

PROVINCETOWN CONSERVATION COMMISSION

May 16, 2023

6:00 P.M

Members Present: Alfred Famiglietti, Oriana Conklin, Mark Adams (joined at 6:25 P.M.), and Emma Fillion.

Members Absent: Nathaniel Mayo (excused) and Joseph Cooper (excused).

Others Present: Melyssa Millett (Conservation Agent).

Chair Alfred Famiglietti called the meeting to order at 6:00 P.M.

Melyssa Millett called the roll. She then explained how members of the public could participate in the meeting remotely. She said that those who are in attendance in the room should speak clearly if rendering an opinion on any application on the agenda or if making a public comment. Remote participation is via the Microsoft Teams app or by calling into the meeting on a phone. The information is listed on the agenda. To mute a phone, press *6.

1) **Public Comments:** None.

2) **Public Hearings:**

a) **CON-23-48 167 Commercial Street, Unit 4**

Notice of Intent filed by **TJF Property Management, 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: Amy Giangregorio, of TJF Property Management, appeared to present the application. She reviewed the project, which came about as a result of damage sustained during the December 2022 winter storm. The wooden stairs were damaged in the storm, and they will be replaced because of their deteriorating condition and their age. They will be replaced with aluminum-rail access stairs with PVC-composite treads. A 5' landing section will also be replaced with a PVC-composite product.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Giangregorio. She said the stairs will be attached in the same way. Ms. Millett said that there is a bracket system on the new stairs, allowing them to be removed, but the landing cannot be removed. The stairs will be buried 2' into the sand for stability. No beach access will be needed. Ms. Millett reviewed the Order of Conditions and said that #8 would be amended, as beach access will not be needed. There is a condition that the beach access stairs will be removed before coastal storms or if the property is unoccupied, and the access stairs must be removed from October 1st through May 1st. The stairs shall be labeled with the property owner's name and the property address, and the property owner is responsible for their regular maintenance.

Oriana Conklin moved to close the public hearing, Emma Fillion seconded, and it was so voted, 3-0.

Oriana Conklin moved to approve an Order of Conditions for CON-23-48, 167 Commercial Street, U4, as drafted and amended by the Conservation Agent, Emma Fillion seconded, and it was so voted, 4-0.

b) CON-23-49 **596 Commercial Street, Unit 1**

Notice of Intent filed by **TJF Property Management, 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: Amy Giangregorio, of TJF Property Management, appeared to present the application. The beach access stairs on the property were lost in the December 2022 winter storm and the property owner would like to replace them in kind with aluminum rail stairs with PVC-composite treads. They will be removable.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Giangregorio. Ms. Millett said that the Order of Conditions is the same as the previous NOI.

Alfred Famiglietti moved to approve an Order of Conditions for CON-23-49, 596 Commercial Street, U1, as drafted and amended by the Conservation Agent, Oriana Conklin seconded, and it was so voted, 3-0. Alfred Famiglietti moved to close the public hearing, Oriana Conklin seconded, and it was so voted, 3-0.

c) CON-23-62 **599 Commercial Street**

Request for a Determination of Applicability filed by **Foxy Real Estate 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 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: Amy Giangregorio, of TJF Property Management, appeared to present the application. She reviewed the project and photographs of the site where the beach access stairs were located. She said the new stairs will be connected to the bulkhead and not to a mounting block connected to the bulkhead, which is how the existing stairs were attached.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Giangregorio. Ms. Millett said that the conditions for this project are the same as for the previous two.

Alfred Famiglietti moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-62, 599 Commercial Street, Oriana Conklin seconded, and it was so voted, 3-0. Alfred Famiglietti moved to close the public hearing, Oriana Conklin seconded, and it was so voted, 3-0.

d) CON-23-61 **665 Commercial Street**

Request for a Determination of Applicability filed by **Lisa Fabian Lustigman** 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: Lisa Fabian Lustigman appeared to present the application. She said that there was no need for heavy equipment on the beach for this project, which is for railings along the waterfront side of the property. Aluminum stairs will be the replacement for the stairs, which will be removable. On either side of the main deck, the areas will be decked over with a composite material. The railing sections will hinge in case of a severe coastal storm. Each of the sections are separate and these have already been installed.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Lustigman. Ms. Millett said that the conditions were like the preceding applications and will include one for the deck construction and one for the prohibition of vehicles are allowed on the beach.

