

PROVINCETOWN CONSERVATION COMMISSION

September 19, 2023

6:00 P.M

Members Present: Alfred Famiglietti, Emma Fillion, Joseph Cooper, and Mark Adams.

Members Absent: Nathaniel Mayo (excused) and Oriana Conklin (excused).

Others Present: Melyssa Millett (Conservation Agent).

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

Melyssa Millett explained how that remote participation in the meeting is via the Microsoft Teams app or by calling into the meeting by phone. The information is listed on the agenda. To mute a phone, press *6. 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.

- 1) **Public Comments:** None.
- 2) **Board and Committee Training with the Town Clerk:** Tabled.
- 3) **Public Hearings:**

a) **CON-23-113 7 Commercial Street**

Notice of Intent filed by **Donald Munroe** 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 relocate a coastal dune, replace a patio fence, and to install seasonal snow fencing. Work to take place within a Coastal Beach, a Coastal Dune, and Land Subject to Coastal Storm Flowage. **Applicant has requested a continuance to the October 17, 2023 Meeting.**

Ms. Millett explained that at the last hearing, the Commissioners present expressed concern regarding the relocation of the dune, as it is hard to permit under the WPA and is not beneficial for flood plain management. Mr. Munroe asked to continue the application so he could rethink and redesign the project and find out what the Condominium Association wanted to do to move forward if it did want to move the coastal dune or go in a different direction. She reviewed current photographs of the site and briefly reviewed the history of the property and the manipulation of the dune. She said that the yearly extensions of the Order of Conditions had to stop, and the Condominium Association was informed of that decision by the previous Conservation Agent. The dune has become established, as there is vegetation growing on it and there is a large amount of accretion that has taken place. She said she met with Mr. Munroe on the site and options were discussed. She thought that what he would present at the next meeting would be to raise the first 6' closest to the dune, which includes a deck, about 2' high. The deck would have flow-through decking that could be removed to clean up sand on the patio and to plant vegetation. The option to relocate the dune would be removed. She also requested that Greg Berman weigh in on the application. ***Mark Adams moved to approve the request to continue CON-23-113, 7 Commercial Street, to the Public Hearing of October 17, 2023 at 6:00 P.M., Joseph Cooper seconded, and it was so voted 4-0.***

b) CON-23-117 561 Commercial Street

Request for a Determination of Applicability filed by **Joe Brady** 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 an existing deck and 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.

Public Comment: Joe Brady, of Cape Associates, Inc., was online to present the application. He reviewed photographs of the stairs and the deck structure. He said the 4” by 4” posts would be shored up, but the majority of the work will involve the landing of the stairway that turns down to the beach. The stairway will be replaced in kind. The framing will be comprised of pressure-treated 2” by 12” s with 2” by 6” pressure-treated wood treads and 4” by 4” support posts.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Brady. Ms. Millett said that no work will be done on the seawall or beyond the existing footprint of the seawall other than the beach stairs, and that work will only involve the support posts on top of the seawall. Ms. Millett explained to Mr. Brady that the Commission was asking for a combination of bracketed treads, or compression rods, to prevent spreading of the stringers, or a center stringer, if timber stairs are involved. The concern is for the stairs and treads not to become debris in future storms. She asked Mr. Brady if he was willing to reinforce the structure with either a double stringer, or a center stringer, and bracketed treads. She said double stringers could be placed on the outside if there is no center stringer and then a compression rod to prevent spreading. Mr. Brady said he could install a center stringer. No beach access is required for the project.

Ms. Millett reviewed the conditions, including that the stairs are to be constructed to resist future storm damage, including deep-set stringers, compression rods or bolts, inset treads, and corrosion-resistant hardware and permanently marked with the owner’s last name and the street number, that the deck be constructed using flood-resistant materials, that all fasteners be made of corrosion-resistant materials and designed to resist uplift and lateral loads between the deck frame and the concrete deck supports, and that the property owner shall be responsible for the proper and regular maintenance of the beach access stairs and deck to prevent degradation and loss of structural integrity, the latter of which will be an on-going maintenance condition. In addition, the permit will not be closed until the applicant has submitted to the Conservation Agent a copy of any required Chapter 91 authorization for the work approved.

Alfred Famiglietti moved to issue a Negative #2 and #3 Determination of Applicability for CON-23-117, 561 Commercial Street, Mark Adams seconded, and it was so voted, 4-0.

4) Approval of Meeting Minutes:

a) September 5, 2023: *Joseph Cooper moved to approve the minutes of September 5, 2023 as written, Mark Adams seconded, and it was so voted, 3-0-1 (Alfred Famiglietti abstaining) by roll call.*

5) **Conservation Agent Update:** Ms. Millett said that the projects at 607 and 505 Commercial Street, both bulkhead repairs, will be starting work this fall, having completed their pre-construction meetings, and have applied for their beach vehicle access permits.

6) **Any other business that shall properly come before the Commission:** Mr. Adams asked a question about the process of Chapter 91 and what the Commission's role is in that process. Ms. Millett said that the Commission did not have a role in that process, but she said that Jim Vincent, the Town's Chapter 91 liaison, has been included in the work flow process that all permitting for projects within the jurisdiction of the Conservation go through. Mr. Vincent has been reviewing projects that fall within the Chapter 91 jurisdiction. The Order of Conditions for those projects involving Chapter 91 are recorded at the Registry against the deed to the property until the Commission gets an approved license for those projects and the project has to obtain a Certificate of Compliance. She said she had a list of properties that are thought to be within the Chapter 91 jurisdiction and that need licenses, but that list has not been updated in a while. She said that her department was getting an AmeriCorps person from October through July. That individual will be involved in coastal resiliency resources and land management projects. She said that person may be asked to update the Chapter 91 list. If a property is conveyed that requires, but does not have, a Chapter 91 license, the buyers of the property will be notified and encouraged to deal with that issue by obtaining a Chapter 91 license and a Certificate of Compliance for the Order of Conditions. Ms. Millett said that she usually gets contacted by a real estate broker when the property is put on the market for sale.

She said she is planning on having Mr. Vincent meet with the Commission. He would also like to meet with the Harbor Committee and the Coastal Resiliency Advisory Committee as well in order to get everyone on the same page about Chapter 91 projects in Town. Ms. Millett explained that difference between Chapter 91 licenses in Provincetown versus other towns on the Cape, the latter of which is only for the building of water-dependent structures, such as docks and piers. In Provincetown, any structure that is below historic mean high water, of which there are many, requires the prioritization of public access, which can be an overlook or a pathway that leads to the waterfront. This is usually a condition of the approval for projects below the mean highwater mark. Ms. Millett said that many of these access points are not marked, and some are erroneously marked as private property. Mr. Adams said that there wasn't an enforcement mechanism, except at the state level. Mr. Millett said that the state has not been enforcing these licenses and access points. Mr. Adams suggested that the Town propose some conformance standards for meeting the requirements of Chapter 91. Ms. Millett thought that the Harbor Committee was responsible for working on an in-depth process for every project in need of a Chapter 91 license or that was within the jurisdiction of Chapter 91. She said she would send to Commissioners any material that Mr. Vincent had on the issue. Mr. Adams said he would like to see the actual Chapter 91 regulation that is specific to Provincetown.

Alfred Famiglietti moved to adjourn the meeting at 6:37 P.M., Joseph Cooper seconded, and it was so voted, 4-0.

Respectfully submitted,
Ellen C. Battaglini

Approved on October 3, 2023
Alfred Famiglietti, Chair