

PROVINCETOWN CONSERVATION COMMISSION
TOWN HALL AUDITORIUM
February 7, 2017
6:00 P.M.

Members Present: Dennis Minsky, Nathaniel Mayo, Gregory Howe and Robert Brock.

Members Absent: Mark Irving (excused), Alfred Famiglietti (excused) and Kiah Coble (excused).

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

WORK SESSION

Chair Dennis Minsky called the Work Session to order at 6:04 P.M.

- 1) Discussion of proposed performance standards for jurisdictional MESA resource areas: Mr. Minsky briefly explained the local by-law to new Commissioners. The Commission briefly discussed his latest draft of proposed performance standards.

- 2) Discussion of options for review of tree removal applications when tree care professionals deem trees hazardous: Ken MacPhee of Bartlett's Tree Service participated in the Commission's discussion of options, explaining his criteria for determining if trees are hazardous.

- 3) Discussion of thresholds for review: window and door replacement, roofing and siding: Ms. McPherson said that she didn't think that window and door replacements, roofing or siding and solar panel installation, as long as it involved a pre-existing structure, within the wetland or 100' buffer needed to be reviewed by the Commission. The topic was briefly discussed. She suggested that the Building Commissioner, Anne Howard, be invited to the next meeting to talk about how building permits include safeguards that protect work areas and address the Commission's concerns.

PUBLIC HEARING

Chair Dennis Minsky called the Public Hearing to order at 6:37 P.M.

- 1) **PUBLIC COMMENTS:**
None.

- 2) **PUBLIC HEARINGS:**

b) Case # CON-17-119: **4 Maple Court** DEP File # 058-0554

Request for a **Certificate of Compliance** by **Paul R. Schofield** and **Andrew Jorgensen** pursuant to the Massachusetts Wetland Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetland Protection By-Law, to build a second floor addition. The work was never started and will not go forward under the above-referenced DEP File Number. Work was to take place within the 100-foot Buffer Zone Bordering Vegetated Wetland and within NHESP Estimated and Priority Habitat.

Presentation: No one was present to discuss the Certificate. Mr. Minsky reviewed the matter for new Commissioners.

Public Comment: None.

Commission Discussion: The Commission discussed the matter.

Robert Brock moved to issue a Certificate of Compliance to build a second floor addition at the property located at 4 Maple Court, Dennis Minsky seconded and it was so voted, 4-0.

c) Case # CON-17-121: **244 Bradford Street, Unit B**

Request for a **Determination of Applicability** by **Christopher Gage** pursuant to the Massachusetts Wetland Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetland Protection By-Law, to place a 9' by 13' shed on footings within a patio and parking area. Work to take place within Land Subject to Coastal Storm Flowage

Presentation: Robert Diago, on behalf of Christopher Gage, appeared to discuss the application. He said the project involved the installation of a 120 sq. ft. shed 9' in height in a parking and patio area. Mr. Minsky reviewed the project and the issues that Commissioners should consider in making a decision.

Public Comment: None.

Commission Discussion: Ms. Albenberg said she would recommend that the Commission grant the project a Negative #2 Determination and then defined that designation.

Gregory Howe moved to grant a Negative #2 Determination to place a 9' by 13' shed within a patio and parking area, Dennis Minsky seconded and it was so voted, 4-0.

d) Case # CON-17-124: **262A Bradford Street**

Local By-Law Filing by **Homeport Condominium Association** pursuant to the Provincetown General By-Laws Chapter 12, Wetland Protection By-Law, to remove 3 dead trees and 1 live tree. Work to take place within the 100-foot Buffer Zone to an Isolated Vegetated Wetland and the 100-foot Buffer Zone to Isolated Land Subject to Flooding.

Presentation: Ken MacPhee appeared to present the application. He explained that the applicant sought to finish the removal of 1 dead swamp maple located behind parking spot #4 and 1 living black oak located on the right side of cottage #4. The black oak has two large open cavities and root rot and has been determined to be hazardous. A dead black locust located at the left rear of the garage and a dead sassafras at the rear of Unit 1, have already been removed. In place of the live oak, he said 3/15-gallon Eastern redbud trees would be planted close to the driveway to the left of the garage and 3/5-gallon highbush blueberry shrubs would be planted in that area as well and 3/3-gallon Summersweet clethra shrubs would be planted where the black oak was located. He said that the Condominium Association would be responsible for watering the new plantings.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. MacPhee. Mr. Minsky reminded him that new plantings are required to survive for a period of three years.

