

PROVINCETOWN CONSERVATION COMMISSION

September 25, 2003
6:30 P.M.

Members Present: Susan Avellar, Peter Sousa, Sheila Benzer, Paul Tasha and George Bryant.

Members Absent: None.

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

Acting Chair Susan Avellar called the meeting to order at 6:35 P.M.

I. PUBLIC STATEMENTS:

None.

II. OLD BUSINESS:

None.

III. NEW BUSINESS:

None.

IV. PUBLIC MEETING:

None.

V. PUBLIC HEARING:

Notice of Intent

Application by Robert L. Valois, representing RFE Keough Realty Trust, Ray Keough, Trustee, 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 **45 Commercial Street** in Provincetown.

Presentation: Robert L. Valois appeared to present the application. An existing dormer will be enlarged at the premises to make more headroom in the kitchen and bathroom and to bring the structure in conformance with the State Building Code. The structure is located on a pier, above a resource area, in a V4 velocity zone. The materials at the site will exit and enter via a boardwalk and access from the beach will be via ladder only.

Commission Discussion: Roger Dias reported that he had visited the site and spoken to the contractor and to Mr. Valois, informing them that the site needed to be policed for debris. Mr. Dias believes that the project can be done with a minimum of disruption and recommends that the Notice of Intent be granted as long as the applicant adheres to the construction protocol outlined in the narrative submitted with the application.

Mr. Valois told the Commission that the beach will be patrolled hourly for debris and the trash will be deposited in a dumpster located on Commercial Street.

Peter Souza moved to grant a 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 45 Commercial Street in Provincetown with the following condition:

- The contractor must adhere to the construction protocol as presented in the narrative presented with the application.

Sheila Benzer seconded and it was so voted, 3-0.

Notice of Intent

Application by Joshua G. Swerling, P.E., of Bohler Engineering, P.C., representing Seagull Realty Trust, Charles W. Silva, Trustee, 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 **56 Shankpainter Road** in Provincetown.

Presentation: Joshua G. Swerling, of Bohler Engineering, representing Seagull Realty Trust, and Paul R. Bonvicino, Jr., representing the Great Atlantic and Pacific Tea Company, appeared to present the application. The applicant needs to upgrade the existing leaching fields of a failed septic system. The system contains septic and a grease trap monitoring systems. The only work that will be done within the 100' buffer zone will be to remove the old system. Hay bales, silt fencing and filter fabric will be placed at the site to protect the buffer zone from contamination. The septic upgrade has the approval of the Board of Health, but must be completed by December 15, 2003. The applicant has researched many alternatives to the replacement of the leaching field, such as hooking up to the Town sewer system or running a line directly from the site to the sewage treatment plant, but was told by the Board of Health that Shankpainter Road would not be tied into the sewer system at this time and running a pipe directly to the treatment plant would be taking away allocated space at the plant from properties already designated as priority hook-ups.

Public Comment: Joe Taves, an abutter to the property, spoke against the project and questioned why the applicant could not work out an arrangement to hook up to the Town sewer system. He feels the Shankpainter Road neighborhood should be hooked up the sewer system. He presented the Commission with a petition signed by neighbors who felt that the Grand Union should have to connect to the sewer in order that the delicate wetland surrounding the site could be protected. Clem Silva, a business owner on Shankpainter Road, stated his opposition to the project. He believes that the Shankpainter Road neighborhood should be connected to the Town sewer system.

Commission Discussion: George Bryant stated that he did not intend to vote on the application because of his long-standing opposition to the present structure having been built at the site, but would participate in the discussion. Roger Dias felt that no storage of contaminated materials should be allowed on site, but should be removed immediately.

Commission Sheila Benzer and Commissioner Peter Souza walked out of the meeting after Ms. Benzer voiced her opposition as to how the meeting was being run. Acting Chair Susan Avellar postponed the hearing at 7:24 P.M.

Acting Chair Susan Avellar reconvened the hearing at 7:35 P.M.

Commission Discussion: Acting Susan Avellar recommends that the Commission write a letter to the Board of Selectmen, the Board of Health and the Sewer and Water Board about the need for the sewer to extend to the Shankpainter Road neighborhood. Paul Tasha recommended that monitoring wells be installed on down slopes at the site to check for possible potassium seepage into the resource area.

Paul Tasha moved to grant a 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 56 Shankpainter Road in Provincetown, with the following Order of Conditions:

- That no storage of contaminated material be allowed on site, but that any contaminated materials be trucked off site and disposed of in accordance with federal, state and local regulations;
- The contractor adhere to the construction protocol on the septic upgrade plans dated April 16, 2003;
- That two monitoring wells be installed on down slopes at the site; one on the southern side of the property (to locate, start at the southeast corner of the site and head west 60' and then north 25'), the second approximately 18' west of the existing loading dock on the western side of the structure.
- That said wells will be tested annually by Barnstable County for potassium and nitrates, according to the standards dictated by present regulations.

Susan Avellar seconded and it was so voted, 2-0-1 (present).

VI. OTHER BUSINESS:

Phillip Retzky – 61 Pleasant Street – The applicant is contesting the installation of monitoring wells on the property, one of the Orders of Conditions voted on by the Commission as part of the Notice of Intent. The applicant has hired an attorney and intends to submit a request to amend the Order of Conditions, requiring a re-notification of the abutters to the property. Roger Dias noted that requiring the installation of monitoring wells is standard procedure in other towns on the Cape. The Commission also discussed the need to establish and policy and criteria regarding monitoring wells.

Discussion of Clapp's Pond Management Plan – No one from the Conservation Trust was present to discuss this issue with the Commission, so therefore the issue was continued until the next meeting.

List of Native Species for Local Planting – Acting Chair Susan Avellar will endeavor to obtain a list of species to be used for local planting, so this issue will also be continued.

VII. MINUTES:

August 28, 2003 – *George Bryant moved to approve the minutes of August 28, 2003, Paul Tasha seconded and it was so voted, 3-0.*

VIII. ANY OTHER BUSINESS:

George Bryant would like to have the Commission write letter to the Historical Commission, the Board of Selectmen and any other Town Boards necessary to get the process of designating Provincetown and Provincetown Harbor as a UNESCO World Heritage Site.

George Bryant moved that the Conservation Commission begin the process of the designation of Provincetown and Provincetown Harbor as a UNESCO World Heritage Site, Paul Tasha seconded and it was so voted, 3-0.

ADJOURNMENT:

George Bryant moved to adjourn the meeting at 8:25 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Conservation Commission at their meeting on October 23, 2003.

NEXT MEETING

The next meeting will be on September 25, 2003.

Respectfully submitted,

Ellen C. Battaglini

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