

# PROVINCETOWN CONSERVATION COMMISSION

April 27, 2010

6:30 P.M.

**Members Present:** Dennis Minsky, Lynne Martin, Jack McMahon, David Hale and Hank Janowsky.

**Members Absent:** Richard Silver (unexcused).

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

Dennis Minsky called the Public Meeting to order at 6:31 P.M.

## **PUBLIC STATEMENTS:**

None.

**MINUTES:** April 13, 2010 – *David Hale moved to approve the language as amended, Lynne Martin seconded and it was so voted, 4-0-1 (Jack McMahon abstaining).*

### **Request for an Amended Order of Conditions (DEP Permit # 58-0427)**

Application by **WK Red Clay, LLC, Herring Cove Village**, for an Amended Order of Conditions under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12. The amended scope of work will include: re-orient the approved six dwelling units in Phase II, add a private swimming pool in place of one of the tennis courts (all outside the 50' buffer zone), reduce fencing and commercial tennis courts which will be replaced with 7,350+/- square feet of green space at **21 Bradford Street Extension**, in Provincetown.

**Presentation:** Dave Krohn, Jim Watkins and Reggie Donoghue appeared to discuss the Request. Dave Krohn explained the changes to the proposed project. The amended scope of work includes the modification of Phase II of the project from a tennis club and residential development to an entirely residential development. The project includes reconfiguring Phase II of the Herring Cove Village complex in order to replace the previously approved four building, six dwelling unit residential complex and tennis club with four buildings that will house six dwelling units and the removal of three tennis courts, leaving a single court, and the construction of a swimming pool. NHESP has determined that this project will not adversely affect the Resource Area Habitat of state-protected rare wildlife species. According to Mr. Krohn, as a result of these changes, there will be a reduction in the number of people and cars coming to the site, a reduction of impervious surfaces on the site because of a smaller parking area and a reduction in fencing. In addition, all buildings are outside the 50' buffer zone and the swimming pool will be saltwater.

**Commission Discussion:** The Commission questioned Mr. Krohn, Mr. Watkins and Mr. Donoghue.

**Public Comment:** Attorney Ed Patten, representing abutters Alix Ritchie, Jim Sheehan and Dana DeSimone, spoke against the project and stated that the revised project is a violation paragraph

five of the deed restriction, which states that no buildings shall be constructed within the area of Courts 3, 4 and 5 (a restricted area). Attorney Patten alleged that the proposed swimming pool is considered a 'structure' in the Town's Zoning By-Laws. Rick Koonce, an abutter representing the Hatches Harbor Condominium Association, and Bill Glass, treasurer of the Association, spoke against the Request. Jo-Lynne Hohl and Mitch Yates, resident of Herring Cove Village, spoke in support of the Request. There were five letters in opposition and three letters in support of the Request in the file.

*Lynne Martin moved to deny the Request for an Amended Order of Conditions under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 for a scope of work to include the re-orientation of approved six dwelling units in Phase II, the addition of a private swimming pool in place of one of the tennis courts (all outside the 50' buffer zone), a reduction in fencing and in existing commercial tennis courts, which will be replaced with 7,350+/- square feet of green space, Hank Janowsky seconded and it was so voted, 5-0.*

#### Notice of Intent

Application by **Phillip Dawley** 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 clean-up, removal and disposal of the failed concrete bulkhead and slab at the property located at **663 Commercial Street**, Map 17, Parcel 1-2-0-R, in Provincetown.

**Presentation:** Brad Locke and Don Munroe appeared to present the application. The applicant seeks to replace a failed bulkhead in the same footprint as the previous bulkhead with minor modifications. The new bulkhead will be constructed landward of the old. The new bulkhead will be constructed of vinyl sheeting with an anchor tie-back waler system. The equipment anticipated to be used in this project is a crane (possibly), a tracked excavator and a vibratory hammer. The proposed deck replacement will also be located inside the footprint of the failed concrete deck. The proposed design of the replacement deck is a wooden pile-supported structure will be consistent with the design of the neighbor's pile-supported deck. The deck will be less intrusive to the resource area and will add continuity of the two abutting bulkheads by being located in the same vertical plane.

