

# PROVINCETOWN CONSERVATION COMMISSION

April 28, 2009

6:30 P.M.

**Members Present:** Dennis Minsky, Jack McMahon and Richard Silver.

**Members Absent:** Lynne Martin (excused) and David Hale (excused).

**Others Present:** Ellen C. Battaglini (Recording Secretary).

## PUBLIC HEARING

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

### PUBLIC STATEMENTS:

None.

**MINUTES:** April 14, 2009 – Postponed.

### NEW BUSINESS:

#### Notice of Intent

Application by **Jason Stone**, for **Notices of Intent** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes landscaping, grading, alterations and filling activities within upland areas within land subject to coastal storm flowage at lots 12, 13, 14, 15, and 16 at the properties located at **6, 7, 8, 9 and 10 Harbour Drive** in Provincetown.

**Presentation:** Paul Shea, Billy Rogers, Patrick Eeley and Jason Stone appeared to present the application. The proposed project includes landscaping, grading and filling activities, replanting of coastal beach areas and a making a pathway to the coastal beach and water. Proposed landscape plantings will be native salt-tolerant plant and coastal grass species, which can survive the conditions of a coastal environment. Efforts will be made to encourage the enhancement and stabilization of the protective coast dunes within the property. Snow fencing will be installed at the seaward limits of the coastal dune to help trap wind-blown sand, and add to the elevations of the coast dunes. Informational signs will be installed at the coastal dunes in order to prohibit and discourage pedestrians from walking through coastal dunes. The clean-up of the coastal beach and the removal of seaweed from the coastal beach are also proposed. Mr. Shea reminded the Commission that all of Mr. Eeley's landscaping design elements have already been approved under the 5 Notices of Intent approved by the Commission in February. The Commission had informed the applicant at the time of the approval of the landscaping plans that he would have to return with a new Notice of Intent filing for any request for grading at the site. The applicant is now proposing grading to raise elevations around the corners of the buildings on site. The proposed grading was not shown on the previously approved landscaping plans. The plan before the Commission now contains all of the landscaping design elements previously approved, all on one plan. The final grade changes being requested are, according to Mr. Shea, not significant, between 6" and 12". He then gave the Commission a brief history of what's already been done at the property since the Tides Motel was demolished. The Commission had requested that the original owner/applicant, Bill Gordon, put a line of hay bales on the beach to prevent debris from reaching the coastal waters. Since that time, and because of the absence of the Tides Motel which served to block the landward movement of sand on the beach, there has been a build-up of sediments and sand accretion at that line. The plan before the Commission shows the proposed grading in order to match that hay bale line. Mr.

Shea also informed the Commission that Natural Heritage is only interested in protecting the beach seaward of the hay bale line because it is habitat for the Least Tern. The applicant has made a MESA filing to the NHESP for review and comment for the proposed activities in their area of interest. Any special conditions required by NHESP will become part of the Commission's Order of Conditions. Mr. Rogers then spoke to the grading issue around the corners of the building, some of which is a result of the septic systems approved by the Board of Health. He explained that the elevations have changed since the hay bales were installed and the applicant seeks to level the ground off at the property. Finally, Mr. Eeley explained to the Commission that the applicant would like to plant native beach grass and capture and hold the sand that has accreted at the line of the hay bale, in order to build up and stabilize the dune. They would also like to mask some of the foundations on site.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Shea, Mr. Rogers, Mr. Eeley and Mr. Stone. The Commission was concerned about the composition of any fill brought onto the site. Mr. Jason stated that there was quite a bit of fill already on-site. The Commission discussed whether to bring in an outside consultant to advise them about the grading issue.

*Jack McMahon moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 proposing the landscaping, grading, alterations and filling activities within upland areas and within land subject to coastal storm flowage at Lot 12 at the properties located at 6, 7, 8, 9 and 10 Harbour Drive in Provincetown with the Standard Order of Conditions, any Special Conditions, and with the Condition that the Conservation Agent, Brian Carlson, will inspect any additional fill before it is brought onto the site and will approve any requested beach clean-up on the site, Richard Silver seconded and it was so voted, 2-0-1 (Dennis Minsky abstaining).*

