

**PROVINCETOWN CONSERVATION COMMISSION**  
**JUDGE WELSH ROOM**  
**February 7, 2012**  
**6:30 P.M.**

**Members Present:** Dennis Minsky, Lynne Martin and Barbara Prato.

**Members Absent:** David Hale (excused) and Hank Janowsky (excused).

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

**WORK SESSION**

Chair Dennis Minsky called the Work Session to order at 6:31 P.M.

**PUBLIC STATEMENTS:**

None.

**MINUTES: January 31, 2012** – A quorum was not present to approve these minutes.

**OLD BUSINESS:**

***Notice of Intent** (continued from January 17, 2012)*

Application by **John Reed, II** for a **Notice of Intent** under the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include the installation of a dwelling, garage and permeable driveway at the property located at **3 Heathers Way** in Provincetown.

**Presentation:** William N. Rogers, II, John Reed, II and John Vosburgh appeared to discuss the application. Billy reported that MESA has signed off on the project. He has submitted plans, revised on January 18, 2012, which indicate the correct location of the 50' and 100' buffer zones. He explained that he had consulted with several attorneys and his previous assertion to the Commission that Conservation, Zoning and Septic Regulations in effect when a subdivision is formed are in effect for the seven years, was only partially correct. Zoning and Septic Regulations are in effect for seven years, but Conservation Regulations are not. Therefore, he asked that the Commission consider that if the current Conservation Regulations had been in effect when the subdivision was formed, that lot would not be buildable and would not even have been created. The lot was buildable at the time that the subdivision was formed.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rogers, Mr. Reed and Mr. Vosburgh. Dennis summarized the issue before the Commission as involving the proposed siting of the structure 63' from the buffer zone, 17' closer than the present Conservation Regulations allow. The septic system is already installed and the structure cannot be moved farther away from the resource area because of a regulation requiring that the septic system be separated from the structure by 10'. In light of this, Dennis stated that one option could include adequate compensatory mitigation that would end up in a net gain for the environment. These measures

would be undertaken by the applicant and at the applicant's expense. This would allow the Commission to avoid setting a precedent in allowing the project to move forward.

**Public Comment:** Mike Canazales suggested that the Commission consult with Town Counsel prior to requiring the applicant to undergo mitigation measures so as to avoid a potential lawsuit costing the Town a significant amount of money.

**Commission Discussion continued:** Dennis suggested that the mitigation could involve the applicant hiring an environmental expert to study how the resource area might be improved, such as the removal of invasives. The study could also include the resource area abutting properties owned by Mr. Rogers and the Town of Provincetown. After the applicant conferred with Mr. Rogers, he agreed to return to the Commission with two or three suggestions on how to improve the resource area abutting the property based on a wetland survey conducted by an environmental specialist. The applicant requested a continuance to the March 6, 2012 Public Hearing.

**Barbara Prato moved to grant the request for a continuance to the March 6, 2012 Public Hearing, Lynne Martin seconded and it was so voted, 3-0.**

**Notice of Intent** (continued from January 17, 2012)

Application by **Rob Anderson** for a **Notice of Intent** under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include an addition to an existing structure and related work at the property located at **225 Commercial Street** in Provincetown.

**Presentation:** Laura Schofield and Rob Anderson appeared to present the application. The project involves the construction of an addition onto the back of a building with smaller additions at the front and along the westerly side of the building. The construction access will most likely be available via the Seaman's Bank parking lot. There is a small yard area between the existing structure and a concrete retaining wall that separates the developed from the undeveloped positions of the property. It is anticipated that two trees may have to be removed to facilitate construction access and a staging area. If so, the tree(s) will be replaced upon completion of the project. No work will be performed within the Provincetown Harbor or the coastal beach. Minimal work within the coastal dune will include the replacement and maintenance of a small set of stairs to access the beach, the addition of a bench to comply with the site specific recommendations of the Harbor Plan, the removal of invasive species and the stumps and roots of previously-removed sumac trees and the planting of native vegetative species that would thrive in a dune setting such as American beach grass. This proposed vegetation will stabilize the dune as well as enhance wildlife habitat. The applicant has already been given permission by the Conservation Agent via Administrative Review, to remove ivy and other invasives at the property.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Schofield and Mr. Anderson. There has been no DEP file number assigned to the project yet, therefore the applicant requested a continuance to the February 21, 2012 Public Hearing.

