

PROVINCETOWN CONSERVATION COMMISSION

August 1, 2006

6:30 P.M.

Members Present: Dieter Groll, Elaine Anderson and Lynne Martin.

Members Absent: Dennis Minsky, Paul Tasha and Robin Evans.

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

Co-Chair Dieter Groll called the meeting to order at 6:38 P.M.

PUBLIC STATEMENTS:

Attorney Christopher J. Snow appeared to discuss his concerns about the scheduling of the hearings for both 34-36 Snow's Lane and 67 Harry Kemp Way on September 19, 2006. He was concerned about the contract that the Commission would be entering into with ENSR to provide a wetlands specialist to advise them. He stated that the applicants in these cases, both of whom he represents, have not agreed to the services that are being contracted for. The applicants had only agreed, according to Attorney Snow, to take the request of the Commission for a wildlife species study under advisement. Attorney Snow wanted to move the hearing of these matters to the Commission's next hearing on August 15, 2006. The decision of the Commission left open whether and to what extent the Commission would implement the contract. Erica Larner advised Attorney Snow that he was not allowed to discuss specific cases pending before the Commission without their having been advertised. Attorney Snow made a number of accusations against Ms. Larner related to her participation in and handling of the 34-36 Snow's Lane case, including ethical violations. Ms. Larner defended her position.

Ratification of Order of Conditions

Ratification of an Order of Conditions for **Bull Ring Wharf Condominium Association** 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 at the property located at **383 Commercial Street**, in Provincetown.

The Commission was waiting for comment from DEP and not having received any, ratified the decision *Elaine Anderson moved to ratify the Order of Conditions for the Bull Ring Wharf Condominium Association for the property located at 383 Commercial Street, Lynne Martin seconded and it was so voted, 3-0.*

Ratification of Order of Conditions

Ratification of an Order of Conditions for **Robert Nee** 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 at the property located at **345A Commercial Street**.

Robert Valois was present to submit new plans showing the limit of work for the project.

Elaine Anderson moved to approve the Order of Conditions for Robert Nee for the property located at 345A Commercial Street, Lynne Martin seconded and it was so voted, 3-0.

Enforcement Order

139 Commercial Street – An irrigation system was installed within the buffer zone.

Erica Larner had received a telephone call about the irrigation system and called the agent for the owner, Robert O'Malley and inspected the property. She determined that the irrigation system was in violation of the Positive Determination.

Findings:

- The activity is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the Commission; and
- The activity has been conducted in an area subject to protection under the Town of Provincetown General By-Laws, Chapter 12 or the buffer zone without approval from the issuing authority. The activity has been conducted in violation of a Positive Determination DA-060007.

Order:

- The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource area; and
- The property owner shall take the following action to prevent further violations of the Act: the property owner or his agent shall remove the flat sheet of wood being used as a walkway. The property owner or his agent shall either remove the irrigation line along the edge of the driveway and behind the nearby building and restore the disturbed area to its original condition or he shall file a Notice of Intent for the work completed as well as to restore the disturbed area. Should the violator choose the removal option, photographs documenting the work shall be submitted to the Conservation Agent and a site visit may be conducted at the request of the Agent. Replanting shall be done in consultation with the Agent. All work shall be completed and documentation submitted by August 21, 2006. Should the violator choose the Notice of Intent option, the completed Notice of Intent shall be filed by August 31, 2006. A Public Meeting to discuss this Enforcement Order will be held on August 1, 2006 at Provincetown Town Hall. The property owner or his representative may attend, but is not required to. Failure to comply with this Enforcement Order may result in additional Enforcement Orders and non-criminal citations.

Public Comment: Katherine Rafter stated that the neighborhood is concerned about the enforcement of the Positive Determination at the property and implored the Commission to do what they could to impress that upon the owner.

Elaine Anderson moved to ratify the Conservation Agent's recommendation, Lynne Martin seconded and it was so voted, 3-0.

Notice of Intent

Application by the **Town of Provincetown - DPW** for a Notice on Intent 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 to remove concrete boat launching pad and fill undermined area with sand at **Good Templar Place Town Landing** in Provincetown.

Presentation: Russell Kleekamp, of Stearns & Wheler, LLC, appeared to present the application. There is a flooding problem at the property and Stearns & Wheler was hired to assess the damage and come up with a solution. Emergency work is being done already at the site. Temporary measures are currently being undertaken, such as bringing in sand to shore up the undermined area, until a more suitable solution can be implemented.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Kleekamp.

Elaine Anderson moved to approve the Notice of Intent for the property located at Good Templar Place Town Landing, with the Order of Conditions that it is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.

Proposed Budget for WPA Filing Fees

The Commission discussed proposed budget for Wetlands Protection Act filing fees to be approved by the Board of Selectmen or the Town Manager. Erica Larner is trying to gather information about how much money is available. She asked for comments from the Commissioners and the discussion of the issue will continue at the August 15, 2006 hearing.

CORRESPONDENCE:

Gebelein litigation – The Commission briefly discussed the notice of entry of the signed Agreement for Judgment.

GIS training and software – The Commission agreed that they would like to acquire the software and discussed funding for its acquisition. *Elaine Anderson moved to look into funding the acquisition of GIS software, Lynne Martin seconded and it was so voted, 3-0.*

ANY OTHER BUSINESS:

Erica Larner discussed the draft of new regulations for the management of the resource areas under the purview of the Commission. She would like the Commissioners to review them and make comments on them before she sends them to the Banner for advertisement. The discussion is postponed until more Commissioners are present.

The Commission discussed setting up an Administrative Review under the local by-law.

ADJOURNMENT:

Elaine Anderson moved to adjourn the meeting at 8:15 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