

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
February 4, 2020
6:00 P.M.

Members Present: Alfred Famiglietti (arrived at 6:06 P.M.), Nathaniel Mayo, Robert Brock, Oriana Conklin, and Brett McNeilly.

Members Absent: Joseph Cooper (excused) and Dani Niedzielski (excused).

Others Present: Tim Famulare, Conservation Agent and Ellen C. Battaglini, Permit Coordinator.

Vice Chair Nathaniel Mayo called the Public Meeting to order at 6:03 P.M. and reviewed the purview of the Commission.

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

2) **Public Hearings:**

a) **CON-20-042 361 Commercial Street**

Notice of Intent filed by **Todd Perry** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to replace existing timber pile supports beneath an existing structure, renovate and elevate an existing structure, and replace an existing deck and beach access stairs. Work to take place within Land Subject Coastal Storm Flowage, a Coastal Dune, a Coastal Beach, and a Buffer Zone to a Coastal Dune and a Coastal Beach. Mr. Famulare said that the applicant had requested a continuance to the meeting of March 3, 2020. *Alfred Famiglietti moved to grant the request to continue CON-20-042 to the Public Hearing of March 3, 2020 at 6:30 P.M., Brett McNeilly seconded and it was so voted, 5-0.*

b) **CON-20-043 264-268 Bradford Street**

Determination of Applicability filed by the **Arnold and Ruth Dwyer Family, LLC**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to remove/abandon an existing cesspool(s)/septic system and install a gravity sewer to a force main to connect to an existing sewer stub. Work to take place within Land Subject to Coastal Storm Flowage, Isolated Land Subject to Flooding, and a Buffer Zone to an Isolated Vegetated Wetland. Nathaniel Mayo recused himself because of a conflict of interest.

Presentation: Stacy Kanaga, of Coastal Engineering, Co., appeared to present the application. She reviewed the proposed project, which includes the removal or abandonment of an existing cesspool(s)/septic system and to install a gravity sewer, which will pump effluent to a force main to be connected to the existing 264 Bradford Street sewer stub along Bradford Street. Approximately 200 linear feet of pipe will be installed within Land Subject to Coastal Storm Flowage as part of the project and the finished grades are proposed to be restored to their existing condition. The disturbed portions of the site will be restored to their existing condition following the sewer installation. 50' of sewer pipe is within the 50-100' buffer zone to an isolated wetland. She noted the work limit on the site plan. The potential for adverse impacts on the resource areas during construction have been reduced and post-construction measures will be implemented to

stabilize any disturbed areas. Erosion and sedimentation control mechanisms will be implemented prior to the start of construction and will be maintained until final stabilization of the site. Equipment and material staging is proposed in the north yard.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Kanaga. Mr. Famulare recommended a Negative #2 and #3 Determination and reviewed the draft conditions.

Robert Brock moved to grant a Negative #2 and #3 Determination of Applicability for CON-20-043 pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to remove/abandon an existing cesspool(s)/septic system and install a gravity sewer to a force main to connect to an existing sewer stub at the property located at 264-268 Bradford Street subject to the draft conditions as proposed, Oriana Conklin seconded and it was so voted, 4-0.

c) CON-20-044 **53 Commercial Street**

Notice of Intent filed by **Jay Anderson, 53 Commercial Provincetown, LLC**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to raze an existing building and construct two proposed buildings pursuant to FEMA regulations and associated site improvements. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation: Attorney Lester J. Murphy and Stacy Kanaga appeared to present the application. Attorney Murphy explained how and why the project at this site has been changed from a previous approval. Ms. Kanaga reviewed the existing and proposed site plans. She said that the current site has a multi-unit dwelling, a larger shed and two smaller sheds and a gravel drive/parking area. Existing hardscapes include an asphalt pavement and concrete aprons, a slate patio, three stories of wood decks and stairs connected to the building, a deck connected to the 51 Commercial Street rear deck, and a rinse area. Landscaping for the site includes timber retaining walls and stairs, a lawn and some ornamental trees. She next reviewed the proposal, which includes the removal of an existing dwelling and three sheds and the construction of two new structures elevated to raise the lowest finished floor above the highest adjacent grade to the FEMA-established design flood elevation, as required by the Massachusetts State Building Code. A gravel driveway and cobble aprons, dry-laid stone walkways and patios, proposed decks and stairs will be constructed along with landscaping improvements. The existing Title 5 sewage disposal system will be abandoned/Removed and the property will connect to the Town sewer system. All new utilities will be installed and will tie into the existing utilities. The proposed site will maintain the same drainage patterns as the existing with an average of less than 6" of grade changes proposed throughout the site. Roof runoff will be managed through the installation of gravel drip trenches along roof driplines and limited areas of gutters to downspouts to drywells. Two existing decks on the south elevation will remain in their current footprints, but the deck framing and deck surfacing will be removed and replaced and the new structure will be taken out of the 'V' Zone. The foundation and support structures of the decks will not be disturbed during the construction. No work is proposed within the Coastal Beach resource area. Removable stairs are anticipated to be removed seasonally and in the event of a large coastal storm. The landscape design will be a mixed pallet of trees, flowering shrubs, and flowering perennials and will transition to all native plantings at the Harbor end of the property.

