

**PROVINCETOWN
CONSERVATION COMMISSION
JUDGE WELSH ROOM
June 18, 2013
6:30 P.M.**

Members Present: David Hale, Lynne Martin, and Mark Irving.

Members Absent: Dennis Minsky (excused), Barbara Prato (excused) and Jesse Cartwright (excused).

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

Acting Chair David Hale called the Public Hearing to order at 6:30 P.M.

PUBLIC STATEMENTS:

None.

MINUTES: Postponed.

DISCUSSION:

Meeting with the Americorps Cape Cod representatives to update Conservation Commission on their work:

Meghan Quirk and Kelsey Boyd appeared to report to the Commission on the work that Americorps has performed in Town, including land management work at Herring Cove Beach, storm damage clean-up and general plant removal at the Winthrop Cemetery, invasive removal at the B-Street Garden and beach clean-up at Ryder Street Beach. They submitted a booklet detailing the types of services that Americorps can offer Conservation Commissions on the Cape. Ms. Quirk reviewed those services. Ms. Boyd stated that some potential community projects have been identified for Provincetown, including conducting an assessment of the impact of tourists and day-trippers on Town services, wetland education and maintaining public access. They are soliciting feedback on how Americorps can assist with projects of importance to the Commission.

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.

Presentation: Ted Malone appeared to discuss the application. This property had a failed septic system and water line two years ago. The proposed project includes enlarging the structure on the premises by putting on a two-story addition, replacing the water line and installing a new septic system. The driveway will be improved, re-establishing access from Bangs Street, while still retaining entrée from Willow Drive. However, a new Title V leaching component will be placed in the existing parking/driveway area off Willow Drive. In addition, a new septic tank

will be installed in the area of an existing brick terrace retaining structure. The retaining structure will be replaced with stone and/or “Redi-Rock” to stabilize the slope above the 36-foot contour. MESA has determined that the project will not result in a prohibited ‘take’ of state-listed rare species. An abandoned cesspool on the property will be filled in. Any disturbance of vegetated slope above the 32-foot contour will be minimized.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Malone about the project. Heavy equipment and material will be brought in from Bangs Street. The Commission requested that the applicant offer some mitigation on the property in the form of native plantings in disturbed areas.

Lynne Martin moved to approve the Administrative Review application by Edward Malone for proposed work in an area protected under the Provincetown Wetlands By-Law, Chapter 12 for 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 with the condition that mature plantings be placed in all disturbed areas on the site, Mark Irving 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. This matter is postponed.

Certificate of Compliance

Application by **Peter Petas** and **Ted Jones** 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-058-0497 conducted at the property located at **463 Commercial Street** in Provincetown.

Presentation: The applicant did not appear. Brian reviewed the project and certified that it was in compliance with the Order of Conditions issued by the Commission.

Lynne Martin moved to grant a Certificate of Compliance for Peter Petas and Ted Jones under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12 for work done under #SE-058-0497 at the property located at 463 Commercial Street, Mark Irving seconded and it was so voted, 3-0.

Notice of Intent

Application by **Sheila LaMontagne**, represented by **Shorefront Consulting**, 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 proposed reconstruction of existing licensed piers at the property located at **111 Commercial Street** in Provincetown.

Presentation: Mark Burgess of Shorefront Consulting appeared to discuss the application. The project involves the replacement of an existing licensed pier in Provincetown Harbor, including all decks, stairs and house foundation pilings. The pier is in a deteriorated state. The entire deck of the pier and the pile-supported foundation of both houses on the property will be replaced with a new pile-supported foundation. The existing Chapter 91 license allows maintenance on the

licensed structure. No expansion of the existing structures will occur. The resource areas impacted by the project include a coastal beach and land containing shellfish. The disturbance to the coastal beach will be as a result of the driving of the piles. Once the new support structure is attached to the piles, the remaining work will take place on the pier. A work barge will be used with a proposed construction protocol that prohibits the grounding of the barge to the extent practical and will not change what exists relative to the bottom substrate. The project as proposed will not have a significant adverse impact on the coastal beach. The 37 pier piles will be placed in a manner to minimize any disturbance and potential impacts to the surrounding shellfish habitat. In addition, there is a proposal for repair work to decks that sustained damage from winter storms this year. According to Mr. Burgess, the work will take place in the off-season and will take about a month. There is a DEP file number associated with the project. Similar to the project at 99 Commercial Street, the Shellfish Warden will make an assessment both before and after the project and report to the Commission if any impact on shellfish areas has occurred and will determine if mitigation in the form of shellfish seeding in the disturbed areas is needed. All areas around the site and any disturbance to access shall be returned to pre-existing conditions. Materials and equipment will be stored upland or on the pier or working barge.

Public Comment: John Santos had a question in regard to the vulnerability of a sewer cover in the middle of a Town Landing in the area. Gary Reinhardt had a question about the possibility of having to raise the house by 4' and when that information might be known.

