

PROVINCETOWN CONSERVATION COMMISSION
CAUCUS HALL
March 27, 2018
6:15 P.M.

Members Present: Alfred Famiglietti, Robert Brock and Joseph Cooper.

Members Absent: Kiah Coble (excused), Nathaniel Mayo (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 6:15 P.M.

1) **Executive Session:** Executive Session pursuant to M.G.L. c. 30A, S. 21(a)(3), to discuss litigation strategy in the following matters: Aqua King Fishery, LLC v. Conservation Commission, Barnstable Superior Court, C.A. No. 2015-00064; Conservation Commission v. Stellwagen Bank Fisheries Corp., Barnstable Superior Court, C.A. No. 2015-00387; Conservation Commission v. Patricio Palacios, Barnstable Superior Court, C.A. No. 2015-00386; and (ii) the Request for Superseding Determination of Applicability filed with the Massachusetts Department of Environmental Protection by David Kelley regarding commercial fishing operations for surf clams utilizing Hydraulic fishing gear off Herring Cove; if discussion the matters in open session would have a detrimental effect on the Town's litigation position and the chair so declares.

Robert Brock moved to go into Executive Session pursuant to M.G.L. c. 30A, S. 21(a)(3) and subsequently to return to open session, Joseph Cooper seconded and it was so voted by roll call Alfred Famiglietti: Yes; Robert Brock: Yes; and Joseph Cooper: Yes.

Chair Alfred Famiglietti convened the Public Hearing at 6:32 P.M.

2) **Public Comments:**

None.

3) **Public Hearings:**

a) CON-18-070 **806 & 820 Commercial Street** (*continued from the meeting of March 20, 2018*)

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. Robert Brock invoked the Mullin Rule and certified in writing that he had listened to a recording of the previous hearing of the matter.

Presentation: Kieran Healy, a land surveyor with the BSC Group, appeared to discuss the application. He described the wildflower mix proposed for the 2 buffer strips on the east and west side of the driveway on the site. He reviewed the process for the trenching of the road for utility lines.

Public Comment: None.

Commission Discussion: The Commission discussed the native New England wildflower mix and the 2' buffer strips with Mr. Healy. Mr. Famulare reviewed his draft conditions. The Commission modified condition #8 regarding trees in the vegetated strips being flush cut and allowing the stumps of trees to be removed from the driveway. The Commission requested that no grading take place in the buffer strips, no herbicides or pesticides be used and that the strips be mowed only twice per year.

Alfred Famiglietti moved to grant a Negative #3 Determination of Applicability with the conditions as drafted and revised, Robert Brock seconded and it was so voted, 3-0.

4) **Any other business that shall properly come before the Commission:** Mr. Famulare reviewed a request for an Emergency Certification from the National Seashore to remove the vault toilet at the north end of the Herring Cove parking lot. He will issue the Certification with conditions for the Commission's ratification at the April 17, 2018 Public Hearing. The work will be done starting next week.

ADJOURNMENT: *Joseph Cooper moved to adjourn the Public Hearing at 7:05 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2018
Alfred Famiglietti, Chair