

PROVINCETOWN CONSERVATION COMMISSION
TOWN HALL AUDITORIUM
March 20, 2018
6:30 P.M.

Members Present: Alfred Famiglietti, Nathaniel Mayo and Joseph Cooper.

Members Absent: Kiah Coble (excused), Robert Brock (excused) and Gregory Howe (excused).

Others Present: Tim Famulare, Conservation Agent and Ellen C. Battaglini, Permit Coordinator.

Chair Alfred Famiglietti called the meeting to order at 6:36 P.M.

1) **Public Comments:**

None.

2) **Public Hearings:**

Nathaniel Mayo moved to take agenda item 2b out of order, Joseph Cooper seconded and it was so voted, 3-0.

a) In accordance with §2-2-1 of the Provincetown Charter, the Provincetown Conservation Commission will review and vote to determine the number of Board members in favor or opposed to the petitioned articles concerning the natural environment for the April 2, 2018 Special and Annual Town Meetings. The Commission tabled this item until later in the meeting.

b) CON-18-066 **57A Pleasant Street**

Notice of Intent filed by **Karl Broussard** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to construct a new residential structure within the same area as the existing residential structure and to install an outdoor rinsing station adjacent to an existing studio. Work to take place within Land Subject to Flooding and a Buffer Zone to a Bordering Vegetated Wetland.

Presentation: Paul Shea, of Independent Environmental Consultants, Inc., and Ted Smith, architect, appeared to present the application. Mr. Shea described the conditions on the site and the project, which includes the construction of a new residential structure. The site alterations will include the installation of underground utility lines to service the new structure and a small studio on the site and will be installed along a driveway area leading from Pleasant Street. The edge of the wetlands is located in close proximity to the existing house and studio. A rinsing station is being proposed to be located adjacent to the existing studio. The site alterations will occur within the 50' buffer zone and the 100' buffer to a bordering vegetated wetland. All alterations will occur within previously disturbed areas, including the removal of vegetation. No wetlands will be altered by the project. A silt sock will be installed at the limit of work to protect the adjacent wetlands from sedimentation impacts. Mr. Shea then reviewed a construction protocol for the project and added that the renovation of the studio on the site was the subject of a previous Order of Conditions that will be followed for this project.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Shea and Mr. Smith about the project and in particular, the proposed rinsing station, which raised some concerns. It was suggested that the rinsing station be excluded from the application because the Commission did not have enough

information about it. Mr. Shea reviewed the idea of moving the house away from the wetland, an idea proposed by Mr. Famulare at a site visit. He indicated that this would raise a zoning issue with the location of the house in relation to the setback on the property that may require relief from the Zoning Board of Appeals. In lieu of that plan, he suggested that since a huge amount of lawn area was present in the 50' buffer zone, that a planting plan with native shrubs and trees could be devised for flood zone mitigation purposes. The root systems could help to absorb some of the groundwater during flood events and, at the same time, provide new wildlife habitat. The Commission discussed moving the house and the idea of a native planting plan. Mr. Famulare suggested that the Commission could seek both the moving of the structure farther away from the wetland and site improvement in the form of native shrub and tree plantings. The Commission discussed the proposed increased size in the main structure, as it was being expanded within the 50' buffer zone, and whether that was considered a 'new' structure. The Commission requested clarity on the exact size of the proposed expansion within the 50' buffer zone before a decision was rendered. Mr. Shea suggested some ideas on how to move the structure away from the wetland. Mr. Famulare requested more construction details about the foundation, flood vents, the proposed use for under the first floor and a first floor elevation plan, given the structure's location in the buffer zone. Mr. Famulare suggested that the Commission continue the hearing to the next meeting on April 17, 2018 at 6:30 P.M. Mr. Smith would like to find out from the Building Commission regarding the history of the studio renovation. Mr. Shea will submit new plans for the moving of the structure and would like to leave the rinsing station as part of the project. The Commission requested detail and clarity on the excavation for the burial of the utility lines as well as mitigation for that work, as they were currently being depicted as being located overhead on the proposed site plan.

Nathaniel Mayo moved to continue CON-18-066 to the next Public Hearing on April 17, 2018 at 6:30 P.M., Alfred Famiglietti seconded and it was so voted, 3-0.

c) CON-18-068 **795 Commercial Street**

Notice of Intent filed by **Safe Harbor Environmental**, on behalf of **Marina Seevak**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to construct a 158 sq. ft. entry and bathroom addition; reframe a roof; replace a failed retaining wall, waterside deck, structural components of sills and first floor framing; and to restore a small dune area with native vegetation as mitigation. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Dune and NHESP Estimated and Priority Habitat.

