

PROVINCETOWN CONSERVATION COMMISSION

February 12, 2008

6:30 P.M.

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

Members Absent: David Hale (excused).

Others Present: Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Co-Chair Dennis Minsky called the Public Hearing to order at 6:33 P.M.

PUBLIC STATEMENTS: None.

MINUTES: January 22, 2008 – Regular Session - *Elaine Anderson moved to approve the language as written, Dennis Minsky seconded and it was so voted, 3-0.*

Executive Session - Elaine Anderson moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0.

OLD BUSINESS:

Notice of Intent

Application by **Berg Family Trust c/o, Astrid Berg**, represented by **Woods Hole Group, Inc.**, for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes the reconstruction of an existing outer wharf and restaurant and public accessibility improvement at the property located at **371-373 Commercial Street**, in Provincetown. This case is continued until the February 26, 2008 hearing.

NEW BUSINESS:

Request for Determination of Applicability

Application by **Joel Shaw (West Beach Condominium Trust)** represented by **Cape Associates, Inc.** for a **Request for Determination of Applicability** under the Massachusetts Wetland Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work for construction of a 15' by 15' pressure-treated deck on the beach at the property located at **101 ½ Commercial Street** in Provincetown.

Presentation: Derik Burgess, of Cape Associates, appeared to present the application. The West Beach Condominium Trust seeks to construct a deck on the beach, 30" above grade within dictated setbacks. They also seek to replace the existing chain-link fence separating the parking area from the beach. Subsequent to the construction of the deck, re-grading and landscaping will take place in the parking area.

Public Comment: Joe Notaro, representing Lora and Jack Papetsas, who are direct abutters to the property, spoke against the application. There was one letter from Mr. and Ms. Papetsas against the project in the file that was read into the record by Chair Dennis Minsky. Maxine Notaro reminded the Commission that the design of the fence would need to be approved by the Historic District Commission.

Commission Discussion: The Commission questioned Mr. Burgess. The site was not staked so that Commissioners could see exactly where the deck would be located. The Commission requested that Mr.

Burgess stake the site and return with a fuller construction narrative for the project. The applicant requested a continuance to the February 26, 2008 hearing.

Elaine Anderson moved to grant the continuance for the Request for Determination of Applicability for the property located at 101½ Commercial Street to the February 26, 2008 hearing, Lynne Martin seconded and it was so voted, 3-0.

DISCUSSION: Chapter 91 Amnesty License Application: 63 Commercial Street

The owners of the property located at 63 Commercial Street are applying for an Amnesty License for Chapter 91. One of the requirements of the application is a letter from the Conservation Commission to the Department of Environmental Protection certifying that there has been no work done to expand the area in the Chapter 91 jurisdiction and that there has been no change in use of the property since January 1, 1984. According to the applicant, no work is being proposed on site. The Commission reviewed the site plan submitted by the applicant, depicting the existing building and existing decking at the property. Only a portion of the existing decking crosses the Chapter 91 jurisdictional line, as depicted on the site plan. The Amnesty License being applied for is only for that portion of the deck that crosses the jurisdictional line. In an e-mail in the file to David LaJoie, the engineer for the applicant, Lou Gitto, of the DEP, indicated that the property was being used as a hotel/motel in the late 90's and is now a two-family dwelling. He stated that this fact will need to be clarified as it would qualify as a change in use of the building since January 1, 1984. Brian Carlson will call Lou Gitto of the DEP and clarify what is required of the Commission and the discussion is continued until the February 26, 2008 hearing.

