

**PROVINCETOWN CONSERVATION COMMISSION**  
**November 21, 2002**  
**6:30 P.M.**

**Members Present:** Susan Avellar (Acting Chair), Roger Chauvette, Robin Evans, Peter Souza (Alternate), and Paul Stefani

**Members Absent:** Sheila Benzer (excused)

**Others Present:** Roger Dias, Acting Conservation Agent

**PUBLIC MEETING**

Acting Chair, Susan Avellar, called Public Meeting to order at 6:33 P.M.

**I. PUBLIC STATEMENTS:**

None.

**II. NEW BUSINESS:**

**Presentation and Comments:** Richard Murray, representing 63 Commercial Street Realty Trust, submitted plans to renovate. He explained that there would be a crane in the parking lot and nothing on the beach. A portion of the building has to be taken down as the foundation pillars are damaged. Roger Dias reviewed the site on November 20<sup>th</sup> and concurred. Fifteen concrete pilings should be replaced but only three will be. Mr. Dias stated that what Mr. Murray plans to do would have no consequence on conservation. There were no questions from the Commissioners.

It was moved to approve the alteration of the foundation at 63 Commercial Street.

**Motion by:** Susan Allevar

**Seconded by:** Peter Souza

**Vote:** 4-0-0

**Presentation:** Stan Humphries of Coastal Engineering and William Rogers represented The Boatslip. They described how the deck structure around the pool failed due to erosion and weather. A new deck design was made to restructure, to go from 60 lb psi to 100 lb psi. Mr. Humphries explained the erosion in the fill, etc., put there some years ago. Nor'easters will take it back to the concrete wall. Basically they described the situation and the public safety issue while the concrete wall is exposed.

**Comments:** Mr. Francis Santos of Flyer's Boat Rentals explained more of the problems that were due to weather and showed a picture taken after the last major storm. Commission members asked questions to better understand the situation. Mr. Santos asked if there was a plan filed in Town Hall when the wall was built. Roger Chauvette wanted to know what the impact on the abutters would be. Peter Souza indicated that there was substantial erosion shown in photos and felt that all construction over the years was a major part of the problem. Roger Dias stated that the essence of the problem is that a Bobcat should do spot excavation to find out actual problem before anything else is done, but feels that something should be done.

It was moved to grant the request to dig 3-4 excavation pits using a rubber-tired Bobcat with condition that Roger Dias be called to the site to inform where excavation will be and be called

to inspect the excavations.

**Motion by:** Susan Allevar

**Seconded by:** Paul Stefani

**Vote:** 5-0-0

### III. PUBLIC MEETING:

None.

### IV. PUBLIC HEARING:

#### *Notice of Intent*

Application by Coastal Engineering representing Cape Associates and Sandbar Village Condominium 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 149A Commercial Street, Building B in Provincetown.

**Presentation:** The presenters were Laura Rood, owner of 149A Commercial Street, Building B with units B1 and B2; Mark Kinnane, Cape Associates (contractor); and Richard Bryant of Coastal Engineering.

Mr. Bryant summarized the project scope. It would consist of the demolition of Building B, the installation of a new foundation and the construction of a new two-story frame building with decks, a new egress from the upper unit. There would be no work on the coastal beach. He listed the legal requirements for construction, e.g., dumpsters for debris, etc. He also mentioned that the current building is sitting at grade and is susceptible to floods.

**Comments:** Members of the public were asked for comments. Mary Caschetta of 148 Commercial Street, and also represented residents on Conant Street as well, wanted to know if the land being encroached upon is coastal beach or dunes. Maggie Stuart, a resident on Conant Street, was concerned with changing the scale of the building and asked why it has to be made larger. Robert Valois, the designer and permit coordinator of the new building, stated that there was a letter to the editor in *The Banner* in favor of the project.

Roger Dias stated that the size of the new building is the concern of the Zoning Board of Appeals and not the conservation of lands. The owner has the right to rebuild as long as the building is not on dunes or the beach. He felt the contractor has a good reputation and is protecting the resource area.

Peter Souza suggested there be a site visit made. Other Commissioners made other comments regarding the conservation problems.

Susan Avellar would not allow any building to go further or increased in size that would go into the buffer zone. If the new building were in the original footprint, she would not have a problem with the new building. She is all in favor of protecting the resource area.

Laura Rood, the owner, stated that she would not rebuild if she could not get the extra 160 square feet she feels she needs.

