

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
September 18, 2012
6:30 P.M.

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

Members Absent: None.

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

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

PUBLIC STATEMENTS:

None.

MINUTES: August 21, 2012 – Postponed.

PRESENTATION:

Kristyna Smith, a Coastal Project Coordinator for Safe Harbor Environmental Services, appeared to present and review a booklet entitled “The ‘Dirty Dozen’ of Cape Cod”. It is part of Safe Harbor’s public education and outreach efforts. The publication is intended to raise awareness of the issue of problematic and aggressive non-native vegetation on Cape Cod. KS reviewed the thirteen easy-to-identify plants and herbicide-free techniques for eradicating them. The Commission asked if sweet autumn clematis, which has been particularly prevalent in Town and was the subject of a recent newspaper article, or trumpet vine are considered invasives. She was not sure whether those were considered invasives or not. This publication is available on the Safe Harbor website. Although black locust is not on the list, it is an invasive, according to KS. DH asked which invasive she considered most aggressive and causes the most problems in Provincetown. She does not have as much field experience in Town as in other areas, but in general she has found that bittersweet and honeysuckle are the most difficult to remove. DH asked KS to review the methods of removal in the publication. She recommended getting down to the roots and planting native vegetation in the area to control the invasive vegetation.

Certificate of Compliance

Application by **Joel and Grace Osness** under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown Wetlands By-Law, Chapter 12 for work conducted under DEP file number SE 058-0495 for the property located at **749 Commercial Street** in Provincetown. There was a letter in the file from Tim Brady attesting to the fact that the construction project had been completed and that all work is in substantial compliance with the design plan and the Order of Conditions issued by the Commission. The letter stated that a third post was added under the existing deck for structural purposes, but there were no impacts on the resource area due to the change.

David Hale moved to issue a Certificate of Compliance for work conducted under DEP file number SE 058-0495 for the property located at 749 Commercial Street, Lynne Martin seconded and it was so voted, 5-0.

Notice of Intent

Application by **John Pitfield & Paul Lynch**, represented by **Chester N. Lay, Slade Associates, Inc.**, 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 construction of two-story addition on the property located at **525 Commercial Street** in Provincetown.

Presentation: Chet Lay and Mark Kinnane appeared to present the application. The applicants seek to remove an existing downstairs bath, two bay windows and a wooden ramp to Commercial Street and to construct a two-story, wood-frame addition on the west side of the structure as shown on the site plan submitted entitled ‘Proposed Plan #2012-87. The first floor of the addition would measure 22’3” by 10’. The second story would measure 22’3” by 13’ 4” and would overhang the first story on the south by 3’. Two columns will support the overhang as shown on the plans. The addition will be constructed on a 4’ deep foundation (crawl space) with 8” walls. The staging area and the loading and unloading zone will be north of the house in the driveway. The project has a DEP file number. The proposed removal of two box-bay windows, as stated in the Narrative, will not occur per the Historic District Commission.

A WPA Form 3 – Notice of Intent application, floor plans for the proposed addition, a project narrative and a construction and de-construction protocol were submitted along with the site plan from Slade Associates, Inc.

Public Comment: None.

Commission Discussion: DM was concerned that the work area had not been staked and that the plans had been received late. The Commission wanted a clarification of the foundation work. MK stated that the foundation needed to be repaired near the chimney. He mentioned that the chimney would have to be removed. LM asked about the location of the staging area. DH asked for a more specific description in regard to the chimney removal and the foundation work in that area. He wants to clarify the scope of work. MK indicated that the brick is in bad shape, the floor sags and a rotted beam needs to be replaced. The concrete will be brought in via a wheel barrow. DM sees nothing that would threaten the resource area and the lot is already developed. BC asked about the flood zone and the height of the structure and the new addition. DH asked for a clarification of the chimney removal. MK explained the process. The chimney removal is not in the Narrative or Construction Protocol, but is indicated on the plans as being removed. MK assured the Commission that there was no other proposed work that had not been described in the Construction Protocol.

