

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
October 17, 2017
6:30 P.M.

Members Present: Dennis Minsky, Alfred Famiglietti, Nathaniel Mayo, Gregory Howe and Kiah Coble.

Members Absent: Robert Brock (excused).

Others Present: Tim Famulare, Conservation Agent and Ellen C. Battaglini, Permit Coordinator.

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

1) **Public Comments:**
None.

2) **Public Hearing:**

a) **CON-18-036 1 Bayberry Avenue**

Request for Determination of Applicability filed by **Janet Bustrin** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the removal of pine and oak trees. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Bordering Vegetated Wetland.

Presentation: Chris Lucy appeared to present the application. He reviewed the project that includes the removal of pine and oak trees by cutting them flush to the ground by hand. There will be no soil disturbance and the debris will be run through a chipper to a truck.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Lucy. Mr. Famulare reviewed draft conditions.

Alfred Famiglietti moved to grant a Negative #3 Determination pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the removal of pine and oak trees at the property located at 1 Bayberry Avenue, CON-18-036, with the conditions drafted by the Conservation Agent and with the additional conditions that if any vegetation is damaged it is replaced and that the Agent do site visits before the start of the project and after its completion, Gregory Howe seconded and it was so voted, 5-0.

b) **CON-18-037 561 Commercial Street**

Request for Determination of Applicability filed by **River Hawk Environmental, LLC**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the remediation of a release of fuel oil, to include soil removal and off-site recycling, abandonment of a former septic tank, the installation/operation of a soil vapor extraction system and site restoration work. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation: Bill Kenney, of Riverhawk Environmental, appeared to present the application. He had submitted a description of the release incident, the response actions conducted to date and the anticipated response actions. He reviewed the remediation document and said that the response

actions will be conducted in accordance with the Immediate Response Action provisions of the Massachusetts Contingency Plan. He explained the process of soil vapor extraction that will be implemented during the project, which will take approximately 6 months to complete.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Kenney. Mr. Famulare reviewed draft conditions.

Alfred Famiglietti moved to grant a Negative #3 Determination pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws, Chapter 12, Wetlands Protection By-Law, for the remediation of a release of fuel oil, to include soil removal and off-site recycling, abandonment of a former septic tank, the installation/operation of a soil vapor extraction system and site restoration work at the property located at 561 Commercial Street, CON-18-037, with the conditions as discussed, Dennis Minsky seconded and it was so voted, 4-0-1 (Nathaniel Mayo abstaining).

d) CON-18-019 157A Commercial Street and 0 Atlantic Avenue Foot (continued from the meeting of October 3, 2017)

Notice of Intent by Alfred P. Famiglietti & James M. Staniscia and the Town of Provincetown pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to construct a vinyl bulkhead and an access stairway to the beach. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Dune and a Buffer Zone to a Coastal Beach. Alfred Famiglietti recused himself because of a conflict of interest. There was a request from the applicants to continue the November 7, 2017 Public Hearing. ***Nathaniel Mayo moved to grant the request to continue CON-18-019 to the November 7, 2017 Public Hearing at 6:30 P.M., Gregory Howe seconded and it was so voted, 4-0.***

3) **Request for Certificate of Compliance**

a) CON-18-031 – 10 Meadow Road (continued from the meeting of October 3, 2017)
Request for Certificate of Compliance by Thomas Sproat for the Order of Conditions (DEP File No. SE 058-0528) issued to Leslie Starr, dated October 6, 2014, to repair a boulder retaining wall. Mr. Famulare said that he has heard from Safe Harbor that re-vegetation at the bottom of the slope had been completed, however he is still waiting for a letter of substantial compliance from the engineer. He suggested that it be removed from the agenda until the request is complete.

b) CON-18-038 – 47 Commercial Street
Request for Certificate of Compliance by Main Residence Labrador Landing, LLC, for the Order of Conditions (DEP File No. SE-058-0386) issued to David Martin, dated July 18, 2005 (work never commenced/expired Order of Conditions. Mr. Famulare reviewed the project and its history. The owner of the property has decided not to move forward with the project and is seeking a Certificate of Compliance for work not done.

Dennis Minsky moved to grant a Certificate of Compliance for an expired Order of Conditions for CON-18-038, 47 Commercial Street, as work on the project never commenced, Gregory Howe seconded and it was so voted, 5-0.

4) **Conservation Agent Update**

Mr. Famulare reminded the Commission of the Massachusetts Association of Conservation Commissions conference the weekend of October 28th and asked that if Commissioners were interested to contact him.

5) **Approval of Minutes of October 17, 2017**: *Dennis Minsky moved to approve the language as written, Alfred Famiglietti seconded and it was so voted, 5-0.*

6) **Information**:

Administrative Review applications approved by Agent:

a) **CON-18-029 25 Winthrop Street** – removal of willow tree;
b) **CON-18-035 1 Bayberry Avenue** – removal of tree limbs, dead trees and vista pruning.

c) **CON 18-017 67 Harry Kemp Way** (*continued from the meeting of October 3, 2017*)

Local By-Law Filing by **Demetrios Daphnis**, pursuant to Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law, for the construction of four residential buildings, walkways, driveway, parking spaces, septic system, grading, landscaping and native plantings. Work to take place within Buffer Zone to an Isolated Vegetated Wetland. Nathaniel Mayo recused himself because of a conflict of interest.

Presentation: Demetrios Daphnis and Paul Shea appeared to present the application. Mr. Shea reviewed the revised site plan, which showed a change in Building #5. It indicates that the project proposed to cut off a section of the building by about 15' to reduce its impact on the abutting 100' buffer zone to the isolated wetland. The result will be a structure at a distance of 65' and 68' from the resource area. He mentioned the proposed mitigation plantings within the 50' and 100' buffer zone and that the trees that needed to be removed had been marked at the site. Mr. Daphnis reviewed the landscape and vegetation aspect of the site plan.

Public Comment: None.

Commission Discussion: The Commission and Mr. Famulare questioned Mr. Daphnis and Mr. Shea about the landscape plan. Mr. Famulare said that the plan that was labeled 'Preliminary' needs to be modified to reflect the changes as discussed and stamped by a licensed engineer. Mr. Shea requested that the Commission approve the project and a finalized plan would be submitted at a later date. The Commission requested the final plan before its approval of the project. The applicant agreed to submit the revised site plan by October 31st in order that the Commissioners have enough time to review it before the next meeting. Mr. Famulare brought the Commission's attention to Special Condition #24 on his draft conditions regarding *Phragmites* control and the requirement that the applicant limit the growth landward of the existing edge of the wetland line in perpetuity. He proposed the application of a foliar herbicide by the applicant and the submission of a vegetation management plan before construction begins to potentially reflect that. He suggested that more information about types, techniques and the use of herbicides be given to the Commission. The Commission discussed the issue with Mr. Shea. The Commission requested that both Mr. Shea and Mr. Famulare obtain more information about the process. The Commission will have a policy discussion about the issue at the next meeting.

Dennis Minsky moved to grant the continuance of CON 18-017 to the November 7, 2017 Public Hearing at 6:30 P.M., Gregory Howe seconded and it was so voted, 4-0.

7) **Any other business that shall properly come before the commission:** None.

ADJOURNMENT: *Nathaniel Mayo moved to adjourn the Public Hearing at 8:00 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2017
Dennis Minsky, Chair