

**PROVINCETOWN CONSERVATION COMMISSION
TOWN HALL AUDITORIUM
May 1, 2012
6:30 P.M.**

Members Present: Dennis Minsky, David Hale, Lynne Martin, Barbara Prato (left at 6:50 P.M.) and Mark Irving.

Members Absent: None.

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

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

PUBLIC STATEMENTS:

None.

APPOINTMENT:

Mark Irving: *Dennis Minsky moved to appoint Mark Irving to the Conservation Commission, Lynne Martin seconded and it was so voted, 4-0.*

MINUTES: *April 10, 2012 – Dennis Minsky moved to approve the language as amended, Barbara Prato seconded and it was so voted, 4-0.*

NEW BUSINESS:

Emergency Certification

Application by the **National Park Service** seeks an **Emergency Certification** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The applicant seeks approval for emergency repair work at the **Herring Cove Parking Lot at the Cape Cod National Seashore** in Provincetown.

Presentation: Laura McKean and Karst Hoogeboom appeared to present the request for an Emergency Certification. The Seashore needs to make emergency repairs to the parking lot and sections of the pre-existing revetment prior to the summer season. Damage has occurred over the course of the winter in the form of collapsed and broken pavement, resulting in major public safety issues. Only a portion of the work is below mean high water. The project will repair the collapsed section in the north parking lot in kind and remove damaged and collapsed sections of bituminous pavement in two areas to the south, some of which has migrated to the beach area. Based on a visit made today, Mr. Hoogeboom requested a revision of the scope of work slightly to re-route the entire section of revetment in front of the bathhouse and re-create the slope in a gentle and safe manner to allow the public to access the beach.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. McKean and Mr. Hoogeboom. *Dennis Minsky moved to approve the Emergency Certification under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law,*

Chapter 12 by the National Park Service to undertake emergency repair work at the Herring Cove Parking Lot at the Cape Cod National Seashore, Barbara Prato seconded and it was so voted, 5-0.

Request for Determination of Applicability

Application by the **Craig E. Lyon** for a **Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law, Chapter 12. The applicant seeks approval for site work to include landscaping at the property located at **789 Commercial Street** in Provincetown.

Presentation: Attorney Brian Wall appeared to present the application. The applicant seeks a negative determination regarding the modification and reformation of an existing, undulating decorative garden into a level yard/garden located within 100' of a coastal bank. The applicant proposes to plant native species, including flanking the yard/garden with *Rosa rugosa* and *Prunus maritime*, in order to create an outdoor area for sitting and recreation. The applicant had already started the work, unaware that he needed the approval of the Commission, as the property was previously disturbed and the Long Point Condominium, of which it is a part, has been granted an Administrative Review Determination to perform maintenance of the area. No earth was removed from the site and no fill was brought in.

Public Comment: None.

Commission Discussion: The Commission questioned Attorney Wall about a retaining wall on the property that was of particular concern.

David Hale moved to grant a Negative #3 Determination under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for site work to include landscaping at the property located at 789 Commercial Street with the conditions that no heavy equipment be used on the bank, that no additional fill be brought in, that the 18" high retaining wall, as marked on Exhibit 4, is reviewed by the applicant to insure stability, that the area be planted with native species to insure stabilization and that no herbicides, pesticides or chemical fertilizers be used, Dennis Minsky seconded and it was so voted, 4-0.

Notice of Intent

Application by **Juliet Gluck** for a **Notice of Intent** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include the demolition and removal of an existing cottage, and the construction of a new single-family residence within land subject to coastal storm flowage and a coastal dune at the property located at **401½ Commercial Street** in Provincetown.

Presentation: Steve Cook and Jack Vaccaro appeared to present the application. The applicant seeks to demolish and remove an existing cottage, construct a new cottage and restore the native landscape. The proposed cottage will occupy the same footprint as the existing except for the elimination of a small entry deck on the east side of the cottage. The proposed work will be performed within the buffer zone of a coastal dune and coastal beach and within land subject to coastal storm flowage. The proposed deck addition will only slightly extend onto an adjacent dune. It will be supported on piles so that the lowest horizontal members will be elevated above the ground. The setting of the piles will require heavy equipment access to the construction area and will result in a temporary disturbance of approximately 300 sq. ft. of coastal dune in the area directly adjacent to the existing deck. All other areas required for construction are already

occupied by a parking area or by the structure. The applicant is proposing the removal of invasive plants from the property and to replant all disturbed areas with American beach grass, beach plum and eastern red cedar.

Public Comment: Elena Hall, a direct abutter, spoke against the project.

Commission Discussion: The Commission questioned Mr. Cook and Mr. Vaccaro.

Dennis Minsky moved to approve the Notice of Intent application under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for work to include the demolition and removal of an existing cottage, and the construction of a new single-family residence within land subject to coastal storm flowage and a coastal dune at the property located at 401½ Commercial Street with the Standard Order of Conditions and with the conditions that there be a daily pick-up of debris and the implementation of dune restoration as proposed, David Hale seconded.

The Commission discussed the motion.

Dennis Minsky amended the motion to include a condition that the native species to be planted survive in perpetuity and that the invasive removal is verified for three years.

When polled, Lynne Martin and Mark Irving indicated that they would vote to abstain due to questions regarding the veracity of the site plan.

Dennis Minsky moved to approve the Notice of Intent application under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The scope of work to include the demolition and removal of an existing cottage, and the construction of a new single-family residence within land subject to coastal storm flowage and a coastal dune at the property located at 401½ Commercial Street with the Standard Order of Conditions and with the conditions that there be a daily pick-up of debris, dune restoration as proposed, that the native species planted by the applicant survive in perpetuity and that the invasive removal be verified for a period of three years, David Hale seconded and it was so voted, 3-0-1 (Lynne Martin abstaining).

CONSERVATION BOARD STATEMENTS:

None.

ANY OTHER BUSINESS:

T.D Chipman, Conny Hatch and Sherry Dranch, members of the B Street Garden Advisory Group, appeared before the Commission. The three members were representing Jim McGuire and David Moulton, the remaining members of the Group. Dennis Minsky read a letter, written by David Moulton, into the record. The letter states that the Advisory Group seeks to change the governing structure of the B Street Garden, as they believe it to be too cumbersome and bureaucratic. It is seeking a more streamlined process that will deal with issues in a more timely fashion. The Commission discussed the letter with the present members. The Commission agreed that new guidelines need to be established that delineate the responsibilities of the Commission and the Group as various issues related to the Garden arise. The Commission, however, still retains the responsibility of setting policy for the Garden and the Group. Dennis suggested a joint meeting of the Group and the Commission to discuss and formulate new procedures. The Advisory Group will meet and propose policies and submit them to the Commission for its approval. Dennis volunteered to help the Group in the development of these policies if needed.

ADJOURNMENT: *Lynne Martin moved to adjourn at 8:37 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