

## PROVINCETOWN CONSERVATION COMMISSION

January 17, 2006

6:30 P.M.

**Members Present:** Dieter Groll, Elaine Anderson, George Bryant, Dennis Minsky, Paul Tasha and Robin Evans.

**Members Absent:** John Santos (excused).

**Others Present:** Brian Carlson (Health Inspector) Erica Lerner (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Elaine Anderson called the meeting to order at 6:37 P.M.

### **PUBLIC STATEMENTS:**

Peter Souza spoke about the management plan for the forty acres located at Clapp's Pond. He feels very strongly about this issue and implored the Commission to act as soon as possible to implement a management plan.

Elizabeth Patrick spoke about the walkway at the Shank Painter resource area. She reminded the Commission that there is a deed restriction on the land and said that the deck that was constructed was within the 100' buffer zone of a wetland and is of the opinion that the Commission should be addressing this issue. Co-chair Elaine Anderson responded that the Commission is aware of the issue and is still doing research concerning it.

### **CERTIFICATE OF COMPLIANCE:**

**73 ½ Commercial Street (SE 58-0334)**

Elaine Anderson, Paul Tasha, Dennis Minsky, George Bryant and Robin Evans sat on the case.

**Presentation:** Roy Okurowski, of Coastal Engineering appeared to discuss the case. Mr. Okurowski is a marine engineer and he has inspected the work done at the premises and determined that it was in conformity with the plans submitted to the Commission.

**Commission Discussion:** The Commission questioned Mr. Okurowski.

***George Bryant moved to grant the Certificate of Compliance for 73 ½ Commercial Street (SE 58-0334), Paul Tasha seconded and it was so voted, 5-0.***

### **Notice of Intent**

Application by Captain Jack's Wharf Condominium Trust 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. The applicant seeks approval for repairs to the structural support system of the existing wharf located at **73 ½ Commercial Street (SE 58-0399)**, in Provincetown. Dieter Groll, Elaine Anderson, Dennis Minsky, Paul Tasha and George Bryant sat on the case.

**Presentation:** Roy Okurowski appeared to present the application. The applicant seeks to redesign the substructure as phase two of a project to replace the rotting pilings at the site. The Massachusetts Department of Marine Fisheries was consulted about the disturbance of any shellfish beds in the vicinity of the project. A 36' by 80' work barge will be used to facilitate the construction.

**Public Comment:** None.

**Commission Discussion:** Paul Tasha suggested that the Shellfish Constable be consulted about the project. Erica Lerner suggested that 30 days before the start of construction that the applicant contact Natural Resources or the local Shellfish Constable.

### **FINDINGS OF INTEREST:**

- Storm damage prevention;

- Prevention of pollution;
- Protection of wildlife habitat; and
- Flood control.

*Elaine Anderson moved to grant a Notice of Intent for 73 ½ Commercial Street (SE 58-0399) based on the findings of interest to the Commission with the following Special Conditions:*

- *Within one month of receipt of this Order of Conditions no work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds.*
- *It is the responsibility of the applicant, the owner and/or successor(s) and the project contractors to ensure that all conditions of this Order are complied with. The applicant shall provide copies of the Order of Conditions and approved plans (and any approved revisions thereof) to project contractors prior to the start of work.*
- *This document shall be included in any construction contracts and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.*
- *A sign shall be displayed showing the DEP file number, preferable not placed on a living tree.*
- *The Conservation Commission shall receive notice 72 hours in advanced o the start of work. If requested, a meeting will be held on the site to ensure compliance before work begins.*
- *The Natural Resources Department shall be notified at least 21 working days prior to the start of work at the site, to inspect the areas for shellfish. If deemed necessary by the Shellfish Constable, shellfish shall be removed from the work area to a suitable site and/or replanted at the locus following construction. The foregoing measures for shellfish protection shall ensure at the expense of the applicant.*
- *It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.*
- *The work shall conform to the plans and special conditions referenced in this order and any change to the plans shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.*
- *The Conservation Commission, its employees and its agents shall have a right of entry to inspect for compliance with the provisions of this Order of Conditions.*
- *This permit is valid for 3 years from the date of issuance, unless extended by the Commission at the request of the applicant. Caution: a future Amended Order does not change the expiration*

*date.*

- *CCA-treated piling and structural timber (greater than 3 inches thick) are allowed. Otherwise, No CCA-treated or creosote-treated materials shall be used.*
- *Work shall occur during the off-season only: October 15 – May 1.*
- *If changes to the approved plan are required, the applicant must inquire of the Commission whether the changes require a New Notice of Intent or an approved plan revision.*

*Paul Tasha seconded and it was so voted, 5-0.*

### *Notice of Intent*

Application by Nathan Winstanley 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. The applicant seeks approval for renovations to an existing dwelling located at **777 Commercial Street (SE 58-0400)**, in Provincetown. Work will include a new foundation, replacement of 3 exterior walls, a second story addition and relocation of stairs. Dieter Groll, Elaine Anderson, Dennis Minsky, Paul Tasha and George Bryant sat on the case.