Commission Discussion: The Commission asked Mr. Burgess for clarification on the pile-driving process, the length of the project and for more specific information regarding the project itself. Mr. Burgess indicated that a contractor had not yet been hired. The Commission decided to require a pre-construction meeting with the Shellfish Warden, Tony Jackett, and Rich Waldo, the Deputy DPW Director, and urged minimal use of the Town Landing as much as possible. The Commission also suggested that the applicant follow the suggestions of the Division of Marine Fisheries in its letter to the Commission dated June 12, 2013. Per the questions from the public, Mr. Burgess indicated that only light equipment would use the Town Landing as access, although that issue could be addressed at a pre-construction meeting. The raising of the house would be a determination made by the Building Commissioner.

David Hale moved to grant the Notice of Intent by Sheila LaMontagne, represented by Shorefront Consulting, 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 proposed reconstruction of existing licensed piers at the property located at 111 Commercial Street with the Standard Order of Conditions and with the Special Conditions that the applicant implement the performance standards in the application, that there be a pre-construction meeting with Brian Carlson, Tony Jackett and Rich Waldo to address any concerns and to report back to the Commission if there are significant changes in the project, that if the Shellfish Warden determines that there was damage to shellfish areas as a result of the construction, it be mitigated with re-seeding paid for by the applicant, that the working barge be positioned so as to avoid grounding at low tide as much as possible and that its use be minimized, that the area of construction be cleaned on a daily basis and that the limit of work be increased to include the existing deck, Lynne Martin seconded and it was so voted, 3-0.

DISCUSSION:

Limited dredging at Cabral's Pier:

Candace Silva and Desiree Duda appeared to request an emergency dredging permit for Cabral's Pier. They submitted a proposed protocol for the dredging process. There is a danger that boats in the northern slips will be swamped and sink because of the severe angle of the vessel as the tide recedes. The area to be dredged involves slip #2-16. Ms. Duda has spoken to Mike Winkler about performing the job and he will remove and dispose of the dredged sand. The slips are rented for Blessing of the Fleet weekend, so time is of the essence. Ms. Silva showed the Commission pictures of shoaling in the area. They will start with slip #2 and dredge under the floats and slips to the south up to slip #16. No more than 100 cubic yards of sand will be removed. Winkler's barge will be stored overnight between the slips. They would like to commence on June 19th and end by June 27th.

The Commission discussed the issue. Ms. Silva and Ms. Duda will attend the next Public Hearing to report on the project.

John Santos suggested that the Town should take some responsibility for this problem and the dredging should be a joint project. It was time for the Town to act in regard to this issue. Any white sand dredged up should be dispersed on the west end beaches as nourishment. He also commented on the outfall pipes on the Ryder Street beach.

Mark Irving moved to approve the request for an emergency dredging permit for Cabral Enterprises for the removal of material, not to exceed 100 cubic yards, from slips #2-16 at Fisherman's Wharf, in accordance with the narrative submitted by the applicants and with the material to be dried on a barge and removed from the site, David Hale seconded and it was so voted, 3-0.

The Commission did not discuss moving the dredged sand to a Town beach.

Emergency order update at the West End Racing Club:

John Santos thanked the Commission for its issuance of an emergency order to replace a pier at WERC. The project has been completed. He submitted photos of the new pier. He said that Dennis was going to make a site visit, but has not done so yet.

Review and approve the acceptance documents for the purchase of the Sateriale property:

Brian reported that the Board of Selectmen has signed the acceptance of the deed for the property. The Commission needs to vote to approve the documents for the purchase.

David Hale moved to approve the acceptance of the conservation restriction for the Sateriale property located at 37, 45, 53, 59, 67 and 75 Snail Road, Provincetown as approved by the April, 2012 Annual Town Meeting, Mark Irving 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.

Presentation: The applicant did not appear. Brian reviewed the project. He and Dennis did a site visit. The proposal involves the construction of two single-family homes, with a total of five bedrooms, to be deed-restricted. Mitigation will involve the replanting of native vegetation in

sparse areas. No performance standards have been established. MESA has determined that the project will not result in a prohibited 'take' of state-listed rare species.

Commission Discussion: The Commission discussed the project and mitigation.

Lynne Martin moved to approve the Administrative Review requested by Daniel Kaizer for proposed work in an area protected under the Provincetown Wetlands By-Law, Chapter 12 to include construction of two single-family homes and the relocation of an existing septic system at the property located at 25 Miller Hill Road with mitigation to consist of native plantings where possible, David Hale seconded and it was so voted, 3-0.

MINUTES: Postponed.

CONSERVATION BOARD STATEMENTS:

A draft of the Commission's priority habitat review process will be discussed at the next Public Hearing on July 16, 2013.

A draft report on adopting an organic land management policy in Provincetown, by Morgan Clark and Rich Waldo, will be presented to the BOS on Monday. The Commissioners should send Morgan any comments.

ADJOURNMENT: *Lynne Martin moved to adjourn at 8:10 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