

PROVINCETOWN CONSERVATION COMMISSION
CAUCUS HALL
January 15, 2013
6:30 P.M.

Members Present: Dennis Minsky, Lynne Martin, Barbara Prato and Mark Irving.

Members Absent: David Hale (excused).

Others Present: Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Chair Dennis Minsky called the Public Hearing to order at 6:30 P.M.

PUBLIC STATEMENTS:

None.

MINUTES: Postponed.

Certificate of Compliance

Application by **Joseph Taves**, represented by **William N. Rogers, II, P.E.,P.L.S.**, under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for a **Certificate of Compliance** for work conducted at the property located at **48 Shank Painter Road** in Provincetown.

Billy Rogers appeared to discuss the request. There were two Orders of Conditions, one amended, associated with this project. The project was an expansion of a cottage, including constructing an addition and installing decks. A Title V design was part of this project for the existing building, which is an office. The applicant then returned with an amended Order for a Title V design for the second building on the property, which is a dwelling unit. Mr. Rogers certified that the building has been constructed according to the plans. Neither of the Title V designs has been installed because the property has hooked up to the Town sewer system.

Documents Submitted: Letter from William N. Rogers, II, dated 01/12/13, and a WPA Form 8A.

Public Comment: None.

Commission Discussion: The Commission did not ask any questions.

Lynne Martin moved to grant the Certificate of Compliance under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for a Certificate of Compliance for work conducted at the property located at 48 Shank Painter Road, Barbara Prato seconded and it was so voted, 4-0.

Notice of Intent

Application by **Noah Santos**, represented by **Donald Munroe**, of **Coastal Engineering Co., Inc.** for a **Notice of Intent** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The scope of work to include expansion of a current marina by extending a wharf 216 feet, adding an 8 foot by 617 foot pile-supported pier and moving an existing float system to deeper water at the property located at

131A Commercial Street in Provincetown. A letter has been received from Mr. Munroe requesting that the application be withdrawn.

Barbara Prato moved to grant the request to withdraw the application of Noah Santos, represented by Donald Munroe, of Coastal Engineering Co., Inc. for a Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for a scope of work to include expansion of a current marina by extending a wharf 216 feet, adding an 8 foot by 617 foot pile-supported pier and moving an existing float system to deeper water at the property located at 131A Commercial Street in Provincetown, Mark Irving seconded and it was so voted, 4-0.

Notice of Intent

Application by **Captain Jack's Wharf Condominium Association**, represented by **Jason Norton**, of **Coastal Engineering Co., Inc.** for a **Notice of Intent** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include a proposed fender pile replacement at the property located at **73 ½ Commercial Street** in Provincetown.

Presentation: Jason Norton appeared to present the application. The proposed work will include the removal of 16 fender piles and their replacement with pressure-treated piles placed adjacent to the existing pile sites. The proposed piles are to be 10" in diameter and 35' long. The existing handrails will be temporarily removed and replaced as required during the pile replacement process. Access for construction will be from the Town Landing to the south of the premises. The existing piles that are replaced will be disposed of off site on a daily basis. A rubber-tracked excavator will be used during the project.

Documents Submitted: A Notice of Intent application, a performance standards narrative and Construction Protocol, an NOI Wetland Fee Transmittal Form, copies of checks for filing fees, affidavit of service, an abutter notification letter, a certified abutters' list, a Mass. Division of Marine Fisheries submittal letter and proof of submission, a Provincetown USGS map identifying locus, a plan entitled "Proposed Fender Pile Replacement", dated 12/26/12 and a DMF letter, dated 01/14/13.

Public Comment: None.

Commission Discussion: Dennis Minsky reviewed DMF comments regarding the project for the Commission's consideration. He questioned Mr. Norton about those comments, including the proposed use of pressure-treated (CCA) wood. Mr. Norton replied CCA is being used because of the possibility of the piles rotting within a matter of a few years if untreated piles were installed. The Commission has approved the use of CCA-treated lumber in the past, but it is of concern. The Commission wanted more guidance from DMF on that issue, but was unable to get a response before the hearing. The Commission questioned Mr. Norton about access to the site via the beach and how the piles would be removed.

