

**PROVINCETOWN
CONSERVATION COMMISSION
CAUCUS HALL
November 17, 2015
6:30 P.M.**

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

Members Absent: Dennis Minsky (excused).

Others Present: David Gardner (Acting Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Acting Chair David Hale called the Public Hearing to order at 6:30 P.M.

PUBLIC STATEMENTS:

None.

OLD BUSINESS:

Order of Conditions for 43 Winthrop Street: Commission signatures only were needed and the item was moved to the end of the agenda.

Meadow Road Condominium Order of Conditions – Planting plan review discussion:

The applicant requested a continuance to the December 15, 2015 Public Meeting at 6:30 P.M.

Barbara Prato moved to continue the Meadow Road Condominium Order of Conditions discussion to the December 15, 2015 Public Meeting at 6:30 P.M., Lynne Martin seconded and it was so voted, 4-0.

Administrative Review

Application by **Chris Lucy** on behalf of **Eric and Elena Ende**, to remove a tree from the front yard and four to five Ailanthus trees from the rear yard on land subject to the Wetlands Protection Act, M.G.L., c. 131, s. 40 located at **457 Commercial Street** in Provincetown.

Presentation: Chris Lucy appeared to discuss the project. Mr. Lucy said that the applicants seek to remove a honey locust tree in the front yard, branches of which are growing over utility wires and the roof of the structure. The applicants also seek to remove four Ailanthus trees located on the property line, although, according to Mr. Lucy, the location of the lot line is unclear. He said that no progress has been made between the applicants and the abutters in that regard.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Lucy about the removal of the honey locust tree only. He said that reason for the request is that the tree is too big for the space and is in danger of interfering with the utility wires to the house. The Commission inquired about the mitigation for the removal. He said that there are no landscaping plans as of now, but when there is, the applicants would probably have to return to the Commission for its review. In answer to a question regarding the alternative of simply pruning or trimming the tree, Mr. Lucy said that there were no plans for either. The Commission suggested mitigation in the form of replanting a smaller tree, or trees, and the submission of a planting plan if the request is granted. If the request is denied, the Commission suggested that Mr. Lucy return with a justification for not pruning the tree.

Barbara Prato moved to grant the request to remove the honey locust tree in the front yard of the property located at 457 Commercial Street, Mark Irving seconded.

The Commission discussed the motion.

The motion was so voted, 2-2 (Lynne Martin and David Hale opposed). The motion failed.

David Hale moved to deny the request to remove the honey locust tree in the front yard at the property located at 457 Commercial Street, Lynne Martin seconded and it was so voted, 3-1 (Barbara Prato opposed). The Commission suggested that the applicants appear before the Commission and submit a plan for pruning the existing tree or a plan for planting a replacement tree.

Request for extension of Order of Conditions for **Captain Jack's Wharf** at 73 Commercial Street, Permit SE 058-513. The current permit expires on January 17, 2016, and the request is for an extension until the spring of 2016 to allow the replacement of fender piles, already under contract.

David reported that the existing Order of Conditions was issued in January of 2013, for a project to replace fender pilings at the property. There had been a delay in completing the work and the piling replacement will not be completed by January of 2016 when the Order expires. The applicant is seeking an extension of 2 years in order to complete the project. The Commission discussed whether the project was eligible for the permit extension act. The issue will be researched and the matter is tabled.

NEW BUSINESS:

Request for Determination of Applicability:

Application by the **Derik Burgess** for a **Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and Flood Zone A. The scope of work to include a second story addition above an existing first floor kitchen and the addition of an enclosed screen porch over an existing paver stone patio at the property located at **506 Commercial Street** in Provincetown.

Presentation: Derik Burgess appeared to present the application. He reiterated that he had appeared before the Commission at its last Public Meeting where the project was presented. The Commission advised at that time that he proceed with his filing of a Determination of Applicability, and not change it to an Administrative Review, because the proposed project involved an increase in the footprint of the structure. He explained that the increase in the footprint is the result of the addition of a 10' by 12' screen porch to the existing structure. The addition will be placed over a patio and helical piers will be installed to support it. There will be no disturbance to vegetation on the property. The addition will be fully guttered and runoff will be directed into drywells.

Public Comment: None.

Commission Discussion: The Commission had no questions for Mr. Burgess.

Mark Irving moved to grant a Negative #3 Determination under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and Flood Zone A for work to include a second story addition above an existing first floor kitchen and the addition of an enclosed screen porch over an existing paver stone patio at the property located at 506 Commercial Street with the Standard Order of Conditions, Barbara Prato seconded and it was so voted, 4-0.

Administrative Review

Application by **Josh Isaza and Michael Fullen** for an Administrative Review to demolish and rebuild a residential unit in a previously disturbed lawn/landscaped area within the FEMA Flood Zone A at the property located at **606 Commercial Street, #4**, in Provincetown. The applicant did not appear. David Gardner reported that the project involved a demolition and replacement of a structure in the same footprint, with the addition of a foundation. The Commission was concerned about the addition of a foundation and would like the applicants, or their agent, to appear in order to answer questions, including an explanation of the construction protocol, the location of the proposed access to the property and a description of the machinery to be used in the project. The Commission continued the case until the December 1, 2015 Public Meeting at 6:30 P.M.

