

# PROVINCETOWN CONSERVATION COMMISSION

March 25, 2004  
6:30 P.M.

**Members Present:** Dieter Groll, Elaine Anderson and John Santos.

**Members Absent:** Sara Robin, Paul Tasha and George Bryant.

**Others Present:** Roger Dias and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:38 P.M.

## I. PUBLIC STATEMENTS:

Peter Souza spoke about an alleged path excavation through a wetland at the Meadows Project site on Bradford Street Extension. He requests that the Conservation Commission investigate his allegation.

## II. OLD BUSINESS:

The Commission will continue the discussion with the Conservation Trust and the Open Space Committee regarding the management plan of Clapp's Pond at the April 22, 2004 hearing.

## III. NEW BUSINESS:

### *Emergency Request for a Determination of Applicability –*

Application by Turtle Woodworks, representing Robert Motherwell Trust for Request for 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 of **631 Commercial Street** in Provincetown.

Dieter Groll, Elaine Anderson and John Santos sat on the case.

**Presentation:** Joe Notaro, representing Turtle Woodworks appeared to present the application. He submitted a plan for a new seawall at the premises. There is a small hole in the existing seawall that needs to be patched. The applicant wants to patch it with pressure-treated plywood covered with erosion fabric and then backfill it where the erosion has occurred. There will be no heavy machinery on the beach and the fill will be wheel-barreled in from Commercial Street.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Notaro. Roger Dias suggested that the Commission should stipulate what kind of sand is used for the backfill.

*John Santos moved to grant the emergency request 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 633 Commercial Street with the following stipulations:*

- *The fill used be consistent with the fill already present; and*
- *No heavy machinery is used on the beach,*

*Elaine Anderson seconded and it was so voted, 3-0.*

## IV. PUBLIC MEETING:

### *Determination of Applicability (continued from 02/26/04)*

Application by Patrick Patrick, representing Elizabeth Patrick, for Request for 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 of **232 Bradford Street** in Provincetown.

Dieter Groll, Elaine Anderson and John Santos sat on the case.

**Presentation:** Pat Patrick appeared to present the application. According to the applicant, the bed of the road leading to the premises is encroaching into the 100' buffer zone and there is a storm drain emptying into it.

**Presentation:** Robert LaVoie, Esq., representing Rick Wrigley, spoke to the issue. He admitted that there is a drainage problem on site. He stated that there were plans showing the location of the road and the delineation of the wetland and the road is not encroaching into the 100' buffer zone. He would like to know what the Commission suggests that they do to remedy the drainage situation. He submitted a NEPA environmental evaluation, which stated that there was no habitat disturbance on the site. The drainage pipe is located 2' to 3' into the buffer zone and there is trap stone located 6' into the buffer zone. Rick Wrigley stated that the drainage issue was a result of the heavy rains that fell last spring. He has hired a new contractor to deal with the issue. Mr. Wrigley is amenable to deflect water in the least intrusive way possible. Alan Cabral, of Felco Engineering, spoke to the issue and stated that Mr. Wrigley hay-baled the area in an attempt to protect the wetland.

**Public Comment:** Peter Souza asked if there was a storm management plan drawn up by a engineer for the site.

**Commission Discussion:** The Commission questioned Attorney LaVoie and Mr. Cabral. The Commission suggested that there could be a catch basin leading to a leach pit constructed to deal with the issue.

**John Santos moved to grant a Negative #3 Determination 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 232 Bradford Street with the following conditions:**

- ***The berm at the top of the road is repaired;***
- ***The riprap already at the site is left;***
- ***A storm water basin is constructed outside the 100' buffer zone;***
- ***"As built" drawings of the project from an engineer are submitted;***
- ***The engineer meet with the Conservation Agent before construction; and***
- ***A work limit is established with hay bales and siltation fabric,***

**Dieter Groll seconded and it was so voted, 3-0.**

#### **Determination of Applicability**

Application by Capizzi Home Improvement, representing Eva Berg, for Request for 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 of **371-373 Commercial Street** in Provincetown.

The case is continued until the April 22, 2004 hearing.

#### **Determination of Applicability**

Application by Beau & Co., representing Ansel Davis, for Request for 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 of **45 Commercial Street, Unit #3** in Provincetown. Dieter Groll, Elaine Anderson and John Santos sat on the case.

**Presentation:** Ansel Davis appeared to present the application. The application seeks to replace a window and construct a small dormer at the premises. Most of the work will be done from inside the premises and someone will be monitoring the beach for debris.

