

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
JUNE 7, 2016
6:30 P.M.

Members Present: Dennis Minsky, Lynne Martin, Barbara Prato, Mark Irving, Alfred Famiglietti and Scott Donahue.

Members Absent: None.

Others Present: Deb Albenberg (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Chair Dennis Minsky called the Public Hearing to order at 6:31 P.M. He announced that he, Ms. Martin, Ms. Prato, Mr. Irving and Mr. Donahue would be the voting Commissioners for this Hearing.

PUBLIC STATEMENTS:

None.

Notice of Intent

Application by **Christopher P. Santos**, represented by **William N. Rogers, II**, for a **Notice of Intent** pursuant to the Provincetown Wetlands By-Law, Chapter 12. The scope of work to include the construction of a two-bedroom residence, installation of a Title 5 septic system, retaining wall, parking area and associated site work and re-grading at the property located at **668R Commercial Street**.

Presentation: William N. Rogers, II appeared to present the application. The applicant seeks to build a two-bedroom single-family structure on the side of a bank on the property, install a septic system and build a reinforced concrete retaining wall on the west side of the garage entrance for a vehicle turn-around area. A letter received by the Commission from the Division of Fisheries & Wildlife stated that it had been determined that the project would not result in a prohibited 'take' of state-listed rare species.

Public Comment: Shay Santos spoke in support of the application.

Commission Discussion: The Commission questioned Mr. Rogers about the integrity and stability of the slope, asked if an alternatives analysis had been done for the site and discussed mitigation options. Mr. Rogers said he would recommend to his client that Paul Shea, of Independent Environmental Consultants, be retained to develop a planting plan for the slope. Mr. Minsky proposed that the project not be completed until there is a habitat assessment to enumerate the number and species of trees, saplings and shrubs and the general composition of ground cover species that will be eliminated. In addition, he proposed that whoever is hired to create a planting plan look at the effect of the project on the slope, from a biological point of them. He suggested that the report and planting plan become part of the application.

Dennis Minsky moved that the application be continued until the Commission receives from the applicant a habitat assessment and a mitigation and planting plan as described, Mark Irving seconded.

The Commission continued to question Mr. Rogers about runoff control. Mr. Rogers stated that if his client agrees to hire Mr. Shea, he will have Mr. Shea contact the Conservation Agent to discuss the assessment.

The motion was so voted, 5-0.

Mr. Rogers requested a continuance until the July 19, 2016 Public Hearing. ***Dennis Minsky moved to grant the request to continue the application until the July 19, 2016 Public Hearing at 6:30 P.M., Barbara Prato seconded and it was so voted, 5-0.***

Mr. Rogers was informed that the submission deadline for the requested material is June 27th, in order to be heard at the July 19th Hearing.

Enforcement Order (continued from April 19th)

Restoration plan by **Bartlett Tree Experts**, on behalf of **Marc and Stacey Garvey**, subsequent to an Enforcement Order issued on February 4, 2016, for cutting trees without a permit within jurisdiction of the Provincetown Wetlands By-Law, Chapter 12 (MESA & buffer to an ILSF) at the property located at **3 Oppen Lane**):

Attorney Lester J. Murphy, Ken MacPhee and Stacey Garvey appeared to discuss the plan. A management plan developed by Bartlett Tree Experts had been submitted. The Commission examined photographs taken by Ms. Garvey showing the recent growth of the cut trees in question. The Commission discussed the photographs. The Commission reviewed and discussed the planting plan. Ms. Martin mentioned to Attorney Murphy that the Enforcement Order fee had yet been received by the Commission. The Commission requested that the Conservation Agent be involved in the restoration project.

Dennis Minsky moved to accept the restoration plan for 3 Oppen Lane, entitled, "Management Plan for Mark Garvey" as written, with the addition that the Conservation Agent be involved in all steps of the process, Scott Donahue seconded and it was so voted, 5-0. Attorney Murphy said he would follow up with the Conservation Agent in regard to the fee issue.

WORK SESSION

MINUTES: MAY 17, 2016 – Regular Session – Barbara Prato moved to approve the language as written, Dennis Minsky seconded and it was so voted, 6-0.

MINUTES: May 17, 2016 – Executive Session - Dennis Minsky moved to approve the language as written, Barbara Prato seconded and it was so voted, 6-0.

MINUTES: April 26, 2016 – Lynne Martin moved to approve the language as written, Barbara Prato seconded and it was so voted, 6-0.

