

PROVINCETOWN CONSERVATION COMMISSION

March 20, 2007

6:30 P.M.

Members Present: Dieter Groll, Dennis Minsky and Elaine Anderson.

Members Absent: Lynne Martin (excused) and Paul Tasha.

Others Present: Brian Carlson (Health Inspector) and Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Co-chair Dieter Groll called the Public Hearing to order at 6:35 P.M. He explained that since there were only three members of the Conservation Commission seated, a unanimous decision would be needed in order for applications to be approved.

PUBLIC STATEMENTS:

None.

MINUTES: February 6, 2007 – Executive and Regular Session – *Dennis Minsky moved to approve the language as written, Elaine Anderson seconded and it was so voted, 3-0.*

OLD BUSINESS:

Certificate of Compliance (continued from March 6, 2007)

Application by **Salvatore DeRose**, represented by **Felco Engineering, Inc.** seeks a Certificate of Compliance for an Order of Conditions (SE-058-0371) issued for Phase II work on a new septic system and landscaping at the property located at **17 Somerset Road**, Provincetown. The Commission had requested that a dry well be installed at the site and that the file be updated with a landscape plan. These conditions have been satisfied.

Elaine Anderson moved to grant a Certificate of Compliance for an Amended Order of Conditions (SE 058-0371) issued for Phase II work at the property located at 17 Somerset Road, Dennis Minsky seconded and it was so voted, 3-0.

Request for Determination of Applicability (continued from March 6, 2007)

Application by **Leonard H. Alberts, M.D.** represented by **Ryder & Wilcox, Inc.** for a Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetland Protection Act M.G.L. c. 131, § 40. The applicant seeks approval for the installation of a septic system to serve an existing single-family dwelling and the pumping and abandonment and/or removal of an existing cesspool and septic tank at the property located at **742 Commercial Street** in Provincetown.

Presentation: David Lyttle, of Ryder & Wilcox, Inc. appeared to present the application. The work will not be performed in the buffer zone, but on land subject to storm flowage. The applicant has received a positive response from MESA for the project.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Lyttle

Dennis Minsky moved to approve a Negative #3 Determination for the proposed project at 742 Commercial Street subject to the following Special Conditions:

- *No herbicide or pesticide will be used; and*
- *Any area disturbed will be re-vegetated with native species.*

Elaine Anderson seconded and it was so voted, 3-0.

NEW BUSINESS:

Certificate of Compliance

Application by **Elizabeth Villari, Trustee**, represented by **Coastal Engineering, Inc.** seeks a Certificate of Compliance for an Order of Conditions under DEP file number SE-058-0382 for the property located at **599 Commercial Street** in Provincetown. The applicant has requested a Certificate of Compliance as the Order of Conditions has lapsed and no work was ever performed. A representative of Coastal Engineering Co., Inc. visited the site in order to inspect the work performed under the original Order of Conditions issued by the Commission on 01/21/05. Based upon this inspection, the work requested by the Commission in its Order of Conditions was never started.

Elaine Anderson moved to grant a Certificate of Compliance for a lapsed Order of Conditions under DEP file number SE 058-0382 for the property located at 599 Commercial Street, Dennis Minsky seconded and it was so voted, 3-0.

Certificate of Compliance

Application by **Joseph Smith** seeking a Certificate of Compliance for an Order of Conditions under DEP file number SE-058-0390 for the property located at **151A Commercial Street** in Provincetown. Reggie Donoghue, of Coastal Engineering Co., Inc. appeared to discuss the request. He stated that there is still some planting to be done at the property and requested a continuance until a date uncertain in order to finish that work.

Elaine Anderson moved to grant a continuance to a date uncertain for the issuance of a Certificate of Compliance for the property located at 151A Commercial Street, Dennis Minsky seconded and it was so voted, 3-0.

Request for Determination of Applicability

Application by **Geraldine Anathan** for a Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetland Protection Act M.G.L. c. 131, § 40. The applicant seeks approval to construct 12 affordable housing units, expanding the structure by adding a second story at the property located at **6 Sandy Hill Lane** in Provincetown. Dennis Minsky disclosed that he works for Gordon Peabody and Elaine Anderson disclosed that she is a member of the Community Preservation Committee, which will potentially be funding this project. Neither Commissioner will derive any economic benefit based on their decision.

Presentation: Geraldine Anathan and Cassandra Benson appeared to present the application. The applicants seek to do renovation work in an area near a wetland. The applicants will employ Gordon Peabody to devise a mitigation plan for the project. They intend to clean up the property and landscape the area after construction ends.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Anathan and Ms. Benson. The applicants agreed to several conditions, including using a permeable material for the parking area and trying to keep that area out of the 50' buffer zone, installing dry wells to mitigate storm water run-off, submitting a landscaping plan to the Commission and submitting a complete and detailed mitigation plan and a final site plan to the Conservation Agent for approval before any work is commenced. If the property does hook up to the sewer system, the applicants agreed to return to the Commission. And if there is a septic upgrade required, the applicants agree to try and locate it as far away from the buffer zone as possible. In addition, the portion of the existing gravel drive that falls in the 100' buffer zone will be landscaped as much as possible.