**Public Comment:** None.

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

*Lynne Martin moved to close the Emergency Order and to approve the proposed project to include the clean-up, removal and disposal of a failed concrete bulkhead and slab at the property located at 663 Commercial Street with the Standard Order of Conditions and with the Special Order of Conditions to include the clean-up of construction rubble onsite daily, access to the beach via a Town Landing, with the replanting of any damaged plantings due to construction equipment accessing the beach, a dumpster located on the Town Landing, the acquisition of a beach access permit and a pre-construction meeting with the Conservation Agent 72 hours prior to the start of construction and also with the stipulation that the slab be removed within 10 days, Jack McMahon seconded and it was so voted, 5-0.*

#### Notice of Intent

Application by **Teri M. Motley** 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 bulkhead replacement at the property located at **659 Commercial Street**, Map 17-1, Parcel 4, in Provincetown.

**Presentation:** Don Munroe and Dana Cannell, representing Teri Motley, appeared to present the application. The applicant seeks to replace a failed bulkhead in the same footprint as the existing bulkhead. The access to make the repairs will be from the landing east of the property. Equipment will be brought down to the locus area and removed from the beach daily. The equipment anticipated to be used in this project is a crane (possibly), a tracked excavator and a vibratory hammer. The new bulkhead will be constructed of vinyl sheeting with an anchor/waler system. The existing wood frame deck will be temporarily removed in order to construct the replacement bulkhead. The proposed deck replacement will be located inside the footprint of the existing deck.

**Public Comment:** None.

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

*David Hale moved to approve the proposed project for a bulkhead replacement at the property located at 659 Commercial Street with the Standard Order of Conditions and with the Special Order of Conditions to include the clean-up of construction rubble onsite daily, access to the beach via a Town Landing, with the replanting of any damaged plantings due to construction equipment accessing the beach, a dumpster located on the Town Landing, the acquisition of a beach access permit and a pre-construction meeting with the Conservation Agent 72 hours prior to the start of construction, Hank Janowsky seconded and it was so voted, 5-0.*

#### Notice of Intent

Application by **Fraser & Cecile Lemley** 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 bulkhead repair and replacement at the property located at **661 Commercial Street** in Provincetown.

**Presentation:** Don Munroe and Fraser and Cecile Lemley appeared to present the application. The applicant is seeking to replace a failed bulkhead in the same footprint as the existing bulkhead. The access to make the repairs will be from the landing east of the property. Equipment will be brought down to the locus area and removed from the beach daily. The equipment anticipated to be used in this project is a crane (possibly), a tracked excavator and a vibratory hammer. The new bulkhead will be constructed of vinyl sheeting with an anchor/waler system. The existing wood frame deck will be temporarily removed in order to construct the replacement bulkhead. The proposed deck replacement will be located inside the footprint of the existing deck.

**Public Comment:** None.

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

*David Hale 661 Commercial Street with the Standard Order of Conditions and with the Special Order of Conditions to include the clean-up of construction rubble onsite daily, access to the beach via a Town Landing, with the replanting of any damaged plantings due to construction equipment accessing the beach, a dumpster located on the Town Landing, the acquisition of a beach access permit and a pre-construction meeting with the Conservation Agent 72 hours prior to the start of construction, Lynne Martin seconded and it was so voted, 4-0-1 (Jack McMahon).*

**Request for a Certificate of Compliance**

Request by **The Boatslip, LLC** for a Request for a Certificate of Compliance under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 for DEP Permit Number 58-0347, issued on March 20, 2002, for the property located at **161 Commercial Street** in Provincetown.

Mr. Rogers had submitted a letter stating that the proposed project has been installed in accordance with “The Boatslip Beach Club, Deck Repairs, 161 Commercial Street, Provincetown, February, 2002, four sheets.” The Commission briefly discussed the Request. ***Lynne Martin moved to grant the Certificate of Compliance, Dennis Minsky seconded and it was so voted, 5-0.***

**Request for a Certificate of Compliance**

Request by **Astrid Berg, Berg Family Trust**, for a Request for a Certificate of Compliance under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 for DEP Permit Number 58-0439, issued on March 17, 2008, for the property located at **161 Commercial Street** in Provincetown.

There was a letter submitted by Beth Hays, of the Woods Hole Group, on behalf of the Berg Family Trust, stating that the project was in compliance with the Order of Conditions issued by the Commission. The Commission briefly discussed the Request. There is concrete slurry still present on the beach at the property that the Commission would like removed.

**DISCUSSION:**

**B-Street Garden developments and next steps:**

David reported that the official opening of the Garden is May 1<sup>st</sup>. On May 2<sup>nd</sup>, there will be a gathering of the gardeners.

**CONSERVATION BOARD STATEMENTS:**

Lynne Martin announced that Brian is working on the Conservation Commission page on the new Town website, which is under Natural Resources.

**ADJOURNMENT:** *Lynne Martin moved to adjourn at 9:15 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2010.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2010  
Dennis Minsky, Chair