

PROVINCETOWN CONSERVATION COMMISSION

March 7, 2006

6:30 P.M.

Members Present: Dieter Groll, Elaine Anderson, Dennis Minsky, John Santos and Robin Evans.

Members Absent: George Bryant and Paul Tasha.

Others Present: Erica Larner (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:40 P.M.

PUBLIC STATEMENTS:

Peter Souza spoke about of his concerns regarding the Clapp's Pond Resource Area, including signage being removed on the Seashore side and people walking where there are rare species of plants. He suggested that fencing and more signage would be needed in that area and asked that the Commission consider this issue when they formulate their management plan.

Enforcement Order

27 Commercial Street

Erica Larner reported several violations at the site. There is no sign, pursuant to General Condition #9, with the DEP filing number, SE 58-0381, posted on site. There is extensive lumber, concrete and stone debris on site. There are also two gas cans in the area. This debris is in contradiction to performance standards noted on the plan of record. Construction material is stored in several places outside in violation of the Special Conditions. Sediment control in the form of straw bales and silt fencing has not been maintained and sediment has begun to erode past the limit of work.

Erica reported to the Commission that she issued an Enforcement Order last week as a result of these violations. The day after she issued the Order, she received a response and photographs showing that the issues in questions had been dealt with.

Dennis Minsky moved to ratify the Enforcement Order for 27 Commercial Street (DEP filing # SE 58-0381), Elaine Anderson seconded and it was so voted 4-0-1 (John Santos abstain). The site is now in compliance.

Enforcement Order

71 Commercial Street

Due to a violation of the Determination of Applicability, public property was damaged. The town landing has filters that prevent direct discharge of pollutants into a protected resource area (coastal beach and land under ocean).

Erica reported to the Commission that these filters for storm water drainage control were not functioning because they were cracked. DEP had contacted her to investigate the site. James Roderick and Ethan Poulin, who were hired by the Department of Public Works to do work at the site were present at the hearing and answered questions from the Commission and the Conservation Agent. Erica will contact Stearns & Wheler, the engineers hired by the Town of Provincetown, to discuss the system of filters. Erica has concluded that a restoration order needs to be submitted to her before April 15, 2006.

John Santos moved to ratify the Enforcement Order and moved to lift the stop work order for 71 Commercial Street, Dennis Minsky seconded and it was so voted, 5-0.

Certificate of Compliance

837 Commercial Street, Lot 9 (SE 58-0384)

Demolition of existing structures and appurtenances.

Attorney Lester J. Murphy and William N. Rogers, II appeared to discuss the Certificate. The Order of Conditions issued by the Commission does not mention the existing structures and appurtenances located on this lot. Thus the applicant seeks to have the lot released from the Order of Conditions and

demolish the structures and appurtenances. The Order of Conditions is still in effect for the remaining lots in the subdivision.

Elaine Anderson moved to issue a Certificate of Compliance, releasing Lot 9 from the Order of Conditions issued by the Conservation Commission, for the subdivision located at 837 Commercial Street, Robin Evans seconded and it was so voted, 5-0.

Certificate of Compliance

237-241 Commercial Street (SE 58-0305)

Rebuild existing structure with walkway over a resource area.

Dieter Groll recused himself because of a conflict of interest. Elaine Anderson chaired the hearing. The applicant did not appear.

Robin Evans moved to issue a Certificate of Compliance for 237-241 Commercial Street (Se 58-0305), Dennis Minsky seconded and it was so voted, 4-0.

Determination of Applicability

Application by Michel Wallerstein for a Request for a Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a new porch, storage area and outdoor shower at the property located at **91 Commercial Street**, in Provincetown.

Presentation: Alan Cabral appeared to present the application. The applicant seeks to install 4' by 6' fencing for the outdoor shower, which will drain into a drywell and construct a farmer's porch on the street side of the property. There will be minimal disruption to the property.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Cabral.

John Santos moved to grant a Negative #2 Determination for the property located at 91 Commercial Street, Elaine Anderson seconded and it was so voted, 5-0.

Notice of Intent

Application by Ron Reil on behalf of Thomas Bombardier under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to replace deck boards of an existing wooden deck and modify bracing at the property located at **107 Commercial Street**, in Provincetown.

Presentation: Paul Shea, of Environmental Consultants, Inc. and William N. Rogers, III appeared to present the application. The applicant is seeking to comply with the requirements of Chapter 91.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Rogers and Mr. Shea.

FINDINGS OF INTEREST:

- Storm damage prevention;
- Protection of wildlife habitat; and
- Flood control.

Elaine Anderson moved to approve the Notice of Intent for the property located at 107 Commercial Street with the following special conditions:

- *Within one month of receipt of this Order of Conditions and prior to the commencement of any work approved herein, General Condition # 8 (No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the*

registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.) shall be complied with.