Lynne Martin 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 with a scope of work to include the construction of two-story addition and the removal of a chimney at the property located at 525 Commercial Street with the Standard Order of Conditions and referencing the Proposed Plan #2012-87, Barbara Prato seconded and it was so voted, 5-0

CONSERVATION RESTRICTION:

BC reviewed a letter and CR from Town Counsel Shirin Everett and reported that Mr. Daphnis has already signed the Restriction. Mr. Daphnis is requesting that the deadline for the mitigation

of invasives on the property be extended to December 15, 2012. BC stated that the Commission needs to review the CR for 67 Harry Kemp Way, approve it and sign it after which it will go to the Board of Selectmen. The Commission discussed the CR. LM is very concerned that the sheds will eventually become dwelling units and that the project is behind schedule. DH said that if the owner of the unit wanted a shed, that owner would have to come back to the Commission for approval. The Commission discussed the issue of the sheds.

David Hale moved to approve the Conservation Restriction for 67 Harry Kemp Way as presented, Mark Irving seconded.

The Commission continued to discuss the CR. DM said that he is inclined to approve the CR, finding what they are asking for as reasonable and allowable and because it leaves the issue of the sheds and what happens to them under Commission control. LM is concerned that the Commission is locking itself into certain conditions that may become more restrictive in the future. BP inquired what would occur if the applicant came back with a new filing at the same location and the CR has been signed and recorded. How does the recorded CR effect the position in regard to the Commission's ability to approve or disapprove plans brought before it in the future? BC thought the CR was tied to a specific set of plans.

The motion was so voted, 2-3 (BP, MI and LM opposed) and defeated.

DM wanted to know if the CR could be re-submitted for the Commission's approval.

DISCUSSION:

Re-Structuring of the B-Street Garden Advisory Group – BC stated that the current Advisory Group had been appointed about a year ago. DM suggested formulating a policy in regard to the AG. He suggested advertising in the newspaper and to the gardeners to look for candidates. He also suggested a yearly search for new applicants, with the Commission voting on each applicant. The AG will have between five and seven members. According to the new Open Meeting Law, the AG, as a sub-committee of the Commission, has to post their meetings and minutes need to be recorded because a Commissioner belongs to it. The Commission discussed whether to retain the Commission liaison or if the Group should be wholly independent of the Commission so as to not to have to be subject to the OML. DM suggested waiting a year and the Commission agreed. Dates for terms were discussed. BC will put an ad in the Banner and e-mail the local gardeners on September 27th and October 4ths to solicit new members. The election of new members will take place on October 16th. Term limits for the AG and mandating participation by gardeners was discussed. LM thought gardeners should be obliged to serve on the AG. DM stated that the term will begin on October 1st, although this year it will be later.

ANY OTHER BUSINESS:

Open Meeting Law – DM summarized important points that were covered at the Open Meeting Law seminar, such as the requirement for documents presented at a meeting to be listed in the minutes, as well as a summary of discussions, including who said what. The OML is not the same as the conflict of interest law or the public records law. The meetings need to be posted and if a matter is reasonably anticipated, it must be posted with as much specificity as possible. Administrative Reviews must be posted. If a meeting is continued, it must be to a time certain. If a quorum is not present, you can open a meeting for the purpose of continuing it. The minutes should be available in ten days and can be approved by someone who was not at the meeting in question. A site visit is not a meeting, nor is a conference or trade, media or social event.

555 Commercial Street – A site visit with the property owners, DM, Brian and Wilsa Ryder, BC and Mr. Chuckran took place at the property. The property owners will be filing an amended Order of Conditions to maintain the rip-rap and to remove the rocks beyond the periphery of the buttresses, which totals about 20 rocks. The complainants are still not satisfied. The matter will be discussed by the Commission again.

Community Preservation Represent – DH wants to give up the position. He briefly explained what the position entailed. The Commission will put the topic on an agenda.

Truro Order of Conditions for the Aquaculture Project – DM had requested a copy from BC.

Shank Painter Pond Study – DM ran into Rich Waldo and they discussed the Shank Painter Pond Study. Abutters made complaints and a study was done, problems were identified and one attempt at remediation was not funded. Nothing is happening now. DH said that the source problem has not been identified. DM said it was a question of nonpoint source pollution and doesn't know how it can be addressed. The Commission will put it on the agenda.

Outfall Pipes: The outfall pipes were cleaned this morning in anticipation of the rain storm.

ADJOURNMENT: *Lynne Martin 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 _____, 2012

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Dennis Minsky, Chair