Oriana Conklin moved to grant a Negative #2 and #3 Determination of Applicability for CON-23-61, 665 Commercial Street, with an Order of Conditions as described, Alfred Famiglietti seconded, and it was so voted, 3-0. The Commission closed the public hearing with a vote of 3-0.

e) CON-23-63 429 Commercial Street

Request for a Determination of Applicability filed by **Robert J. Martin** 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 resurface a gravel parking area with permeable pavers. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation: Bobby Martin appeared to present the application. Mr. Martin said that the stone and hardening layer will be removed. A 5-6” layer of native stone, a 2” bedding layer, and the permeable pavers will then be laid down and chip stone will be put in between the pavers. In addition, a French drain will be installed.

Public Comment: Ron Robin, the owner of the property, had a question about the address that was read out.

Commission Discussion: The Commission questioned Mr. Martin.

Emma Fillion moved to close the public hearing and issue a Negative #2 and #3 Determination of Applicability for CON-23-63, 429 Commercial Street, Oriana Conklin seconded, and it was so voted, 3-1-1 (Mark Adams abstaining).

f) CON-23-64 485 Commercial Street

Request for a Determination of Applicability filed by **Joyce Holupka** 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: Joyce Holupka, the homeowner, appeared to present the application. She described the project, which includes replacing existing stairs from the top of the seawall to the beach and replacing them with a more robust system that will be lag-bolted with galvanized bolts to the seawall and be composed of doubled-up pressure-treated lumber. The stairs will be braced and buried 4-6’ into the sand. No vehicles will be utilizing the beach for the project.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Holupka.

Oriana Conklin moved to close the public hearing and to issue a Negative #2 and #3 Determination of Applicability for CON-23-64, 429 Commercial Street, Mark Adams seconded, and it was so voted, 4-0.

g) CON-23-65 83 Commercial Street

Request for a Determination of Applicability filed by **AJ Santos** 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 repair decking. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

Presentation: No one was in attendance to present the application. Ms. Millett said that she had met the applicant on the site to view the project and spoke with him about it. She reviewed the project. The surface of the deck closest to the building needs repair, as most of it was lifted off its framing during a winter coastal storm. The project includes replacement of the decking itself. The replacement will be Trex, a composite material. During the construction, if a sistered joint is not in great shape, another joint will be spliced in its place. No work will be done from the beach and access will be from the street side of the property.

Public Comment: None.

Commission Discussion: None.

Oriana Conklin moved to close the public hearing and to issue a Negative #2 and #3 Determination of Applicability for CON-23-65, 83 Commercial Street, Mark Adams seconded, and it was so voted, 4-0.

h) CON-23-66 145 & 147 Commercial Street

Request for a Determination of Applicability filed by **Mike Czyoski** 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 repair and replace decking and 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: Mike Czyoski, representing 145 Commercial Street, and Laurie Ferrari, of Peters Property Management, on behalf of 147 Commercial Street, appeared to present the applications. Mr. Czyoski said that the deck and walkway were damaged and dislodged in a winter storm and a stairway was demolished. The deck and the walkway were reset, and a new set of stairs were installed. He said the work was done without a permit. The stairs were constructed with 2” by 12” stringers and a 2” by 10” treads and screwed together with galvanized hardware. Ms. Millett said that the Commission has been requiring compression rods on beach access stairs to prevent spreading. Mr. Czyoski said he could add those to the stairs and Ms. Millett added it to the conditions.

As for 147 Commercial Street, Ms. Ferrari requested that the application for 147 Commercial Street be withdrawn, as the applicant wants to apply for an NOI to do more substantial work. Diamond piers will be used for the deck.

Public Comment: None.

Commission Discussion: Ms. Millett said that if work is done without a permit and the project would likely have been approved by the Commission, a double permit fee could be charged.

However, she did not do so in this situation, and she asked the Commission if it would like to have that fee levied. The Commission briefly discussed the issue.

Alfred Famiglietti moved to require an after-the-fact filing fee of \$100 for the project at 145 Commercial Street, Oriana Conklin seconded, and it was so voted, 4-0.

Mark Adams moved to allow the 147 Commercial Street portion of the application to withdraw, Oriana Conklin seconded, and it was so voted, 4-0.

