

**PROVINCETOWN CONSERVATION COMMISSION**  
**October 13, 2009**  
**6:30 P.M.**

**Members Present:** Dennis Minsky, Lynne Martin, David Hale, Jack McMahon and Richard Silver.

**Members Absent:** None.

**Others Present:** Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

**PUBLIC HEARING**

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

**PUBLIC STATEMENTS:**

None.

**MINUTES:** Approval of the minutes is postponed until later in the hearing.

**OLD BUSINESS:**

*Notice of Intent* (continued from September 22, 2009)

Application by **Donald E. Cote & Kenneth J. Kruse**, represented by David LaJoie, of Felco, Inc., for a **Notice of Intent** under the Provincetown Wetlands By-Law Chapter 12. The applicant proposes construction of a single family dwelling and drive within the 100' buffer zone of an isolated wetland at the property located at **33 Pilgrim Heights Road** in Provincetown.

**Presentation:** Kenneth J. Kruse and Donald E. Cote appeared to discuss the application. Mr. Kruse first reiterated that MESA did approve of the project. He then discussed their planting plan that was previously submitted to the Commission. The applicants stated that they had consulted with the Cape Cod Cooperative Extension about what to plant within a hundred feet from a wetland. They also stated that they could not enlist the services of a landscape architect, which are quite expensive, on short notice and they felt that their money would be better spent on buying plants. They have removed the burning bushes, the locusts and the rosa rugosas on the property.

**Public Comment:** Greg Berman, a coastal specialist with the Cape Cod Cooperative Extension, stated that the Extension has master gardeners on staff who will provide information about indigenous plants to the Commission.

**Commission Discussion:** The Commission questioned Mr. Kruse and Mr. Cote. Dennis was concerned about several non-indigenous plants, including the boxwood, the Japanese willow, the hydrangeas and the hostas, on the plan. He suggested that replacements be made for these plants. Mr. Kruse agreed and suggested replacing the boxwoods with bayberry, the hydrangeas with St. John's Wort, the lamium with bearberry, the hostas with bayberry or St. John's wort and the Japanese willow with Salix discolor. Dennis was uncertain about whether the creeping juniper

was indigenous, but Mr. Kruse agreed that a native juniper or other species would be used instead. The Commission agreed with the changes in the plantings. The applicants agreed to update their planting plan to reflect the changes discussed and submit it to the Commission. *Lynne Martin moved to approve the Notice of Intent under the Provincetown Wetlands By-Law Chapter 12 proposing the construction of a single family dwelling and drive within the 100' buffer zone of an isolated wetland at the property located at 33 Pilgrim Heights Road in Provincetown with the Standard Order of Conditions, contingent upon the applicants submitting a revised landscape plan, including an index of plantings, reflecting the changes as discussed with the Conservation Commission, a maintenance plan that will provide for the survival of the plants for 3 years and the removal of all invasives, David Hale seconded and it was so voted, 5-0.*

## **NEW BUSINESS:**

### **Request for an Extension of an Order of Conditions**

Application by **Demetrios Daphnis**, represented by **William N. Rogers II**, requesting a three year extension of an Order of Conditions issued under DEP Permit SE 058-0414 for the property located at **67 Harry Kemp Way** in Provincetown.

**Presentation:** William N. Rogers, II appeared to present the request. He stated that Mr. Daphnis does not currently have the funding to proceed with the project and would like an extension of the Order of Conditions.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rogers. It was noted that no work had begun on the project and, since the granting of the Notice of Intent, the local wetland regulations have been revised. Several of the Commissioners were not familiar with the file. Dennis suggested that the Commissioners review the file before a decision is rendered. Dennis would also like to consult with DEP about the project. Mr. Rogers will consult with Mr. Daphnis, Attorney Christopher J. Snow and Paul Shea before the next hearing. The Commission decided to schedule a site visit on October 27, 2009. The Request for an Extension is continued until the next hearing.

## **ADMINISTRATIVE REVIEWS:**

333R Commercial Street – Application by William N. Rogers, II requesting the approval of an updated Chapter 91 plan.

**Presentation:** William N. Rogers, II appeared to discuss the application. The Commission has already approved a site plan for the premises as part of a Notice of Intent granted to the project in 2008. However, in order to obtain a Chapter 91 license for the premises, changes were requested as a result of negotiations with the Harbor Committee and the State. Mr. Rogers presented the revised site plan, dated September 22, 2009, incorporating the proposed changes. He explained the changes and the reasons why the Harbor Committee and the State requested them. One of the changes requested involves creating a 35' strip of beach for vehicle traffic movement and access to the working waterfront, along with a 15' area for activation of the waterfront. There would be dinghy tie-ups, 10' on center, located at the seaward edge of that activation area. The proposed planting of *rosa rugosa* will be contained in a 5' wide strip on the eastern side of the property and continue down to the seaward edge of the area of activation. There will also be posts, 5' on center, at the eastern edge of that strip to prevent traffic from accessing the beach in that area.

*Lynne Martin moved to approve the updated Chapter 91 plan for the property located at 333R Commercial Street, Dennis Minsky seconded and it was so voted, 5-0.*

7 Harbour Drive – Application by Bay Harbour, LLC I manager Jason Stone requesting a review of proposed revisions to the Orders of Conditions issued under DEP Permits SE 058-0384, SE 058-0403 and SE 058-0455.

**Presentation:** The applicant did not appear. The requested revisions to the approved plan involve a slight adjustment to the terrace layout, the addition of a platform for an outdoor shower, the addition of a few stepping stones and a minimal revision to the planting design within the 50' buffer zone.

