

**PROVINCETOWN
CONSERVATION COMMISSION
JUDGE WELSH ROOM
November 18, 2014
6:30 P.M.**

Members Present: Dennis Minsky, David Hale and Mark Irving.

Members Absent: Lynne Martin (excused) and Barbara Prato (excused).

Others Present: Brian Carlson (Conservation Agent), Austin Brandt 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 until the end of the meeting.

NEW BUSINESS:

Notice of Intent

Application by **Peter Kazon**, represented by **William N. Rogers, II**, 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 installation of stone walls with appurtenances as delineated on the site plan at the property located at **5 Creek Round Hill Road**, in Provincetown.

Presentation: Deb Paine, Ethan Poulin, William N. Rogers and Megan Spoerndle appeared to present the application. Ms. Paine explained that the timber retaining wall in the rear of the structure is deteriorating and near collapse. There is a vegetated upland embankment located behind the house and a bordering vegetated wetland at the bottom of the embankment. Mr. Rogers explained that a tiered system will be used to replace the deteriorating retaining wall. It will be comprised of three stone walls, each separated by 4'. This was the most environmentally friendly way to solve the issue of holding up the embankment. The walls will not be supporting more than 4' of unbalanced material. Straw bales with a silt fence will delineate the limit of work. The material for the construction of the stone walls will be brought in from the driveway, where a ramp and a berm will be built over a small retaining wall to provide access to the rear of the property. Mr. Poulin explained how the stone walls will be constructed. He thought that no more than 300 yards of soil will be brought in, along with some additional top soil to cover the area. Only some small shrubbery and a couple of small oak trees will be removed. Ms. Spoerndle reviewed the landscaping plan. There is a DEP file number assigned to the project, however Natural Heritage has not issued its decision regarding the project.

Public Comment: None. There was 1 letter in support of, and 3 letters of 'no objection' to, the project.

Commission Discussion: The Commission questioned Ms. Paine, Mr. Rogers, Mr. Poulin and Ms. Spoerndle about the project. The Commission asked what quantity of material was projected

to be removed in order that that it could discuss and suggest mitigation the applicant. Dennis suggested that the applicant have Paul Shea undertake the task of quantifying the amount of plants that will be removed during the project. Ms. Paine said that the applicant would agree to put up some “good-sized” trees or shrubs on the right side of the property, as the abutter on that side has a pool that he would like to shield from view. Dennis suggested that only native plantings be installed in the buffer zone. The possibility of just repairing the existing retaining wall was raised by the Commission and discussed. Also discussed was the impact of the proposed wall on the drainage at the site. Ms. Spoerndle was questioned about her choice of plantings to stabilize the area and slow the rate of erosion. The Commission requested that only native species be planted in the terraced area, which is located in the 50’ buffer zone. Ms. Spoerndle said that only native species would be planted throughout the disturbed area. The Commission agreed that approval would be contingent upon a pre-construction assessment of the impact in this area and a more developed and detailed planting plan to mitigate the losses.

Dennis Minsky moved to approve the Notice of Intent Application by Peter Kazon, represented by William N. Rogers, II, 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 installation of stone walls with appurtenances as delineated on the site plan at the property located at 5 Creek Round Hill Road with the Standard Order of Conditions and with the Special Conditions that a pre-construction professional assessment of the area being impacted by the terraced wall is conducted, that a more detailed planting/mitigation plan involving native species is submitted to the Commission, that the FEMA zone for the property is verified and that the project receive Natural Heritage approval, Mark Irving seconded.

The Commission discussed the motion. Brian suggested adding conditions that a 72-hour notification is made and that an inspection and verification of the limit of work is completed before work begins.

Dennis Minsky moved to approve the Notice of Intent Application by Peter Kazon, represented by William N. Rogers, II, 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 installation of stone walls with appurtenances as delineated on the site plan at the property located at 5 Creek Round Hill Road with the Standard Order of Conditions and with the Special Conditions that a pre-construction professional assessment of the area being impacted by the terraced wall is conducted, that a more detailed planting/mitigation plan involving native species is submitted to the Commission, that the FEMA zone for the property is verified, that the project receive Natural Heritage approval, that a 72-hour notification is made before the work begins and that an inspection and verification of the limit of work is completed before work begins, Mark Irving seconded and it was so voted, 3-0.