Lynne Martin moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for a scope of work to include a proposed fender pile replacement at the property located at 73 ½ Commercial Street with the Standard Order of Conditions and with the Special Conditions that the applicant obtain a beach access permit, that no barge be used during the project, that a rubber-tracked excavator be used for the project and that the Conservation Agent conduct a site visit before work commences, Dennis Minsky seconded and it was so voted, 4-0.

DISCUSSION:

Violation Notice for 471 Commercial Street:

Ryan Weber, on behalf of Deborah Paine, Inc., and Megan Spoerndle, of Stix and Stones, appeared on behalf of Ken Fulk to discuss the violation. The Commission had issued a Violation Notice to Mr. Fulk for unauthorized removal of trees within 100 feet of a resource area.

According to the Commission, 3 large trees and 5 sucker trees were illegally removed from the property. The Commission discussed how to respond to the violation and what the home owner planned to do in the future. Mr. Fulk had written a letter to the Commission explaining why the trees on the property were removed. Ms. Spoerndle stated that she was hired by Mr. Fulk to landscape the property and supervised the removal of the trees, including a linden tree that both she and Mr. Fulk said was dead and diseased. She apologized for not contacting the Commission and was not aware of its purview over such work. She began to review the initial proposed Landscape Plan, dated 01/11/13, and as shown on a plan included in the Landscape Package submitted by Mr. Fulk.

Public Comment: George Bryant commented on the project. He claimed that the linden tree taken down was not dead and that it was not on Mr. Fulk's property. He is asking the Commission to request that Mr. Fulk replace the linden tree with a mature tree in the same location.

Commission Discussion: Dennis stated that the Commission could levy a fine for each tree removed, require mitigation of some sort, or choose a combination of those two options. The Commission asked Ms. Spoerndle to continue her review of the proposed landscaping for the property. After some discussion, the sense of the Commission was that instead of levying fines, Mr. Fulk should re-vegetate the property as much as possible with native plantings and that a mature, native shade tree be planted to replace the felled linden tree on the northwest corner of the property. As for the landscaping plan submitted by Mr. Fulk, the Commission would like to see more native plantings, especially closer to the water. The Commission requested that Ms. Spoerndle return with a revised plan at which time the issue will be an Administrative Review.

Dennis Minsky moved to request that Megan Spoerndle return for an Administrative Review with a plan to include the replacement of a large tree on the street side and a more specific planting plan dominated by native plantings, Barbara Prato seconded and it was so voted, 4-0.

Certificate of Compliance

Application by **Eleanor Pannesi**, represented by **Slade Associates, Inc.**, under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for a **Certificate of Compliance** for DEP File No. SE-058-0498 for work conducted at the property located at **71 Commercial Street** in Provincetown. No one appeared to present the request. There was a letter from Slade Associates, Inc. certifying that the work was complete and in substantial compliance with the plans approved in the Order of Conditions.

Lynne Martin moved to grant the Certificate of Compliance under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for a Certificate of Compliance for DEP File No. SE-058-0498 for work conducted at the property located at 71 Commercial Street, Barbara Prato seconded and it was so voted, 4-0.

MINUTES: December 14, 2012 – Lynne Martin moved to approve the language as written, Dennis Minsky seconded and it was so voted, 3-0.

December 4, 2012 – Barbara Prato moved to approve the language as written, Dennis Minsky seconded and it was so voted, 3-0.

Barbara Prato authorized the PARC grant for the Dune’s Edge campground, Mark Irving seconded and it was so voted, 3-0-1 (Lynne Martin abstained). The Commission signed the document.

The Commission revised its 2013 meeting schedule.

The MACC annual conference is coming up in March.

There is a B Street Garden Advisory Group meeting on Thursday.

Dennis raised the issue of putting trails on the Hawthorne property and planting on conservation lands in the spring.

DPW removed as much of the silt fence as possible from the sewage treatment plant property.

Brian will make sure that the water that will result from the de-watering of the Bayberry Avenue pumping station will be tested prior to pumping.

Dennis would like to make a site visit to 2 Commercial Street.

A handicapped access to the beach is being installed on the east side of MacMillan Pier.

ADJOURNMENT: Lynne Martin moved to adjourn at 7:55 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2013

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2013
Dennis Minsky, Chair