**Commission Discussion:** The Commission discussed the proposed revisions. The Commission could not discern where the outdoor shower, for which a platform has been requested, was located on the original plan. The Commission would like to do a site visit. The Commission decided to deny the proposed revisions and request that the applicant file for an Amended Order of Conditions for the property.

945 Commercial Street – Application by Oceanside Condominium Trustees requesting permission to maintain a foot path to the beach and the removal of beach grass.

**Presentation:** Linda Balestrieri, on behalf of the Oceanside Condominium Trustees, appeared to discuss the application. A letter, written by the Trustees and submitted to the Commission, requests approval for the removal of beach grass on a pathway from Buildings 9 and 10 to the high water line in order to create better access to the beach and for the protection of people accessing the beach against ticks, which are located on the beach grass. In addition to these reasons, the letter stated, people are trampling the beach grass because of the narrowing of the pathway. The request is to create a pathway 82' wide for a distance of 35' to 40' from the wooden walkway behind Buildings 9 and 10 and then narrowing the width to 30' to 35' until the high water line is reached.

**Commission Discussion:** The Commission questioned Ms. Balestrieri. Dennis stated that straight paths lead to blow-outs and increased erosion on beaches. He suggested that a zig-zagging pathway be established for better beach stabilization. He also suggested that there be adequate signage to indicate where people should walk. Brian and several of the Commissioners will meet with Ms. Balestrieri for a site visit. They will continue the discussion until the next hearing.

**Public Comment:** Greg Berman agreed with the Commission that a zig-zagging pathway to the beach would be the best configuration for the pathway. He also suggested snow or sand fencing or a planting of *rosa rugosa* to delineate the pathway.

## **DISCUSSION:**

**Greg Berman – Cape Cod Cooperative Extension and the Woods Hole Oceanographic Institution** - Mr. Berman was invited by the Commission to discuss the issue of beach raking, in anticipation of the Commission's hearing in regard to that issue. He also discussed other coastal processes, including beach nourishment, with the Commission. He indicated that beach cleaning was a hot topic these days and concerns the public's use of a town's natural resources and the aesthetic and health issues and the derogation of habitat that excessive seaweed and trash on a beach can create. Within seaweed there can be bacteria and other potential health hazards present. However, on the positive side, seaweed can provide the same kind of baffling that beach

grass provides for sand deposition and it can trap and mix seeds of different vegetations and can help dunes get started. Beach raking can inhibit the formation of dunes. And beaches with dune systems are more storm resilient than flat beaches. The Commission questioned Mr. Berman about the Town beaches and about its concerns related to beach cleaning in particular.

Mr. Berman had made site visits at several places along the Bay beach earlier in the day. He told the Commission that he will examine in more depth the sites he visited when he gets back to his office and compare what he saw with some older aerial photographs to note what changes have occurred.

The Commission questioned Mr. Berman about the issue of beach nourishment. He stated that the best way to look at a beach is as part of a littoral system. The sand moves along the beach in a certain direction at a pace that varies. It can move very little from one day to the next, but during a major storm it can move a great distance in a short period of time. Groins, jetties and other hard structures interrupt the flow of sand, with accretion occurring on the one side and starvation on the other. Eventually the accretion will get out past the groin, but it stalls the sediment flow. A lot of the hard structures present were built 60 or 70 years ago and we are starting to see a lot more of the effect of those structures on beaches, combined with the rise in sea level. When you are looking to improve storm resiliency and beach width for recreational purposes, there are only so many ways to do it without using hard structures. Beach nourishment is the only way to introduce more sand into the system. Another consideration in beach nourishment is where to put the material so that it reaches the area to be nourished and the sources for material to nourish the beach. It is very difficult to get off shore sources and upland sources create problems due to the logistics of transportation of the material. The Commission questioned Mr. Berman about beach nourishment and local dredging.

**Browne Street Community Garden developments** – There have been no new developments since the last hearing. The advisory group is meeting on Thursday.

**Americorps service member introduction and scope of work** – Ryan is the new Americorps service member. Brian requested suggestions for project ideas. Lynne mentioned working on the Commission's database.

### **CONSERVATION STATEMENTS:**

Dennis discussed a complaint he got from Chris Snow that Mike Winkler was back-filling with beach material an area where a new deck had just been installed near Mr. Snow's house. When Dennis called Mr. Winkler, he claimed that he wasn't back-filling, but had only stabilized his crane with a couple of scoops of sand. Dennis requested that he not do that until it was known whether he was allowed to do it. Dennis had also spoken with Mr. Winkler concerning parking his crane on the Kendall Lane Town Landing access. Mr. Winkler promised not to park his crane there anymore. The Commission discussed the issue. Brian will call and write a letter to Mr. Winkler.

David reported on a significant algae bloom at the Browne Street end of Shank Painter Pond that has appeared the last two summers. It has covered most of the Pond. Dennis will call Steve Smith from the National Seashore about the algae.

The phragmides issue at Shank Painter Pond still needs to be dealt with.

Mark Adams is looking for some Town's people to come out and help plant beach grass.

**MINUTES: September 8, 2009** – *David Hale moved to approve the language as written, Dennis Minsky seconded and it was so voted, 3-0-2 (Jack McMahon and Richard Silver abstaining).*

**ADJOURNMENT:** *Lynne Martin moved to adjourn at 8:30 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2009.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2009  
Dennis Minsky, Chair