

PROVINCETOWN CONSERVATION COMMISSION

September 9, 2008

6:30 P.M.

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

Members Absent: Richard Silver (unexcused).

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

The Commission conducted a public site visit at 5:00 P.M. at 78 West Vine Street.

PUBLIC MEETING

Chair Dennis Minsky called the Public Meeting to order at 6:31 P.M.

PUBLIC STATEMENTS: None.

MINUTES: August 13, 2008 – *Lynne Martin moved to approve the language as written, Jack McMahon seconded and it was so voted, 3-0-1 (David Hale abstaining).*

The Commission decided to take the agenda out of order and hear the following Request for Determination of Applicability first, as the application has been continued for the previous six months.

OLD BUSINESS:

Request for Determination of Applicability

Application by **Joel Shaw (West Beach Club Condo Trust)**, represented by **Cape Associates, Inc.**, for a Request for Determination of Applicability under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work for the 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, Inc., and Tim Brady, of East Cape Engineering, Inc., appeared to discuss the application. The property has been staked by the engineer. The proposed deck will be 15' by 20' on grade, level with the adjacent parking area. The front of the deck, on the water side, will have three steps attached running the whole width of the deck. They will be left open at each riser to allow for unimpeded water flow.

Public Comment: Fred Long, an abutter, had a concern about a dune in the area being removed and the potential for flooding if that were to occur. Jack Papetsas, a direct abutter, spoke against the proposed project.

Commission Discussion: The Commission questioned Mr. Burgess and Mr. Brady. The Commission was concerned about vegetation on the beach being removed so the applicant agreed to replace any vegetation that may be lost during construction.

Jack McMahon moved to grant a Negative #3 Determination for the property located at 101 ½ Commercial Street with the Standard Order of Conditions and with the Special Order that any vegetation destroyed during construction will be replaced in kind, Dennis Minsky seconded and it was so voted, 4-0.

NEW BUSINESS:

Notice of Intent

Application by **Joyce Holupka & Pamela Cyr**, 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 renovations to a two-family dwelling, the construction of an addition and associated site work, including coastal dune enhancement at the property located at **485 Commercial Street** in Provincetown.

Presentation: Reggie Donoghue appeared to present the application. The project involves a proposed 11' by 17' addition on the south side of the building and the construction of a pervious paver parking area behind the structure. The beach to the south of this parking area is in bad shape and will be cleaned up and stabilized with the construction of a dunescape, comprised of beach grass. The project also includes the enhancement of an existing coastal dune. A proposed timber boardwalk will come off the paved area at an angle through the dunescape, allowing access to the beach.

Public Comment: Harriet Gordon, an abutter asked whether the proposed timber boardwalk would be raised or at grade.

Commission Discussion: The Commission questioned Mr. Donoghue. Mr. Donoghue confirmed that the proposed timber walkway will rest at grade and be removable.

Lynne Martin moved to approve the Notice of Intent with the Construction Protocol as presented and the Standard Order of Conditions, Jack McMahan seconded and it was so voted, 4-0.

Request for Determination of Applicability

Application by **Helen Ryde** for a Request for **Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work to include foundation replacement and replacement and expansion of a dwelling unit at the property located at **6 Duncan Lane**, in Provincetown. Dennis Minsky recused himself because he is a direct abutter to the property. Lynne Martin chaired the hearing of the case.

Presentation: Steven Cartwright and Kevin Bazarian appeared to present the application. The proposed work includes razing the existing dwelling, leaving only the front foundation wall (the portion of an existing foundation which is located within the 50' buffer zone). Once the demolition is complete, the cottage will be re-placed in its previous location, but expanded as shown on the plan submitted to the Commission. The limit of work will extend 5' from the proposed location of the new foundation. An erosion control barrier, comprised of a silt fence or hay bales, will be installed and maintained and will remain in place until all disturbed areas have been stabilized with loam and seed.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Cartwright and Mr. Bazarian. The Commission requested the addition of dry wells and downspouts to handle run-off from the structure and an expansion of the limit of work across Duncan Lane.

David Hale moved to grant a Negative #3 Determination with the Standard Order of Conditions and the following Special Conditions:

- *drywells and downspouts will be installed to handle run-off from the structure;*
- *an additional silt fence will be installed on the opposite side of Duncan Lane, as appropriate, in addition to a silt fence shown on the submitted plan;*
- *no pesticides or fertilizers will be used;*
- *any excess material encountered during construction is either to be utilized on-site or disposed of legally off-site; and*
- *all disturbed areas outside the building footprint will be stabilized with loam and seed; and*
- *the erosion control barrier will remain in place until all disturbed areas have been stabilized.*

Jack McMahan seconded and it was so voted, 3-0.

