

PROVINCETOWN CONSERVATION COMMISSION

February 27, 2003
6:30 P.M.

Members Present: Susan Avellar, Peter Souza, Sheila Benzer, Roger Chauvette

Members Absent: None

Others Present: Ellen C. Battaglini (Recording Secretary)

PUBLIC MEETING

Acting Chair Susan Avellar called Public Meeting to order at 6:38 P.M.

I. PUBLIC STATEMENTS:

None.

II. OTHER BUSINESS:

Certificate of Compliance – 527A Commercial Street – William N. Rogers representing Thomas Dubs

Presentation: William N. Rogers appeared to present the request. The septic system project was completed in 1992, but a Certificate of Compliance had never been obtained. Mr. Rogers submitted a copy of the septic plan to the Commission, which included a Special Order of Conditions.

Susan Avellar moved to grant a Certificate of Compliance for the septic system at 527A Commercial Street, Peter Souza seconded and it was so voted, 4-0.

III. NEW BUSINESS:

None.

IV. PUBLIC MEETING:

Determination of Applicability

Application by J.C. Ellis Design Co., representing Marie Pace and Kathleen Collins, 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 for the property located at **75 Howland Street, Units 1A and 1B**, Provincetown.

Presentation: Jason Ellis appeared to present the application. The applicant presented revised plans to the Commission. The old Title 5 septic system has failed and an upgrade is needed at the property. The leaching area is 50' from the buffer zone. The pump chamber will be located in the parking area.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Ellis about the new system. The work will occur in areas of the parking lot and yard and according to Mr. Ellis, there will be no impact on the resource area.

Susan Avellar moved to grant a Negative Determination (#3) for the application by J.C. Ellis Design Co., representing Marie Pace and Kathleen Collins, 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 for the property

located at 75 Howland Street, Units 1A and 1B, with the following Order of Conditions:

- *The work area will be staked off from the resource area with silt fencing and straw bales;*
- *The Conservation Agent Roger Dias will be notified after the work area has been isolated and the applicant will further inform him of what heavy equipment will be used before any construction is to begin;*
- *The driveway will be maintained as gravel after the construction is completed; and*
- *On the back border of the work where the large pitch pine is to be removed, the applicant will replace with three pitch pines of any size.*

Peter Souza seconded and it was so voted, 4-0.

Determination of Applicability

Application by Neal Kimball, representing Andrew Sullivan, 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 for the property located at **421 Commercial Street, Unit A and Unit H**, Provincetown.

Presentation: Neal Kimball appeared to present the application. The applicant wants to combine the two units into one and increase the size of the windows on the east side of the building. The work area will be accessed by a ladder in order to trim out the windows. 90% of the work will be done from the inside of the building.

Public Comment: None.

Commission Discussion: The Commission briefly questioned Mr. Kimball about the project. *Susan Avellar moved to grant a Negative Determination (#3) for the application by Neal Kimball, representing Andrew Sullivan, 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 for the property located at 421 Commercial Street, Unit A and Unit H, with the following Order of Conditions:*

- *The work area, including the deck, be policed daily for debris to be picked up and taken away for disposal; and*
- *The beach grass on the property will not be trampled,*

Peter Souza seconded and it was so voted, 4-0.

Determination of Applicability

Application by Thomas F. McGuire of the Massachusetts Highway Department 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 for the property located at **Route 6A, between 736 and 742 Commercial Street**, Provincetown.

Presentation: Thomas McGuire, an engineer from District 5 of the Massachusetts Highway Department, appeared to present the application. There is a drainage problem that is affecting both the abutters and motorists on Route 6A in that area. The Highway Department had previously installed catch basins, but these do not seem to be solving the problem. The Highway Department wants to enlarge the basins, adding stones and filter fabric, and connect them with a sub-drain. A backhoe will be used to enlarge the basins and silt fencing and straw bales will be installed to protect the buffer zone that the work area lies within.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. McGuire about the erosion control methods that will be employed and about how to keep cars from parking on the shoulder of the road at that location. The Commission is very concerned about the trampling of vegetation in the

area. Mr. McGuire suggested that the Commission discuss the issue with the Board of Selectmen, who would then write to the Massachusetts Highway Department. He suggested that “Police Take Notice” or “No Parking” signs could be installed in order to deter the parking.

Susan Avellar moved to grant a Negative Determination (#3) for the application by Thomas F. McGuire of the Massachusetts Highway Department 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 for the property located at Route 6A, between 736 and 742 Commercial Street, with the following Order of Conditions:

- *Silt fencing will be erected and straw bales will be placed around the work area to protect the buffer zone.*

Roger Chauvette seconded and it was so voted, 4-0.

V. PUBLIC HEARING

Notice of Intent

Application by Santos Construction, representing LaMontagne Realty Trust, for Notice of 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 for the property located at **111 Commercial Street**, Provincetown.