Certificate of Compliance

Application by **Dana DeSimone** represented by **Felco Engineering** for a Certificate of Compliance for work conducted under DEP file no. SE 58-0383 at the property located at **10A Commercial Street** in Provincetown. The Commission received a letter from Felco Engineering stating that the project begun in 2005 was completed. The project involved the construction of a new garage in the same location as an existing one, the construction of a new pervious stone driveway and the renovation of the main dwelling with new decks and a second floor screened-in porch. There were several modifications of the approved plan completed as well.

Dennis Minsky moved to approve the Certificate of Compliance for Dana DeSimone, represented by Felco Engineering, for work conducted under DEP file no. SE 58-0383 at the property located at 10A Commercial Street in Provincetown, David Hale seconded and it was so voted, 3-0.

Lyn Plummer, the new owner of the property was present. The Commission questioned Ms. Plummer about a new fence that was constructed on the property. She said that she put the fence up to keep coyotes out of her yard. She thought that the fence would not be a barrier to the passage of small mammals in the area. Dennis explained that if a fence is to be constructed near a resource area, the Conservation Agent should be notified for an Administrative Review. Ms. Plummer said she was not aware of that. The Commission took no further action on the issue.

Review and execute Conservation Restriction Acknowledgement form for the properties located at **5 Harbour Drive**, Provincetown.

Review and execute Conservation Restriction Acknowledgement form for the properties located at **6 Harbour Drive**, Provincetown.

Review and execute Conservation Restriction Acknowledgement form for the properties located at **8 Harbour Drive**, Provincetown.

Review and execute Conservation Restriction Acknowledgement form for the properties located at **10 Harbour Drive**, Provincetown.

Attorney David Reid, representing the owners of the properties in question, appeared with the documents for the Commission to sign. Attorney Reid reviewed the history of the properties. As portions of the buildings on each of the properties were located in a special flood area, FEMA had originally requested that the foundations be filled in. The owners applied to FEMA for a map revision, which was approved with the condition that the Conservation Commission made a determination that without filling in the foundations, the buildings could be built and would be reasonably safe from flooding. The Commission did make that determination with the conditions that a Conservation Restriction be executed and recorded for each property. The CR prohibited either habitable space or mechanicals to be placed on the basement level below the 13' elevation until such time as either FEMA changed its regulations or there were no longer circumstances which prohibited habitable space in the basement areas. Those CRs were executed and recorded for the four properties. When the new FEMA maps were approved and adopted this year, the buildings were no longer located in the flood hazard areas, so there was no need for a prohibition of habitable use of the basement area. The Commission therefore is not required to approve the release of the CRs by signing the Acknowledgements for the four properties. The Commission briefly discussed the issue.

Dennis Minsky moved to acknowledge the execution of the Conservation Restriction Acknowledgements for the properties located at 5, 6, 8 and 10 Harbour Drive for the June date to be filled in later, David Hale seconded and it was so voted, 3-0.

MINUTES: October 21, 2014 – Dennis Minsky moved to approve the language as written, David Hale seconded and it was so voted, 3-0.

CONSERVATION COMMISSION STATEMENTS:

Dennis stated that on Monday there was a work party at the B Street Garden and the Shank Painter Pond Sanctuary. They went well and AmeriCorps volunteers participated. There were no other volunteers participating and he would like to direct the Conservation Agent to assign the new AmeriCorps person the task of developing a volunteer conservation corps. He will help in that effort as well.

He mentioned DPW's progress report on the staging areas on Route 6.

He reminded the Conservation agent about obtaining information from Natural Heritage on protocols for work in box turtle habitat areas. He will work on that effort.

He reminded the Conservation Agent about the need to formulate the Town's MESA by-law. The Commission needs a document to give to people.

He suggested postponing the discussion of the 2015 Commission Meeting schedule until the next meeting when Lynne and Barbara will be present.

He mentioned the DART team that was in Town and will be giving its presentation tomorrow night.

Dennis acknowledged and thanked Brian for all of his great work for the Town

ADJOURNMENT: Mark Irving moved to adjourn at 8:00 P.M. and it was so voted unanimously.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2014
Dennis Minsky, Chair