

**PROVINCETOWN
CONSERVATION COMMISSION
CAUCUS HALL
December 15, 2015
6:30 P.M.**

Members Present: Dennis Minsky, David Hale and Mark Irving.

Members Absent: Lynne Martin (excused) and Barbara Prato (excused).

Others Present: Anna Meade (Conservation Agent), Gloria McPherson (Town Planner) and Ellen C. Battaglini (Recording Secretary).

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

PUBLIC STATEMENTS:

None.

OLD BUSINESS:

Meadow Road Condominium Order of Conditions – Planting plan review discussion:

Leslie Starr and the Commission discussed a planting proposal that she had submitted. She asked for clarification of the three-year survivability requirement. Gloria replied that the three-year survivability clock should run from the time of the planting and recommended that Ms. Starr contact the Agent, or a Commissioner, a year after the planting to do an inspection to determine if the plantings had become established or if more seed would be needed. After three years, Ms. Starr would then request a Certificate of Compliance from the Commission.

Dennis Minsky moved to approve the planting plan portion of the Order of Conditions that pertain to the Meadow Road Condominium, David Hale seconded and it was so voted, 3-0.

Winthrop Street Cemetery – Invasive Species Management Plan:

Rich Waldo, the Department of Public Works Director, was unable to appear to discuss the plan. The matter was postponed.

9 Willow Drive – Project completion:

No one appeared to discuss the project. A letter from Safe Harbor Environmental had been submitted attesting to the fact that the project had been completed in substantial compliance with protocols and mitigations. The Commission did not have a copy of the Order of Conditions for the property. Dave said that it was his understanding that planting was to be done between the patio and the retaining wall and that had not been done. The Commission would like to review the Order of Conditions for the property and continued the matter to the next Public Meeting on January 5, 2016 at 6:30 P.M.

Administrative Review

Application by **William N. Rogers, II**, on behalf of **John Shea and Ray Booth**, to install a full cellar under the proposed screen porch within the jurisdiction of the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40), General By-Law Chapter 12, Natural Heritage, the

Endangered Species Act Program (NHESP) and the 100' buffer zone at the property located at **33 Point Street** in Provincetown.

Presentation: William N. Rogers, II and Paul Shea, of Independent Environmental Consultants, Inc., appeared to discuss the request. Mr. Rogers said that at the request of the Commission he had Mr. Shea inspect the property to assess the potential impact of the project on the coastal landform. Mr. Shea reported that, in his opinion, the project would not have an effect on the integrity of the landform. He said that if work was being performed directly on the slope, it could possibly have an impact.

Commission Discussion: The Commission questioned Mr. Shea and discussed its concerns about the project.

Dennis Minsky moved to approve the Administrative Review to install a full cellar under the proposed screen porch within the jurisdiction of the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40), General By-Law Chapter 12, Natural Heritage, the Endangered Species Act Program (NHESP) and the 100' buffer zone at the property located at 33 Point Street, with the conditions that a written affidavit from Paul Shea of Independent Environmental Consultants, Inc. is submitted attesting to the fact that the project would not affect the integrity of the coastal landform abutting the structure, that any disturbance to the area be rectified and that the project be subject to the Order of Conditions issued by the Conservation Commission for the property, Mark Irving seconded and it was so voted, 2-1 (David Hale opposed).

NEW BUSINESS:

Notice of Intent

Application by the **Laura Seabury & Debra Poletto** represented by **Jason Ellis, J.C. Ellis Design Co.**, 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 construction of an egress landing and stairs on the east (rear) side of the existing dwelling at the property located at **14 Schueler Boulevard**, in Provincetown,

Presentation: Jason Ellis, Laura Seabury and Debra Poletto appeared to present the application. The applicants want to install a covered egress landing with a set of stairs to grade, terminating in a shell driveway area. Six sono-tubes, 12" in diameter and taking up approximately 10 sq. ft. of space, will be excavated by hand and the spoils will be removed to an off-site location. The staging area will be the paved driveway on site. The lumber will be cut in another area and carried to the site of construction. The Dep File number is 058-0540.

Commission Discussion: The Commission questioned Mr. Ellis. Dennis suggested a condition that basic mitigative vegetation of at least 10 sq. ft. be planted. He noted there was *Rosa rugosa* in the area and that more beach grass could be added, as well as invasives, such as knotweed, removed. He reiterated that all access would be from landward of the site and storage of materials would be in an already disturbed area.

Mark Irving 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 for work to include the construction of an egress landing and stairs on the east (rear) side of the existing dwelling at the property located at 14 Schueler Boulevard, with the Standard Order of Conditions and with the condition that mitigation in the form of 10 sq. ft. of native vegetation to the southeast be planted, David Hale seconded and it was so voted, 3-0. Dennis added that

the applicants contact the Conservation Agent when the work and the plantings have been completed.

Notice of Intent

Application by the **Delft Haven II Condominium**, represented by **Martin R. Donoghue**, 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 vegetation restoration and sand management at the property located at **7 Commercial Street**, in Provincetown.

