

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
September 20, 2016
6:30 P.M.

Members Present: Dennis Minsky, Mark Irving and Alfred Famiglietti.

Members Absent: Lynne Martin (excused) and Barbara Prato (excused).

Others Present: Gloria McPherson (Town Planner), Deb Albenberg (Conservation Agent) and Ellen C. Battaglini (Permit Coordinator)

PUBLIC HEARING

Chair Dennis Minsky called the Public Hearing to order at 6:30 P.M.

1) **PUBLIC COMMENTS:**

None.

2) **PUBLIC HEARINGS:**

a) **Local By-Law Filing**

CON #17-029 (*continued from September 6th*)

Application by **Diana Prideaux-Brune and Anne E. Mahoney** pursuant to the Provincetown Wetlands Protection By-Law, Chapter 12, regarding demolition of two existing structures and replacing them with a single-family residence, septic system and associated site work at the property located at **226B Bradford Street**. The work will take place within NHESP Estimated and Priority Habitat. The applicant requested a continuance to the October 4, 2016 Public Hearing at 6:30 P.M.

b) **Notice of Intent**

CON #17-030 - 509 Commercial Street (*continued from September 6th*)

Application by **509 Commercial Street, LLC**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and to the Provincetown Wetlands Protection By-Law, Chapter 12, for the renovation of a single-family residence, replacement of an existing raised deck in the same footprint, patio and driveway resurfacing, enclosing a two-story deck and fence replacement. The work will take place within the 100' buffer to a Coastal Beach and Coastal Dune and within Land subject to Coastal Storm Flowage.

Presentation: Lyn Plummer appeared to discuss the application. She said that a revised site plan had been submitted and the project had obtained a DEP File Number.

Commission Discussion: The Commission questioned Ms. Plummer. The Commission requested that all plantings be native to which Ms. Plummer agreed.

Dennis Minsky moved to approve the application by 509 Commercial Street, LLC, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and to the Provincetown Wetlands Protection By-Law, Chapter 12, for the renovation of a single-family residence,

replacement of an existing raised deck in the same footprint, patio and driveway resurfacing, enclosing a two-story deck and fence replacement with the Standard Order of Conditions and with the Special Condition that the site plan be revised to show the footprint of the building and that all plantings are of native species and approved by the Conservation Agent, Mark Irving seconded and it was so voted, 3-0.

c) **Request for Determination of Applicability**
CON #17-042 - 101 Commercial Street

Application by **Gregory Connors** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and to the Provincetown Wetlands Protection By-Law, Chapter 12, for replacing a pre-existing concrete wall along Commercial St. and replacing/extending a timber wall along the southwest property line with a 16” high brick landscape wall and picket fence on top of the wall. The work will take place within Land Subject to Coastal Storm Flowage and the 100’ Buffer to a Coastal Beach.

Presentation: Don DiRocco and Leif Hamnquist, both of Hammer Associates, appeared to present the application. Mr. DiRocco stated that an existing 3’ high concrete block retaining wall that runs along Commercial Street and an existing timber wall along the southwest property line would be removed and the latter replaced with a 16” high brick curb with a 26” high picket fence. The brick curbing will sit on a 9” thick, 12” wide concrete footing, 2” below grade, and will be located 3’ from the structure. The work will be done by hand and the construction of the footing and the laying of the brick will require no machinery. Fencing posts that are not on top of the brick curbing will be dug by hand and all elements for the wooden picket fence will be cut with standard electric hand tools. Materials will be stored on site and as far from the beach as possible. The limit of work will be delineated by marking flags and an entrenched silt fencing along the property line on Commercial Street and the southwest side of the property.

Public Comment: Michela Carew-Murphy and Clarence Walker spoke in opposition to the application. Lora Papetsas stated that she had photos of the concrete wall in front of the structure and that there was never a timber wall running north to south on the property. There was 1 letter in support of the project in the file.

Commission Discussion: The Commission questioned Mr. DiRocco and Mr. Hamnquist. The Commission was concerned about the effect of the proposed southwest elevation wall on coastal storm flowage, as it would present an obstruction to that flowage, and would like a professional opinion as to its effect. Mr. DiRocco stated that there would be backfilling behind the fence, within land subject to coastal zone flowage, an aspect of the project that was not included in the application. The Commission requested the submission of a separate Determination of Applicability for any proposed backfilling in that area.

