

**PROVINCETOWN  
CONSERVATION COMMISSION  
JUDGE WELSH ROOM  
APRIL 16, 2013  
6:30 P.M.**

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

**Members Absent:** David Hale and Barbara Prato (excused).

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

Chair Dennis Minsky called the Public Hearing to order at 6:32 P.M.

**PUBLIC STATEMENTS:**

None.

**MINUTES:** Postponed.

**Notice of Intent**

Application by **Harvey Reese** represented by **East Cape Engineering, 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 the repair of an existing timber seawall and stairs at the property located at **479 Commercial Street**, in Provincetown.

**Presentation:** Tim Brady appeared to discuss the application. The proposed work involves the repair of an existing timber seawall and the replacement of an existing stairway. The proposed repairs to the existing seawall include the replacement of missing or broken walers and the installation of new helical anchor tiebacks. The work will be done on a coastal beach and the sand used to fill the depleted area landward of the wall will be delivered to the site by equipment traveling along the beach from the nearest Town landing. The tiebacks to be replaced are not adequately supported due to the insufficient volume of sand behind the bulkhead. When the waves hit the bulkhead, it vibrates the bulkhead which in turn vibrates the tiebacks, loosening them over time. The decking will be removed and a filter fabric placed behind the bulkhead to prevent sand from washing away in the future. New helical anchor deadmen will supplement the existing deadmen and the missing and broken walers will be repaired. A stairway destroyed in the February, 2013 storm will also be replaced. All lumber will be ACQ-treated and galvanized fasteners will be used.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Brady about the start date, the duration of the project and the point of beach access for equipment. The beach will be accessed via the Kendall Lane Town landing, the work will be done as soon as possible and the duration will be approximately a week. The Commission requested that no equipment be left on the beach overnight or block the Town landing. The Commission discussed the difference between ACQ and CCH-treated lumber. There was a letter from the Division of Marine Fisheries recommending that ACQ-treated lumber not be used, however according to Mr. Brady, ACQ is

used frequently for this kind of project and CCH-treated lumber is not used as often due to its arsenic content. He reminded the Commission that only the stairway will require ACQ-treated lumber. According to Mr. Brady, the alternatives to ACQ-treated lumber that he was aware of included various plastic woods, which over time will warp or bend, or a glass-infused lumber that is new and not yet widely available.

*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 work to include the repair of an existing timber seawall and stairs at the property located at 479 Commercial Street, in Provincetown with the Standard Order of Conditions and with the Special Conditions that all construction debris will be removed from the beach daily, that use of equipment on the beach should be minimized and that no equipment be left on the beach overnight, Dennis Minsky seconded and it was so voted, 3-0.*

### Certificate of Compliance

Application by **Cliff Schorer** 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 **2 Commercial Street** in Provincetown.

**Presentation:** Daniel Finkbiner and Steve Zuley appeared to present the request. The grounds are being prepared for final planting, a final planting list has been prepared and the plants will be installed by May 30<sup>th</sup>.

**Public Comment:** None.

**Commission Discussion:** Mr. Zuley discussed the list of plants submitted to the Commission. The permit for the landscaping on the property was issued in 2007 and has expired. Mr. Schorer had submitted a revised plan after purchasing the property, however no work was done pursuant to that plan. The Commission is seeking a plan that is as detailed as possible. Mr. Finkbiner and Mr. Zuley requested a continuance until the June 4, 2013 Public Hearing.

*Dennis Minsky moved to grant the request to continue to the June 4, 2013 Public Hearing, Mark Irving seconded and it was so voted, 3-0.*

### **DISCUSSION:**

#### **Access to Clapps Pond from Route 6 and investigation into unauthorized use:**

Jason Zimmer, District Manager with Massachusetts Division of Fish & Wildlife, appeared to discuss the topic. Several members of the community have contacted Brian regarding misuse of trails and access and damage to areas of Clapps Pond so he invited Mr. Zimmer to meet with the Commission. In particular, the last pathway from Route 6 to Clapps Pond before Herring Cove Beach is at issue. Mr. Zimmer did not know if it was a required public access point, but it has served as an informal access point to the Pond. It is also referred to as the boat ramp and is the only trail that can be driven on by a vehicle. Dennis said that the Commission had received a request from a citizen to block this vehicular access to the Pond to prevent or minimize vandalism, littering, illegal fires, etc. The Commission is looking for guidance from Mr. Zimmer on how to act on the request. The Commission and Mr. Zimmer discussed whether it was possible to block vehicle access. Mr. Zimmer said he didn't think there was any legal right of access to Clapps Pond. Lynne Martin is concerned about access for citizens who have traditionally used the trail to reach the Pond. Mr. Zimmer stated that he will do some research on the legalities involved in the issue and report back to the Commission on available options.

