

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
July 17, 2018
6:15 P.M.

Members Present: Alfred Famiglietti, Robert Brock, Kiah Coble and Carolyn Clough.

Members Absent: Nathaniel Mayo (excused) and Joseph Cooper (excused).

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

Chair Alfred Famiglietti called the Work Session to order at 6:22 P.M. He informed those present that the interests of the Wetlands Protection Act were available on a sheet of paper in the hallway.

1) **Work Session:**

a) **Presentation on informational brochures of the Town's conservation lands and summary of 2017-2018 work by Lauren Ainsworth, Provincetown's AmeriCorps**

Individual Placement member: Ms. Ainsworth summarized the work that she had been doing during her service to the Town that was related to informational brochures for the Town's conservation land. She reviewed the work that was performed by AmeriCorps and that she had organized and facilitated, such as repairing, mulching and constructing new beds and treating the wooden benches at the B Street Gardens and filling some 2,000 sand bags for the DPW before the storms last winter. In addition, the AmeriCorps volunteers had helped organize and move macadam pieces from the damaged Herring Cove parking lot to facilitate their pick-up by the National Seashore. She organized documents that will be placed in a library of Conservation binders, examined and identified conservation lands and wrote abstracts for each area to use as reference material. Her largest project involved working on and completing Conservation pamphlets for conservation properties that were begun by the Town's previous AmeriCorps volunteer. She reviewed the brochures that included maps, a brief history of the area, directions, photographs and the flora and fauna present in the areas. She said that this was an on-going project and the information would be digitized and copies will be available at each conservation area. Mr. Famulare and the Commission thanked Ms. Ainsworth for all of her hard work.

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

4) **Request for an Extension of Order of Conditions:**

a) **Provincetown Municipal Airport**

Request to Extend Order of Conditions (DEP File No. 058-0535), issued August 3, 2015, filed by the Provincetown Airport Commission for the Provincetown Municipal Airport Capital Improvements Plan. Amy Ball and Butch Lisenby were present for the Request. Ms. Ball, from Horsley Witten Group, reviewed the reason for the request and gave a brief history of the multi-phased project. She requested an extension of 3 years to August 3, 2021.

Robert Brock moved to grant an extension of three years, to August 3 2021, for the Order of Conditions (DEP File No. 058-0535), originally issued on August 3, 2015, for the Provincetown Municipal Airport for the capital improvements plan, Kiah Coble seconded and it was so voted, 4-0.

2) **Public Comments:**

None.

3) **Public Hearings:**

a) CON-19-001 **18 Commercial Street**

Request for a Determination of Applicability filed by the **18 Commercial Street, 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 to construct an addition to the existing dwelling, expand a patio and entrance deck and reconstruct a walkway. Work to take place within a Buffer Zone to an Isolated Vegetated Wetland.

Presentation: Paul Muldoon, an architect, and Brad Malo, an engineer from Coastal Engineering, appeared to present the application. Mr. Malo reviewed the project, an expansion of a kitchen and dining/living area, which includes an addition measuring 93 sq. ft. that will fill-in the northwest corner of a single-family structure, which is a rectangular house with one quadrant eliminated. The addition, which will be on posts, will square off the building and fill in that quadrant. A patio expansion, entrance deck and walkway reconstruction are also proposed. Beneath it will be an areaway with access to the basemen, which will be expanded to footprint of proposed addition. There will be hardly any alteration of vegetation, only enough to accommodate a brick walkway that is being reconfigured, and there will be no impact on the wetland area that is located 80' to the west and southwest of the property. There is a horizontal buffer between the resource area and the project. Any yard disturbance will be re-landscaped with grasses, shrubs and other plantings consistent with the surrounding properties.

Public Comment: None.

Conservation Discussion: The Commission questioned Mr. Malo and Mr. Muldoon. Mr. Famulare recommended a Negative #3 Determination and reviewed Attachment A, Special Conditions.

