

PROVINCETOWN CONSERVATION COMMISSION

May 22, 2003
6:30 P.M.

Members Present: Susan Avellar, Peter Souza, Sheila Benzer, George Bryant and Paul Tasha (arrived at 7:00 P.M.)

Members Absent: Roger Chauvette (excused)

Others Present: Mark Latour and Ellen C. Battaglini (Recording Secretary)

PUBLIC MEETING

I. PUBLIC STATEMENTS:

None.

II. NEW BUSINESS:

- Election of officers – This was postponed until later in the evening as not all members of the Commission were present.
- Discussion of workshop schedule – Acting Chair Susan Avellar will be working with former Chair Gordon Peabody to go over Conservation Commission protocol and regulations in order that the latter conform more to the Provincetown Wetland Regulations.
- Certificate of Compliance – 651 Commercial Street – The applicant did not show up.
- **1 Commercial Street** - Provincetown Inn (*continued from 3/27/03 and 4/24/03*)

Request to repair sea wall by concrete capping –

Presentation: Mark Kinane, from Cape Associates, representing Evan Evans appeared to make the presentation. There are several sinkholes in the sea wall that need to be repaired. These holes present a danger to the guests at the Provincetown Inn. Mr. Kinane proposes to accomplish the repair by filling the holes with concrete.

Commission Discussion: The Commission questioned Mr. Kinane. The Commission asked the applicant if he would consider putting up a barrier in order to reduce spillage of the concrete onto the beach. Mr. Kinane agreed to erect a silt fence next to the pouring area.

George Bryant moved to grant a Negative Determination (#3) with the following condition:

- *That a silt fence be established to retain any spillage that may occur in the work area.*

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

III. PUBLIC MEETING:

Determination of applicability

Application by Peter Souza for Determination of Applicability under the Massachusetts Wetland Protection Act, M.G.L. c. 131, § 40 for the property located at **122 Bradford Street Extension** in Provincetown.

Presentation: Peter Souza, having recused himself from the Commission, presented the application. Mr. Souza contends that the project located at 122 Bradford Street Extension is an isolated wetland subject to flooding and thus falls under the Massachusetts Wetlands Protection Act. Mr. Souza disputes the contention of Ted Malone, the proponent of the project, that the area in which the project lies is not an isolated wetland subject to flooding, by which determination the project would not be subject to the regulations of the Massachusetts Wetland Protection Act. For that reason, Mr. Malone did not file a Request for a Determination of Applicability or a Notice of Intent with the Commission. He feels that that determination is up to the Conservation Commission to make, not the environmental biologist hired by Mr. Malone. Mr. Malone did appear before the Commission to present his plans for the development of the property. After this hearing, the Commission had voted to send a memo to the Provincetown Zoning Board of Appeals requesting that they send Mr. Malone back to the Conservation Commission before they granted him a 40B application. The ZBA declined to act on the memo.

Commission Discussion: The Board questioned Mr. Souza about his assertions and discussed the possibility of hiring an independent environmental biologist to render an opinion about the wetland delineation in the area.

Public Comment: Mark Latour expressed his opinion on the issue. Ted Malone spoke in defense of the delineation of the wetland done by Mario DiGregorio, his project environmental biologist. Mr. Malone pointed out that Mr. DiGregorio did the area's delineation before he was under his employ. Mr. Malone briefly summarized the relevant points of his previous presentation to the Commission.

Commission Discussion: The Commission asked the applicant if he would like to request a continuance so that they could get an answer from an independent source as to the delineation of the wetland at 122 Bradford Street Extension. If the Commission could get credible evidence that the wetland is subject to isolated flooding, a hearing would be held to specifically discuss this issue.

Sheila Benzer moved to continue discussion of the Determination of Applicability until an independent wetlands expert could advise the Commission as to the delineation of the wetland at 122 Bradford Street Extension, Paul Tasha seconded and it was so voted, 3-0-1 (George Bryant abstaining).

IV. PUBLIC HEARING:

Notice of Intent (continued from 2/27/03, 3/27/03 and 4/24/03)

Application of 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** in Provincetown.

The applicant did not appear to present the application.

V. OTHER BUSINESS:

- **351 Commercial Street** – Mark Kinane representing Nelson Hitchcock appeared to request a change in plans. Roger Dias had requested new plans for one of the decks at the premises that had been altered. The Commission questioned Mr. Kinane about the new plans he had submitted.
George Bryant moved to accept the new plans for the deck at 351 Commercial Street,

Peter Souza seconded and it was so voted, 5-0.

- **Town-wide policy goals** – Mark Latour stated that the Board of Selectmen ask for input for setting goals for the next fiscal year from every Board and they would like to hear from the Conservation Commission. The Commission, after a brief discussion, came up several suggestions:
 1. developing a comprehensive map of wetlands in Provincetown;
 2. obtaining more staff support and hiring a full time Conservation Agent;
 3. developing a management plan for Conservation land in Provincetown.
 4. developing an on-going invasive vegetation removal project, similar to the one that the Commission has discussed recently with Americorps, and a public education program to accompany it.
 5. to make available more money for Commission projects such as mapping;
 6. mapping of buildable acreage left in Provincetown and where wetlands are in relation to the acreage;
 7. the listing of Hatches Harbor Creek under the Rivers Protection Act;
 8. the designation of Provincetown Harbor as a UNESCO World Heritage Site.
- **MWRA** – The outfall pipe has made a positive contribution to Cape Cod Bay after 10 years.
- **Clean Water and Estuaries** – George Bryant was designated the Commission point person on these issues.
- **Conservation Commission secretary** – The Commission expresses concern about the workload of the Commission secretary, Pat White.
- **Community development plan** – Mark Latour explained EO 418 and how it relates to the Local Comprehensive Plan.
- **Fees for Determination of Applicability and other Conservation fees** – Mark Latour explained that some Town Boards have raised their fees. He will research what other Conservation Commissions on the Cape charge for fees and report back to the Commission.
- **Discussion by Peter Souza of suggestions for future management plans of Conservation land** – Mr. Souza gave a report about the management of the 40 acres under the control of the Conservation Commission, including Clapp's Pond and Duck's Pond. He would like to see signs posted that the area, designating the area as a Wildlife Refuge. Otherwise, he stated, the area is prey to vandalism and misuse. He will forward his report to the Open Space Committee and the Conservation Trust and ask for their comments. He has already submitted a copy to Town Manager Keith Bergman and Steve Milkewicz, chair of the Open Space Committee. The Commission will vote on the issue at their next meeting.

VI. MINUTES:

April 24, 2003 – The minutes were not ready to be approved.

ADJOURNMENT:

George Bryant moved to adjourn the meeting at 9:45 P.M. and it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2003

Susan Avellar, Acting Chair