Public Comment: None.

Commission Discussion: The Commission questioned Attorney Murphy and Ms. Kanaga about the site plan. Mr. Famulare pointed out that some of the ornamental plantings were not on the Commission's approved list of plantings. The applicant agreed to revise the plantings and submit a revised planting plan showing only native species to Mr. Famulare. He questioned Ms. Kanaga about the concrete stairs to the beach and reviewed the previous approval requiring aluminum removable stairs. After discussing the location of the stairs, it was agreed that the stairs will be moved to the west, to a more protected area of the deck in between the two decks to the southwest face as close to the bulkhead as possible where it would be less susceptible to wave action. A revised site plan showing the new location of the stairs will be required. Mr. Famulare commented on the draft conditions, which he had based on the previous project's conditions. He suggested that condition #19 be struck and replaced with a requirement that a revised planting plan showing only plantings on the approved Commission list for species within the 50' buffer zone be submitted to the Agent. Ms. Kanaga said that the property had an approval for a minor modification related to the bulkhead that was the subject of a previous project pursuant to Chapter 91. The removable aluminum stairs will need an approval by the Dept. of Environmental Protection. Mr. Famulare said that he would revise condition #26 to reference the Chapter 91 authorization for the new location of the removable stairs. He noted that there was no DEP file number attached to the project yet requiring that the Commission continue the matter.

Nathaniel Mayo moved to continue CON-20-044 to the Public Hearing of February 18, 2020 at 6:30 P.M., Alfred Famiglietti seconded and it was so voted, 5-0.

d) CON-20-046 1 Commercial Street

Administrative Review Application filed by **Provincetown Inn Limited Partnership** pursuant to the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to remove asphalt pavement and replace with ¾" stone, remove and replace a fence, and remove asphalt along the top of a revetment and replace filter fabric and trap rock along the southwest side of the property in accordance with an existing Amended Order of Conditions (DEP File no. SE 058-0588). Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation: Robert Our appeared to present the application. Mr. Famulare reviewed the background of the situation. The property, the Provincetown Inn, has come before the Commission twice before for repairs due to storm damage, including sinkholes. The work included repairing foundations, replacing decks and replacing asphalt surface with crushed stone, the latter allowed under an Amended Order of Conditions. The applicant is now proposing similar work on the southwest side area of the property. Mr. Our briefly reviewed the project.

Public Comment: None.

Commission Discussion: The Commission and Mr. Famulare questioned Mr. Our.

Nathaniel Mayo moved to approve CON-20-046 pursuant to the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law to remove asphalt pavement and replace with ¾" stone, remove and replace a fence, and remove asphalt along the top of a revetment and replace filter fabric and trap rock along the southwest side of the property in accordance with an existing Amended Order of Conditions (DEP File no. SE 058-0588) and the additional work described in the Administrative Review application, subject to the Order of Conditions previously approved, , issued March 14, 2018 and the Amended Order of Conditions, issued

January 8, 2019, for DEP File No. SE 058-0588, Robert Brock seconded and it was so voted, 5-0.

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

a) **CON-20-045 157A Commercial Street and 0-Foot Atlantic Avenue** (installation of seawall). Alfred Famiglietti recused himself because of a conflict of interest. Mr. Famulare said that there was an installation of a seawall that obtained a partial Certificate of Compliance. The applicant had not finished re-surfacing at the end of the Atlantic Avenue Town Landing and erecting fencing. That work has now been done. There are still an outstanding conditions relating to quarterly reporting and beach nourishment for a five-year period and a requirement for the survivability of the beach grass plantings, so he would recommend the granting of another partial Certificate of Compliance

Robert Brock moved to grant a partial Certificate of Compliance for CON-20-045, Brett McNeilly seconded and it was so voted, 5-0.

4) **Conservation Agent Update:**

a) Whistle Path Woods – Laura Ludwig appeared to discuss an issue with an abundance of dog waste on Whistle Path Woods. She reviewed her experience, stating that the problem has gotten worse over the past month. The Commission questioned Ms. Ludwig and discussed the issue. Mr. Famulare said that he would work with the Open Space Committee and make recommendations about installing more signage. He also said he would talk to Rex McKinsey, as liaison to the Harbor Committee and Steve Wisbauer, the liaison to the Shellfish Committee, about public awareness for dogs that are walked on the flats in the Harbor and the issue of water quality control.

5) **Approval of Minutes of January 21, 2020:**

a) **January 21, 2020:** ***Robert Brock moved to approve the minutes as written, Nathaniel Mayo seconded and it was so voted, 5-0.***

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

ADJOURNMENT: ***Robert Brock moved to adjourn the Public Hearing at 7:40 P.M., Brett McNeilly seconded and it was so voted unanimously.***

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2020
Alfred Famiglietti, Chair