- *It is the responsibility of the applicant, the owner and/or successor(s) and the project contractors to ensure that all conditions of this Order are complied with. The applicant shall provide copies of the Order of Conditions and approved plans (and any approved revisions thereof) to project contractors prior to the start of work.*
- *This document shall be included in any construction contracts and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.*
- *A sign shall be displayed showing the DEP file number, preferably not placed on a living tree.*
- *The Conservation Commission shall receive notice 72 hours in advance of the start of work. If requested, a meeting will be held on the site to ensure compliance before work begins.*
- *Any change to the plans identified in the Special Condition above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.*
- *All debris, fill, and excavated material shall be stockpiled far enough away from wetland resource areas, and at a location to prevent sediment from entering wetland resource areas.*
- *The Conservation Commission, its employees, and its agents shall have a right of entry to inspect for compliance with the provisions of this Order of Conditions.*
- *This permit is valid for 3 years from the date of issuance, unless extended by the Commission at the request of the applicant. Caution: a future Amended Order does not change the expiration date.*
- *At the completion of work, or by the expiration of this Order, the applicant shall request in writing a Certificate of Compliance for the work herein permitted. Where a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists with the record plans approved in the Order shall accompany the request for a Certificate of Compliance. At the time of the request for a Certificate of Compliance, an updated sequence of color photographs of the undisturbed buffer zone shall also be submitted.*

This Order of Conditions will also include the construction protocol submitted by the applicant. Dennis Minsky seconded and it was so voted, 5-0.

Notice of Intent

Application by Clancy Realty Trust under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a single-family dwelling, garage, deck and septic system with grading and landscaping at the property located at **Lot 12, Harbour Drive (formerly 837 Commercial Street)**, in Provincetown.

Notice of Intent

Application by Clancy Realty Trust under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a single-family dwelling, garage, deck and septic system with grading and landscaping at the property located at **Lot 13, Harbour Drive (formerly 837 Commercial Street)**, in Provincetown.

Notice of Intent

Application by Clancy Realty Trust under the Provincetown Wetlands By-Law, Chapter 12 of the

Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a single-family dwelling, garage, deck and septic system with grading and landscaping at the property located at **Lot 14, Harbour Drive (formerly 837 Commercial Street)**, in Provincetown.

Notice of Intent

Application by Clancy Realty Trust under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a single-family dwelling, garage, deck and septic system with grading and landscaping at the property located at **Lot 15, Harbour Drive (formerly 837 Commercial Street)**, in Provincetown.

Notice of Intent

Application by Clancy Realty Trust under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks approval to construct a single-family dwelling, garage, deck and septic system with grading and landscaping at the property located at **Lot 16, Harbour Drive (formerly 837 Commercial Street)**, in Provincetown.

The Commission heard these applications together. Robin Evans recused herself because of a conflict of interest. Dieter Groll, Elaine Anderson, Dennis Minsky and John Santos sat on the case.

Presentation: Attorney Lester J. Murphy, William Gordon, William N. Rogers, II, Paul Shea, of Environmental Consultants, Inc. and Kristin Robbins, of Michael Winstanley Architects & Planners, appeared to present the application. Carol P. Tinkham, a stenographer, was also present to record the proceedings of this case. According to Mr. Shea, these lots are on the harbor side of the Harbour Drive subdivision. There will be no buildings further seaward than what is already present, there will be a net reduction in development on the site, the impervious surface areas will be reduced and open space will be doubled. There will be no alterations to the dune or beach in the area as a result of this project. Ms. Robbins presented detailed landscaping plans for the site.

Public Comment: None.

Commission Discussion: The Commission questioned Attorney Murphy, Mr. Shea, Mr. Rogers, Ms. Robbins and Mr. Gordon about the project. Erica Lerner had some concerns that were raised by DEP, including questions regarding storm water management forms and whether the applicant had filed these. She also stated that there was some confusion as to where the limit of the coastal beach is delineated on Lots 12 – 15 on the applicant’s site plan. Erica’s recommendation to the Commission is that they not allow foundations to be built within 100’ of a coastal dune. Those structures would not meet dune performance standards because the dune must be allowed to move laterally. She suggested building these structures on pilings. Erica also suggested that the applicant look to landscape the area with plants that are more salt-resistant than what is shown on the landscaping plan. The Commission requested that the applicant provide them with a specific planting list for each lot. The Commission decided that they would like to read the DEP reports when they are issued in order to guide their decision in this case. The applicant requested that these applications be continued until the March 21, 2006 hearing.

John Santos moved to accept the applicant’s request to continue, Elaine Anderson seconded and it was so voted, 5-0.

The Commission briefly discussed the site at 74 West Vine Street.

ADJOURNMENT:

Dennis Minsky moved to adjourn the meeting at 9:25 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2006.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2006
Dieter Groll and Elaine Anderson, Co-Chairs

