

# PROVINCETOWN CONSERVATION COMMISSION

June 24, 2004  
6:30 P.M.

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

**Members Absent:** John Santos (unexcused), Sarah Robin (unexcused) and Paul Tasha (unexcused).

**Others Present:** Mark Latour (Deputy Director of the Department of Community Development) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:42 P.M.

## I. PUBLIC STATEMENTS:

None.

## II. OLD BUSINESS:

**Certificate of Compliance** – 165 Commercial Street – tabled

**Certificate of Compliance** – 175 Commercial Street – tabled

## III. NEW BUSINESS:

### *Emergency Request for Determination of Applicability*

Application by the Town of Provincetown for an Emergency 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 located at **227R Commercial Street** in Provincetown.

**Presentation:** John Fitzgerald and Sandy Turner appeared to present the request. The property in question was foreclosed upon by the Town of Provincetown and it is in a dilapidated condition and constitutes a fire hazard. The Town seeks to fence in and stabilize the premises by removing debris from the deck on the property. The Police Department, the Department of Public Works and the Department of Community Development have all been consulted about the property. The Town proposes to use a crane, to be brought in via the Gosnold Street town landing, to remove the debris from the deck and the surrounding beach and deposit it in bins in the town landing. The crane will be positioned on a wooden platform on the beach with minimal disruption to the area. As much framing of the deck as possible, keeping in mind public safety, will be left on the premises. The pilings will not be removed.

**Commission Discussion:** The Commission briefly questioned the applicants.

**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 227R Commercial Street, Elaine Anderson seconded and it was so voted, 3-0.**

## IV. PUBLIC MEETING:

### *Determination of Applicability*

Application by Felco, Inc., representing **Jose & Adelaide DeBarros** 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 located at **20 Aunt Sukey's Way** in Provincetown.

The application has been withdrawn.

### *Determination of Applicability*

Application by **Taylor-Zemo Realty Trust, Michael Taylor and Stephen Zemo, Trustees**, 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 located at **165 Commercial Street (The Sandpiper)** in Provincetown.

**Presentation:** Steve Zemo and Michael Taylor appeared to present the application. The applicants seek to provide a second means of access for Units 2, 3 and 4 through a picket gate on the premises where currently only Unit 1 has access.

**Public Comment:** None.

**Commission Discussion:** The Commission discussed the project and questioned Mr. Zemo and Mr. Taylor.

*George Bryant moved to grant a Negative #3 Determination of Applicability for the premises located at 165 Commercial Street (The Sandpiper) with the following Order of Conditions:*

- *Non-toxic materials be utilized;*
- *Debris be removed from the beach in a timely fashion;*
- *Building materials be stored in the parking lot on premise; and*
- *A final clean-up of the beach takes place at the end of the project,*

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

### **Certificate of Compliance – 165 Commercial Street**

Steve Zemo and Michael Taylor appeared to request the Certificate of Compliance.

The Commission received a letter from Coastal Engineering certifying that the Orders of Condition for the property have been satisfied.

**Public Comment:** None.

*George Bryant moved to grant a Certificate of Compliance for 165 Commercial Street (The Sandpiper), Elaine Anderson seconded and it was so voted, 3-0.*

### *Determination of Applicability*

Application by **Bronwyn Malicoat, representing Conrad Malicoat** 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. The applicant seeks approval to relocate and reconstruct a garage, enlarge the footprint from 20' by 20' to 26' by 24', and add a second story with two artist studios on the property located at **320 Bradford Street** in Provincetown.

**Presentation:** Bronwyn Malicoat, Michael Boyce and Conrad Malicoat appeared to present the application. The applicant seeks to move a garage 6 feet closer to the wetland area and add two artist studios to the structure. This would locate the building 62 feet from the wetland at its closest point and 65 feet at its farthest point.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Ms. Malicoat and Mr. Boyce.

*Elaine Anderson moved to grant a Negative #3 Determination of Applicability for the relocation and reconstruction of a garage, the enlargement of the footprint from 20' by 20' to 26' by 24', and the addition of a second story with two artist studios for the property of 320 Bradford Street with the following Order of Conditions:*

- *Construction materials be stored toward the eastern side of the western driveway;*
- *The limit of work be delineated on a site plan, to be approved by a member of the Conservation Commission or the Conservation Agent;*
- *Straw bales be used to delineate the work area along the western edge of the driveway going back towards the chicken coop, to be approved by a member of the Conservation*

*Commission or the Conservation Agent after being placed on site; and*

- *Board of Health approval of the project, George Bryant seconded and it was so voted, 3-0.*

**Certificate of Compliance** – 175 Commercial Street

William N. Rogers II, Professional Civil Engineer and Land Surveyor submitted plans to the Commission certifying that the Order of Conditions for the property had been met. No Title V septic system has been installed because the property has hooked up to the Town sewer system.