Administrative Review

Application by **William N. Rogers, II**, on behalf of **John Shea and Ray Booth**, to install a full cellar under the proposed screen porch within the jurisdiction of the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40), General By-Law Chapter 12, Natural Heritage, the Endangered Species Act Program (NHESP) and the 100' buffer zone at the property located at **33 Point Street** in Provincetown.

Presentation: William N. Rogers, II appeared to discuss the request. The applicants seek to increase the size of the cellar at the property.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Rogers. He was unable to answer several questions about the project. He requested a continuance and will stake the site to better delineate the location of the foundation.

Barbara Prato moved to grant the request to continue the Administrative Review related to 33 Point Street to the December 1, 2015 Public Meeting at 6:30 P.M., Mark Irving seconded and it was so voted, 4-0.

Administrative Review

Application by **William N. Rogers, II**, on behalf of **Michael Valenti** and **Michael Calaman**, to install a retaining wall and patio within the jurisdiction of the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40), General By-Law Chapter 12, Natural Heritage, the Endangered Species Act Program (NHESP) and the 100' buffer zone at the property located at **10 Oak Drive** in Provincetown.

Presentation: William N. Rogers, II, Kristen and Michael Crooker, from Cape Coastal Landscaping, and Michael Valenti appeared to discuss the Administrative Review. Mr. Rogers reviewed the project, noting that Paul Shea had installed stakes delineating the wetland boundary. A proposed timber retaining wall will be constructed at an elevation of 15' and the ground behind it will be graded. In addition, the installation of a 16' by 30' patio is proposed. All work will be performed well beyond the 50' buffer zone.

Public Comment: None

Commission Discussion: The Commission questioned Mr. Rogers, Mr. and Ms. Crooker and Mr. Valenti. The Commission was concerned about the removal of trees. According to Ms. Crooker, only two small caliper trees, less than 3", will be removed. Pressure-treated lumber will be used for the retaining wall. Access to the site will be via the driveway area. The Commission

asked if alternatives, such as reducing the size of the patio, had been considered. If the patio was smaller, Mr. Rogers said, the fill would be reduced, but a retaining wall would still be needed and much usable space would be lost. Ms. Crooker said that the scale of the project had been reduced after a survey was done showing the location of the 50' buffer line. Interlocking permeable concrete pavers will be used for the patio area. Re-vegetation with native vegetation, including inkberry, lowbrush blueberry, switchgrass and day lilies is proposed for the area between the retaining wall and the patio,

Mark Irving moved to approve the Administrative Review to install a retaining wall and patio within the jurisdiction of the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40), General By-Law Chapter 12, Natural Heritage, the Endangered Species Act Program (NHESP) and the 100' buffer zone at the property located at 10 Oak Drive with the conditions that clean, compatible sandy fill be utilized, that the area between the patio and the retaining wall be re-vegetated with native plantings and a planting plan filed, that a mini-excavator be used, that the driveway be used as a storage/ staging area, that silt fencing, or the equivalent, be installed between the slope and the resource area, that permeable pavers be used for the patio area and that the Conservation Agent inspect the site upon completion of the project prior to the removal of erosion control, Barbara Prato seconded and it was so voted, 4-0.

CONSERVATION AGENT REPORT:

Discussion of Permit Review Threshold and Application Guidelines: This matter was not discussed.

ANY OTHER BUSINESS:

Amy Germain appeared to request a Certificate of Compliance for work that had been done at 25 Commercial Street. David Gardner reviewed the matter. A letter, dated October 14, 2015, had been submitted to the Commission by Coastal Engineering certifying that work had been completed on a concrete bulkhead at the property. Upon inspection, engineers determined that the bulkhead was in 'good' condition, showing no signs of rebar corrosion or concrete deterioration. The DEP File Nos. related to the work are SE 058-078 and SE 058-108.

Barbara Prato moved to grant a Certificate of Compliance for work performed under DEP File Nos. SE 058-078 and SE 058-108 at the property located at 25 Commercial Street, Mark Irving seconded and it was so voted, 4-0.

Request for extension of Order of Conditions for **Captain Jack's Wharf** at 73 Commercial Street, Permit SE 058-513. The current permit expires on January 17, 2016 and the request is for an extension until the spring of 2016 to allow the replacement of fender piles, already under contract. Lynne Martin reported that the Permit Extension Act qualifying period was between August 15, 2008 and August 15, 2012, thus excluding the applicant from automatic permit extension.

David Hale moved to grant an extension of the Order of Conditions for Captain Jack's Wharf at 73 Commercial Street, Permit SE 058-513, to January 17, 2018, for the replacement of fender piles, Barbara Prato seconded and it was so voted, 4-0.

MINUTES: November 3, 2015 – Lynne Martin moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.

ADJOURNMENT: *Barbara Prato moved to adjourn at 7:34 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2015

Dennis Minsky, Chair