

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
July 17, 2012
6:30 P.M.

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

Members Absent: David Hale (not excused).

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

Chair Dennis Minsky called the Public Hearing to order at 6:34 P.M.

PUBLIC STATEMENTS:

Wilsa O'Malley appeared to inquire about Mass. DEP file number SE 058-0471. The property is located at 555 Commercial Street and concerns the Boatyard Condominium's illegal filling of the beach. She had understood that the topic would be discussed under 'New Business'.

According to Dr. O'Malley, the property owner has violated a number of the conditions of the Notice of Intent. Dennis said that the issue will be discussed under 'Any Other Business'.

MINUTES: June 5, 2012 – Lynne Martin moved to approve the language as written, Dennis Minsky seconded and it was so voted, 3-0.

May 1, 2012 – Tabled.

OLD BUSINESS:

Notice of Intent:

Application by **Tony Jackett, Shellfish Warden, Town of Provincetown** 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 an aquaculture project on property located in **Provincetown Harbor**, in Provincetown.

Presentation: Tony Jackett, the Provincetown Shellfish Constable, appeared to present the application. The Town of Provincetown seeks to set up an agricultural development area for aquaculture. The area is about a mile long and 300' wide, comprised of 50 acres and located in 20' of water. Each plot will be an acre in size. The area will only be accessible by boat. No Chapter 91 license is required as long as the gear is floating and no traps, poles or dinghies are fixed in the ground. Six floats will delineate the aquaculture area. All lines will be fitted with devices to prevent entanglement of marine mammals. Only 10% of the surface area of each plot will be allowed to be covered.

Public Comment: Doug Traub had a question regarding being able to kayak through the area.

Commission Discussion: The Commission questioned Mr. Jackett.

Barbara Prato moved to approve the Notice of Intent with the standard order of conditions and with the special conditions that only 10% of the surface areas shall be occupied by floating bag system or surface gear, that the area be accessible by boat only and no permanent gear, structures, poles or boats shall be fixed to the bottom of the Harbor in the area, Dennis Minsky seconded and it was so voted, 4-0.

NEW BUSINESS:

Request for a Determination of Applicability:

Application by **Chris Burden** 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 **8 Harbour Drive**, in Provincetown.

Presentation: Paul Shea and Jen Malila appeared to present the application. The applicant seeks minor changes to a landscaping plan designed by Patrick Eleey and approved by the Commission in a 2009 Notice of Intent. A new planting scheme will be installed, which will include more diverse and native plantings. The original patio was designed as round however the applicant prefers a square one and there will be a slight change in the walkway to the front door. Some of the other walkways on site have been narrowed. There will not be an increase in impervious surfaces. All plantings within the 50' buffer zone are native.

Public Comment: Therese Nelson had a concern about the removal of sand in an area that abuts her property as she alleges that her yard is starting to dip.

Commission Discussion: The Commission questioned Mr. Shea and Ms. Malila.

Lynne Martin moved to grant a Negative #3 Determination, Dennis Minsky seconded and it was so voted, 4-0.

Notice of Intent:

Application by **Sandler-Davidson Living Trust, T. Sandler & J. Davidson, Trustees**, 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 the installation of a saline lap pool, hot tub, landscaping and plantings at the property located at **5 Harbour Drive, Lot 12**, in Provincetown.

Presentation: Paul Shea and Jen Malila appeared to present the application. The proposed project includes the installation of an 8' by 33' in-ground saline lap pool and a 7' by 8' hot tub, located adjacent to the existing structure on Lot 12 within an area of the patio. A new walkway will be constructed to connect the pool to an existing pergola structure. Mitigation will include new native plantings. All of the proposed construction areas within the site have been altered in the past. According to Natural Heritage, the project as proposed does not occur within estimated habitat of rare wildlife.

Public Comment: None. There was a letter in support for the project, written by Jason Stone, in the file.

Commission Discussion: The Commission questioned Mr. Shea and Ms. Malila.