Mark Irving moved to issue a Positive Determination of Applicability pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and to the Provincetown Wetlands Protection By-Law, Chapter 12, for the replacement of a pre-existing concrete wall along Commercial St. and replacing/extending a timber wall along the southwest property line with a 16” high brick landscape wall and picket fence on top of the wall with the conditions that an engineering report stating that the southwest wall will do no harm and a planting plan be submitted with the Notice of Intent application, Alfred Famiglietti seconded and it was so voted, 3-0.

d) **Administrative Reviews**

CON #17-038 – 97 Commercial Street (*postponed from September 6th*)

Application by for the construction of a fence at **97 Commercial St.** on a Coastal Beach and LSCSF Zone VE following a Violation Notice issued on 8/23/16 by the Department of Community Development (letter in packet).

Presentation: Linda Glenn appeared to present the application. She explained that she had replaced a fence on the east side of the property that had been removed as a result of construction activities taking place at 99 Commercial Street. A 4' barrier, to keep dogs from exiting the deck and comprised of a combination of the building itself and some board and wire, was previously located there. The fence company that she hired to erect the fence informed her that no permits were needed. She had a 6' lattice fence put up in order to provide light and air to a bathroom window on the cottage directly abutting the fence.

Public Comment: Clarence Walker asked whether fences were under the Commission's jurisdiction, as he thought that they were under the Historic District Commission's. Michela Carew-Murphy and Lora Papetsas spoke in support of the fence.

Commission Discussion: The Commission discussed the fence. Ms. McPherson provided background information on the issue of the fence.

Dennis Minsky moved to approve the Administrative Review for the construction of a fence at 97 Commercial St. with the Standard Order of Conditions and with the condition that the applicant inform the Conservation Agent if the HDC requires any changes to the fence, Mark Irving seconded and it was so voted, 3-0.

3) **Enforcement Order:**

ENFCON #17-007 – 577 Commercial Street

Ratification of an EO issued for the release of raw sewage on sand as a result of a broken sewer pipe underneath the building. The property owner was ordered to excavate the contaminated sand, apply a 5% chlorine bleach solution, test the remaining soil and backfill with clean, compatible sand.

Dennis Minsky moved to approve the Enforcement Order with Attachment A, with all work to be completed by October 13, 2016, Alfred Famiglietti seconded and it was so voted, 3-0.

4) **Conservation Agent Report:**

Ms. Albenberg stated that the property owner is on schedule with her benchmarks for remediation of the site.

5) **Information:**

a) **MACC trainings:** Fall Fundamentals for Conservation Commissioners Webinars

- Unit 102: The Wetlands Protection Act: Fundamentals, Process and Procedures - Wednesday, September 28 – 5:45 P.M. – 8:30 P.M.
- Unit 104: Wetland Functions and Values
Wednesday, October 5 – 5:45 P.M. – 8:30 P.M. via Webinar

b) **Administrative Review Applications Approved by Agent** with Standard Order of Conditions

- i) CON #17-043: **600 Commercial Street** – Implementation of planting plan following renovation of two structures on developed property.
- ii) CON #17-048: **21 Dewey Avenue** – Replace roof and sidewalk.
- iii) CON #17-049: **555 Commercial Street** - Remove existing slider and replace in kind.
- iv) CON #17-045: **8 Winston Avenue** – Replace windows and doors, exterior trim and siding and remove two locust saplings touching east side of house.
- v) CON #17-052: **9 Shank Painter Road** – Install new sidewall shingles on south and east side of structure.

6) **Approval of Minutes: September 6, 2016:** *Dennis Minsky moved to approve the language as amended, Alfred Famiglietti seconded and it was so voted, 5-0.*

7) **Any Other Business:**

Dennis Minsky said he got an email from David Hale about spraying the vegetated area around the Fire Station in the very early hours of the morning. He forwarded the email to the DPW. Rich Waldo, DPW Director said that the spray was organic and it was done early in the morning because the company doing the spraying had a busy schedule. Mr. Minsky suggested that the Commission revisit the Department of Public Works protocols in regard to pesticides and herbicides.

The Commission will discuss the local MESA by-law Standard Orders of Conditions at the next Work Session.

ADJOURNMENT: *Mark Irving moved to adjourn the Public Meeting at 7:45 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2016
Dennis Minsky, Chair