Nathaniel Mayo moved to approve the Local By-Law Filing to remove 3 dead trees and 1 live tree at the property located at 262A Bradford Street with the conditions that any new plantings survive for at least three years and that a planting plan be submitted to the Conservation Agent once the new vegetation has been planted, Dennis Minsky seconded and it was so voted, 4-0.

e) Case # CON-17-125: **455 Commercial Street**

Request for a **Determination of Applicability** by **Michael Fernon** pursuant to the Massachusetts Wetland Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetland Protection By-Law, to remove an ailanthus tree at the southeast corner of the building foundation and a shrub at the southeast corner of the property. Work to take place within the 100-foot Buffer Zone to a Coastal Beach and Land Subject to Coastal Storm Flowage.

Presentation: Chris Lucy appeared to present the application. He explained the position of the ailanthus, which is undermining a foundation. The shrub in question is damaging a nearby fence and the applicant would like it removed.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Lucy and discussed mitigation. The Commission discussed with staff what designation to grant the project.

Nathaniel Mayo moved to grant a Negative #2 and #3 Determination to remove an ailanthus tree on the southeast corner of the building foundation and a shrub on the southeast corner of the property with the condition that the shrub being removed be replaced with a native shrub with the requirement that it survive for three years, Gregory Howe seconded and it was so voted, 4-0.

The Commission discussed what types of conditions are placed on building permits that may overlap with the Commission's conditions with the Building Commissioner, Anne Howard. Mr. Minsky suggested eliminating the category of projects that require Administrative Review by the Conservation Agent. The Commission discussed the issue with staff.

3) **Conservation Agent Report:**

a) 350 Bradford St.: Ms. Albenberg reported that footings are being installed in the rear of the property and the silt fencing on the west side of the property is fine, however along Commercial Street, the land subject to coastal storm flowage, it is not properly entrenched.

b) 29 Point St.: She said that the silt fencing on the property is not entrenched and was installed to be removable. The situation has been rectified. She said the slope on the property has been stabilized. The foundation has been completed.

c) 951R Commercial St.: She reported that 3 pitch pines had been cut on the property, only one of which was located within the buffer zone to the coastal beach. She recommended to the property owner that he hire a tree care professional to smooth out the cuts in hopes that the trees would survive. No violation notice or enforcement order has been issued. No one knows who cut the pines. She suggested having the property owner to report back to the Commission after 6 months concerning the trees' survival. Ms. McPherson suggested doing a site visit to determine the condition of the trees and if they needed to be replaced, the Commission could

require the property owner to do that. Mr. Minsky said to put it on the next agenda for further discussion and invite the property owner to the next meeting.

d) 539 Commercial St.: The helical piles have been installed and concrete will be poured by the end of week. The turtle-stranding protocol has been given to the contractor on the job.

e) 288 Bradford St.: No construction has begun, but the pre-construction meeting has occurred and material has been staged in the parking area.

f) 4 Maple Ct.: A pre-construction meeting has been held. Logs had been placed along the bottom of the silt fencing, so she requested that it be entrenched and the logs removed. Only interior work is being done at this point. Vegetation will be photo-documented before it is removed.

4) **Information:**

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

- i) Case # CON-17-120 **59 Provincelands Road** Replace front walkway;
- ii) Case # CON-17-122 **21 Commercial St.** Re-shingle east wall of existing structure;
- iii) Case # CON-17-123 **945 Commercial St.** Re-shingle Buildings #6, 9 & 10 and replace stairs and landings on Building #9; and
- iv) Case # 17-127 **611 Commercial St.** Replace 11 windows.

b) **MACC Annual Conference:** Saturday, March 4th at the College of Holy Cross, Worcester, MA.

c) Massachusetts Land Conservation Conference: March 25, 2017 at Worcester Technical High School in Worcester, MA.

5) **Approval of Minutes 1/17/17:**

Dennis Minsky moved to approve the minutes of January 17, 2017 as written, Nathaniel Mayo seconded and it was so voted, 4-0.

6) **Any other Business:** Mr. Minsky directed the Commission's attention to the Annual Town Report.

He said that he and Ms. McPherson met with the new Finance Director, Josee Cardinal Young, to discuss Conservation accounts.

He also mentioned that Ms. Albenberg has recruited Steven Smith, the National Seashore plant ecologist, to do a spring site visit to Town Conservation land.

Mr. Minsky announced that it was Ms. Albenberg's last Commission meeting and thanked her for her hard work.

ADJOURNMENT: *Dennis Minsky moved to adjourn the Public Hearing at 7:45 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2017
Dennis Minsky, Chair