

# PROVINCETOWN CONSERVATION COMMISSION

April 22, 2004  
6:30 P.M.

**Members Present:** Dieter Groll, Elaine Anderson, Paul Tasha and George Bryant.

**Members Absent:** John Santos and Sara Robin.

**Others Present:** John Gilmore (Director of the Department of Community Development) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:35 P.M.

## I. PUBLIC STATEMENTS:

Peter Souza stated that someone was burning of material at Clapp's Pond. He had contacted Nancy Finley of the National Seashore about the burning. He is concerned that the burnt materials will affect the fish and other wildlife in the pond. He suggests that signage be erected to indicate where the vernal pool is located to keep people from driving through it. Mr. Souza stated that he is trying to get the vernal pool officially designated as such.

Members of the Commission volunteered to place a log anchored in the ground in the path in order to prevent vehicles from passing through the vernal pool.

## II. OLD BUSINESS:

**575 Commercial Street - Certificate of Compliance** - Donna Farrelly appeared to discuss the request. She submitted a site plan and landscaping plan for the property along with a statement from Felco Engineering certifying that the Order of Conditions issued by the Conservation Commission had been satisfied.

*George Bryant moved to issue a Certificate of Compliance for 575 Commercial Street, Elaine Anderson seconded and it was so voted, 4-0.*

**599 Commercial Street – Certificate of Compliance: Landscaping; Remodeling and Foundation Reconstruction; Sewage Disposal System** - John Bologna, of Coastal Engineering, representing Smith Jefferies, appeared to discuss the request. Mr. Bologna submitted certification and affidavits from the appropriate companies that worked at the premises that the Order of Conditions issued by the Conservation Commission had been satisfied. The property was connected to the Town sewer system so the sewage disposal system was not installed.

*George Bryant moved to issue a Certificate of Compliance for 599 Commercial Street, Paul Tasha seconded and it was so voted, 4-0.*

## III. NEW BUSINESS:

**Setting applicant fees for legal ads; Notice of Intent; Determination of Applicability; and for Consultant Fees -**

The Commission discussed application fees for legal ads announcing Notices of Intent and Determinations of Applicability. The Department of Community Development looked at the costs associated with the operations of the various Town Boards. The Commission now has its own bank account of available funds. The Commission has to designate application fees commensurate with the administrative work that is necessary to process Conservation Commission applications. The Commission discussed this issue along with the possibility of regionalizing Conservation Commission services, applying to the County for funds and fees for

the hiring of consultants.

*George Bryant moved to table the issue until more research by the Conservation Commission was done, Elaine Anderson seconded and it was so voted, 4-0.*

#### **IV. PUBLIC MEETING:**

##### **Request to Extend Order of Conditions**

Application by Felco Engineering, Inc., representing Gerald Magid, **57A Pleasant Street**, to request to extend Order of Conditions #SE-58-339.

**Presentation:** The applicant was not present. The applicant seeks to extend an Order of Conditions issued by the Conservation Commission

*George Bryant moved to issue a two-month extension of the Order of Conditions for 57A Pleasant Street, Paul Tasha seconded and it was so voted, 4-0.*

#### **V. PUBLIC HEARING:**

##### **Notice of Intent (continued from 3/25/04)**

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, appeared to discuss the case. Mr. Shea and co-chair Dieter Groll met at the site to examine the delineation of the wetland.

**Commission Discussion:** The Commission discussed the two different designations that have been applied to categorize this particular wetland by separate environmentalists; isolated vegetative wetland and isolated vegetative wetland subject to flooding. The Commission decided to hire an independent environmental biologist, whose fee will be paid by the applicant, to render another opinion on the designation of the wetland on the property. This consultant will be hired before the May 27, 2004 hearing. The Commission would like to obtain proposals for the scope of work. The applicant requested a continuance until the May 27, 2004 hearing.

*Paul Tasha moved to impose a consulting fee, pursuant to Section 12-4-4 of the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, the amount to be determined by any requests for proposals submitted to the Conservation Commission and up to a limit determined by Section 12-4-7 of said By-Law, in order to establish the accuracy of the delineation and categorization of the wetland located at 72 West Vine Street, Elaine Anderson seconded and it was so voted, 3-0-1 (abstain).*

##### **Determination of Applicability**

Application by Kimball Residential Designs, representing John and Joy Reis, 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 **6 Oak Drive** in Provincetown.

Co-chair Dieter Groll recused himself because of a conflict of interest. Co-chair Elaine Anderson chaired the case.

**Presentation:** Neal Kimball and John Reis appeared to present the application. The applicant seeks to change the roof line and undertake renovations to the structure, including expanding the living space over the deck and expanding the deck area. The deck area is located just over the 100' buffer zone of a wetland.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly discussed the case. They requested that dumpsters be located on site and emptied regularly and that debris presenting on site be removed.

*George Bryant moved to grant a Negative #3 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 6 Oak Drive with the conditions that debris near the fence abutting the wetland be covered in order that none blows into the wetland, Elaine Anderson seconded and it was so voted, 3-0.*

**VI. OTHER BUSINESS:**

**232 Bradford Street** – Letter from Patrick Patrick to DEP requesting a superseding Determination of Applicability. The Commission discussed the letter that seeks to have the DEP impose the maximum fine on the property owner for a violation of the Massachusetts Wetlands Protection Act. The Commission already ruled on the Determination of Applicability and will write a letter stating its position that the property owner did try to mitigate the problem.

**58 Harry Kemp Way** – Ken Weiss appeared as the original Order of Conditions for the property has expired and the Commission had issued an updated Order. This updated Order of Conditions has been satisfied. Roger Dias has issued an opinion that states this.

*George Bryant moved to issue a Certificate of Compliance for 58 Harry Kemp Way, Paul Tasha seconded and it was so voted, 4-0.*

**VII. MINUTES:**

**March 25, 2004** – *Sieter Grollt moved to approve the minutes of March 25, 2004, Elaine Anderson seconded and it was so voted, 2-0-2 (abstain).*

**April 1, 2004** – *George Bryant moved to approve the minutes of April 1, 2004, Paul Tasha seconded and it was so voted, 4-0.*

**VIII. ANY OTHER BUSINESS:**

There will be a Board of Selectmen’s meeting at 6:00 P.M. on April 26, 2004 to discuss the loss of staffing in the Department of Community Development.

Cape Tip Moto-cross – The group would like to have the use of the bike trails, which was suspended while the sewage treatment plant was under construction. The Commission will discuss this issue at the next hearing when they will discuss a management plan for the Clapp’s Pond resource area.

**ADJOURNMENT:**

*Elaine Anderson 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 May 27, 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