

PROVINCETOWN CONSERVATION COMMISSION

July 22 2008

6:30 P.M.

Members Present: Dennis Minsky, Lynne Martin, David Hale, Jack McMahon and Richard Silver.

Members Absent: None.

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

PUBLIC MEETING

Chair Dennis Minsky called the Public Meeting to order at 6:33 P.M.

PUBLIC STATEMENTS: None.

MINUTES: June 10, 2008 – *David Hale moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0.*

June 24, 2008 – *Jack McMahon moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0.*

NEW BUSINESS:

Certificate of Compliance

Request by **William N. Rogers, II** seeking a **Certificate of Compliance** for DEP file number SE 058-0395 for the property located at **161 Commercial Street**, Provincetown.

Presentation: William N. Rogers, II appeared to present the request. Mr. Rogers is requesting a Certificate of Compliance on the Order of Conditions issued by the Commission on November 7, 2005 for the Boatslip property. He certifies substantial compliance on the project, which included a concrete seawall, sheet-piling wall, timber deck and stairs and beach stairs in accordance with Plan No. P-05-1846, as submitted to the Commission

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Rogers.

Lynne Martin moved to approve the Certificate of Compliance for the property located at 161 Commercial Street, Dennis Minsky seconded and it was so voted, 5-0.

Notice of Intent

Application by the **Elia Sinaiko, PhD.** for an Amended Order of Conditions under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant seeks an Amended Order of Conditions for Permit No. SE 058-0379 for the reconstruction of an existing bulkhead at the property located at **609-611 Commercial Street**, Provincetown.

Presentation: Elia Sinaiko appeared to present the application. Mr. Sinaiko is appearing to request an Amended Order of Conditions to replace the bulkhead at his property. The original Order of Conditions was issued by the Commission at its hearing on October 12, 2004, when the Notice of Intent for the project was approved. Subsequent to this approval, it was discovered that the original plan was found to have engineering errors and omissions, in that it did not include returns, an essential structural component, for the proposed bulkhead. Mr. Sinaiko had new engineering plans drawn and the bulkhead was constructed according to these new plans. The new plans included the addition of returns and

duckbills, as well as a change in the position and height of the new bulkhead and a change in the position of stairs leading down to the beach.

Public Comment: Maria Lopez, an abutter, spoke against the application. There was a letter in the file from Attorney E. James Veara, representing two abutters to the property, opposed to the application and subsequently requesting that an enforcement action be commenced and that the request for the Amended Order of Conditions be denied.

Commission Discussion: The Commission questioned Mr. Sinaiko. Among the issues the Commission discussed was the fact that the bulkhead was not built in accordance with the plan that was approved by the Commission at its hearing on the Notice of Intent. Its construction went beyond the scope of the Commission's approval under the original Order of Conditions. The changes in the plans resulted in the structure (s) protruding further into the resource area. Another issue discussed was that work was supposed to be completed within three years of the date of the issuance of the Order of Conditions. However, work on the bulkhead did not commence until in April of 2008, more than three years from the date of the issuance of the Order of Conditions. The Commission closed the public portion of the hearing and will take the information presented under advisement and render a decision at a later time.

Notice of Intent

Application by the **Mary Kass and Merrill Lynch Bank & Trust Co., FSB**, represented by **Coastal Engineering Co., 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 repair and maintenance to an existing deck, bulkhead and pier at the property located at **571 Commercial Street**, Provincetown.

Presentation: Reggie Donoghue appeared to present the application. The decking at the premises was seriously damaged during a coastal storm in April of 2007. The proposal includes installing helical anchors below the deck through the concrete structure to stabilize it, repairing the face of the concrete structure and then replacing the decking above it, all within the same existing footprint. The work will be done according to the Construction Protocol submitted with the application. A small portion of the decking, a portion of the pier and the stairway are within the Chapter 91 jurisdiction. The applicant is in the process of preparing the Chapter 91 plans.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Donoghue. The Commission would like more information about the materials to be used in the repairs and would like a better explanation as to how the concrete will be poured during construction.

David Hale moved to approve the Notice of Intent for the property located at 571 Commercial Street with the standard Order of Conditions and the Special Conditions as stated in the Construction Protocol contained in the application, Dennis Minsky seconded and it was so voted, 5-0.