Dennis Minsky moved to approve a Negative #3 Determination for the proposed project at 153 Commercial Street, subject to the standard Order of Conditions and with the following Special Conditions:

- *A permeable material will be used for the parking area, which will be kept outside the 50' buffer zone as much as possible;*
- *Dry wells will be installed to mitigate storm water and run-off;*
- *The applicants will submit a landscaping plan;*
- *The applicants will submit a complete and detailed mitigation plan to be approved by the Conservation Agent before any work is started;*
- *The applicants will submit a final site plan to be approved by the Conservation Agent;*
- *The existing gravel driveway that falls within the 100' buffer zone will be landscaped as much as possible;*
- *There will be no storage of construction equipment or materials in the buffer zone;*
- *If the property hooks up to the sewer system, the applicants will appear before the Commission with a revised site plan; and*
- *If a septic upgrade is necessary for the property, it will be located as far away from the buffer zone as possible and the applicants will appear before the Commission with a revised site plan.*

Elaine Anderson seconded and it was so voted, 3-0.

Request for an Amended Order of Conditions

Application by **Richard L. Bready** and represented by **Coastal Engineering Co., Inc.** for an Amended Order of Conditions under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetland Protection Act M.G.L. c. 131, § 40. The Order of Conditions was issued on September 18, 2006 under DEP file number SE-058-0421 for the property located at **531 Commercial Street** in Provincetown.

Presentation: Attorney Edward Patten, Reggie Donoghue, Tom Parker and John Machado appeared to discuss the request. The scope of the work for the project includes the renovation of an existing dwelling and associated site work. The applicant proposes changes in the project. The applicant submitted a project narrative, revised 02/27/07, a construction protocol, revised 02/27/07, a landscape plan, structural plans, a site plan for the proposed building additions.

Public Comment: None.

Commission Discussion: The Commission questioned Attorney Patten, Mr. Donoghue, Mr. Parker and Mr. Machado. The Commission requested that no CCA-treated lumber be used for the proposed walkway at the site and that if any herbicides, pesticides or fertilizers are used in the planting of the proposed hydrangeas, that only slow-release low-nitrogen fertilizer (with 30-50% water insoluble nitrogen or 'W.I.N.') low-phosphorous fertilizer shall be applied. Over-fertilizing shall be avoided (not to exceed limit = 1 pound of nitrogen per 1,000 sq. ft. of ground per application). The applicant should ensure that no fertilizer is spread on hard surfaces like driveways and sidewalks.

Dennis Minsky moved to grant an Amended Order of Conditions for the property located at 531 Commercial Street, which will include the following conditions:

- *No CCA-treated lumber will be used for the proposed walkway at the site;*
- *If herbicides, pesticides or fertilizers are used on the proposed hydrangeas, that only slow-release low-nitrogen fertilizer (with 30-50% water insoluble nitrogen or 'W.I.N.') low-phosphorous fertilizer shall be applied. Over-fertilizing shall be avoided (not to exceed limit = 1 pound of nitrogen per 1,000 sq. ft. of ground per application). The applicant will ensure that no fertilizer is spread on hard surfaces like driveways and sidewalks. The applicant will submit a list of proposed fertilizers to the Conservation Agent for approval; and*
- *There will be no underground storage of fuel or hazardous substances on the property, except for the pre-existing underground propane tank.*

These conditions are in addition to the original Order of Conditions, which is still in force.

Elaine Anderson seconded and it was so voted, 3-0.

ANNUAL AND SPECIAL TOWN MEETING WARRANT ARTICLES:

SPECIAL TOWN MEETING:

Article 1: The Commission recommends 3-0-0.

Article 11: The Commission recommends 3-0-0.

ANNUAL TOWN MEETING:

Article 6, #9: The Commission recommends 3-0-0.

Article 14: The Commission recommends 3-0-0.

Article 15: The Commission recommends 3-0-0 with the conditions as stated in the Determination of Applicability issued 02/21/07.

DISCUSSIONS: NEW CONSERVATION COMMISSION REGULATIONS, WELTAND PROTECTION ACT FUND POLICY AND APPOINTMENTS TO THE COMMISSION.

These issues will be discussed at subsequent hearings.

ADJOURNMENT: *Elaine Anderson moved to adjourn at 9:45 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2007.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2007
Dieter Groll and Elaine Anderson, Co-Chairs