Presentation: Reggie Donoghue, of Coastal Engineering Co., Inc., and Carl Depuy, of Wilkinson Ecological Design, appeared to present the application. The proposed activities include vegetation restoration and sand management. Existing invasive vegetation, such as Asiatic bittersweet, Black swallowwort and Japanese knotweed, will be removed as specified on the plans and work protocols submitted by Wilkinson Ecological Design. The areas where invasives have been removed will be replanted with American beachgrass. Ongoing vegetation management and plant removal and trimming along an existing pedestrian pathway from the upland area to the beach area of the site are proposed. Sand management will include the installation of a snow fence between the coastal beach and a patio area located in an upland area of the site. In the spring, the fence will be removed and the sand from the patio and adjacent upland areas on the site will be used for onsite beach and dune nourishment. Sand will be removed using low impact equipment and by hand. Written notice to the Conservation Agent specifying the anticipated dates of the proposed work will be given prior to the seasonal sand removal. Access to the site for sand removal and vegetation management will be primarily via an existing pathway to the beach located onsite. If heavier equipment is needed for the deposition of large volumes of sand, the Conservation Agent will be notified and Town regulations for temporary equipment access via Town landings and the beach will be followed. Mr. Depuy identified the native, non-native and invasive plants on site and reviewed the proposed management protocol for the removal of the invasives. He noted that herbicides will not be used within 5' of a dwelling unit.

Commission Discussion: The Commission questioned Mr. Donoghue about the construction protocol and Mr. Depuy about the removal of invasives and the ongoing proposed maintenance protocols. The applicants agreed that the sand fence would be installed after November 15th and removed before May 15th. The Commission reiterated that if any heavy equipment were to be employed that the Conservation Agent approves its use.

David Hale 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 for work to include vegetation restoration and sand management at the property located at 7 Commercial Street with the Standard Order of Conditions and with the Special Conditions that sand removal from the concrete patio by use of a bobcat or other heavy equipment requires prior review and approval by the Conservation Agent, that herbicide usage be limited to the cut and drip method for stems over ½" and foliar spot treatments, or hand removal, for stems ½" or smaller, as specified in the Invasive Plant Management Protocols submitted by Wilkinson Ecological Design, on the invasive species in the areas identified on the plan and not within 5' of a dwelling unit, that the snow fence will be installed after November 1st and removed prior to May 15th and that there will be no man-made changes in the beach contour, Dennis Minsky seconded and it was voted, 3-0.

Administrative Review

Request for Administrative Review consideration by Conservation Agent regarding **155 Commercial Street**, for potential violation for construction of a fence within a delineated wetland and FEMA Flood Zone A.

Anna presented a report and photographs based on her site visit. Upon researching the files for the property, she found no authorization for the fence's construction. The Commission discussed the fence and how to proceed. The Commission decided to issue an Enforcement Order and discussed what to require of the property owner.

Dennis Minsky moved that the Conservation Commission issue the property owner at 155 Commercial Street an Enforcement Order requiring the removal of the fence and an accompanying restoration plan for the affected area, Mark Irving seconded.

The Commission discussed the motion. Dennis revised his motion.

Dennis Minsky moved to issue the property owner at 155 Commercial Street an Enforcement Order requiring the removal of the fence without using heavy equipment and the submission of a professional restoration plan by February 26th, Mark Irving seconded and it was so voted, 3-0.

Dennis Minsky moved to issue a \$300 fine to the property owner at 155 Commercial Street for a Type I violation for work without a permit in a resource area, Mark Irving seconded and it was so voted, 3-0.

Conservation Agent Report:

Discussion of Permit Review Threshold and Application Guidelines: This topic was not discussed.

ANY OTHER BUSINESS:

Dennis asked Anna if a Violation Notice for vista pruning without a permit had been sent to 7 Telegraph Hill Road. She reported that she had a draft of the Notice and that she will send it out.

Dennis said that he had received notice that there was an uncovered dumpster located at Jerome Albright's property at 12 Somerset Road where construction has been ongoing for several years. According to the source, debris was being blown out of the dumpster and onto the ground in the area. Anna and Dennis conducted a site visit to the area and noted that there was a small amount of litter on the ground. Dennis said that there was a collapsed silt fence on the property that was not performing properly. The Commission discussed how to proceed. Gloria suggested that an Enforcement Order would be appropriate, as the non-performing sand fence violated the Order of Conditions for the project.

Mark Irving moved to send an Enforcement Order to Jerome Albright to repair or replace the silt fence at the property located at 12 Somerset Road by December 22, 2015, with reference to the original Order of Conditions, and to contact the Conservation Agent for an inspection when the repair or the replacement had been completed, Dennis Minsky seconded and it was so voted, 3-0.

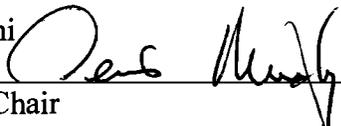
Dennis reported that he was contacted by Robena Malicoat regarding three spots in the Old Colony Nature Path that she would like to have filled before the winter. Her family has deeded rights to use the Path. The Commission discussed who had responsibility for maintaining the Path. Anna will research the deeded easement document and the issue will be discussed at the next meeting.

An abutter to the east of Delft Haven also has a sand fence erected on the property. Anna will investigate the issue and report to the Commission at the next meeting.

MINUTES: December 1, 2015 – *Dennis Minsky moved to approve the language as written, Mark Irving seconded and it was so voted, 3-0.*

ADJOURNMENT: *Mark Irving moved to adjourn at 8:15 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini
Approved by  on Jan. 5, 2015
Dennis Minsky, Chair