Notice of Intent

Application by the **Patricia DeGroot** represented by **East Cape Engineering, 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 installation of sheet piling to reinforce an existing metal bulkhead at the property located at **505 (507) Commercial Street**, Provincetown.

Presentation: Katelyn Siddell appeared to present the application. The project includes the stabilization of an existing 54' metal bulkhead. The applicant proposes to install sheet piling on the seaward side of the existing bulkhead. The new sheet piling will be installed flush with the existing wall. The sheet piling will consist of 8" by 18" by 16" sections. The applicant presented a scope of work which included information on the equipment to be used, the means of access to the property and material storage and disposal.

Public Comment: None.

Commission Discussion: The Commission questioned Ms. Siddell. The Commission requested that the Kendall Lane public landing be utilized for beach access and that rubber treads be used on any vehicle

being driven on the beach.

Dennis Minsky moved to approve the Notice of Intent for the property located at 505 (507) Commercial Street with the standard Order of Conditions, the condition that the Kendall Lane public landing be used for beach access, that any vehicle accessing the property via the beach use rubber treads and the conditions as stated in the Scope of Work submitted by the applicant, Richard Silver seconded and it was so voted, 5-0.

DISCUSSION:

2 Commercial Street: The Commission discussed the proposed development of 2 Commercial Street and whether they would like to support the Planning Board in its decision to send the project to the Cape Cod Commission as a limited discretionary referral. David Gardner, Assistant Town Manager, briefed the Commission on the issue. He reminded the Commission that they had written a letter in support of the referral to the Planning Board, which the Planning Board did not receive until the morning after their hearing and their motion to refer the matter to the Cape Cod Commission. Thus, none of the Commission's concerns were made part of the Planning Board's motion. David is suggesting that if the Commission would like to have their issues heard before the Cape Cod Commission when they deliberate, they should submit their own letter of referral stating their concerns about the project. The Commission discussed their issues of concern about the project and decided to write their own letter recommending a limited discretionary referral of the project to the Cape Cod Commission.

Public Comment: Mona Anderson, Rose Kennedy and Rachel Peters spoke against the Commission referring the project to the Cape Cod Commission. Karen DePalma, who represents the seller of the property, wrote a letter in support of the buyer's intentions for the property.

Dennis Minsky moved to request that a letter be sent to the Cape Cod Commission stating that the Conservation Commission would like to make a limited discretionary referral of the project at 2 Commercial Street to the Cape Cod Commission and stating their concerns about the potential impact of the project on the resource areas abutting the property, Richard Silver seconded and it was so voted, 3-0-2 (Jack McMahon and David Hale abstaining).

DISCUSSION:

609-611 COMMERCIAL STREET: The Commission discussed the issues involved in the request for an Amended Order of Conditions. They discussed whether to require Elia Sinaiko to apply for a new Notice of Intent and whether they should levy any fines for the violations that occurred.

David Hale moved to deny the application for an Amended Order of Conditions for the property located at 609-611 Commercial Street, and require that Mr. Sinaiko apply for a new Notice of Intent within 60 days, and levy a fine for a Type 1 and a Type 4 violation, for a total of \$600.00, Lynne Martin seconded and it was so voted, 5-0.

ANY OTHER BUSINESS:

Brian wants to get Amber a \$100.00 gift certificate and asked if any Commissioner would like to donate money.

Americorps is requesting a \$500.00 donation from each service partner to supplement the travel costs for its volunteers.

Jack has the coordinates for the location of eelgrass along the coastline from Wood End to Race Point:
off new beach bathhouse: 13835.2 – 44100.8 at 42° 02.286’N and 70° 13.445’W
off Wood End bar: 42° 02.039’N and 70° 13.267’W.

Substantial algae were found growing on the bottom of the ocean in this area. Off the Bath House going toward Race Point, the Lamenaria group, Phaeophita, was found as well as squid eggs and baby lobsters hiding in the eelgrass.

Lynne Martin was informed by a neighbor of 49A Commercial Street that there were no returns built on the new bulkhead installed at the property and the abutter is concerned that the contractor will leave and not install those returns. Brian will check it out.

ADJOURNMENT: *Dennis Minsky moved to adjourn 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 _____, 2008.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2008
Dennis Minsky, Chair