

PROVINCETOWN CONSERVATION COMMISSION

April 25, 2002
5:30 P.M.

Members Present: John Bennett (Chair) (arrived at 7:36 P.M.), Peter Souza, Sheila Benzer, Susan Avellar, Robin Evans

Members Absent: Robert Guerreiro (unexcused)

Others Present: Roger Dias (Conservation Agent), Ellen C. Battaglini (Recording Secretary)

PUBLIC MEETING

Acting Chair Sheila Benzer called the Public Meeting to order at 5:42 P.M.

Celine Gandolpho, Stephen Milkewicz, Robin Evans, and Bill and Hatty Fitts, representing the Open Space Committee and the Provincetown Conservation Trust appeared before the Commission to discuss the maintenance of Shankpainter Pond and the Locke property. Ms. Gandolpho stated that three relevant issues to be discussed in regard to these areas were revegetation, erosion control and signage. She stated that the Open Space Committee has a plan for the management of these conservation areas. Peter Souza suggested that the three bodies should get together for a site visit of the Shankpainter Pond conservation area to address these issues. The group also discussed the damage done to the conservation area at Ship's Way and Peter Souza agreed to discuss whether the police could patrol the area more frequently. Sheila Benzer wants to bring in more vegetation in these conservation areas and suggested approaching Director of Public Works David Guertin in this regard because he has promised to replace trees that were destroyed in the capping of the burn dump. Ms. Benzer recommends that those trees be placed in the Shankpainter Pond area. Peter Souza volunteered to discuss the issue of tree replacement with Mr. Guertin. The issue of compost was discussed and potential new sources of compost that could be used in the conservation areas. Ms. Gandolpho was concerned about her inability to get access to the funds available for the management of these areas from the Land Bank. Peter Souza volunteered to look into the cash flow problem related to the Land Bank.

Sheila Benzer gave a report on what is happening at the old Burn Dump. She was very concerned about the erosion occurring at the site and felt that there is an urgent need for correction at the site. She will report back to the Commission at the May 23rd meeting.

The three groups then discussed how to utilize the Americorps volunteers who are ready and willing to fulfill their directive of erosion control. Celine Gandolpho will act as a liaison with Americorps and report back to the Commission at the May 23rd meeting.

A site visit to Shankpainter Pond was scheduled for May 9, 2002 at 5 P.M., with a rain date of May 10, 2002 at 5 P.M.

A brief discussion of parking facilities at Shankpainter Pond then followed.

The public meeting was closed at 6:20 P.M.

Acting Chair Susan Avellar convened the regular Public Meeting at 6:34 P.M.

I. PUBLIC STATEMENTS

None.

II. PUBLIC MEETING

Determination of Applicability

Application by Townsend Lobster & Seafood Market represented by Chris Townsend for a 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 **9 Ryder Street Extension**, Provincetown.

Presentation: Christopher Townsend appeared to present the application and submitted septic plans to the Commission showing the one thousand gallon grease trap that he will be installing at the premises. There was a letter on file from the Board of Health supporting this statement. Mr. Townsend will be operating a fish market with a small take-out business. He will place sand fencing along the west side of the premises to prevent any construction debris from falling into the bay.

Public Comment: Robert Cabral, owner of the property where the fish market is located, spoke in favor of the application. Jimmy and Warren Silva, excavators, were present to answer any questions the Commission might have with respect to the project.

Commission Discussion: The Commission questioned the applicant about his application. Peter Souza stated that the market would appear to have only a minimal impact on the environment.

Peter Souza moved for a Negative Determination (#2) with the condition that there is some type of screen on the west (water) side to prevent debris from falling into the bay, Sheila Benzer seconded and it was so voted, 4-0.

Determination of Applicability (continued from March 28, 2002)

Application by Daniel P. Petrucci for a 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 **50r Point Street**, Provincetown.

Sheila Benzer recused herself because of a conflict of interest.

Presentation: Mario DiGregorio, of Horsley and Witten, Inc., appeared to present the application. The applicant hired Mr. DiGregorio at the behest of the Commission to take soil samples in the area and do other tests to determine whether this particular area of Point Street was a wetland. The soil field sheets submitted to the Commission showed the test results. The town GIS map shows a depression that could indicate a wetland. Mr. DiGregorio made two test pits at the site and found no sign of elevated ground water. Mr. DiGregorio came to the conclusion that the area did not meet the definition of a wetland and stated that in a conversation with the Building Commissioner, Warren Alexander, learned that Mr. Alexander felt that the GIS map was in error. Finally, Mr. DiGregorio felt that the Commission should find a Negative Determination for the applicant.

Public Comment: No one spoke either in favor or in opposition.

Commission Discussion: The Commission questioned Mr. DiGregorio about the results of his tests in the area. Mr. DiGregorio also mentioned that the DPW recommends just crushed stone to surface the road extension.

Peter Souza moved for a Negative Determination (#3), Robin Evans seconded and it was so voted, 3-0.

III. NEW BUSINESS:

None.

IV. OTHER BUSINESS:

Peter Souza recused himself because of a previous commitment.