Presentation: Gordon Peabody and Christina Smith, of Safe Harbor Environmental, and Joy Cuming and Eric Larsen, of Aline Architecture, appeared to present the application. Mr. Peabody reviewed the proposed mitigations, including instituting controlled access to the site, limited disturbance, restoration of a small, eroded dune area near the structure and native vegetation restoration in bare areas. The project timeline proposes to first complete the retaining wall work, followed by the controlled deconstruction of the structure, including the removal and replacement of sills and framing. Pin piles will be used in place of sonotubes. The roof will be partially re-built and interior work will begin in parallel with the roofing and siding work. Small dune restoration, re-vegetation and storm water work will then be completed when site activity allows. In addition, he said that 135 sq. ft. of decking will be removed and returned to natural vegetation. Mr. Peabody mentioned that there was an Enforcement Order related to inadequate vegetation being planted at

the site that was still active and indicated that he would assume responsibility for its resolution as part of the project. He indicated that this idea would be part of an addendum to the application. The applicant has not yet heard back from Natural Heritage about the project, however he anticipates there will be comments issued in regard to plovers. He added that vegetation will be added where the chimney is being removed on the west side of the structure and any vegetation removed as a result of the addition will be planted in the eastern pathway. He reviewed a proposed vista corridor pruning of a tree on the applicant's property for the benefit of an abutter and mentioned a rinsing station to be installed. Ms. Cuming, an architect, described the rinsing station and said she would provide more detail. Eric Larson, an engineer, described the retaining wall construction. Mr. Peabody said that there would be additions to the proposed planting plan, as Mr. Famulare requested more specificity and clarity about the vegetation.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Peabody about the retaining wall and the proposed vegetation in the rear of the house. He requested a continuance to the April 17, 2018 Public Hearing in order to provide addenda to the planting plan.

Nathaniel Mayo granted the request to continue CON-18-068 to the April 17, 2018 Public Hearing at 6:30 P.M., Joseph Cooper seconded and it was so voted, 3-0.

d) **CON-18-069 304, Unit 2 & 308 Bradford Street**

Request for a **Determination of Applicability** filed by **Mary Ann Bragg** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for the replacement of an existing retaining wall and set of stairs. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Bordering Vegetated Wetland.

Presentation: Stacy Kanaga, engineer, appeared to present the application. Ms. Kanaga reviewed the project that includes the replacement of a concrete retaining wall and stairs on the east side of the structure. The existing, deteriorated retaining wall will be removed. The wall will be rebuilt and measure 13.5' long and 6.8' at its highest point. New stairs will be constructed along the retaining wall and will be approximately 3.5' wide. The closest portion of the stairs will be located about 15.3' from the wetland. The disturbed areas that are not used for the wall and stairs will be planted with native species vegetation. The project will reduce the potential for adverse impacts to the resource areas during construction and post-construction measures will include stabilization of disturbed areas. The extent of work is limited to an area about 271 sq. ft. and the wall and stairs will be relocated 4.3' farther away from the resource area and will convert about 42 sq. ft. of existing impervious area to a vegetated state. Erosion and sedimentation control mechanisms will be implemented prior to the start of construction and will be maintained until final stabilization of the site. Equipment and material storage will be located in the existing gravel parking area.

Public Comment: None. There was 1 letter from an abutter in support of the application.

Commission Discussion: The Commission questioned Ms. Kanaga. Mr. Famulare reviewed draft conditions for the project.

Joseph Cooper moved to issue a Negative #3 Determination of Applicability subject to the conditions as drafted by the Conservation Agent, Nathaniel Mayo seconded and it was so voted, 3-0.

e) CON-18-072 **51 Commercial Street**

Administrative Review application filed by **Jay Anderson, 53 Commercial Provincetown, LLC**, pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for proposed site revisions to walkways, patios, decks and a chimney addition as shown on plans approved under an Order of Conditions (DEP File No. 058-0575), dated October 2, 2017. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation Stacey Kanaga appeared to present the application. She reviewed the minor revisions to the project that were the result of proposed changes to the walkways, patios, decks and chimney addition to the rear building to address zoning issues. There will be an overall decrease in total impervious areas within the 50-foot and 100-foot buffer zones.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Kanaga.