Mark Irving moved to grant the Notice of Intent with the standard order of conditions and with the special condition that any new plantings be approved by the Conservation Agent, Dennis Minsky seconded and it was so voted, 4-0.

ANY OTHER BUSINESS:

555 Commercial Street: Dennis provided background about the issue at the property. Dennis and Brian consulted with David Guertin in regard to moving the rocks on the beach in front of 555 Commercial Street. He cited jurisdictional issues in saying that he could not move the rocks. Ms. Ryder spoke to the issue. When she reviewed the application for the Notice of Intent, the scope of work for the project did not include filling and the conditions of the Notice of Intent did not include filling of the beach. The prior seawall had concrete holding the rocks in place. The concrete deck was subsequently redone and the concrete between the rocks was removed. After some storms last fall, the rocks began to move. Ms. Ryder was concerned that the rocks would damage the beach stairs located at the end of the easement used by her family. The Commission determined that there was a violation of the order of conditions of the Notice of Intent. The Commission discussed how to proceed. Brian will call the owner of the property and ask him to move the rocks back to their original position. If he does not fix the problem, the Commission will issue a notice of violation. The Commission will have more information by the next Public Hearing on August 7th.

Dennis reported that DPW will not move the rocks on the beach opposite 690 Commercial Street. The Commission determined that the issue can be approved by administrative review.

B Street Garden : Sherry Dranch and Conny Hatch appeared to discuss some issues related to the Garden. The trumpet vine at the property needs to be removed. Dennis did some research about the removal of invasives and found out that it was possible to deal with it manually. Brian suggested hiring a consultant to address the issue. The Commission discussed the issue with Ms. Dranch and Ms. Hatch.

Dennis Minsky moved to appropriate up to \$200 from the by-law fee account for a consultation with Ecological Restoration Services of Orleans about the eradication of trumpet vine at the B Street Garden, Lynne Martin seconded and it was so voted, 4-0.

The water pump and battery pack have been tampered with and the battery pack will need to be replaced. Ellen Daley volunteered to build a locked cage to enclose the pump, leaving only a small space for accessing the faucet. Bernie Piantadosi will keep the key. Bernie will purchase two new battery packs and a new pump to serve as back-up for the existing pump.

The Commission discussed an alleged dispute between Ms. Dranch and another plot owner who was in violation of a height regulation of the B Street Garden. The Commission has received complaints about how the issue was dealt with by Ms. Dranch. Dennis suggested posting the issue on an agenda to discuss further.

David Hale was tasked with looking into the sump pump pipe at B Street Garden.

Brian will call Scott at the dump to inquire about the mowing.

DISCUSSION:

67 Harry Kemp Way Conservation Restriction: The Commission discussed whether it would allow sheds to be built on the property as part of the approved project and whether it would impose limitations on those sheds. The Commission was concerned about the mitigation measures that were to be undertaken by the property owner and discussed these issues. Brian will look into the conditions of the Notice of Intent and what kind of mitigation was required of the owner and when it was due to be performed.

Dennis Minsky moved that in reference to the map that accompanies the Conservation Restriction amended October 13, 2011, the Commission approve the location of Sheds A & B and not approve the location of Shed C. The Commission discussed the issue further. The Commission is concerned about voting on a xeroxed site plan that lacks a licensed surveyor’s stamp. Brian will talk with Town Counsel about the site plan in question.

Shank Painter Pond Survey: The survey is included in the Commissioners’ packets.

Paul Tasha alerted Dennis to the issue of boats placed on top of beach grass. Signs warning boaters not to place boats on top of beach grass were installed on beaches today. He also related to Dennis that the social trails off Province Lands Road and how they are deteriorating. Dennis suggested that Brian get in touch with Mark Adams. The last issue mentioned was that the fast ferry does not take its engine out of gear when it docks to pick up passengers and churns up the water.

ADJOURNMENT: *Lynne Martin moved to adjourn at 9:00 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