

**PROVINCETOWN CONSERVATION COMMISSION  
JUDGE WELSH ROOM**

**May 16, 2017  
6:00 P.M.**

**Members Present:** Dennis Minsky, Mark Irving, Alfred Famiglietti, Nathaniel Mayo, Gregory Howe and Robert Brock.

**Members Absent:** Kiah Coble (excused).

**Others Present:** Gloria McPherson (Town Planner), Tim Famulare (Conservation Agent) and Ellen C. Battaglini (Permit Coordinator).

**WORK SESSION**

Chair Dennis Minsky called the Work Session to order at 6:03 P.M.

1) **Work Session:**

a) Update on B Street Garden Improvements: Alfred Famiglietti updated the Commission on the improvements to, and expenditures of, the Garden. He said that there had been a net increase of 7 beds, 2 of which are standing, for a total of 75 beds. No work has been done inside the shed as of this date. The Town should be turning on the water shortly.

Mr. Famiglietti noted that Russell Norton, Horticulture and Agriculture Educator at the Cape Cod Cooperative Extension, would be at the Marc Jacobs Room at the Provincetown Public Library next Tuesday, May 23<sup>rd</sup> at 6:00 P.M.

He explained why pressure-treated wood is being used at the Garden. He reviewed the history of the B Street Garden Advisory Group, its duties and responsibilities, and how it is currently operating. He suggested that the rules of the Garden be updated. Mr. Minsky suggested that the Commission meet to have a discussion with the Advisory Group and included in the discussion should be the hiring of a garden manager.

b) Annual Organizational Meeting

i. Election of Chair: *Nathaniel Mayo nominated Dennis Minsky for the position of Chair, Robert Brock seconded and it was so voted, 5-0.*

ii. Election of Vice Chair: *Mark Irving moved to nominate Alfred Famiglietti for the position of Vice Chair, Dennis Minsky seconded and it was so voted, 5-0.*

7) **Approval of Minutes 4/18/17:**

*Alfred Famiglietti moved to approve the minutes of April 18, 2017 as written, Dennis Minsky seconded and it was so voted, 4-0.*

Dennis Minsky adjourned the Work Session at 6:25 P.M.

## PUBLIC HEARING

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

2) **Public Comments** on any item not on the agenda below:  
None.

3) **Public Hearings:**

a) CON-17-157 **1 MacMillan Wharf**

Administrative Review application by the **Provincetown Beautification Committee** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for maintenance work at the planting area between the Municipal Parking Lot and MacMillan Wharf to include the removal of three trees, installing a 12' dinghy for annual flowers and ground cover (mulch or river stone).

**Presentation:** Bill Docker, Chair of the Public Landscape Committee, formerly the Beautification Committee, appeared to present the application. Mr. Famulare reviewed the project that involves after-the-fact removal of vegetation from the buffer zone to a coastal beach and land subject to coastal storm flowage. Mr. Docker explained the history of plantings on the site, which had been maintained by employees of the Parking Department. Those employees no longer have time to continue that maintenance and asked Mr. Docker if his Committee could take it over. The three trees on the site were not healthy and they were removed after consultation with, and the approval of, the Tree Warden. Last year, he said, vegetation was planted and due to the excessively dry summer last year, those plants did not survive and the Committee began a restoration without realizing that the Conservation Commission was supposed to be consulted about any plantings in the buffer zone.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly questioned Mr. Docker.

*Mark Irving moved to approve the Administrative Review application by the Provincetown Beautification Committee pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for maintenance work at the planting area between Municipal Parking Lot and MacMillan Wharf to include the removal of three trees, installing a 12' dinghy for annual flowers and ground cover (mulch or river stone) with the Standard Order of Construction Conditions numbers 4 and 10, Dennis Minsky seconded and it was so voted, 5-0.*

b) CONLGY 17-4 **143 Commercial Street**

Request to **Amend Order of Conditions** (DEP File No. SE 058-0525), filed by **George Tagaris**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for the installation of a 5' wide wooden boardwalk on fourteen 6" by 6" posts alongside the existing structure previously approved under this Order. Work to take place within a Coastal Dune, Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach and Land under the Ocean.

