



Public Meeting

March 7, 2011

Judge Welsh Hearing Room

6:30 p.m.

Members Present: John Golden, Dorothy Palanza, and Mark Weinress.

Members Absent: Marianne Clements, Eric Gelinis, and Peter Page

Staff: David Gardner and Maxine Notaro

The meeting was called to order at 6:37 p.m.

Meeting Agenda

Public Comments

There were none.

Request for Approval Not Required

Application by Lester J. Murphy, Jr. Attorney on behalf of the Provincetown Conservation Trust for a division of property into non-buildable parcels with no new ways being created for the property located at **56 Creek Road, Provincetown, MA.**

Attorney Murphy wanted to make sure that the Planning Board knows that he represents two abutters. He continued by saying that this piece of property has been the subject of litigation between his clients and the Provincetown Conservation Trust and - as a result - the Provincetown Conservation Trust was the winner and purchased a large piece of the property. An agreement to divide up the property in a number of parcels has been struck. What is supposed to happen is that the Provincetown Conservation Trust will retain parcel A - Parcel C would be conveyed to the Browns, etc., and the overall end result is that the abutters will all increase their properties. None of the lots that are being conceived by this plan are buildable. J. Murphy is pleased that we've been able to come up with a plan for agreement.

After Attorney J. Murphy's presentation complete with plans, etc., Dorothy Palanza, a member of the Planning Board, announced that she is a member of the Conservation Trust and is a trustee. J. noted that she would be one of the people signing the approval and J. said that it would be best if she were not sitting on the board when the agreement is approved. J. further thought that because this matter has been before us for so long – it's best to wait until the next meeting on the 21st and he would prefer coming back. In the meantime he also felt that it would be of value to have a site visit; the property has been staked and – along with the site maps – the proposed divisions should be easy to figure out.

Motion: Move to make a site visit of 56 Creek Road prior to the March 21st meeting. Site visit will take place at 6:00 p.m.

Motion: Mark Weinress Seconded: John Golden Vote: 3-0-0.

Continued Cases

Case #FY11-04 Site Plan Review (Continued to April 11, 2011)

Application by Victor DePoalo under Article 4, Section 4100 of the Zoning Bylaws for Dwelling Units and Commercial Accommodations. The applicant seeks approval to reconfigure the parking having the same number of parking spaces, which is 28 spaces reducing the handicap spaces from three to two at the property located at **175 Bradford Street Extension, Provincetown, MA (Res3 Zone).**

Case #FY11-16 Site Plan Review

Application by John McElwee of Felco, Inc. on behalf of Robert M. Levin and Jerome P. Colin under Article 2, Section 2320 of the Zoning Bylaws for High Elevation Protection District A.

The applicant seeks approval to remove an existing 12' x 24' swimming pool and install a new 18' x 34' swimming pool and landscape the backyard at the property located at **65 Bayberry Avenue, Provincetown, MA (Res1 Zone).**

The four people presenting were Alan Cabral from Felco, Jamie Veara, their attorney, Craig Henson, the pool designer, and Andrew Garulay, the landscape architect. There is an existing pool that has already been previously approved. The pool is being turned in a perpendicular mode. The principal purpose is the nature of the pool itself. It has received unanimous ConCom approval. The lighting plan was handed out and there will be no change to utilities and no change to the front of the property. Attorney Veara believes they reach all the criteria for a development of this kind. There is no difference in the height of the retaining wall, etc.

There was no one speaking in opposition BUT there was a lengthy letter read from the owners of 67 Bayberry Avenue. They currently overlook the back yard and they are concerned about such a large pool. They would also like the owners to screen their

property. The letter continued by saying that they have concerns about the much larger footprint and they're unsure about the height of the walls, etc. The removal of two maple trees also concerns them. They'd like larger landscaping to further screen the pool. They want further clarification and there are no outdoor lighting plans and we're concerned that they will be too bright. Lighting left on is damaging to wildlife, and all growing things. They feel a dangerous precedent will be set by allowing the installation of this pool.

Dorothy said that she would like to have a site visit. Jamie V. said that the letter is exactly the same one that was written to ConCom. Jamie said that what they are objecting to is silly and to say that this arborvitae tree belongs there is contrary to the neighborhood.

Mark W. said that it's hard to see from the drawings. The landscape designer attempted to address all the questions with added plans; they initially had overlays for ConCom. There were a great many unanswered questions from the Planning Board regarding lighting, etc. Mark even commented that there were no height specifics on the plan and he would have liked to have seen that.

Andrew Garulay said that they plan on putting in some narrow columnar trees to separate the areas and will plant bayberry, inkberry and plants which are indigenous to the area. Most of the lighting will be 2 feet tall and the light will be down cast. They even have a cast iron fence that will have large openings to allow "critters" to pass through. Alan Cabral talked about the precautions that will be made to protect the wetlands.

Motion: Move to make a site visit of 65 Bayberry Avenue prior to the March 21 meeting. The site visit will take place at 5:30 p.m.

Motion: John Golden Seconded: Mark Weinress Vote: 3-0-0.

Motion: Move to continue 65 Bayberry Avenue to the March 21st meeting.

Motion: John Golden Seconded: Mark Weinress Vote: 3-0-0.

Minutes of previous meeting

These will be voted on at the March 21st meeting.

Any other business that shall properly come before the Board

The members had been apprised of the following issue at a previous meeting. The Outer Cape Health (OCH) facility at 49 Harry Kemp Way has been awarded a grant for enlarging their offices. Some of their current parking lot site sits atop town land. Harry Kemp Way was originally laid out on a plan much wider than is used. This unused

width is wherein lies the land in question. The funding agency refuses to approve the grant for OCH unless an easement is duly made for the parking lot. The Planning Board now has the opportunity to weigh in and advise the Board of Selectmen (BoS) on Planning's thoughts. Town Counsel came to the conclusion that it should be an ANR. David Gardner said that we have no intention of conveying the parcel. There is an article in the Annual Town Meeting to approve this ANR. The item is two fold – pre app for an ANR and Planning can look at the layout of Harry Kemp Way. Mark for clarification asked – so the town will still own the property but allow the easement? It does tie the agreement with the use so the easement will reflect that as well. David suggested making it “not a buildable lot” and “for the purposes of parking” and also tie to the use for the health clinic. This would be the recommendation to the BoS. The actual recommendation will include signatures of both the BoS and the Planning Board. The BoS is looking for a potential O.K. on the 24th.

Motion: Move to recommend to the BoS that they move forward and approve the easement of Harry Kemp Way but also recommend that the Planning Board's approval be tied to the following conditions that would be included in the recommendation:

- 1. the easement never become a buildable lot**
- 2. the easement is for the purpose of parking**
- 3. the easement be tied to the existing health center use and shall expire upon a change of use of the property.**

Motion: Mark Weinress Seconded: John Golden Vote: 3-0-0.

DATES AND TIMES TO JOT DOWN

Next Meeting - Monday – March 21st.

Site Visit – 65 Bayberry Avenue – 5:30 p.m.
Site Visit – 56 Creek Road – 6:00 p.m.
Planning Board meeting 6:30 p.m.

Adjournment happened at 7:30 p.m.

Respectfully submitted,
Evelyn Gaudiano
Evelyn Rogers Gaudiano

Approved by _____ on _____, 2011.

Dorothy Palanza, Vice Chair