CONSERVATION AGENT REPORT:

Marina Walkway change: The Commission had received a letter from Ken Fields, the Senior Project Manager for the Marina project, stating that the applicant was considering altering the application plans by providing a 12-foot wide public access walkway instead of the 10-foot wide public access walkway that was originally proposed. It stated that the additional area of pile-supported structure created by adding a 2-foot wide section of the walkway is 1,729 sq. ft. beyond the proposed structures recently reviewed in the project's Notice of Intent. The additional area is below the threshold for additional Massachusetts Environmental Policy Act review. The additional 2-foot walkway will not project any further toward the eelgrass bed closest to the wharf. The Commission discussed whether the proposed change in the width of the walkway would qualify as an amended Order of Conditions or if there was sufficient discussion of the proposed change in the width it. The discussion included whether the purpose of the project has changed, whether the change constituted an increase in the scope of the project and whether the potential for adverse impacts to the resource area would increase as a result of the proposed change. Mr. Minsky explained that in an email he received from Mr. Fields regarding the change, it was stated that if the Commission decided that an amended Order was needed that the email would be a formal request for that amended Order. After some discussion, the Commission decided that a 12' walkway would have no more impact on the resource area than a 10' walkway and, that while the plan for the project had been revised to reflect the proposed increase in the walkway, the Order of Conditions that had been previously approved would not require amending.

Barbara Prato moved to approve the amended plan for a 12' Marina walkway as submitted to the Conservation Agent, Mark Irving seconded.

The Commission briefly continued to discuss the matter.

Barbara Prato moved to accept the revised plan for a 12' Marina walkway that was discussed at the May 17, 2016 Public Hearing, and to direct the Conservation Agent to notify the proponent of said acceptance, Dennis Minsky seconded and it was so voted, 5-0.

Administrative Review by Commission

Request for an **Administrative Review by the Commission** pursuant to the local MESA by-law for a fence replacement at the property located at **244 Bradford Street** (LSCSF). The Commission briefly reviewed the plan.

Dennis Minsky moved to approve the Administrative Review application for 244 Bradford Street for an in-kind fence replacement, Barbara Prato seconded and it was so voted, 5-0.

B-Street Garden Discussion:

Dennis Minsky nominated Alfred Famiglietti as the Conservation Commission's representative/liason to the B-Garden Advisory Group, Barbara Prato seconded and it was so voted, 5-0.

The Commission discussed several applications that had been received for positions on the B-Street Advisory Group.

Lynne Martin moved to approve the applications of Ellen Daley, David Moulton and Beth Goldstein for positions on the B-Street Garden Advisory Group, Barbara Prato seconded and it was so voted, 5-0.

The Commission discussed other issues related to the B-Street Garden, including a clarification of the management hierarchy of the Garden, changing certain rules that govern the Garden and the current dog policy and complaints from gardeners regarding dogs. In addition, Mr. Famiglietti brought the following issues to the Commission:

- A request that there be a certain dollar amount that the Advisory Group could have access to in order that the Conservation Agent could purchase supplies or equipment or to make repairs without having to come to the Commission. Mr. Minsky recommended \$250, to which the Commission agreed;
- A protocol for a potential emergency situation or catastrophic event that could occur on site when the Conservation Agent could not be reached. The Commission agreed that it be dealt with by the gardener, or gardeners, present at the time of the incident; and
- A request that hand sanitizer be placed at the Garden, to which the Commission agreed.

Mr. Famiglietti reviewed the current dog policy and dog issues that have arisen at the Garden. The Commission discussed the subject. It was decided that a split-rail fence would be erected and a sign stating that dogs were not allowed beyond that point.

The Commission briefly discussed the scheduling of Commission Work Sessions before Public Hearings.

Tree-cutting: Mr. Minsky reiterated that the Commission's jurisdiction should not include landscaped areas in flood zones and MESA areas. He added that tree removal should be an Administrative Review by the Conservation Agent in both the local MESA areas and flood zones.

Vista pruning: The Commission agreed that vista pruning should remain in its jurisdiction. It was noted that the Town's by-law is more stringent than the Wetlands Protection Act regarding the subject.

Recommendation of Conservation Commission goals to the Board of Selectmen for adoption of annual Town-wide policy goals: The Commission has not in the recent past recommended goals to the BOS and will not do so this year.

Filing fees will be discussed at the next Meeting.

Mr. Minsky said that a letter was sent from the Commission supporting the Coastal Resiliency grant application by the Department of Public Works.

The Commission discussed what to label the local MESA by-law. 'Local by-law filing' was chosen.

ADJOURNMENT: *Barbara Prato moved to adjourn the Public Meeting at 8:45 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2016

Dennis Minsky, Chair