*Jack McMahon moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 proposing the landscaping, grading, alterations and filling activities within upland areas and within land subject to coastal storm flowage at Lot 13 at the properties located at 6, 7, 8, 9 and 10 Harbour Drive in Provincetown with the Standard Order of Conditions, any Special Conditions, and with the Condition that the Conservation Agent, Brian Carlson, will inspect any additional fill before it is brought onto the site and will approve any requested beach clean-up on the site, Richard Silver seconded and it was so voted, 2-0-1 (Dennis Minsky abstaining).*

*Jack McMahon moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 proposing the landscaping, grading, alterations and filling activities within upland areas and within land subject to coastal storm flowage at Lot 14 at the properties located at 6, 7, 8, 9 and 10 Harbour Drive in Provincetown with the Standard Order of Conditions, any Special Conditions, and with the Condition that the Conservation Agent, Brian Carlson, will inspect any additional fill before it is brought onto the site and will approve any requested beach clean-up on the site, Richard Silver seconded and it was so voted, 2-0-1 (Dennis Minsky abstaining).*

*Jack McMahon moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 proposing the landscaping, grading, alterations and filling activities within upland areas and within land subject to coastal storm flowage at Lot 15 at the properties located at 6, 7, 8, 9 and 10 Harbour Drive in Provincetown with the Standard Order of Conditions, any Special Conditions, and with the Condition that the Conservation Agent, Brian Carlson, will inspect any additional fill before it is brought onto the site and will approve any requested beach clean-up on the site, Richard Silver seconded and it was so voted, 2-0-1 (Dennis Minsky abstaining).*

*Jack McMahon moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12 proposing the landscaping, grading, alterations and filling activities within upland areas and within land subject to coastal storm flowage at Lot 16 at the properties located at 6, 7, 8, 9 and 10 Harbour Drive in Provincetown with the Standard Order of Conditions, any Special Conditions, and with the Condition that the Conservation Agent, Brian Carlson, will inspect any additional fill before it is brought onto the site and will approve any requested beach clean-up on the site, Richard Silver seconded and it was so voted, 2-0-1 (Dennis Minsky abstaining).*

**Request for Determination of Applicability**

Application by the **Ice House Condominium** for a **Request for Determination of Applicability** under the Provincetown Wetland Bylaw, Chapter 12 and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40. The applicant proposes site work to include removing and replacing the existing wood frame decks, stairs and landings in their existing locations at the property located at **501 Commercial Street** in Provincetown.

**Presentation:** Billy Rogers and Rich Waldo appeared to present the application. The applicant seeks to replace a deteriorating stairways and a second floor deck on the structure located at the premises. A winding staircase to the deck will be replaced with a Code-compliant staircase. This will necessitate a small increase in the size of the deck. Everything is being replaced in its original location and the footprint of the structure will remain the same. Mr. Waldo stated that the applicant is considering Trex as a replacement material. The storage of materials and access to the site will be from the parking lot on-site.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rogers and Mr. Waldo.

*Jack McMahon moved to grant a Negative #3 Determination for the proposed site work to include removing and replacing the existing wood frame decks, stairs and landings in their existing locations at the property located at 501 Commercial Street in Provincetown, Dennis Minsky seconded and it was so voted, 3-0.*

**DISCUSSION:**

6 DUNCAN LANE: Dennis reported that he told the owners to appear at the next hearing on May 12, 2009, to discuss the project on their property as there is a small Commission seated at this hearing.

**CONSERVATION BOARD STATEMENTS:**

Dennis informed the Commission that Mark Adams has confirmed a date for a public forum on Herring Cove Coastal Change on May 27, 2009, at 5:00 P.M. at the Center for Coastal Studies. The forum is co-sponsored by the Seashore, the Conservation Commission and the Center for Coastal Studies. It is an informational hearing concerning future activities at Herring Cove.

There will be a work party with the Seashore to fence-off some areas out in the dunes between Herring Cove and Wood End, but that has not yet been scheduled.

The Commission briefly discussed the interpretive signs at Nicky's Park that had been spray-painted.

Dennis announced that the Commission had obtained the full grant for the purchase of the Browne Street lots.

Dennis is asking for anyone's help in transporting plants for Shank Painter Pond Sanctuary from Amherst to Provincetown. Otherwise it will cost the Commission \$660.00 for that delivery. Richard Silver will look at his schedule and get back to Dennis.

**ADJOURNMENT:** *Jack McMahon moved to adjourn at 8:15 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