Nathaniel Mayo moved to approve the Administrative Review application CON-18-069, Alfred Famiglietti seconded and it was so voted, 3-0.

f) CON-18-070 **806 & 820 Commercial Street**

Request for a **Determination of Applicability** filed by **Mark Legere** pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law to grade up to 50+ sq. ft. within a 100' buffer zone and to widen an existing road to 10' and add 2-foot strips on both sides of a road to accommodate emergency vehicle access. Work to take place a Buffer Zone to a Bordering Vegetated Wetland and an Isolated Vegetated Wetland.

Presentation: Kieran Healy, a land surveyor with BSC Group, and Mark Legere appeared to present the application. Mr. Healy reviewed the project to increase the width of the driveway to 10', from 8.5', with 2' buffer areas on either side. The Fire Chief requested the change after his review of the project. The buffer strips would be cleared of coarse vegetation and 5 trees, with no grading done on the west, or wetland, side. In their place, a wildflower and/or conservation mix will be planted and cut several times per year.

Mr. Famulare noted that an incorrect return email on the abutter notification form had been posted on the website. He requested that the application be continued to the special meeting of March 27, 2018, in order to correct the mistake and allow abutters that might have sent comments to the wrong email address weigh in on the project

Public Comment: Mary Ellen Dwyer had a question about the project. Sherry Dranch, on behalf of the Provincetown Conservation Trust, spoke in opposition to the project. There was a letter from Attorney Jean Kampas, representing several abutters, in opposition to the application as an RDA, 4 letters of concern from abutters and 1 letter in opposition to the project.

Commission Discussion: The Commission questioned Mr. Healy and Mr. Legere. The Commission discussed the project, including its concern with how the buffer strip on the west side, closest to the resource area, would be stabilized after clearing it. The Commission requested that the vegetation proposed for the buffer strips be specified and shown to be suitable for shade and soil conditions of the site, and submitted at the March 27, 2018 meeting. Mr. Famulare questioned Mr. Healy regarding which trees would be removed. Mr. Famulare reviewed his draft conditions. He confirmed, a propos a question from the public, that this type of activity is usually heard as an RDA.

Nathaniel Mayo moved to continue CON-18-070 to the March 27, 2018 Public Hearing with the applicant submitting supplementation for the wildflower mix to be planted in the buffer strips on the east and west side of the driveway, Joseph Cooper seconded and it was so voted, 3-0.

a) In accordance with §2-2-1 of the Provincetown Charter, the Provincetown Conservation Commission will review and vote to determine the number of Board members in favor or opposed to the petitioned articles concerning the natural environment for the April 2, 2018 Special and Annual Town Meetings.

Article 13: *Alfred Famiglietti moved to recommend ATM warrant article 13, Nathaniel Mayo seconded and it was so voted, 3-0.*

Article 20: *Joseph Cooper moved to recommend ATM warrant article 20, Nathaniel Mayo seconded and it was so voted, 3-0.*

Article 21: *Nathaniel Mayo moved to recommend ATM warrant article 13, Joseph Cooper seconded and it was so voted, 3-0.*

Article 22: *Nathaniel Mayo moved to recommend ATM warrant article 13, Joseph Cooper seconded and it was so voted, 3-0.*

3) **Conservation Agent Update:**

CON-18-060 99 Commercial Street – Request for Superseding Order of Conditions filed with the Department of Environmental Protection. Mr. Famulare reviewed the status of the project and said that the parties involved were working on a compromise.

4) **Approval of Minutes of February 6, February 20 and March 6, 2018:**

February 6, 2018: *Alfred Famiglietti moved to approve the minutes as amended, Nathaniel Mayo seconded and it was so voted, 3-0.*

February 20, 2018: *Alfred Famiglietti moved to approve the minutes as amended, Nathaniel Mayo seconded and it was so voted, 3-0.*

March 6, 2018: *Alfred Famiglietti moved to approve the minutes as amended, Nathaniel Mayo seconded and it was so voted, 3-0.*

5) **Information:**

Administrative Review Applications by Agent: Mr. Famulare reviewed the following projects:

- a) **CON-18-067 479 Commercial Street** – deck replacement;
- b) **CON-18-071 145-147 Commercial Street** – deck replacement; and
- c) **CON-18-073 51 Commercial Street** – deck replacement.

6) **Any other business that shall properly come before the Commission:** None.

ADJOURNMENT: *Nathaniel Mayo moved to adjourn the Public Hearing at 9:45 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2018
Alfred Famiglietti, Chair