

June 28, 2017

TO: Board of Selectmen

FROM: Conservation Commission 

SUBJECT: Town-owned beach lot – Map 21 Lot 6

Town Counsel has advised the Conservation Commission to provide the following brief to the Selectmen for consideration and action.

Background: While on a site visit over the winter the Commission noticed a boardwalk across a salt marsh and through a tidal channel. It is on a 6.5-acre town-owned beach lot in Menemsha—see attached photo. This boardwalk is not permitted and does not meet best design practices for a raised walkway over a sensitive and pristine salt marsh and tidal flow areas.

After consulting with Bob Nixon and investigating the property ownership history with Town Counsel the following was revealed. Bob Nixon has been patching the walkway over the years even though it is not on his property. We do not know who installed the original boardwalk.

1. The boardwalk is used to access Menemsha beach by the Menemsha Inn and Beach Plum Inn guests, the Menemsha Inn Road residents and guests and just about anyone else who chooses to use the boardwalk. This practice has apparently gone on for many decades.
2. The property was gifted to the Town in 1956. It is Land Court registered land and has no easements or rights of way granted to anyone to walk across the property. The possible application of a right to use the path through adverse possession does not apply because it is registered land.
3. The current boardwalk and use is a violation of the Town's Wetland Protection Bylaw and the Commonwealth's Wetland Protection Act regulations and the boardwalk's condition could pose a liability to the town.
4. The Commission is proposing several alternative courses of action for your consideration:
 - a. Remove the boardwalk and close off the path across Map 21 Lot 6. The abutting parcel Map 21 Lot 5 is a 30-foot right of way for beach access. This too is on town-owned land and follows the lot lines of Map 21 Lot 6—see attached assessor's map. Folks have apparently been walking across Map 21 Lot 6 instead of using the 30-foot right of way because it is a much shorter route to the beach. The boardwalk was probably installed to make it easier to traverse the salt marsh.
 - b. Allow people to continue to use the path across Map 21 Lot 6. If this option is chosen the Commission requires a Notice of Intent be filed to construct a proper raised walkway across the resources using best design practices for this type of use. This would most-likely be at the Town's expense to design, permit, build and maintain.

MAP 21 LOT 6 BOARDWALK





Map 21 Lot 6
Chilmark



6/28/2017

