

# PROVINCETOWN CONSERVATION COMMISSION

August 22, 2002  
6:30 P.M.

**Members Present:** Susan Avellar, Peter Souza, Sheila Benzer

**Members Absent:** Robin Evans (excused)

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

## PUBLIC MEETING

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

### I. PUBLIC STATEMENTS:

None.

### II. OLD BUSINESS:

Sheila Benzer has not had an opportunity to consult with Conservation Commission Secretary Pat White about the letter regarding new wetlands regulations for the Town of Provincetown.

### III. PUBLIC MEETING:

*Determination of Applicability* (continued from July 25, 2002)

Application by J.C. Ellis Design Co., Inc., representing the Winstanley Trust 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 located at **777 Commercial Street** in Provincetown.

**Presentation:** Jason Ellis appeared to present the application. The existing dwelling has a cesspool that the applicant wants to upgrade to a Title 5 system. The cesspool is located within the 100' buffer zone of two wetlands. The proposed system will be raised and will be within the contours of the property. The applicant believes that the installation will have only a minimum amount of impact on those resource areas.

**Public Comment:** None.

**Commission Discussion:** Roger Dias, who visited the site, felt that the Commission should grant a Negative Determination (#3). The Commission questioned Mr. Ellis further about the project, including whether any trees would be removed from the property. Mr. Ellis responded that one tree, with a diameter measuring 12", had to be removed.

*Sheila Benzer moved to grant a Negative Determination (#3), Peter Souza seconded and it was so voted, 3-0.*

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*Determination of Applicability* (continued from July 25, 2002)

Application by Tom Thompson, representing John and Donna Farrelly, 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 located at **575 Commercial Street** in Provincetown.

**Presentation:** Tom Thompson appeared to present the application. The renovation project is within a flood zone and is thus subject to compliance with FEMA regulations. The applicants

have engaged the services of Coastal Engineering to address these issues.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Thompson about the project, including the need to get heavy equipment on the beach. Mr. Thompson stated that he did not have final, detailed plans from Coastal Engineering yet, so could not answer the Commission's questions accurately at that time. The Commission requested that Mr. Thompson return at the next meeting on September 26, 2002, with detailed plans for the construction project before they rendered a decision.

#### **IV. PUBLIC HEARING:**

None.

#### **V. OTHER BUSINESS:**

##### **722 Commercial Street – Proposed Change in DOA**

Zen Associates representing Douglas Fiebelkorn, for change to DOA issued October, 2001.

**Presentation:** Tom Brezina appeared to present the application. The applicant is concerned with a driveway issue on the property. He wants to install two parking spaces at the base of a steep, winding driveway that leads up to the property from Route 6A. The reason he is requesting this includes lessening the need for parking at the top of the driveway and facilitating the parking of trucks and other equipment needed for the proposed construction of the dwelling on the property. The applicant also wants to prune the border vegetation in order to make navigating cars up and down the driveway safer.

**Public Comment:** Anna Avellar and Peter Manso both spoke against the application.

**Commission Discussion:** The Commission questioned Mr. Brezina about the project and what kind of vegetation bordered the driveway and whether there was a coastal dune on the property. Route 6A at that point cuts through a coastal dune and the Commission wants to preserve and protect that dune. Susan Avellar proposed writing a letter to DPW and the Provincetown Parking Department about the property. The Commission would like no parking regulations to be enforced because of their concern about destroying the surrounding vegetation that protects the dune. The Commission suggested that the applicant erect a fence to keep cars from parking on his property and also suggested that he withdraw his application without prejudice. Mr. Brezina agreed.

##### **MacMillan Pier Reconstruction – Notice of Project Change**

Bourne Consulting Engineering, representing AGM Marine, presented a proposed change in the disposal of dredging material from this project.

**Presentation:** Ron Bourne, from Bourne Consulting Engineering, and Bill Lovely and John Mikutowicz, from AGM Marine, appeared to present the application. The dredged material was supposed to be removed to a landfill in Bourne, but the contractor was looking for an alternative solution. After investigation, it was found that the material could be disposed of offshore, in 100' of Cape Cod Bay, in a designated disposal area. The dredging will begin in late October and finish around the end of the year. There will be a certified observer from the National Marine Fisheries on the barge carrying the material in case of the appearance of marine mammals in the vicinity of the disposal. Mr. Bourne stated that this method of disposal will have the least impact on the community.

**Public Comment:** None. There were two letters on file, one from the Massachusetts Department of Environmental Protection stating that the change was an insignificant deviation from the original plan and another letter from the Secretary of the Commonwealth of Massachusetts stating that the proposed change did not require an environmental impact statement.

**Commission Discussion:** The Commission questioned Mr. Bourne, Mr. Lovely and Mr.

Mikutowicz. They articulated their disappointment at various incidents violating the Commission's Order of Conditions on the original NOI that have occurred during the reconstruction of MacMillan Pier and AGM's subsequent handling of those situations. Mr. Bourne provided the Commission with the report of this firm analyzing the entire project. Mr. Mikutowicz reiterated that AGM Marine takes those Orders of Conditions seriously, contrary to what the Commissioners seem to think. The Commission discussed having a liaison from the Commission to the Pier project. Some of the Commissioners objected to the content of the dredging material and feel it is not appropriate to dispose of it in Cape Cod Bay. *Peter Souza moved to deny the change, Sheila Benzer seconded and it was so voted, 2-1 (Susan Avellar opposed).* The applicant requested that a written decision stating why the change was denied be sent to him.

**VI. APPROVAL OF MINUTES:**

*Sheila Benzer moved to approve the minutes of July 25, 2002 as written, Peter Souza seconded and it was so voted, 3-0.*

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

None.

**ADJOURNMENT:**

*Susan Avellar moved to adjourn the meeting at 9:05 P.M., it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

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