**Public Comment:** None.

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

***Elaine Anderson moved to grant for a Negative #3 Determination 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 of 45 Commercial Street, Unit #3, with the following conditions:***

- *The beach be monitored frequently;*
- *Debris be disposed of in a dumpster; and*
- *Storage of materials will be away from the work area,*

***John Santos seconded and it was so voted, 3-0.***

#### **Determination of Applicability**

Application by David Nicolau, representing Race Point Residence, LLC, for Request for 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 of **5-15 Bradford Street Extension** in Provincetown. Dieter Groll, Elaine Anderson and John Santos sat on the case.

**Presentation:** David Nicolau appeared to present the application. The applicant seeks to increase the parking by adding two spaces.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly questioned Mr. Nicolau.

***John Santos moved to grant a Negative #2 Determination 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 of 5-15 Bradford Street Extension, Elaine Anderson seconded and it was so voted, 3-0.***

#### **Determination of Applicability**

Application by Slade Associates, Inc., representing Henry Block, for a Request for 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 of **10 Hobson Avenue** in Provincetown. Dieter Groll, Elaine Anderson and John Santos sat on the case.

**Presentation:** Chet Lay, of Slade Associates, Inc. and Henry Block, Jr. appeared to present the application. The applicant seeks to make a new road, creating a bend in Hobson Avenue, away from the resource area. Mr. Lay believes that it is outside the buffer zone.

**Public Comment:** There was a letter from an abutter expressing concern about protecting the prickly pear cactus, which is considered an endangered species in Provincetown, located in the area.

**Commission Discussion:** The Commission advised the applicant to try and transplant the prickly pear plants. The applicant agreed and will consult the Heritage Foundation to see if it is possible and how it can be done.

***John Santos moved to grant a Negative #1 Determination 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 of 10 Hobson Avenue, with a recommendation that the National Heritage Foundation be consulted about the prickly pear cacti, Elaine Anderson seconded and it was so voted, 3-0.***

#### **Determination of Applicability**

Application by Schofield Brothers of Cape Cod representing Judith Cicero, for a Request for 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 of **265-267 Commercial Street** in Provincetown. Dieter Groll,

Elaine Anderson and John Santos sat on the case.

**Presentation:** Laura Schofield, representing Judith Cicero, appeared to present the application. The applicant seeks to install a 2000-gallon grease trap behind the premises. It is a replacement for an older one that is being abandoned. It will be located close to the covered deck. Ms. Schofield submitted a construction protocol for the project.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Schofield.

*John Santos moved to grant a Negative #3 Determination 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 of 265-267 Commercial Street, with the following conditions as numbered in the construction protocol: #2, #3, #9 and #10, Elaine Anderson seconded and it was so voted, 3-0.*

## V. PUBLIC HEARING:

### *Notice of Intent (continued from 2/26/04)*

Application by Independent Environmental Consultants, Inc., representing Martha Roderick, 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 **72 West Vine Street** in Provincetown.

**Presentation:** Paul Shea, from Independent Environmental Consultants, and Billy Rogers appeared to discuss the application. The new delineation of the wetland, including the testing of soil samples in the area, which was done by Independent Environmental Consultants differed from the delineation that was done by environmental biologist, Mario DiGregorio. The 100' buffer zone, as newly delineated, encroached on the plans for the septic system at the site. The applicant will amend the plan so the septic system is entirely outside of the buffer zone. The applicant also submitted a letter from the National Heritage Foundation that says the project will not disturb the habitat of the Eastern spadefoot toad.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Rogers and Mr. Shea about allowing the building to proceed within the 100' buffer zone. The Commission would like to walk the site and see the newly flagged wetland delineation. The Commission refuses to accept the new delineation without making a site visit. The case will be continued at the next hearing.

## VI. OTHER BUSINESS:

Ken Weiss appeared to discuss 48-58 Harry Kemp Way. The property at 54, 56, and 58 all fall into the 100' buffer zone and had conditions imposed upon them by the Commission. Both 54 and 56 have conformed to the conditions requested by the Commission. Mr. Weiss requests that the escrow set aside for these properties be released to him. He needs a letter from the Commission to the Town Treasurer in order for the funds to be released.

## VII. MINUTES:

**February 26, 2004 – Elaine Anderson moved to approve the minutes of February 26, 2004, John Santos seconded and it was so voted, 3-0.**

## VIII. ANY OTHER BUSINESS:

The Commission will expend the sum of \$45.00 to join the Massachusetts Association of Conservation Commissions.

## ADJOURNMENT:

*John Santos moved to adjourn the meeting at 9:00 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on April 22, 2004.

**NEXT MEETING**

The next meeting will be on May 27, 2004.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2004  
Dieter Groll and Elaine Anderson, Co-Chairs