

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
MARCH 5, 2013
6:30 P.M.

Members Present: Dennis Minsky, David Hale, Lynne Martin, Barbara Prato and Mark Irving.

Members Absent: None.

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

Chair Dennis Minsky called the Public Hearing to order at 6:32 P.M.

PUBLIC STATEMENTS:

None.

MINUTES: Postponed.

Request for a Determination of Applicability:

Application by **Ice House Condominium c/o Peters Property** under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Provincetown Wetlands By-Law, Chapter 12. The applicant seeks approval for site work to repair concrete curb on top of an existing concrete bulkhead at the property located at **501 Commercial Street** in Provincetown.

Presentation: Tim Brady appeared to present the application. The proposed concrete curb will match the curb on top of the existing wall. All construction will take place from the parking area on the seaward side of the concrete wall and with no equipment on the beach will be necessary. A form will be constructed in the shape of the curb and concrete will be poured into the form.

Public Comment: None. There was 1 letter of concern from an abutter.

Commission Discussion: The Commission questioned Mr. Brady about an abutter's concern with possible damage to a set of beach stairs and a railing on the eastern side of the property. Mr. Brady was certain that no damage to the beach stairs and railing would occur as a result of the project.

David Hale moved to grant a Negative #3 Determination with the conditions that all work be performed from the landward side of the property, that all materials be stored landward of the wall and that all debris be picked up daily, Mark Irving seconded and it was so voted, 5-0.

Notice of Intent

Application by **David Berarducci**, represented by **Roy Okurowski, Land & Sea Engineering, LLC**, 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 replacement of an existing pier at the property located at **99 Commercial Street** in Provincetown.

Presentation: Mark Burgess of Shorefront Consulting appeared to present the application. The existing pier at the property was licensed in 1927 and has deteriorated considerably. The portion of the pier that extends approximately 80 feet beyond the existing restaurant on site will be replaced in the same footprint. The pier is in compliance with existing Chapter 91 licenses. A

barge will be used in order to perform the piling work. The existing pier will be demolished and all piles and timber removed and disposed of. The same number of piles, driven in with an impact hammer, will replace what currently exists. The piles will be CCA-treated for preservation purposes. The existing structures on the pier will be moved temporarily in order to perform the work and may be stored on the barge. After the piles have been driven, the superstructure of the pier will be constructed and the existing structures will be replaced. The construction protocol submitted by the applicant recommends the removal of all shellfish from the work area prior to the barge arriving and that all efforts should be made to prevent the barge from grounding out. A DEP file number has been assigned to the project and a letter has been written by DMF with comments and recommendations regarding the use of a barge in the shellfish habitat located in the area, including not operating a barge in water less than 2' deep.

Public Comment: None.

Commission Discussion: Mr. Burgess explained that water access is needed for the removal and re-driving the piles after which all materials can come in from the landward side. The Commission questioned him about the barge in light of the construction protocol and the DMF recommendations. Realistically, in the beginning, when working at the restaurant it will be difficult to keep the barge afloat at least for a short amount of time. He estimated a period of three to four days of barge use in that area. Dennis mentioned mitigation in the form of shellfish seeding. It was suggested that the Shellfish Warden be contacted and asked for advice in regard to re-seeding after the project was completed. The Commission decided to condition the project that if any damage were done to shellfish areas it would be mitigated with re-seeding of shellfish beds. Mr. Burgess agreed that any mitigation of shellfish would be done to the satisfaction of the Shellfish Warden. He also agreed that all work will be performed during periods of high tide to the extent possible, that grounding of the barge would be avoided as much as practicable and that it would be removed to deep water when not in use.

Lynne Martin moved to approve the Notice of Intent 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 replacement of an existing pier at the property located at 99 Commercial Street with the Standard Order of Conditions and with the Special Conditions that the Shellfish Warden shall determine whether mitigation is necessary and, if so, the amount to be undertaken by the applicant, that as much work as possible shall be performed during high tide to avoid grounding of the barge, that the barge be stored in deep water when not in use, that the inspection for, and the removal of, debris shall occur daily and be monitored by the construction supervisor, and that the Shellfish Warden and the Conservation Agent attend the pre-construction meeting, David Hale seconded.

The Commission discussed the motion and asked Mr. Burgess more questions about the project, including how much of the work would be done from the barge and if more than one barge would be used.

David Hale moved to amend the previous motion to add the Special Condition that only one barge at a time will operate in the low water area, Dennis Minsky seconded and the amended motion was so voted, 5-0.

MINUTES: February 19, 2012 – Mark Irving moved to approve the language as amended, Barbara Prato seconded and it was so voted, 3-0.

DISCUSSION:

Update on MACC Conference:

Dennis, Barbara, Mark and Lynne related their workshop experiences at the MACC conference.

Gordon's Material:

Brian will e-mail the material to the Commissioners.

Letter from Sherry Dranch:

Dennis received a letter from Sherry Dranch concerning several shortcomings of the B Street Garden as it currently operates. The issues will be addressed at the advisory level and the Commission will need to address the issues as well. Brian will send the letter to Commissioners.

Herbicide and pesticide use:

Dennis went to an MACC workshop on this topic. He spoke with the presenter and explained that a group of Town's people intended on presenting an article at Town Meeting to ban the use of herbicides and pesticides on Town property based on Wellfleet's plan. The presenter told Dennis that it was illegal to do that. Barbara's subsequent research indicated that Wellfleet's plan was not a by-law, but only a policy. Dennis called the Town of Wellfleet's Conservation Agent and DPW to find out what kind of document it is. There was nothing put on the Provincetown Annual Town Meeting warrant concerning this issue.

Storm Drains:

Dennis was on the beach in the East End while DPW was digging out a drain in front of Barbara Rushmore's house. He is concerned about heavy equipment on the beach digging out storm drains in anticipation of storms. He would like Brian to find out from DPW how many of the drains are dug out, why are they dug out and if there is an alternative to the process. He recommended that the Commission have a policy/protocol concerning the procedure.

Americorps Volunteer:

Dennis and Brian met with Ray Duarte yesterday. It was decided that the Town's Americorps volunteer will be employed to dismantle two illegal shanties; one behind the sewage treatment plant and one behind the school soccer field.

2 Commercial Street:

Brian reported that he had requested that Cliff Schorer file a Certificate of Compliance for the Order of Conditions concerned with re-planting the hill at the property. Mr. Schorer said that he will hire Paul Shea and attend the April 16, 2013 Public Hearing.

Protocols:

Lynne would like the Commission to work on standard protocols as she is concerned about not having required an official planting plan for the property located at 294 Bradford Street. Dennis mentioned that he took a workshop on wildlife habitat evaluations and he stated that the Commission could have required an evaluation for that property to be done by an expert in the field.

Conservation Commission database:

Lynne reviewed the Access database containing Conservation files. It has not been updated in two years. The Commission discussed how the database worked, how to improve it and how to update it.

Dennis talked to Peter Romanelli of the Truro Conservation Commission about the possibility of a joint meeting to see how they function. David suggested having an agenda for the meeting. Dennis will call Gordon Peabody to ask if he would oversee such a ‘sharing’ meeting as he has held such meetings in the past.

ADJOURNMENT: *Barbara Prato moved to adjourn at 8:00 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2013

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2013
Dennis Minsky, Chair