Alfred Famiglietti moved to grant a Negative #2 and #3 Determination of Applicability for 145 Commercial Street, and to close the public hearing, Emma Fillion seconded, and it was so voted, 4-0.

i) CON-23-42 471 Commercial Street

Request for an Amended Order of Conditions filed by **Joseph Hannon** 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 reconstruct a previously permitted bulkhead. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

Presentation: Jed Hannon, of Coastal Engineering Co., was online to present the application. He said this was a request to amend an Order of Conditions from 2021 for a bulkhead repair. He said the previous design included driving steel sheeting, an invasive process. There are two abutting property owners that were concerned about vibrations and other potential impacts from the project. They are trying to mitigate and come up with the best design solution given the requirements of the flood zone. They have designed a pile-supported decking system similar to what now exists. However, they are going up higher. The property sustained damage in the December 2022 storm, and an Emergency Certification was gotten to do temporary repairs. Those repairs were done. Mr. Hannon reviewed the details of the design. The proposed bulkhead will be built 1' above the flood zone and instead of doing steel sheeting, there will be piles, 12" diameter, 8' on center, driven into the sand. Tie-back rods and whalers will be used with the higher bulkhead. This system is less invasive, and its footprint will not be changed.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Hannon. He reviewed photographs of the original bulkhead.

Oriana Conklin Moved to approve the Amended Order of Conditions with the conditions as discussed and to close the public hearing, Mark Adams seconded, and it was so voted, 4-0.

3) **Emergency Certification:**

a) CON-23-74 **657 Commercial Street** Temporary Seawall Repair: Ms. Millett said that this situation involved the loss of sand behind a bulkhead, causing it to fail. Every high tide, more sand is lost. There was a request for a vehicle access permit. She reviewed photographs of the site. The request is to dig out behind the wall, put in a temporary support wall behind it with some filter fabric, and then fill it back in until an NOI for a permanent solution can be submitted. The NOI must be submitted within a year. She requested ratification of the Emergency Certification.

Alfred Famiglietti moved to ratify the Emergency Certification for CON-23-74, 657 Commercial Street, and to close the public hearing, Oriana Conklin seconded, and it was so voted, 4-0.

4) **Other Business:**

a) **Elect Chair and Vice Chair:** Oriana Conklin nominated Alfred Famiglietti for Chair and Nathaniel Mayo as Vice Chair. *Emma Fillion moved to approve the nominations, Mark Adams seconded, and it was so voted, 4-0.*

b) **B-Street Garden** – Compost, Renovations, Poison Ivy: Ms. Millett said that there was an Advisory Group meeting for the B-Street Garden on the last workday. She said that gardeners wanted the compost bins removed entirely. The person who was caretaking them is no longer involved with the Garden and people from the neighborhood were dumping food waste into the bins, creating a rodent problem. No one has stepped up to take over the compost bin caretaking duties. The Commission briefly discussed the issue. The bins will be removed on June 3rd.

Mr. Famiglietti suggested installing two motion sensor lights on the shed. The Advisory Group also discussed renovating the shed. Ms. Millett will investigate a pump issue. In addition to pursuing more money, the Advisory Group is asking the Commission to research purchasing the materials for the new plots, as there are carpenters who have become new gardeners and could potentially do that work as part of their volunteer duties. She said that some gardeners are asking for top railings on the renovated beds to stabilize the chicken wire. This work would take place in the fall. She said that there is still a substantial poison ivy issue, and many gardeners are convinced that manual removal will not work. The poison ivy is in the plots themselves. The Advisory Group may petition the Commission for permission to use an herbicide with a certified professional applicator. She said it would submit an RDA for the poison ivy removal. There is a gardener whose partner wants to take over the beekeeping on the site and wants to move the hives to a portion of the property that is under the jurisdiction of the Open Space Committee. Mr. Famiglietti said that an account could be set up with Land's End Hardware and Conwell Lumber for B-Street Garden expenses. Ms. Millett will check on that idea.

5) **Approval of Minutes of March 7 and May 2, 2023:**

a) **March 7, 2023 and May 2, 2023:** *Emma Fillion moved to approve the language of the minutes of March 7, 2023 and May 2, 2023 as written, Oriana Conklin seconded, and it was so voted, 4-0.*

6) **Administrative Permit Information:**

a) **262A Bradford Street, Unit 6** – Improve existing gravel driveway and parking areas: Ms. Millett reviewed the project, which is in a buffer zone to a resource area. The property owner wants to fill in potholes in his pea stone driveway with the same material.

b) **243-249 Commercial Street** – Crown and Anchor beach parties: Ms. Millett said that this is for a small set-up on the beach for a party during Bear Week and for the Fourth of July. It is the same arrangement the business has been making for several years and is right next to the rear deck.

7) **Conservation Agent Update:** None.

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

Mark Adams moved to adjourn the meeting at 7:30 P.M., Oriana Conklin seconded, and it was so voted, 4-0.

Respectfully submitted,

Ellen C. Battaglini

Approved by on June 6, 2023

Alfred Famiglietti, Chair