**Presentation:** Paul Shea, an environmental scientist, and George Tagaris appeared to present the application. Mr. Shea explained that the existing Order of Conditions for the project were to expire on May 14, 2017. The applicant submitted a request for a one-year extension for the Order of Conditions, until May 14, 2018, which the Commission approved on March 21, 2017. The applicant seeks to amend the original Order of Conditions, SE 058-0525, to install fourteen 6” by 6” posts 3’ below existing grade alongside the structure, which will raise the elevation of the new structure to a safe level. In addition, a 5’ wide boardwalk leading to the water will be constructed, similar in design to that of an abutting property. The latter would provide a designated walking area for people through the vegetated coastal dune environment and reduce the potential damage to this area. The proposal also includes planting American beach grass to help stabilize additional unvegetated sandy soil areas of the coastal dune and protect it in terms of flood control and storm damage protection.

**Public Comment:** None

**Commission Discussion:** The Commission questioned Mr. Shea and Mr. Tagares. The Commission requested a more specific planting plan.

*Nathaniel Mayo moved to approve the Request to Amend Order of Conditions (DEP File No. SE 058-0525), filed by George Tagaris, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for the installation of a 5’ wide wooden boardwalk on fourteen 6” by 6” posts alongside the existing structure previously approved under this Order with the Standard Order of Pre-Construction Conditions numbers 1, 2, 3 and 5, Construction Conditions numbers 1, 2, 4 and 9 (to include the submittal of a planting plan for approval by the Commission prior to planting “ensuring that all plantings survive or are replaced within the first three years” and are kept properly watered)-12 and Post-Construction Conditions numbers 1, 2 and 4, Dennis Minsky seconded and it was so voted, 5-0.*

c) CON-17-129 **76R Bayberry Avenue** (continued from the meeting of April 18<sup>th</sup>)

**Notice of Intent** by **Christopher Wise** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to dig trenches in roadways and campsites to bring electric, water and sewer connections to 183 campsites. Work to take place within NHESP Estimated and Priority Habitat, Bordering Land Subject to Flooding and the 100’ Buffer Zone to a Bordering Vegetated Wetland.

**Presentation:** Chris Wise appeared to discuss the application. He had submitted a revised site plan.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Wise about the new plan and what kinds of vehicles would be utilizing the various campsites, especially those closest to the resource area. Mr. Famulare was concerned about the possibility of larger recreational vehicles occupying more sensitive campsites with the installation of the proposed new infrastructure, causing compaction of soil and shearing off of vegetation at the sites. He suggested that the Commission continue the matter and research imposing size restrictions for campsites, especially within the 50’ buffer zone. He addressed a concern about the water spigots and their use by campers for rinsing flatware, washing dishes, washing hair, etc. causing nutrients and other contaminants in the gray water to leach into the soil. Incrementally this could have more of a detrimental environmental impact on the resource area and habitat loss in the campsites abutting that area.

The Commission discussed his concerns. Mr. Minsky summarized three areas of investigation for the Commission; size and weight limit of vehicles, documentation of the integrity of the utility components, especially the sewer, and how those components perform in high water situations and the impact of gray water on the resource area. Mr. Wise offered to establish a protocol for a third peer review by Gordon Peabody to make sure what the Commission is requesting is implemented. Mr. Wise requested a continuance to the June 6, 2017 Public Hearing at 6:30 P.M. **Mark Irving moved to approve the request to continue CON-17-129 until the June 6, 2017 Public Hearing at 6:30 P.M., Nathaniel Mayo seconded and it was so voted, 5-0.**

d) CON-16-005 **131A Commercial Street**

**Request to Amend Order of Conditions** (DEP File No. SE 058-0543) filed by **FJ Santos Living Trust**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for the construction of a 21' by 6.5' addition to an existing building for the storage of kayaks, accessories and ice machines to be constructed on the existing concrete slab. Work to take place within Land Subject to Coastal Storm Flowage and the Buffer Zone to a Coastal Beach and Land Under the Ocean. **Presentation:** Francis Santos appeared to present the application. The project involves filling in a space on top of a concrete deck that is more than 12" thick.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly questioned Mr. Santos. Mr. Famulare said that he had attached the original Special Conditions of the Order to the request in the Commission's packets. Mr. Minsky said that the proposed change is minor, does not change the scope of the project and may even have less of an impact on the resource area.

**Nathaniel Mayo moved to grant the Request to Amend Order of Conditions (DEP File No. SE 058-0543) filed by FJ Santos Living Trust, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for the construction of a 21' by 6.5' addition to an existing building for the storage of kayaks, accessories and ice machines to be constructed on the existing concrete slab subject to the previous Order of Conditions issued March 29, 2016, Dennis Minsky seconded and it was so voted, 5-0.**

e) CON-17-151 **455 Commercial Street**

**Request for a Determination of Applicability** filed by **Zak Bostwick**, on behalf of **Scott Rodgers**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to rebuild a wooden seawall and deck and to replace wooden stairs for beach access in the same footprint. Work to take place within a Coastal Beach and Land Subject to Coastal Storm Flowage.