Kiah Coble moved to grant a Negative #3 Determination for CON-19-001 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 an addition to the existing dwelling, expand a patio and entrance deck and reconstruct a walkway at the property located at 18 Commercial Street with the Special Conditions as presented, Alfred Famiglietti seconded and it was so voted, 4-0.

b) CON-19-002 **657 Commercial Street**

Administrative Review application by **Cape Associates, Inc.** on behalf of **John Isaacson**, 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 plan revisions to install a patio and walkway using granite pavers approved under a Negative Determination of Applicability, dated October 3, 2017. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Beach.

Presentation: Mark Kinnane appeared to present the application. He reviewed the project, which involves granite pavers with sand joints at the lower area and pea stone joints on a walkway and the installation of mahogany planters pursuant to the submitted plan.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Kinnane. Mr. Famulare reviewed draft conditions. He recommended that existing beach grass shall not be removed for the installation of the patio and if the reconfiguration of the patio is necessary to comply with this condition that a revised site plan be submitted to the Conservation Agent for review and approval. *Robert Brock moved to approve Administrative Review, CON-19-002, 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 plan revisions to install a patio and walkway using granite pavers approved under a Negative Determination of Applicability, dated October 3, 2017 at the property located at 657 Commercial Street with the conditions as revised, Kiah Coble seconded and it was so voted, 3-0.*

c) CON-18-093 **963 Commercial Street, Unit 15**

Notice of Intent filed by the **Lynn A. Saucier** 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 second story addition to the existing residential structure. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Dune.

Presentation: Paul Shea appeared to present the application. The proposed project involves the construction of a new roof with additional space. All site alterations will be located within areas of previous disturbance. There will be no ground level alterations associated with the project and the coastal dune will not be altered. All access will be from Commercial Street and the contractor, after meeting with the project engineer and the Conservation Agent to review the approved site plan and the Order of Conditions, will ensure that no trash, debris, paper or plastic will blow into the coastal dune, coastal beach or coastal waters or other resource areas.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Shea. Mr. Famulare reviewed draft conditions and noted that the submitted plans were not signed or dated.

Robert Brock moved to approve the Notice of Intent, CON-18-093, 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 second story addition to the existing residential structure at the property located at 963 Commercial Street, Unit 15, contingent upon submission of stamped and dated plans, Kiah Coble seconded and it was so voted, 4-0.

d) CON-18-084 **1 High Pole Hill Road** (continued from the meeting of June 19, 2018)

Notice of Intent filed by the **Cape Cod Pilgrim Memorial Association** 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 construction of a proposed funicular (inclined elevator) and associated site improvements. Work to take place within Land Subject to Coastal Storm Flowage.

Presentation: Attorney Lester J. Murphy, Jay Norton, of Coastal Engineering, Dave Hawk, the landscape architect, and Gordon Peabody, of Safe Harbor Environmental, appeared to discuss the application. Attorney Murphy explained that the applicant had submitted a revised site plan pursuant to the Commission's concerns expressed at the last hearing of the case. He reviewed the revisions to the plans, including denoting the 8 trees to be removed, denoting the extent of the seeding on both sides of the funicular track, noting a change from the proposed rip-rap to a 6' wide earth mat, a less disruptive material to prevent growth between the tracks and depicting a

profile of the hill with the 14' wide corridor including the 6' of earth mat and the 4' of seeding on both sides of the track. In addition, he said that a construction methodology by Coastal Engineering and a slope environmental management plan from Safe Harbor for the construction phase and for a period of 5 years subsequent to the end of construction to make sure that the slope is maintained and that erosion is controlled were submitted to the Commission. Mr. Norton reviewed the construction methodology, including a timeline for the construction process, and the changes in the site plan, including the increase in the staging area and the limit of work line at the top of the slope. Mr. Peabody reviewed the long-term slope management plan and said that Safe Harbor and the property owner will be responsible for the implementing the slope maintenance plan. Mr. Hawk reviewed the plantings and the tree removal process.

