasonal biomimicry. A short 24" sand fence will increase, elevate, and reduce erosion. Safe Harbor will monitor project activity. This restoration management plan will be in effect for the future. He reviewed photographs of the property. He said this project could be a model for protecting many of the properties on the beach in Town by using resource areas.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Peabody. The contractor will need a beach access permit for the project. Ms. Millett reviewed a Special Condition, stating that the property owner has three years to try this, and shall request written approval from the Conservation Agent at least two weeks prior to any additional proposed nourishment. Future nourishment shall not take place during the summer season. At the end of the three years,

depending upon the outcome and how well the dune is doing, the Commission may decide at that time whether it will allow for continued ongoing maintenance of the dune.

***Oriana Conklin moved to issue an Order of Conditions for CON-23-56, 429 Commercial Street, as discussed, Joseph Cooper seconded, and it was so voted, 4-0.***

3) **Certificate of Compliance:**

a) CON-23-57 **269 Commercial Street** (SE 058-0201 for a septic system): Ms. Millett said that this was an old septic system, from 1990, and the property has since been hooked up to the Town sewer system. The property is being sold and the sellers are looking for a Certificate of Compliance. The grease trap is still functioning, and they have been meeting their requirements for abandonment. She said that this would be for an Invalid Order of Conditions. ***Emma Fillion moved to approve a Certificate of Compliance with complete certification and no on-going conditions for CON-23-57, 269 Commercial Street (SE 058-0201), Oriana Conklin seconded, and it was so voted, 4-0.***

4) **Enforcement Order: 487 Commercial Street** (Seawall repair): Ms. Millett said that there was a Certificate of Compliance that was closed out (SE 058-0574). There was an on-going condition that the bulkhead have maintenance done on it periodically. However, since the December 2022 storm, no maintenance had been done and erosion and serious undermining of the bulkhead were occurring. Abutting properties may be threatened, as well as the bulkhead itself, if nothing is done. In the EO, she has required temporary stabilization by May 24, 2023, approved by either the Agent or the Commission, and the submission of an NOI for a permanent repair by July 24, 2023.

5) **Work Session:**

a) **MVP Action Grant application** – Sewer modernization: Ms. Millett said that the Town has been pursuing, along with AECOM, a grant opportunity to fund the reconstruction of the central vacuum station across the street from the Municipal Parking Lot. The design has been completed, showing the electrical components on the second floor to protect them from flood waters. The pumps will remain on the ground floor. The grant preparers are requesting that the Commission write a letter in support of the project in order to help get the funding. The Commission briefly discussed the topic and reviewed the draft letter.

***Nathaniel Mayo moved to authorize a letter of support to be issued by staff, subject to the amendments and additions discussed, endorsing the MVP Grant application for sewer modernization, Emma Fillion seconded, and it was so voted, 4-0.***

6) **Approval of Minutes of March 7 and April 18, 2023:**

**April 18, 2023:** ***Oriana Conklin moved to approve the minutes of April 18, 2023, Emma Fillion seconded, and it was so voted, 3-0-1 (Nathaniel Mayo abstaining).***

**March 7, 2023:** Tabled.

7) **Conservation Agent Update:** Ms. Millett said that one of the major issues that the Commission should work on, as part of the wetland's protection regulations or just as a recommendation/fact sheet, is a regulation for wooden beach access stairs and for drift fencing/fencing for the protection of bulkheads. She wants the Commission to start thinking about these topics as projects involving them are coming before it for approval and what type of filing it should be. She will try to have draft guidelines for the next meeting.

Another topic she raised was native stone versus bluestone versus permeable pavers for use in patios and walkways. Bluestone is usually recommended by landscapers because it is thought to be permeable, however over time, she said, it turns into stone dust, which then becomes compacted and is no longer permeable.

8) **Administrative Information:**

a) CON-23-58 **619 Commercial Street** (Administrative Review for foundation repair): Ms. Millet reviewed the project, which is on the Commercial Street side of the property. Some lattice work and two piles needed repairing.

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

*Joseph Cooper moved to adjourn the meeting at 6:30 P.M., Oriana Conklin seconded, and it was so voted, 4-0.*

Respectfully submitted,  
Ellen C. Battaglini

Approved May 16, 2023

Alfred Famiglietti, Chair