Presentation: A.J. Santos and Sheila LaMontagne appeared to present the application. The applicant needs to replace pilings at the property. All work will be done by hand, no pressure treated lumber will be used and the work will be done between the high and the low tides. In addition, the cross bracing will be 2’ by 10’s fastened with galvanized bolts. The materials will be stored above the high water mark and the work should take a week or less. The applicant possesses a Chapter 91 license that allows her to make repairs. Roger Dias had prepared a report that supported the Ms. LaMontagne’s application.

Public Comment: None.

Commission Discussion: The Commission briefly questioned Mr. Santos.

Susan Avellar moved to approve the application by Santos Construction, representing LaMontagne Realty Trust, for Notice of 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 for the property located at 111 Commercial Street, with the following Order of Conditions:

- *All digging is to be done by hand; and*
- *The work area is to be policed daily for debris,*

Roger Chauvette seconded and it was so voted, 4-0.

Notice of Intent

Application by David LaJoie of Felco, Inc., representing Francis John Santos, for Notice of 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 for the property located at **131A Commercial Street**, Provincetown.

Acting Chair Susan Avellar disclosed that she is employed by the father of the applicant at the West End Racing Club in the summer. She discussed this issue with Town Manager Keith Bergman and solicited his advice. Mr. Bergman generated a letter stating that he sees no conflict of interest and Ms. Avellar is free to consider the application.

Presentation: David LaJoie and Francis John Santos appeared to present the application. The applicant wishes to expand his pier for business use and wants to incorporate a float at the end of the pier to be used in conjunction with moorings already being used at the site. According to Mr. LaJoie, the construction protocol would include access from Good Templar Street to remove the existing pier, replace the pilings and to install the new concrete surface. In addition, the storage of water collected at the site will be determined when the applicant knows that he can proceed

with the project.

Public Comment: None.

Commission Discussion: A report by Roger Dias was read into the record. He sees two phases to the project and expressed the following concerns:

Phase One:

- The lack of detail in the preliminary plans;
- The clarification of the Chapter 91 issues;
- Whether the applicant has obtained permission from the Army Corps of Engineers;
- If the Harbormaster had been consulted about the navigation issues involved in the project;
- Whether any work would take place in shellfish areas.

Phase Two:

- Is any plumbing going to be installed;
- Are there fuel hazards on site; and
- How many boats will be tied to the float area.

Mr. Dias's letter emphasized that these questions remained to be answered by the applicant and his engineer. He suggests in his letter that the application be continued until the next Conservation Committee meeting so that the applicant can prepare a more complete set of plans and a more accurate description of the work to take place. In regard to Phase One of the project, the Commission recommended that the applicant needed to repair any of the existing pilings or repair storm damage to the concrete pad already in existence, he could, but he won't be allowed to go ahead with the rest of Phase One unless he answers the questions that Mr. Dias raised in his letter to the satisfaction of the Commission. The Commission is looking for a detailed construction protocol. The applicant agreed to a continuance. The Commission stated that the work area would be limited to the existing pier and concrete pad area.

Susan Avellar moved to grant the applicant the right to make repairs to the existing pier, including the concrete pad area with the following stipulations:

- *The pier will not in any way be enlarged until a full construction protocol is brought to the Commission;*
- *Any and all debris is to be disposed of at a regulated disposal site;*
- *An excavator will be allowed on the beach for the removal of debris; and*
- *New pilings for repairs will be driven into the beach from a position on the existing deck.*

In addition, the applicant was granted the right to continue the Notice of Intent for possible future expansion of the pier, Sheila Benzer seconded and it was so voted, 4-0.

VI. OTHER BUSINESS:

351A Commercial Street (Ginny Binder) – Administrative detail, request to modify plans –

The applicant chose to continue the issue until the March 27, 2003 meeting.

Projects for AmeriCorps – Discussion –

Presentation: Katherine Gusmano and Monique LaPerriere appeared from AmeriCorps. Their proposal for Americorps, at the suggestion of Commission member Sheila Benzer, is to remove the purple loosestrife from the Evans Field area where it threatens to choke out the native vegetation. Ms. LaPerrier stated that her group of 12, who operate out of Wellfleet, did a lot of invasive species removal on the Cape and would like to undertake other projects at the suggestion of the Commission.

Susan Avellar moved that the Conservation Committee put forth a proposal to Americorps for the purpose of exotic species removal in the areas of:

- *Evans Field;*
- *Duck's Pond;*

- *Clapp's Pond;*
 - *The western side of the Old Burn Dump; and*
 - *The eastern side of Shankpainter Pond,*
- Peter Souza seconded and it was so voted, 4-0.*

VII. ANY OTHER BUSINESS THAT SHALL PROPERLY COME BEFORE THE BOARD:

Susan Avellar will not be present at the April 24, 2003 meeting.

The Commission will reorganize itself, electing new officers, at the March 27, 2003 meeting.

Open Space Committee Request – There was a request from the Open Space Committee looking for volunteers from the Conservation Committee to act as a liaison to other Committees.

VIII. MINUTES

January 23, 2003 – Peter Souza moved to approve the language as written, Susan Avellar seconded and it was so voted, 3-0-1 (abstain) .

ADJOURNMENT:

Peter Souza moved to adjourn the meeting at 9:30 P.M., it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2003
Susan Avellar, Acting Chair