

PROVINCETOWN CONSERVATION COMMISSION

October 3, 2006

6:30 P.M.

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

Members Absent: Paul Tasha and Robin Evans.

Others Present: Brian Carlson (Health Inspector), Erica Larner (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:43 P.M.

PUBLIC STATEMENTS:

Carl Roach, manager of the Cape Tip Moto-Cross Club invited the Commissioners to the annual meeting and rally of the club at the VFW on Saturday, October 7, 2006.

MINUTES:

August 1, 2006 – *Elaine Anderson moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0-1 (Dennis Minsky abstaining).*

August 15, 2006 – *Elaine Anderson moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0-1 (Dennis Minsky abstaining).*

July 18, 2006 – *Dennis Minsky moved to approve the language as written, Lynne Martin seconded and it was so voted, 4-0.*

July 18, 2006 – Executive Session – *Dennis Minsky moved to approve the language as written, Elaine Anderson seconded and it was so voted, 4-0.*

February 21, 2006 – A quorum was not present to approve the minutes.

May 2, 2006 – A quorum was not present to approve the minutes.

Determination of Applicability

Application by Provincetown Conservation Commission for Request for 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 to harden the existing walking trail over the old railroad bed at **61 Howland Street**, in Provincetown.

Presentation: Erica Larner, Provincetown Conservation Agent, appeared to present the application for the 'Old Colony Nature Trail Project'. The Town has a grant from Barnstable County for \$9,000.00 for this project. A distance of 1,000 feet is being hardened. The remainder of the grant may be used for signage in resource areas. Approval has been granted from the Natural Heritage and Endangered Species Program of the Division of Fisheries and Wildlife. The applicant submitted a protocol for the work to be performed at the site.

Public Comment: There was a letter from an abutter to the trail who spoke against the project fearing that the trail will be used for unintended purposes and thus will be destructive to the area.

Commission Discussion: The Commission questioned Ms. Larner.

Dennis Minsky moved to grant a Negative #3 Determination with the following conditions:

- *The construction protocol submitted with the application will be followed, particularly with respect to wildlife breaks and sedimentation control; and*
- *There will be a pre-construction onsite meeting with staff before any work is commenced.*

Lynne Martin seconded and it was so voted, 4-0.

Notice of Intent

Application by the Independent Environmental Consultants, Inc. , representing Snow Realty Trust I, II, Scott Andonian, Trustee, 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 approval for construction of one single family dwelling on each lot with appurtenances, and the upgrade of sanitary subsurface disposal systems on each lot with appurtenances at the property located at **34 and 36 Snow's Lane**, in Provincetown.

Elaine Anderson moved to continue the case without testimony until the October 17, 2006 hearing, Dennis Minsky seconded and it was so voted, 4-0.

Notice of Intent

Application by Demetrios Daphnis 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 approval for construction of six new dwelling, retaining walls and appurtenances at **67 Harry Kemp Way**, in Provincetown.

Dennis Minsky moved to continue the case without testimony until the October 17, 2006 hearing, Dieter Groll seconded and it was so voted, 4-0.

CORRESPONDENCE:

Erica Larner read a press release about QBII, an art installation opening on October 8, 2006 at the Shank Painter Wildlife Sanctuary. The press release described the artists and the projects they will be presenting.

PROPOSED REGULATIONS:

Conservation Commission Local Regulations:

ARTICLE 3: Administrative Review.

The Commission discussed this Article, which creates the process of Administrative Review. They decided to add language to the effect that the Commission be copied on any Administrative Review at the next Public Hearing and that an Administrative Review fee will be collected at the time of submission.

Public Comment: Christine Odiaga, of the Massachusetts Department of Environmental Protection, inquired about the establishment of minimal submittal requirements and refundable fees.

Commission Discussion: The Commission discussed this and decided to add “non-refundable” in front of the word ‘fee’ and minimal requirements should include the property address, the map and parcel number, a description of the full scope of the work to be performed and a GIS sketch plan, with which the Conservation Agent will assist the applicant. ***Dennis Minsky moved to approve Article 3 as amended, Elaine Anderson seconded and it was so voted, 4-0.***

ARTICLE 4: Vista Pruning Regulations.

The Commission discussed herbicides and options for pruning. They decided that options should be discussed on a site specific basis, that 4.5(d) should have language added to read “Topping is not permitted without express approval to protect tree viability and nesting habitats” and that 4.8(a) should be amended to include “permitted” between ‘dripping’ and ‘herbicide’.

Public Comment: Gordon Peabody spoke of the need to clarify the language of the Article and made suggestions concerning canopy layers and percentages. He addressed the issue of nesting birds and other wildlife that are in the interest of the Commission to protect and also made the suggestion that a time envelope be required. Christine Odiaga suggested that 4.2 should read the “No work is allowed in the resource area except as specifically permitted by the Conservation Commission in land subject to coast storm flowage, coastal banks and riverfront areas.”

Elaine Anderson moved to approve Article 4 as amended, Dennis Minsky seconded and it was so

voted, 3-0.

ARTICLE 5: Wetlands Protection Violations.

The Commission discussed this Article.

Public Comment: Christine Odiaga commented the 10.08 CMR has violations that are not listed in the regulations and the Commission may want to make the regulations consistent with state law. Bob Fodor inquired about the violations.

Commission Discussion: The Commission decided to add the violations to 5.1.

Dennis Minsky moved to approve Article 5, Elaine Anderson and it was so voted, 3-0.

ARTICLE 6: Conservation Land Use.

The Commission discussed adding language about the collection of plants or live animals to 6.5. They also discussed hunting in the Clapp's Pond Resource Area.

Public Comment: Gordon Peabody suggested that the Commission leave the dialog about hunting open to the people in town whom it impacts. Christine Odiaga mentioned that the Commission may want to add cross-bow hunting to 6.4 and that 6.2 should mention that cigarette butts, pet waste and food waste, such as apple cores, are considered litter.

Commission Discussion: The Commission decided to amend 6.5 to read: "No hunting, trapping or collecting of flora or fauna is allowed on Conservation lands. Hunting is not prohibited in the Clapp's Pond Resource Area when in accordance with any other applicable laws."

Dennis Minsky moved to approve Article 6 as amended and it was so voted, 3-0.

ANY OTHER BUSINESS:

Dennis Minsky told the Commission of an incident at the airport where birds on the runway were being slaughtered by planes landing on the runway. Erica will contact the Carrie Phillips at the Seashore about the incident.

Christine Odiaga – She passed out copies of cases reviewed by DEP because of various deficiencies and advised the Commission on what kind of information they can require of an applicant and on what basis applications can be denied. She indicated that if the proper information is not given to the Commission and an application is denied as a result, the DEP will issue a report in support of the Commission. She also included a copy of 314 CMR, which gives a list of activities that require an application to be made to a Conservation Commission.

Elaine Anderson made a motion to go into Executive Session at 10:00 P.M. for the purpose of discussing pending litigation. Each Commissioner was polled separately and each voted in the affirmative to go into Executive Session.

ADJOURNMENT:

Elaine Anderson moved to adjourn at 10:30 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