

# PROVINCETOWN CONSERVATION COMMISSION

November 9, 2004  
6:30 P.M.

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

**Members Absent:** John Santos.

**Others Present:** David McLean-Perkins (Conservation Commission Secretary) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:32 P.M.

## **PUBLIC STATEMENTS:**

None.

## **OLD BUSINESS:**

1. White Cedar (Curtis) Conservation restriction.

The Commission discussed the restriction.

**Public Comment:** Robin Evans, a member of the Open Space Committee, commented that the restriction was not management plan, which should be the Commission's next step in regard to this conservation land.

***Paul Tasha moved to approve the White Cedar Conservation restriction, Elaine Anderson seconded and it was so voted, 4-0.***

2. Woodland Acre (Wells) Conservation restriction.

The Commission discussed the restriction.

**Public Comment:** None.

***Elaine Anderson moved to approve the Woodland Acres Conservation Restriction, Paul Tasha seconded and it was so voted, 4-0.***

## **Notice of Intent** (continued from 9/28/04, 10/12/04, 10/26/04 and 11/09/04)

Application by Felco, Inc, representing Blueberry Realty Trust, Brian T. Morris, Trustee, for 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. Applicant seeks approval for the construction of a single family dwelling within the buffer zone to a fresh water wetland for the property located at **20 Blueberry Avenue**, in Provincetown.

Alan Cabral appeared to request a continuance until the November 23, 2004 hearing.

### **Determination of Applicability**

Application by Mark Kinane of Cape Associates 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 two windows and add a third, add an 8' French door and connect two second floor decks within 75' of a coastal bank on the property located at **165 Commercial Street**, in Provincetown.

**Presentation:** Mark Kinane appeared to present the application. Mr. Kinane stated that the material for construction would be stored inside.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly discussed the application.

*Paul Tasha moved to approve a Negative #3 Determination to relocate two windows and add a third, add an 8' French door and connect two second floor decks within 75' of a coastal bank on the property located at 165 Commercial Street, in Provincetown, Elaine Anderson seconded and it was so voted, 4-0.*

### **Certificate of Compliance** (continued from October 26, 2004)

1. Bohler Engineering, representing GU Markets, 56 Shank Painter Road, Provincetown. The applicant was not present at the hearing.

## **NEW BUSINESS:**

### **Determination of Applicability**

Application by Neal Kimball Residential Designs, representing Rick Holland and David Silva of the Red Inn, 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 extend wooden patio along existing structure and seawall at grade level, construct 42' cable safety railing with pressure-treated wooden post along top of seawall on the property located at **15 Commercial Street**, in Provincetown. Co-Chair Dieter Groll recused himself because of a conflict of interest. Co-Chair Elaine Anderson chaired the application.

**Presentation:** Sean Burke, Phillip Mossy and David Silva appeared to present the application. The construction site will be cleaned daily and material storage will be in the Red Inn parking lot across Commercial Street.

**Public Comment:** None.

**Commission Discussion:** The Commission briefly recommended that the applicants make sure they use the type of pressure-treated wood that does not contain arsenic.

*George Bryant moved to approve a Negative #3 determination with the following conditions:*

- *That the materials be stored in the Red Inn parking lot across Commercial Street from the construction site;*
- *That the beach be kept free from construction debris; and*
- *That arsenic free pressure-treated wood is used.*

*Paul Tasha seconded and it was so voted, 3-0.*

### **Determination of Applicability**

Application by Coastal Engineering Co, Inc., representing Robert Gebelein, 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 confirmation of delineation of wetland area and flood zones on the property located at **438 Commercial Street**, in Provincetown.

**Presentation:** Reggie Donoghue, of Coastal Engineering Co., Inc., Donald Schall, wetland specialist and Robert Gebelein appeared to present the application. The applicant is claiming that the wetland designation should not be isolated land subject to flooding.

**Public Comment:** Robert Griffith, an abutter, spoke about the property being very wet in the spring. Klara Muller, an abutter, whose land overlooks the subject property, claims she has seen standing water there in the spring.

**Commission Discussion:** The Commission decided that they would like to hire an independent wetland specialist to advise them on this application.

*Paul Tasha moved to request an independent wetland specialist be hired by the Conservation Commission as the Commission is authorized to do under their rules and regulations, the cost of which, according to the rules and regulations, is not to exceed \$500.00, to help guide them in rendering a decision as to the delineation of the wetland area and flood zones on the property located at 438 Commercial Street, Provincetown, Elaine Anderson seconded and it was so voted, 3-1 (GB).*

### **Determination of Applicability**

Application by Sea Level Builders representing Lori Pressman, 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 remove and replace an existing deck on the waterside of the house, one for one replacement, remove and replace all sidewall cedar shingles, remove and replace all windows with Anderson windows of the same configuration on the property located at **655 Commercial Street**, in Provincetown.

**Presentation:** Harry Palmer, of Sea Level Builders, appeared to present the application.

**Public Comment:** None.

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

*Paul Tasha moved to grant a Negative #3 Determination with the condition that no pressure-treated wood containing arsenic be used in the construction, Elaine Anderson seconded and it was so voted, 4-0.*

## **DISCUSSION:**

- The Commission discussed the subject of hiring a Conservation Agent.
- The Commission discussed changing the day of the week of the Conservation Commission hearings because of a conflict with the Licensing Board, whose staff liaison is also David McLean-Perkins. It was decided that nothing would change until January.
- The Commission briefly discussed the Certificate of Compliance request by GU Markets. They never installed the monitoring wells that the Conservation Commission requested when they initially appeared with the septic plan for the site. There was no public comment. *Paul Tasha moved to deny the request for a Certificate of Compliance by Bohler Engineering, representing GU Markets, 56 Shank Painter Road, Provincetown because of a lack of information and their failure to install monitoring wells, Elaine Anderson seconded and it was so voted, 4-0.*
- There is a workshop and activities being sponsored by the Massachusetts Association of Conservation Commissions.

## **ADJOURNMENT:**

*Paul Tasha moved to adjourn the meeting at 8:10 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on November 9, 2004.

## **NEXT MEETING**

The next meeting will be on December 14, 2004.

Respectfully submitted,

Ellen C. Battaglini

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