A discussion ensued regarding the enlargement of the house and its going closer to the resource area. Peter Souza asked the owner would be willing to have the building redesigned and come back before the Commission. If the owner does not and the Commission denies the plan, the owner has the right to appeal to Superior Court.

Laura Rood requested a continuance and would like the Commission members to visit the house.

It was moved to grant a continuance of this case.

**Motion by:** Peter Souza      **Seconded by:** Roger Chauvette      **Vote:** 5-0-0

Ms. Rood gave her telephone number (508-487-8746) so that Commissioners can call her to make an appointment to visit he house if they so desire.

It was moved to take a five-minute break before continuing.

**Motion by:** Peter Souza      **Seconded by:** Robin Evans      **Vote:** 5-0-0

**Presentation:** West End Racing Club, 83 Commercial Street, represented by Francis Santos.

Susan Avellar excused herself as Chair as she has a conflict of interest regarding this case. The chair was taken over by Robin Evans.

Francis Santos explained that there was a 1997 building permit to replace a bulkhead that was not completed. It was discontinued for financial reasons. He now feels that replacement now is necessary. He supplied photos taken after the last storm showing damage.

Mr. Santos wants to move the bulkhead two feet; that would require a new permit. He can obtain a new permit but cannot move the bulkhead without a Notice of Intent.

The time has run out on the building permit and a new one can automatically be issued based on certain conditions outlined by Roger Dias. Mr. Dias said the work has to be done but the problem is how to get it done under the by-laws and conditions.

Mr. Santos is willing to retain the same line of the bulkhead so he does not have to go through a Notice of Intent.

It was moved to extend the 1997 Notice of Intent Order of Conditions to West End Racing Club with File #SE58-268, reference Sec. 12.1 4.2 to allow extension because work has begun and was interrupted by an unaffordable delay.

**Motion by:** Robin Evans      **Seconded by:** Roger Chauvette      **Vote:** 4-0-0

## **V. OTHER BUSINESS:**

It was decided to postpone the discussion of Department of Fisheries and Wildlife concerns with regard to Site Y until the next meeting when Peter Souza would be present (Mr. Souza left tonight's meeting at approximately 9:15 p.m.).

**Presentation:** Joseph Taves of 48 Shank Painter Road applied to the Commission for permit to make five changes on his property as listed in a letter to the Conservation Commission dated October 8<sup>th</sup>, 2002. He is applying as his property is within 100 feet of a wetland (Shank Painter Pond). He stated that erosion controls would be set up on the pond side and the equipment required would be on the street side.

It was moved to allow Mr. Taves to go forward with his intended project changes #s 1, 2, 3, and 5, excluding #4 with the provision that on request # 3 standard erosion control methods be in

place and Roger Dias will inspect the site before construction begins. The existing Order of Conditions is still in place. The landscaping between the two buildings should be indigenous compatible to Shank Painter Road.

**Motion by:** Susan Avellar      **Seconded by:** Robin Evans      **Vote:** 4-0-0

Because of the environmentally sensitive area Mr. Taves asked the Commission for a recommendation that he be hooked up to the Town sewer system. The Chair requested that this be placed on the agenda for the next meeting with the consideration that other properties near preservation areas be hooked up to the sewer.

Susan Avellar read some letters to and from the Department of Fisheries and Wildlife. It was moved to hold on the discussion pending Peter Souza's request.

**Motion by:** Susan Avellar      **Seconded by:** Robin Evans      **Vote:** 4-0-0

Roger Dias brought in some pictures of debris and trash on the beach at property owned by George Bryant and requested that a strong letter be sent to him to clean up the area. It was moved to send a letter to George Bryant to start the cleanup by December 1<sup>st</sup> and have the area totally cleaned up by December 30<sup>th</sup>.

**Motion by:** Robin Evans      **Seconded by:** Roger Chauvette      **Vote:** 4-0-0

## **VI. APPROVAL OF MINUTES:**

It was moved to approve the minutes of October 24<sup>th</sup>, 2002 as written.

**Motion by:** Susan Allevar      **Seconded by:** Robin Evans      **Vote:** 5-0-0

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

None.

## **ADJOURNMENT:**

Susan Avellar moved to adjourn the meeting at 10:30 P.M., it was so voted unanimously.

Respectfully submitted,

Joel Glasser

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2002  
Susan Avellar, Acting Chair