Public Comment: Leonard Enos, Charles Roberts and Bill Docker spoke in support of the project. Paul Teixeira and Rich Trevino, both abutters, and speaking on behalf of the abutting condominium association, voiced concerns regarding the continuing stability of the slope and requested that the Commission require a geological study to be done of the site. There were 7 letters of support and 6 letters in opposition to the project.

Commission Discussion: The Commission questioned Attorney Murphy, Mr. Norton, Mr. Peabody and Mr. Hawk. The Commission was concerned about the possibility of slope failure and questioned Mr. Peabody about his management plan. The trees to be removed were reviewed by Mr. Hawk and Mr. Peabody. Mr. Famulare reviewed a draft Order of Conditions. He recommended a revision of #9 from a period of 3 to a period of 5 years and the incorporation of Coastal Engineering's construction methodology and Safe Harbor's environmental management plan into the Order.

Robert Brock moved to approve Notice of Intent, CON 18-084, 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 construction of a proposed funicular (inclined elevator) and associated site improvements at the property located at 1 High Pole Hill Road with the Order of Conditions as revised by the Conservation Agent, Kiah Coble seconded and it was so voted, 3-0.

e) CON-18-088 **153 Commercial Street** (continued from the meeting of June 19, 2018) **Notice of Intent** filed by the **153 Commercial-6, 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 the construction of a vinyl bulkhead to replace an existing timber retaining wall and reconstruction of access stairways and a lower deck. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach and a Buffer Zone to a Coastal Beach.

f) CON-18-089 **151A Commercial Street** (continued from the meeting of June 19, 2018) **Notice of Intent** filed by the **Joseph Smith and Scott A. Popkowski**, 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 construction of a vinyl bulkhead to replace an existing timber retaining wall and the reconstruction of access stairways and a walkway. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach and a Buffer Zone to a Coastal Beach. Alfred Famiglietti recused himself from both matters because of a conflict of interest.

Kiah Coble nominated herself as Acting Chair, Robert Brock seconded and it was so voted, 3-0. She proceeded to open both cases.

Presentation: Jay Norton appeared to discuss the applications. Mr. Famulare informed him that there might be quorum issues for the hearing of these two cases due to the uncertainty of several Commissioners' future attendance. Mr. Norton requested to continue to the August 7, 2018 Public Hearing in order to review Greg Berman's report.

Robert Brock moved to grant the request to continue CON-18-088 and CON-18-089 until the August 7, 2018 Public Hearing at 6:30 P.M., Carolyn Clough seconded and it was so voted, 3-0.

g) CON-18-095 **6-R & 14-R Browne Street** (continued from the meeting of June 19, 2018)

Notice of Intent filed by the **Town of Provincetown** 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 a habitat restoration project at Browne Street Community Garden & Conservation Park, to include the removal of invasive plants, introduction of native plantings, and establishing access pathways. Work to take place within Land Subject to Flooding, NHESP Priority Habitat and a Buffer Zone to a Bordering Vegetated Wetland. Mr. Famulare said that the NHESP opinion that the project would not adversely impact the resource area habitat of state-protected rare wildlife species and the project was exempt from review under the endangered species act has been received and the draft Order of Conditions could be approved. **Kiah Coble moved to approve the Order of Conditions for CON-18-095, Robert Brock seconded and it was so voted, 3-0.**

5) **Conservation Agent Update:** Mr. Famulare welcomed Carolyn Clough, the new Commissioner.

6) **Approval of Minutes of June 19, 2018:**

Alfred Famiglietti moved to approve the minutes as written, Kiah Coble seconded and it was so voted, 4-0.

6) **Information:**

Administrative Review applications approved by the Agent: Mr. Famulare reviewed the application.

a) **CON-19-003 409 Commercial Street** – removal and pruning of trees in buffer zone.

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

ADJOURNMENT: **Kiah Coble moved to adjourn the Public Hearing at 9:00 P.M. and it was so voted unanimously.**

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2018
Alfred Famiglietti, Chair