

**PROVINCETOWN
CONSERVATION COMMISSION
JUDGE WELSH ROOM**

**June 4, 2013
6:30 P.M.**

Members Present: Dennis Minsky, Lynne Martin, Barbara Prato (left at 6:45 P.M.) and Jesse Cartwright.

Members Absent: David Hale (excused) and Mark Irving (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:

Candace Cabral and Desiree Cabral Duda, representing Cabral Enterprises, appeared to request that the Commission grant an emergency order to dredge on the east side of Provincetown Marina. They have spoken to Mike Winkler, who is doing the dredge work at MacMillan Wharf, and he has agreed to do the dredging. The issue is that the water level at the first ten slips in the Marina is almost nonexistent. Dennis informed Ms. Cabral and Ms. Duda that the issue would have to be advertised and placed on an agenda. Ms. Cabral explained that time was of the essence as the Marina had already rented those slips. Dennis said that they could discuss with the Conservation Agent whether the work could be performed before the next Public Hearing on June 18, 2013. Dennis said that the Commission recognized the gravity of the problem and that it was willing to help the Marina with its resolution.

MINUTES: May 7, 2013 – Lynne Martin moved to approve the language as written, Barbara Prato seconded and it was so voted, 3-0.

DISCUSSION:

Interview and appoint new Conservation Commission members:

Jesse Cartwright and April Baxter each appeared briefly before the Commission to state their qualifications to sit on the Commission and to answer Commissioners' questions.

Lynne Martin moved to appoint Jesse Cartwright to the Conservation Commission as an alternate member, Barbara Prato seconded and it was so voted, 3-0.

Lynne Martin moved to recommend to the Town Manager that April Baxter be appointed to the Conservation Commission as an alternate member, Barbara Prato seconded and it was so voted, 3-0.

Barbara Prato left the meeting and Jesse Cartwright joined the Commissioners to hear the applications on the agenda.

Request for a Determination of Applicability:

Application by the **Provincetown Municipal Airport** under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12. The applicant seeks approval for maintenance work at the property located at **179 Race Point Road** in Provincetown.

Presentation: Butch Lisenby, Airport manager, Mike Garrity, Airport engineer, and Steve Fletcher, of Jacobs Engineering Group, appeared to present the application. The project includes replacing the lighted wind cone, repairing the segmented circle, updating airfield guidance signs and crack and slurry sealing the general aviation aircraft parking apron. The existing wind cone will be replaced with a LED-efficient one. The segmented circle, which is a navigational aid and consists of a series of wooden painted structures laid out in a circle around the wind cone, will have deteriorating boards replaced and re-painted. Guidance signs will be added to identify taxiways. Sealing the pavement in the paved aircraft parking apron will prevent further pavement deterioration and extend its useful life. Each of these projects will enhance, upgrade and prolong the integrity of the existing facilities at the Airport. All grassland areas impacted by the projects will be restored to match the adjacent grassland areas. Only an approved seed mix will be used. Erosion controls will protect wetland resource areas with a silt fence, straw waddles and a construction fence. The construction-safety fence will also delineate the limits of work and straw bales will minimize the introduction of invasive plant species. All material stockpiles, construction activity and construction access will be located within existing paved or developed areas of the Airport. A fence will be installed around the construction area to serve as a turtle barrier as well as an erosion control measure. Turtle sweeps will be conducted every morning around the equipment and work sites.

Public Comment: None.

Commission Discussion: The Commission reviewed the projects, asked who would be doing the turtle sweeps and briefly questioned the applicants about the details of the project.

Lynne Martin moved to grant a Negative #3 Determination for the Provincetown Municipal Airport under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for maintenance work at the property located at 179 Race Point Road, 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 done under #SE-058-0437 conducted at the property located at **2 Commercial Street** in Provincetown.

Presentation: Cliff Schorer appeared to discuss the request. This was a revised Order of Conditions from a prior property owner who removed trees and other vegetation without permission. When he bought the property he revised the landscaping plan that had been part of the original Order of Conditions. More plant species were added to the landscaping plan. Mr. Schorer indicated that a number of plantings were lost due to the high wind velocity on the property and those would be replaced with small trees.

Public Comment: None.

Commission Discussion: Dennis informed the Commission that he and Brian did a site visit. The Commission asked Mr. Schorer questions about the plantings. The Commission would have

preferred a more specific landscaping plan to be submitted, showing explicit locations for the plantings. The Commission asked Mr. Schorer about the plants and their locations.

Lynne Martin moved to grant a Certificate of Compliance for work done under #SE-058-0437 conducted at the property located at 2 Commercial Street, Dennis Minsky seconded and it was so voted, 3-0.

Certificate of Compliance

Application by **William A. Bonn** 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** under #SE-058-0451 for work conducted at the property located at **333R Commercial Street** in Provincetown.

Presentation: William N. Rogers, II appeared to discuss the request. He submitted a letter certifying substantial compliance on the project at the property. He added that the property has been issued a Chapter 91 license indicating that they are also in compliance with the special conditions of that permit application.

Public Comment: None.

Commission Discussion: The Commission briefly questioned Mr. Rogers.

Lynne Martin moved to grant a Certificate of Compliance for work done under #SE-058-0451 conducted at the property located at 333R Commercial Street, Dennis Minsky seconded and it was so voted, 3-0.

