

Minutes

of the Town of **Provincetown CONSERVATION COMMISSION** Meeting
Thursday, July 22, 2004 in the Auditorium, 260 Commercial Street.

Present: Dieter Groll (Chairman), Elaine Anderson (Co-Chair), John Santos, and George Bryant

Absent: Sarah Robin (unexcused) and Paul Tasha (unexcused).

Others Present: Elizabeth Hartsgrove (Conservation Administrator)

Public Hearing

To hear the merit of revising the Provincetown Conservation Commission Rules & Regulations as described below:

Conservation Commission Application Filing Fees

<u>Fee Type</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Request for a Certificate of Compliance	\$0.00	\$50.00
Request for a Determination of Applicability	\$0.00	\$75.00
Request for an Abbreviated Notice of Intent	\$0.00	\$100.00
Request for a Notice of Intent	\$0.00	\$275.00

Anne Lord spoke, on behalf of herself and Conrad Malicoat, against application fees and suggested lowering the fees to a case-to-case basis.

Motion to indefinitely postpone by John Santos Seconded by George Bryant. Denied 2-2

No motion made afterwards.

Hiring Outside Consultants

As provided by GL Ch. 44 § 53G, the Provincetown Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (GL Ch. 131 § 40), the *Town of Provincetown* non-zoning Wetlands Bylaw (*Provincetown General Bylaws Chapter 12*), Conservation Commission Act (GL Ch. 40 § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information or technical assistance acquirable only through outside consultants would be necessary for the making of an objective decision. Upon such finding, the Conservation Commission shall request the applicant to provide a statement regarding the total project cost. Such statement may be used by the Commission to determine the amount of consulting fees to be deposited by the Applicant, per the schedule of fees included within the Town's Wetland Protection By-law.

Funds received by the Conservation Commission pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in GL Ch. 44 §53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant. Accrued interest may also be spent for this purpose. At the completion of the Commission's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made to the applicant or the applicant's successor in interest. For the purposes of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Commission with documentation establishing such succession interest.

Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydro geologic and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator or Agent. Consultants include, but are not limited to, engineers, planners, wetland scientists, surveyors, attorneys or other professionals with experience in the matters that are the subject of the Commission's proceedings. All requests for meetings, site visits, reports, and questions of the consultant shall be routed through the Conservation Commission, Administrator or Agent unless the Commission authorizes the Consultant to work directly with the applicant to resolve project-related issues. The Commission shall provide a copy of all consultant reports to the applicant in a timely manner.

The Conservation Commission shall request a written estimate from a qualified consultant(s) of its choosing as to the cost of providing the request services. The Conservation Commission shall then give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. In no event shall the total consultant fee be greater than the maximum allowed under the Provincetown Wetlands Bylaw. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal), and the Commission shall state such in a letter to the applicant. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee. Repeated failures to pay deposit funds for consultant fees shall be grounds for dismissal of the applicant's application, petition and/or notice of intent.

The applicant may appeal the selection of the outside consultant to the Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Conservation Commission, so as to be received within ten (10) days of the date of the Commission's notice of selection of the proposed consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the filing of the appeal, the selection made by the Commission shall stand.

Motion to approve by George Bryant Seconded by John Santos. Passed 4-0

Notice of Intent

1. Roxane C. Pratten & Independent Environmental consultants Inc., representing Margaret Gifford, for the property located at **333 Commercial Street** in Provincetown. Applicant seeks approval for construction of a wooden deck, wooden walkway to coastal waters and re-vegetation of loose sand within land subject to coastal storm flowage and 100' buffer zone, under the Provincetown Wetlands Bylaw, Chapter 12 of the Provincetown General Bylaws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40.

Represented by William Rogers and Paul Shea. Applicant would like to re-vegetate area with American Beach Grass and Rosa Rugosa. Leah Brenner spoke against boardwalk portion of application. Rose Kennedy spoke in favor of application.

Application continued till August 26th meeting with consent of the applicant.

Public Statements

Old Business

Notice of Intent

1. Independent Environmental Consultants, Inc., representing Martha Roderick, for the property of **72 West Vine Street** in Provincetown, under the Provincetown Wetlands Bylaw, Chapter 12 of Provincetown General Bylaws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, s 40 (continued from 3/25/04, 4/22/04, 5/27/04 & 6/22/04)

Represented by William Rogers & Paul Shea. Applicant requested additional time to submit revised plans based on previously accepted wetland delineation. Dieter Groll advised the applicant to submit plans at least two weeks before the next meeting, to give the Commission adequate time to review them.

Application continued till August 26th meeting at the request of the applicant.

New Business

Public Meeting

Request for Determination of Applicability

1. John DeSouza., representing Kathy Bishop & Denise Karas, at the property located at **531 Commercial St** in Provincetown, MA. Applicant seeks approval for an addition of egress stairs on North (Commercial St) side, ~~removal of stairs and portion of 3rd floor deck on South (beach) side~~ and addition of dormer to East side of roof.

Represented by Denise Karas. Albert Marsh spoke against application. No one wrote or spoke in favor of application.

Motion to approve as a Negative #3 with conditions as follows, by George Bryant Seconded by John Santos. Passed 4-0

CONDITIONS:

- **Keep additional storage of material on seaward side of building secured down at night.**
- **Clean debris after every day.**
- **Follow conditions set by other boards regarding the construction.**

2. Anne MacAdam, at the property located at **24 Pilgrim Heights Road** in Provincetown, MA. Applicant seeks approval to build a 10' prefabricated Gazebo at the edge of the woods.

Represented by Ann MacAdam. Bill Sandy wrote in favor of application. No one wrote or spoke against applicant.

Motion to approve as a Negative #2 by George Bryant Seconded by John Santos. Passed 4-0

3. Frank Vasello, representing the Provincetown Community Compact, Inc., for the property located **between Route 6 and Shank Painter Pond** in Provincetown, MA. Applicant seeks approval for temporary site-specific sculptures, from various artists, to be chosen by a jury of six people. All work will be temporary and will have minimum impact on the environment. All work will be removed at the end of the exhibition in October.

Represented by Frank Vasello. No one wrote or spoke in favor or against application. Mr. Vasello stated that he would like to have a member of the Conservation Commission on his jury to select the artists for the project.

Application continued till August 26th meeting with consent of the applicant

Discussion

1. 409A Commercial St – written complaint

Written complaint was filed along with pictures of the property owner cutting and using weed killer on beach grass at said location.

The Conservation Commission would like to set up some guidelines for properties with access to the beach for wanted or proposed walkways, from the building to the water. The Conservation

Administrator requested the property owner to join the Commission on August 26th to discuss possibilities.

2. George Bryant tested samples of the Ryder Street Beach and what Noons Excavating has given as a possible match for the Volvo sandcastle project.

Correspondence

Minutes – June 24, 2004 and July 8, 2004

Motion to approve June 24th minutes as written by Elaine Anderson Seconded by George Bryant. Passed 3-0

Motion to approve July 8th minutes by Elaine Anderson Seconded by George Bryant. Passed 4-0

Conservation Board Statements

Motion to move the Conservation Commission meetings to the third Thursdays of every month, starting September 16th by John Santos Seconded by Elaine Anderson. Passed 3-0

Adjournment:

John Santos moved to adjourn the meeting at 9:17 P.M. and it was so voted unanimously.

Respectfully submitted,

Elizabeth Hartsgrove

Approved by _____ on _____, 2004
Dieter Groll and/or Elaine Anderson, Co-Chairs