**Derik Burgess in regard to 613 Commercial Street:**

Mr. Burgess wanted to discuss the possibility of installing a seawall structure at the property. He submitted photographs of the property. The abutting property to the west and two properties to the east have seawalls and may be causing the significant sand loading on the deck at the property, which is negatively affecting the structural integrity of the deck. The house is on piers and the water goes up under the house during some high tides. The homeowner presently has only a wave-break to deal with high water. She is requesting a seawall similar in height to the one on the western abutting property. The Commission doesn't know if it can approve the installation of a seawall where none exists. Dennis suggested sending the pictures to Christine Odiaga, ask for her opinion and then put the issue on an upcoming Commission agenda.

**Installation of a fence at 292 Bradford Street in land subject to the local by-law Chapter 12:**

Brian was contacted by Gordon Peabody about a fence being erected on this property, which is land subject to Chapter 12 of the local by-law for MESA jurisdiction. The fence is being constructed by Jonathan Sinaiko who owns the property and who has not obtained the permission of the Commission. The Commission discussed the topic. The fence would need to have clearance at the bottom for animal movement. The Commission directed Brian to request that Mr. Sinaiko attend the next Public Hearing to discuss the fence.

**APPOINTMENT:**

**Representative to the Community Preservation Committee (CPC):**

Barbara Prato has been performing this duty. *Lynne Martin moved to nominate Barbara Prato to be the Conservation Commission's representative to the Community Preservation Committee, Dennis Minsky seconded and it was so voted, 3-0.*

**MINUTES: March 19, 2012 – Lynne Martin moved to approve the language as amended, Dennis Minsky seconded and it was so voted, 3-0.**

**15 Creek Round Hill Road:**

The owners of the property are seeking to convey the property and there is an old Order of Conditions, pre-dating their ownership of the property, that has been recorded at the Registry of Deeds that needs to be cleared before the property can be sold. The work related to the Order of Conditions, dating from October of 1986, was never commenced and the Order has lapsed. The owners are requesting that the Commission issue a Certificate of Compliance for an invalid Order of Conditions to be recorded at the Registry in order to clear the title to the property. *Dennis Minsky moved to issue a Certificate of Compliance for an invalid Order of Conditions for work that was never done at the property located at 15 Creek Round Hill Road, Lynne Martin seconded and it was so voted, 3-0.*

**CONSERVATION BOARD STATEMENTS:**

Dennis reminded the Commission that there is a Joint Meeting with the Board of Selectmen and the Harbor Committee scheduled for April 22, 2013, to discuss a beach management plan. Greg Berman and Gordon Peabody will attend. There may also be a discussion of the beach raking plan for the upcoming year and the study by the Provincetown Center for Coastal Studies that

was conducted last year. The Commission discussed whether to conduct another year of studies related to beach raking. Brian will send the PCCS report to the Commissioners.

Dennis announced that there will be an on-site meeting tomorrow held by the Department of Environmental Protection related to an appeal to the Order of Conditions for Winston Avenue Extension. The DEP will evaluate the situation and issue an appropriate Superseding Order imposing such conditions as will contribute to the protection of its interests.

Dennis talked to the Town of Wellfleet about its herbicide policy and was told that it was a work in progress and that the Town was having some trouble putting it into effect.

Brian and Dennis were on the beach today and saw several kayaks located on top of beach grass and damaging it.

April Baxter applied for a position on the Conservation Commission and the Open Space Committee. Dennis will talk to her and find out on which she would prefer to serve.

Lynne brought up the issue of the installation of a road and the addition of fill on a lot at 166 Bradford Street Extension. Brian will investigate the issue and report to the Commission at the next Public Hearing.

**ADJOURNMENT: *Lynne Martin moved to adjourn at 8:00 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