Administrative Review

Application by Edward Malone for proposed work in an area protected under the Provincetown Wetlands By-Law, Chapter 12. The work will include the expansion of a single family house, the replacement of a water line, an extension to a parking area and the installation of a new septic system at the property located at **33 Bangs Street Extension** in Provincetown. There has been a request from the applicant to postpone the matter until the June 18, 2013 Public Hearing.

Lynne Martin moved to grant the request to postpone the Administrative Review at 33 Bangs Street Extension until the June 18, 2013 Public Hearing, Dennis Minsky seconded and it was so voted, 3-0.

Administrative Review

Application by Daniel Kaizer for proposed work in an area protected under the Provincetown Wetlands By-Law, Chapter 12. The work will include construction of two single-family homes and the relocation of an existing septic system at the property located at **25 Miller Hill Road** in Provincetown. There has been a request from the applicant to postpone the matter until the June 18, 2013 Public Hearing.

Lynne Martin moved to grant the request to postpone the Administrative Review for 25 Miller Hill Road until the June 18, 2013 Public Hearing, Dennis Minsky seconded and it was so voted, 3-0.

DISCUSSION:

Winston Avenue private way access to the beach with citizen James King:

James King appeared to discuss the topic.

Dennis summarized the discussion of the issue from the last Public Hearing by reading the minutes.

Mr. King asked if the Commission received documents that he had presented to the Board of Selectmen. Mr. King reminded the Commission that the BOS had recommended that the pathway to the beach on Winston Avenue be made so as to accommodate vehicles. He briefly reviewed the matter of the Commission's approval of the fence on Winston Avenue, its decision in regard to the alternate access to the beach as presented by a group of neighbors and his objection to the Commission's actions. He reiterated that in his opinion, the Commission's behavior was unethical in making a ruling regarding another pathway to the beach while Mr. King's appeal of the Commission's fence decision to the Department of Environmental Protection was pending. He is asking the Commission to explain its rationale in not allowing vehicles to use the pathway to the beach as recommended by the BOS and not providing an alternate pathway to match what used to exist before the property owner was granted permission to install a fence. Mr. King stated that the beach cannot be blocked off from public access. The Commission discussed the issues raised by Mr. King. Dennis reminded Mr. King that the Commission was only presented with a plan for a 4' pathway by the abutting neighbors and thus was only able to rule on that proposal. He also reminded Mr. King that it was not the responsibility of the Commission to come up with alternate proposals, but only to rule on projects submitted by citizens. And, in addition, that it was not within the jurisdiction of the Commission to provide access to the beach. The DEP has supported the position of the Commission in regard to this matter. Dennis explained that any proposal for alternative access to the beach in this area would require the filing of a new Notice of Intent and that the individual, or group, that submitted the application would have to have legal standing to do so.

160 Bradford Street Extension and 23-33 Creek Road driveway:

Brian and Dennis did a site visit of the property. The Commission briefly discussed the property as shown on a site plan. Its concern is an 18' driveway and fill that was deposited on the property. The Division of Fisheries & Wildlife has already approved of the revised plans submitted for the property. The Commission discussed that decision and whether it could impose further mitigation on properties in this situation through local conservation by-laws. Dennis concluded that if this were a new project, the Commission could hire a wildlife consultant to survey the property and identify what species of plants and animals were present, identify what their particular requirements were and decide how to mitigate the proposal's impact on those species.

The Commission requested that Brian ask the property owners to appear before the Commission for a discussion. Then out of that discussion, the Commission could ask for an Administrative Review under the local by-law.

Restoration project at the breakwater structure at the west end rotary:

The Army Corps of Engineers is proposing to put a gap in the breakwater in the west end of Town. Brian read a letter from the Corps. The proposal is for a feasibility study, the first \$100,000 is funded by the Corps, for the restoration of the aquatic ecosystem for fish and wildlife. The feasibility study formulates alternatives to achieve the restoration, evaluates the environmental effects of the alternatives, documents the project requirements and provides a scope and cost estimate for project implementation. If the feasibility report recommends a plan for implementation, the Corps prepares detailed project plans and specifications and obtains any required federal permits. The Corps then manages construction of the project by a private contractor. The basic idea for this the west end rotary breakwater structure project is to allow for

more water volume transfer into the salt marsh, or tidal flushing. The Commission discussed whether to recommend to Assistant Town Manager David Gardner that the study be performed. He will then take that recommendation to the BOS.

Dennis Minsky moved to recommend a feasibility study concerning the west end breakwater project, Lynne Martin seconded and it was so voted, 3-0.

Boats on the beach:

Tabled.

ACQ timber information:

Dennis read some research material about ACQ from the Environmental Protection Agency. The material indicates that ACQ is preferable to CCA.

Ratify Municipal Certification for Suzanne's Garden:

Brian is requesting that the Commission vote to ratify this.

Dennis Minsky moved to ratify the Municipal Certification for Suzanne's Garden, Lynne Martin seconded and it was so voted, 3-0.

Wildlife assessment forms for Administrative Reviews:

Dennis encouraged Commissioners to review the material in their packets and come up with a structured approach. The topic will be on the agenda for the next Public Hearing.

CONSERVATION BOARD STATEMENTS:

Dennis mentioned the illegal dumping of yard waste off the Old Colony Nature Path. This was an issue last year and flyers were sent out to neighbors, but to no avail. Dennis requested that Brian put the same language on a laminated sign and put it up at the site of the dumping.

ADJOURNMENT: Lynne Martin moved to adjourn at 8:25 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