**Presentation:** Zak Bostwick appeared to present the application. He described the project referring to his drawings and photographs. He explained that there is a gap between the brick patio and the seawall. The proposal is to fill in the area with wooden deck boards and attach beams to the face of the wall leaving a 6" space at the bottom to allow water and sand to flow beneath it and to replace wooden steps that were washed out in a winter storm. He proposed hinging the steps so they could be removed during the winter.

**Public Comment:** None.

**Presentation:** The Commission questioned Mr. Bostwick. Mr. Famulare recommended that the Commission require that the stairs have hinges and be removed during the winter.

*Alfred Famiglietti moved to grant a Negative #2 Determination for the Request filed by Zak Bostwick, on behalf of Scott Rodgers, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to rebuild a wooden seawall and deck and to replace wooden stairs for beach access in the same footprint with the Standard Order of Pre-Construction Conditions numbers 1 and 5, Construction Conditions numbers 1, 2, 4 and 10-12 and with no Post-Construction Conditions and that the stairs be hinged so they can be pulled up and lashed during the off-season from October 1<sup>st</sup> through May 1<sup>st</sup> whenever the home owner is absent from the premises, Dennis Minsky seconded and it was so voted, 5-0.*

f) CON-17-152 4 Somerset Road

**Request for a Determination of Applicability** filed by **William N. Rogers, II** on behalf of **Robin Haueter** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to install an upgraded septic system. Work to take place within the Buffer Zone to NHESP Estimated and Priority Habitat, Bordering Vegetated Wetland and an Isolated Wetland.

**Presentation:** William N. Rogers, II appeared to present the application. He had submitted an environmental assessment report from Paul Shea for the project and a construction protocol he had proposed. He reviewed the project and said that all vegetation will be restored after the installation.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rogers.

*Mark Irving moved to grant a Negative #3 Determination for Request filed by William N. Rogers, II on behalf of Robin Haueter pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to install an upgraded septic system with the Standard Order of Pre-Construction Conditions numbers 1 and 3, Construction Conditions numbers 1, 2, 4, 7, 8 (with a modification that all disturbed areas shall be restored to their pre-existing condition) and 10-12 and no Post-Construction Conditions, Dennis Minsky seconded and it was so voted, 5-0.*

g) CON-17-069 539 Commercial Street

**Request to Amend Order of Conditions** (DEP File No. SE 058-0558) filed by **Coastal Engineering Co.**, on behalf of **Beach Condominium Association/Peters Property Management**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to install a vinyl or steel sheet pile wall on the landward side of the existing timber wall. Work to take place within Land Subject to Coastal Storm Flowage and the Buffer Zone to a Coastal Beach.

**Presentation:** Catherine Ricks appeared to present the application. She said that the amendment includes the installation of a vinyl or steel sheet pile wall to further stabilize the parking area and access area to the beach. She said that this is a more permanent solution to the issue than the Emergency Certification previously granted to the project.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Ricks. Mr. Famulare had distributed to the Commission the Special Conditions for the previous Order.

*Nathaniel Mayo moved to amend the Order of Conditions DEP File No. SE 058-0558) filed by Coastal Engineering Co., on behalf of Beach Condominium Association/Peters Property Management, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to install a vinyl or steel sheet pile wall on the landward side of the existing timber wall with a modification of the Standard Order of Construction Condition number 2 that there shall be no access from the beach, but access shall be only from the parking lot as shown on the plan, Dennis Minsky seconded and it was so voted, 5-0.*

h) CON-17-155 321 Commercial Street

**Notice of Intent** application filed by **Bennett Environmental Associates, Inc.**, on behalf of **Tim McNulty**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to permit a crawlspace, approximately 18' long by 10' by 2-4' deep, beneath the flooring to accommodate future utility inspections/work. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Dune.

**Presentation:** Dave Bennett appeared to present the application. He reviewed the project and said that the creation of the crawlspace would not negatively affect any of the interests identified in the Wetlands Protection Act, including water supply, flood control, storm damage prevention, prevention of pollution or protection of wildlife, as it is located beneath an existing building in an area that is already developed.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Bennett.