**Barbara Prato moved to grant the continuance to the February 21, 2012 Public Hearing, Lynne Martin seconded and it was so voted, 3-0.**

***Notice of Intent*** (continued from January 17, 2012)

Application by **WK Red Clay, LLC** for a **Notice of Intent** under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include relocation and reconfiguration of two Phase II residential units and associated site work, including drainage system improvements and parking and driveway modifications within land subject to coastal storm flowage and the buffer zone of an isolated wetland at the property located at **21 Bradford Street Extension**, in Provincetown.

**Presentation:** Delwin Trent, Jim Watkins and Reggie Donoghue appeared to discuss the application. Mr. Watkins stated that they were appearing before the Commission to review its concerns about the changes they are requesting at the property. They did not have a site plan for the Commission to review, however they wanted to discuss the mitigation efforts that the Commission was requesting. This would allow them to develop a final site plan that the Commission could approve. Mr. Watkins reviewed the requests for changes in Phase II of the project: moving Buildings 13 & 14 and attaching them in a different way; adding an additional shed; reducing the size, by about 5', of the porches on Buildings 12 -15; increasing the number of parking spaces north of Building 17; changing the composition of the new parking spaces from gravel to pervious pavers; continuing the driveway, to be composed of asphalt, farther to the south of the property and increasing the parking spaces in that area; increasing the size of the rain garden to the south of the driveway; increasing the size and location of some of the patios; using pervious bluestone for the patios; and making the pathways functional by connecting the patios to the parking in order to protect the landscaping from pedestrian traffic. Per the previous concern of the Commission, the patio associated with Building 16 will be moved so it doesn't intrude into the buffer zone. Mr. Watkins also proposed that the green space, indicating mowed grass, as shown on the plan entitled, "Phase II Green Space and Mitigation Areas", that surrounds the tennis courts and the construction site will be left to grow back in its natural state. He would request that a 3-4' perimeter around the site remain for dog walkers and hikers and allow that area to remain for recreational purposes. The total mitigation area proposed is 99,070 sq. ft., however 3,056 sq. ft. was given back in the Phase I project, so the net new area is 69, 014 sq. ft.

**Public Comment:** Michelle Hunten, on behalf of the Hatches Harbor Condominium, and Tom Thompson spoke against the project. Mike Canazales, an abutter, spoke in favor of the project.

**Commission Discussion:** The Commission questioned Mr. Watkins, Mr. Trent and Mr. Donoghue. Dennis reviewed the Commission's previous concerns. The sense of the Commission was that the size of the proposed south turnaround should be reduced and that the proposed parking spaces labeled 15B and 16B should be eliminated. The applicants will return with a site plan incorporating the changes and concerns discussed and the concerns. Mr. Watkins requested a continuance to the March 6, 2012 Public Hearing.

***Barbara Prato moved to grant the request to the March 6, 2012 Public Hearing, Lynne Martin seconded and it was so voted, 3-0.***

**ANY OTHER BUSINESS:**

Tom Thompson appeared to ask questions about rain gardens.

**CONSERVATION BOARD STATEMENTS:**

Brian gave an update on 789 Commercial Street. The owner was not issued a stop work order but was told to cease the work at the property. The owner claimed that he had permission to do the

work through an administrative review. Brian does recall an administrative review request from the owner, but only for permission to trim some trees.

**ADJOURNMENT:** *Barbara Prato moved to adjourn at 8:20 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2012

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2012  
Dennis Minsky, Chair