DISCUSSION: 78 WEST VINE STREET

The Commission informally discussed their site visit and the proposed project. The resource area shown

on the site plan is an isolated vegetated wetland subject to flooding and falls under the jurisdiction of the local Conservation regulations. The Commission discussed the siting of the house in relation to the resource area. Anne Howard joined the discussion and explained that the constraints regarding the location of the septic system dictated why the house was sited as it was. The Commission conjectured that they would need adequate justification from the applicant in order to allow the dwelling unit to be built within the 100' buffer zone.

UPDATE: CONSERVATION PROPERTY SIGN PROJECT

The Commission decided, from several varieties of font presented by the sign company, which version of the 'S' on the Shank Painter Pond property sign would be used. The Commission decided on the small 's'.

The sign company had also suggested changes for each of the four conservation areas property signs that would make them more 'readable'. The Commission discussed whether they wanted to change their agreed-upon designs to the designs suggested by the sign company. They then voted for which sign, for each of the four conservation areas, that they wanted to approve: the sign company's design or their design as previously voted upon. The choices for the designs were as follows: the Commission's for Shank Painter Pond and Fox Run and the sign company's for Nicky's Park and Whistle Path Woods.

CONSERVATION BOARD STATEMENTS:

Dirt bikes have been observed at Clapp's Pond. The Seashore has been notified of this activity by Paul Tasha. Dennis will contact both Craig Thatcher and Bobby Polero and let them know of the Commission's concern regarding this issue.

Jack brought up the issue of excessive mushroom picking along Route 6 and within the limits of the National Seashore. The mushroom pickers are alleged to be selling them for profit. Jack stated that there is a limit as to what can be picked by one person. Dennis will speak to Craig Thatcher at the Seashore about it and surmised that is all the Commission could do regarding the issue.

The Shellfish Commission is meeting with Rex McKinsey about putting an artificial reef in the West End and the Commission discussed how they may be involved in that issue.

Jack and Lynne report that there has been significant erosion occurring from New Beach to Wood End, an area which is within the jurisdiction of the Commission. This is due to the excessive foot traffic in the area during the summer months. The Commission briefly discussed how the situation might be remedied, as many solutions have been tried, and failed, in the past. Dennis will speak to Mark Adams and Craig Thatcher at the Seashore. The silting-in of Mill Pond was also mentioned as a concern of the Commission's. This is an issue that Paul Tasha has brought to the attention of the Commission in the past. Dennis had spoken to John Portnoy about the situation and John suggested that Paul Tasha write a letter to the National Seashore. Dennis thinks that the Commission should write one as well.

Dennis had a report of a retaining wall that collapsed in the vicinity of Whistle Path Woods. He has not yet visited the site. Allegedly the wall is currently being reconstructed. This work, because of its location near a wetland, should have been reviewed by the Commission before it was begun.

ANY OTHER BUSINESS:

2 Commercial Street – There will be a procedural hearing at the Cape Cod Commission on Thursday, September 18, to discuss 2 Commercial Street. There will also be a joint meeting of a representatives from the Planning Board (Marianne Clements) and the Conservation Commission (Dennis Minsky), Eric Dray, the buyer of the property (Cliff Schorer) and his attorney (Lester J. Murphy), Sharon Lynn, David Gardner and Town Counsel to discuss and formulate a Memo of Understanding concerning the property,

which will ultimately guide its development. Dennis is looking for input and would like to do another site visit at the premises before the meeting.

Bangs Street Extension: The abutter to the proposed project at 27-31 Bangs Street has been contacted, as discussed at the Commission's previous hearing, and Brian is trying to arrange a site visit to establish access in order to clean up and maintain the abutting resource area.

Browne Street Extension: Dennis and Brian visited the three parcels of land which are being offered for sale to the Commission. Brian suggested to the Commission that the unbuildable lot be donated and that the price for the other two lots be negotiated with the sellers. Dennis and Brian had discussed potential funding sources for the purchase, which will need to be researched further, and the Commission discussed how the land may potentially be used.

ADJOURNMENT: *Lynne Martin moved to adjourn at 8:52 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