*Mark Irving moved to grant the Notice of Intent filed by Bennett Environmental Associates, Inc., on behalf of Tim McNulty, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to permit a crawlspace, approximately 18' long by 10' by 2-4' deep, beneath the flooring to accommodate future utility inspections/work with the Standard Order of Construction Conditions numbers 1 and 10, Dennis Minsky seconded and it was so voted, 5-0.*

4) Approval of Minor Plan Revisions

CON-17-136 225 Commercial Street:

Approval of revisions to plan showing placement of temporary tables and seating beyond the seawall for Order of Conditions (DEP File No. SE 058-0566) previously approved at a Public Hearing on April 18, 2017.

**Presentation:** Loic Rossignon appeared to discuss minor revisions. He reviewed the revisions on the site plan that had been made in consultation with Mr. Famulare, including indicating the location of recycling and trash receptacles, which will necessitate the transplanting of beach grass in the area chosen, creating a path from the staircase on the seawall to the water utilizing roll-out wooden slats 4' wide by 7' long. Also proposed is a small, removable palletized deck on each side of the table to facilitate the movement of the chairs. Proposed signage for the site has been ordered and a protocol for trash policing has been established and submitted.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rossignon. The Commission discussed the access points to the beach shown on the plan. Mr. Rossignon agreed to re-locate the opening in the snow fence that accesses the kayak storage area. Mr. Minsky said that these conditions could always be revisited at a later date if the applicant found the conditions too burdensome.

*Alfred Famiglietti moved to approve the revised plan for CON-17-136 at 225 Commercial Street with modifications as discussed regarding the relocation of the opening in the snow fence for access to the boat and kayak storage area and incorporating the policing protocol submitted by the applicant, Dennis Minsky seconded and it was so voted, 5-0.*

5) **Requests for Certificates of Compliance**

a) **CON-17-158 57A Pleasant Street**

Request for a Certificate of Compliance for the Order of Conditions (DEP File No. SE 058-0529) issued to Alan Tibbetts and Scott Nagel, dated October 6, 2014, to demolish existing 452 sq. ft. shed and replace it with a 312 sq. ft. shed with a wooden platform on the northwest and southwest faces. Mr. Famulare said that the applicants had requested that this matter be withdrawn.

b) **CON 17-162 59 Provincelands Road**

Request for a Certificate of Compliance for the Order of Conditions (DEP File No. SE 058-0217) issued to The Moors Motel, c/o William S. Costa, dated January 22, 1992, for the installation of upgraded sanitary subsurface sewage disposal systems nos. 1 & 2 with appurtenances.

**Presentation:** William N. Rogers, II, on behalf of the Moors Motel, appeared to present the request. He certified that the septic system had been installed according to the plan that was approved by the Commission. Mr. Famulare said that he had done a site visit and verified the work.

*Mark Irving moved to grant a Certificate of Compliance for the Order of Conditions (DEP File No. SE 058-0217) issued to The Moors Motel, c/o William S. Costa, dated January 22, 1992, for the installation of upgraded sanitary subsurface sewage disposal systems nos. 1 & 2 with appurtenances, Dennis Minsky seconded and it was so voted, 5-0.*

6) **Conservation Agent Update**

a) **CON-17-004 9 Ryder Street Extension**

Letter from Fort Point Associates, Inc. to the U.S. Army Corps of Engineers to correct the record regarding the Request for Time of Year Restriction Relief for the Provincetown Marina Expansion and Dredging project at Fisherman's Wharf. Mr. Famulare read a letter into the record and reviewed the issue.

b) Update on May 9, 2017 visit by Greg Berman, Barnstable County, Cape Cod Cooperative Extension. Mr. Famulare gave a brief summary of the visit by Mr. Berman.

8) **Administrative Review applications approved by Agent:**

a) **CON-17-149 510 Commercial Street** – removal and in-kind replacement of deteriorating fences.

b) **CON-17-150 508 Commercial Street** – removal and in-kind replacement of deteriorating fences.

c) CON-17-153 **18 Commercial Street** – removal and in-kind replacement of two exterior entry decks.

d) CON-17-154 **15 Commercial Street** – installation of a prefabricated aluminum stairway on top of existing concrete stairs.

e) CON-17-160 **457 Commercial Street** – trimming of branches of trees overhanging from 455 Commercial Street.

9) **Any other business that shall properly come before the commission:** Mr. Minsky said that Paul Tasha called him and reported that people were putting out bait for turkeys and deer on Town-owned land for hunting purposes and wondered whether it was in violation any Town regulation. Mr. Famulare said that he could not find a regulation related to the issue.

**ADJOURNMENT:** *Dennis Minsky moved to adjourn the Public Hearing at 9:10 P.M. and it was so voted unanimously.*

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2017  
Dennis Minsky, Chair