**Presentation:** Eric Mitchell, of J.C. Ellis Designs, John Hopkins and Nathan Winstanley appeared to present the application.

**Public Comment:** Susan Barris, an abutter, said she had no objection to the project.

**Commission Discussion:** The Commission questioned the applicant and his representatives.

### **FINDINGS OF INTEREST:**

- Storm damage prevention;
- Prevention of pollution;
- Protection of wildlife habitat; and
- Flood control.

*Elaine Anderson moved to grant a Notice of Intent for 777 Commercial Street (SE 58-0400) based on the findings of interest to the Commission with the following Special Conditions:*

- *The contractor/installer will be held responsible for maintaining a safe work area, verifying all utilities and notifying Dig Safe prior to excavation.*
- *The Order of Conditions issued by the Conservation Commission will be recorded at the Barnstable County Registry of Deed.*
- *Copies of the Order of Conditions will be given to the contractor.*
- *The contractor in his contract will be held liable for complying with the Order of Conditions.*
- *Advance notice of 72 hours will be given to the Conservation Commission before construction commences. If requested, a meeting will be held on the site to ensure compliance before work begins.*
- *A sign shall be displayed showing the DEP file number, preferably not placed on a living tree.*
- *Staked strawbales backed by trenched-in siltation fencing or an approved alternative shall be set along the approved work limit line. Effective sediment controls shall remain until the site is stabilized by vegetation.*
- *The applicant shall procure all other applicable federal, state and local permits and approvals*

*associated with this project.*

- *Any changes in plans need to be submitted to and approved by the Conservation Commission.*
- *Effective sediment controls must be maintained.*
- *There shall be no disturbance of the site, including cutting of vegetation, beyond the work limit.*
- *All debris, fill and excavated material shall be stockpiled far enough away from wetland resource areas, and at a location to prevent sediment from entering wetland resource areas.*
- *The Conservation Commission, its employees, and its agents shall have a right of entry to inspect for compliance with the provisions of this Order of Conditions.*
- *This permit is valid for 3 years from the date of issuance, unless extended by the Commission at the request of the applicant. A future Amended Order does not change the expiration date.*
- *Drywells or graveled trenches along the drip lines shall be installed to accommodate roof runoff.*
- *No area shall be left unvegetated for more than 30 days. All areas disturbed during construction shall be revegetated immediately following completion of work at the site. Mulching shall not serve as a substitute for the requirement to revegetate disturbed areas at the conclusion of work.*
- *Work limit markers (wood stakes) shall remain until a Certificate of Compliance is issued for this project.*
- *Proposed vista pruning shall be in accord with Conservation Commission guidelines. Advance consultation with the Conservation Agent is required.*

*Dennis Minsky seconded and it was so voted, 5-0.*

#### **DISCUSSION OF MILL POND AND HERRING COVE:**

The Commission discussed these two areas owned by the National Seashore and decided to invite a representative to come address the Commission concerning them. Erica Larner will contact the Seashore to arrange this.

#### **CORRESPONDENCE:**

Eel grass harvesting and planting in Provincetown Harbor was discussed. In order to move forward with planting a test patch of eel grass, Coastal Engineering needs a writing from the Commission.

**MINUTES: December 15, 2005** – *Elaine Anderson moved to approve the language as written, Dieter Groll seconded and it was so voted, 4-0.*

#### **ANY OTHER BUSINESS:**

The new 2006 Conservation Commission hearing schedule was briefly discussed.

*Elaine Anderson moved to accept the 2006 Conservation Commission schedule, George Bryant seconded and it was so voted, 6-0.*

Robin Evans voiced her disappointment that the other committees (Open Space and Conservation Trust) that did not meet together to discuss the Shank Painter Pond Resource Area. The Commission would like to put this issue on the agenda for the February 7, 2006 meeting.

*George Bryant moved that the Commission generate a management plan for the Clapp's Pond Resource Area, Elaine Anderson seconded and it was so voted, 5-0.*

**ADJOURNMENT:**

*George Bryant moved to adjourn the meeting at 8:50 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2006.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2006  
Dieter Groll and Elaine Anderson, Co-Chairs