DISCUSSION: 2008 Flood Mitigation Assistance (FMA) Grant Program

There are federal funds available from FEMA for local hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. The Massachusetts Emergency Management Agency and Department of Conservation and Recreation are encouraging communities to apply for this grant. Brian Carlson explained that the grant money could be used for a Beach Nourishment Program encompassing the Town beach between the Atlantic Avenue Town Landing and the Good Templar Place Town Landing. He passed out printed information to the Commission, including a map of all of the properties that would be impacted by this project and the most recent Flood Insurance Study for Provincetown. Brian and Dennis met with Don Monroe, of Coastal Engineering, to discuss a feasibility study ("Feasibility Study for the Placement of Dredged Sand on West End Town Beaches") regarding the engineering scope of work required for such a project. Brian discussed some of the other details of the project, including what would be required of the property owners in this area. The Commission briefly discussed the potential project. The Commission also discussed whether they should undertake the feasibility study, which would cost the Commission \$3,000.00, before applying for the grant. A flyer to be passed out at Town Meeting was suggested, as well as contacting The Banner about the project. The Commission decided that due to the fact that the deadline was near, they would not apply for the grant this year. Brian will find out if the grant will be available next year. The Commission will get started on the process of getting information out to the public to find out if there is any interest in undertaking the project, especially from the owners of the properties in that area, and if so, will discuss going forward with the feasibility study and applying for the grant next year. Dennis will help Brian design a pamphlet for dissemination at Town Meeting. If there is enough public interest expressed, the Commission will then contact The Banner to do a story about the project.

DISCUSSION: Conservation and Open Space Property Mapping Project

Brian and Dennis met with Dana Faris and David Gardiner to identify and map every open space area in Provincetown that is not already designated as such or that has not been developed and that may be of interest to the Commission in conserving. This project is part of a Cape Cod Commission master plan. Provincetown was the only town on the Cape that had not done it. The map is posted on the Town website.

DISCUSSION: Shank Painter Pond Project Plan Review

Brian passed out copies of notes taken by Dennis at the site visit to the Shank Painter Pond Sanctuary on February 12, 2008. He also passed out a copy of Irene Seipt's proposal to submit a planting and management plan for the site. The Commission discussed the topics in the notes, including the approved use of the fire hydrant at the site, the boundary of the parking area, the material to be used for the surface of the parking area, the imported soil that was brought onto the site a few years ago, the removal of debris and fallen trees at the site, the location of the split rail fences, the bike rack, the benches and the picnic table, signage, and what should be planted in front and to the sides of the deck to discourage people from jumping down from the deck. The Commission discussed Irene's proposal for the planting plan.

Elaine Anderson moved to authorize the expenditure of \$500.00, out of Conservation Commission funds, to pay for a Planting and Management Plan to be formulated and submitted by Irene Seipt, and to then seek reimbursement of that sum from Land Management funds, Dennis Minsky seconded and it was so voted, 4-0.

Irene will submit a planting plan by March 11, 2008 prior to the hearing on the amended Determination of Applicability for the site on March 26, 2008.

CORRESPONDENCE:

The Commission was copied on a letter sent to DEP by an attorney representing Mr. Michael Winstanley, concerning the withdrawal of the Request for Superceding Order of Conditions for the property located at 781 Commercial Street, DEP File No. SE58-0434. The Request had originally been made by Michael Winstanley for the property owned by Lorraine and Dr. Jerome Harris. These parties, however, have come to an amicable agreement and Mr. Winstanley has chosen to withdraw his Request. In addition, the legal matter brought by Mr. Winstanley against the Harris' and the Conservation Commission in Superior Court, Civil Action No. 2007-666, has been dismissed and the Commission will need to authorize Town Counsel to sign the Stipulation of Dismissal on their behalf.

Dennis Minsky moved to authorize Town Counsel to sign, on behalf of the Commission, the Stipulation of Dismissal, Elaine Anderson seconded and it was so voted, 4-0.

CONSERVATION COMMISSION STATEMENTS:

Lynne Martin requested that Brian submit a better work-up of the financial figures for the Shank Painter Pond project. Lynne will research the bench issue and find out if DPW has any stored at their facility.

Elaine Anderson moved to go into Executive Session at 9:41 P.M to discuss legal matters and Chair Dennis Minsky polled each Commissioner separately and each Commissioner assented.

ADJOURNMENT: *Elaine Anderson moved to adjourn at 9:55 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2008.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2008

Dennis Minsky and Elaine Anderson, Co-Chairs