**Public Comment:** None.

*George Bryant moved to grant a Certificate of Compliance for the property located at 175 Commercial Street, Elaine Anderson seconded and it was so voted, 3-0.*

## V. PUBLIC HEARING:

### *Notice of Intent (continued from 5/27/04)*

Application by Independent Environmental Consultants, Inc., representing Anita Butler, 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 **15 Creek Round Hill Road** in Provincetown.

**Presentation:** Paul Shea, of Environmental Consultants, Inc., William Rogers II, Professional Civil Engineer and Land Surveyor, Mark Kinane, of Cape Associates and David and Anita Butler appeared to discuss the case. The applicant has received Board of Health approval for the project.

**Public Comment:** None.

**Commission Discussion:** The Commission has held a site visit at the property. A letter from the National Heritage Foundation was given to the Commission stating that, in their opinion, no disturbance of animal habitat would result from the project.

*George Bryant moved to grant a 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 15 Creek Round Hill Road in Provincetown, with the following Order of Conditions:*

- *Double straw bales for the delineation of the work area be checked daily for sediment build-up because the construction is taking place during the dry season;*
- *Construction materials be stored off-site;*
- *Breaks can be made in the straw bale delineation for animal passage only after the excavation stage of the project is completed,*

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

### *Notice of Intent (continued from 3/25/04, 4/22/04 and 5/27/04)*

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, of Environmental Consultants, Inc. and William Rogers II, Professional Civil Engineer and Land Surveyor, appeared to discuss the case.

**Commission Discussion:** The Commission discussion a report from Lynne Hamlyn Consulting, an environmental consulting firm. The case is continued until the July 22, 2004 hearing.

## VI. OTHER BUSINESS:

### A. Informal Discussion of DOA for Ryder Street Beach –

Steve Melamed, Chair of the Visitor's Service Bureau, appeared before the Commission. He has been contacted by Volvo of North America who wants to sponsor an event during Family Week. The event involves bringing in professional sculptors who create giant sand sculptures on the beach. Mr. Melamed is requesting that the Conservation Commission grant a Determination of Applicability for the project. He stated that the Department of Environmental Protection has already been contacted regarding the project.

**Commission Discussion:** The Commission discussed aspects of the project, including what type of sand would be brought in for the sculptures. The Commission would like to consult with DEP on this topic. The Commission decided that the DOA needed to be advertised for the a hearing on July 8, 2004 at 6:30 P.M. in order to allow the public to speak out on the issue.

**B. Clapp's Pond Management Plan –**

The Commission discussed a letter they received from Cape Tip Moto-Cross, who currently has an injunction against the Town because the Town stated that they could not return to use the trails they had been using before the construction of the wastewater facility near Clapp's Pond.

**C. Setting Filing Fees and Consultant Fees –**

Mark Latour suggested that the Commission start by setting a few fees. His suggestions were: DOA - \$50.00, Certificate of Compliance - \$75.00, NOI - \$275.00 and an abbreviated NOI - \$100.00. The Commission discussed these fees, with George Bryant objecting to the charging of fees at all. The Commission needs to present these numbers to the Board of Selectmen and hold a public hearing regarding them.

*Elaine Anderson moved to present the fee schedule to the Board of Selectmen, George Bryant seconded and it was so voted, 3-0.*

**VII. MINUTES:**

*May 27, 2004 – George Bryant moved to approve the minutes of May 27, 2004, Elaine Anderson seconded and it was so voted, 3-0.*

**VIII. ANY OTHER BUSINESS:**

The Commission discussed the acquisition of new members and making the current alternate members into permanent members.

Mass. GIS aerial photography – The Commission received a letter and a CD-ROM from this organization identifying areas in Provincetown that had either been filled in with soil or other material or have been cleared of vegetation.

**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 July 22, 2004.

**NEXT MEETING**

The next meeting will be on August 26, 2004.

Respectfully submitted,

Ellen C. Battaglini

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