Peter Boyle re: 175 Commercial Street, The Anchor Inn

Peter Boyle appeared before the Commission to request an extension of an emergency variance for the premises. He had submitted an application for an emergency variance in August of 2001. A geothermal heating and cooling system had been installed at The Anchor Inn. The system uses well water and because of the iron content of the local water supply, the system has not functioned properly since it was installed. Mr. Boyle was given permission to install a sump pump. Mr. Boyle now requested of the Commission that he be allowed to replace the hose that is being used as a temporary solution to correct the system. He wants to use instead a 6" pipe until the flaws in the system can be rectified. Mr. Boyle requested a year extension of the emergency variance so he could continue to explore ways to correct the system.

The Commission stated that it would require straw bales as an erosion control device around the perimeter of the pipe and that Mr. Boyle should inform the Commission when they were in place so Roger Dias could inspect the area.

Sheila Benzer moved to approve the extension of the emergency variance granted to The Anchor Inn in August, 2001 with the provision that, prior to the commencement of excavation for the installation of the 6" pipe, straw bales be placed around the perimeter of the excavation site and that the excavation be on the street side and that the Commission be informed when the bales are situated so that Roger Dias can inspect the site. The pipe that will be installed will be a 6" pipe and heavy stones will be placed against the east side of the bulkhead and will extend 3-4 feet and terminate above the mean high water mark. The variance will be in effect until April 1, 2003, Susan Avellar seconded and it was so voted, 3-0.

V. PUBLIC HEARING

Notice of Intent

Application by Maria Kuliopulos for 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 **6 Sandy Hill Lane**, Provincetown. Chair John Bennett arrived during the discussion of this application.

Presentation: Maria Kuliopulos appeared to present the application. The applicant is requesting that she be allowed to take down and rebuild a structure on the premises that burned down. The corner of the new structure would fall within the 100' buffer zone of a wetland.

Public Comment: No one spoke either in favor or in opposition.

Commission Discussion: The Commission pointed out that the Ms. Kuliopulos's application was incomplete. There was no site plan available to the Commission and the abutters had not been informed of the projected work. The Commission suggested that the applicant request a continuance to complete her application.

Susan Avellar moved to grant the applicant's request for a continuance, Sheila Benzer seconded and it was so voted, 4-0.

VI. OTHER BUSINESS

3 Bayberry Avenue re: Certificate of Compliance

William Rogers, II and Attorney Lester J. Murphy appeared before the Commission to request the Certificate of Compliance. They are requesting a Certificate of Compliance be issued in conjunction with the Order of Conditions that has already been issued for the premises.

John Bennett moved to issue a Certificate of Compliance for 3 Bayberry Avenue, pursuant to the request of the applicant, Susan Avellar seconded and it was so voted, 4-0.

54-58 Harry Kemp Way re: Certificate of Compliance

William Rogers, II appeared before the Commission to request a partial Certificate of Compliance for three buildings on the site. The buildings are the farthest removed from the wetland.

Susan Avellar moved to approve a partial Certificate of Compliance for Buildings 54E, 54F and 54G on the property located at 54-58 Harry Kemp Way, Sheila Benzer seconded and it was so voted, 4-0.

VII. NEW BUSINESS

Peter Souza raised the issue of the use of CCA-treated lumber in the rebuilding of the wharf. He has consulted with the Town Manager, Assistant Town Manager and Clerk of Works, who have also consulted with the pier Building Committee, about the issue. DPW Director David Guertin and the Board of Selectmen are looking for recommendations from the Conservation Commission on how to solve the problem. The Commission discussed the problem of arsenic from the pressure-treated wood that comprises the pier pilings leaching into the water. Short-term solutions, such as treating the wood with polyurethane or paint, and long-term solutions, such as recommending that the Town devise a plan to incrementally replace each piece of CCA treated wood, were discussed.

Susan Avellar move to recommend that the Town seek professional advice quickly as the Commission is aware that a problem has arisen with the pier project and is concerned pursuant to its Order of Conditions with regard to the project. In addition, she moved that David Guertin and the Chair of the Pier Building Committee appear before the Commission, with their consultants, and present their ideas for short-term and long-term solutions to this problem and request that Chair John Bennett draft a letter outlining the Commission's concerns, copied to the appropriate authorities, Sheila Benzer seconded and it was so voted, 5-0.

Sheila Benzer, Commission liaison for the sewer project, raised the issue of the environmental monitor for the project. She stated that several problems have arisen already on the project, such as the inability of turtles to pass through the line of straw bales on the site. She suggested that perhaps the bales could be staggered to allow the turtles to pass through. Also she expressed concern that there were currently no straw bales on the north side of the highway.

Ms. Benzer also raised the issue of Conservation Commission site visits. Some business owners are concerned that the Commission is not doing its job properly and Commissioners are not attending site visits. She suggested that to better understand the role of the Conservation Commission, its jurisdiction and its power, the Commissioners could attend workshops.

Robin Evans raised a concern about the role of environmental consultants to the Commission and about conflicts of interest that may arise if applicants to the Commission were utilizing these same consultants.

ADJOURNMENT:

Robin Evans moved to adjourn the meeting at 9:35 P.M., it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2002
John Bennett, Chairman