

PROVINCETOWN CONSERVATION COMMISSION

August 14, 2003
6:30 P.M.

Members Present: Susan Avellar, Paul Tasha and George Bryant.

Members Absent: Peter Souza and Sheila Benzer (excused).

Others Present: Roger Dias, Mark Latour and Ellen C. Battaglini (Recording Secretary).

Acting Chair Susan Avellar called the meeting to order at 6:41 P.M.

I. PUBLIC STATEMENTS:

None.

II. OLD BUSINESS:

Certificate of Compliance – 651 Commercial Street

The Certificate is for a bulkhead reconstruction at the property. No violations of the Order of Conditions were reported.

George Bryant moved to grant a Certificate of Compliance for 651 Commercial Street, Paul Tasha seconded and it was so voted, 3-0.

Certificate of Compliance – 479 Commercial Street

The Certificate is for a Title V septic system installed in 1992.

George Bryant moved to grant a Certificate of Compliance for 479 Commercial Street, Paul Tasha seconded and it was so voted, 3-0.

131A Commercial Street – Violation of Order of Conditions

Presentation: John Santos appeared and argued that he has only undertaken repairs that were approved by the Commission.

Public Comment: None.

Commission Discussion: Acting Chair Susan Avellar disclosed that John Santos is the treasurer for the West End Racing Club, an organization that employs Ms. Avellar. Ms. Avellar also disclosed that she was responsible for instigating the Stop Work Order at the premises because she felt that there was work being done that was outside the scope of the Commission's approval. She stated that there were only supposed to be repairs made to the existing pier and no enlargement of the pier was to occur, however, according to Ms. Avellar, there seems to have been work done to enlarge the pier. She further stated that there was never any construction protocol approved by the Commission for any such work to begin. In addition, there has been no Chapter 91 license issued because the State wants to see an Order of Conditions from the Commission.

George Bryant moved to rescind the Stop Work order at 131 A Commercial Street, Paul Tasha seconded and it was so voted, 3-0.

George Bryant moved that the request of Mr. Santos to add a 21.1 foot by 22 foot area to the existing concrete pier with the following Order of Conditions:

- *The addition of a 21.1 foot by 22 foot concrete pad area will not be further enlarged without returning to the Conservation Commission for a full construction protocol;*
- *No heavy equipment is to be allowed on the beach; and*
- *All required licenses must be obtained before construction begins; and*

- *The Order of Condition is to be filed with the deed to the property, Paul Tasha seconded and it was so voted, 3-0.*

481 Commercial Street - Winkler - Violation of Order of Conditions
Mr. Winkler did not appear at the meeting.

III. NEW BUSINESS:

Request to create Second Alternate Conservation Commission Member –
Acting Chair Susan Avellar moved that the Conservation Commission request that the Board of Selectmen create a second alternate Conservation Commission position, George Bryant seconded and it was so voted, 3-0.

IV. PUBLIC MEETING:

Determination of Applicability

Application by David Lajoie, of Felco Engineering, representing David Vaughan for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetland Protection Act, M.G.L. c. 131, § 40 for the property located at **4 Garfield Street** in Provincetown.

Presentation: Alan Cabral, of Felco Engineering, appeared to present the application.

The work that is the subject of the application involves a Title V upgrade to a septic system for an existing cottage. The plan has already been approved by the Board of Health. The system is slightly elevated and includes a timber retaining wall. Mr. Cabral states that maps he has studied show that there may be a dune nearby and he wanted to consult with the Commission concerning the existence of that dune.

Public Comment: None.

Commission Discussion: According to Roger Dias, the system is in excess of 200 feet of the resource area and is not subject to the Provincetown Wetlands Protection By-Law.

Acting Chair Susan Avellar moved to grant a Negative #1 Determination for the property located at 4 Garfield Street, George Bryant seconded and it was so voted, 3-0.

V. PUBLIC HEARING:

Notice of Intent (continued from June 26, 2003)

Application by Robert J. Freeman of Schofield Brothers of Cape Cod, representing Ronnie Szeszler, 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 **385 Commercial Street** in Provincetown.

Presentation: Attorney Lester J. Murphy, Ronnie Szeszler, Robert J. Freeman and Laura Schofield, of Schofield Brothers, Tom Thompson, designer, and Mark MacKenzie, structural engineer, appeared to present the application. There will be a demolition and reconstruction of the building that is located on the southern portion of the property. There is a proposed erosion control plan that will be maintained until the disturbed area is stabilized. There will be several trees removed, but these will be replaced by species approved by the Commission. The owners have obtained the permission of the owner of the parking lot that abuts the premises to use the lot in the off-season to facilitate access to the site. The structure will be dismantled piece-meal and most demolition and construction access will be through the abutting parking lot. Limited access will be required to reach the site via the beach. The applicant proposes that this be done via a nearby Town Landing.

Public Comment: None.

Commission Discussion: The Commission questioned the applicants briefly. Roger Dias felt that the project could proceed. There is a Chapter 91 license on file and the property will be

connected to the Town sewer system in the fall.

George Bryant moved to grant a Notice of Intent for the property located at 385 Commercial Street, with the following Order of Conditions:

- ***Heavy machinery that is placed on the beach shall have tracks and access will be from the Johnson Street landing or the Pearl Street landing;***
- ***Tracks will be groomed after use;***
- ***The construction protocol submitted with the application will be incorporated into the Order of Conditions; and***
- ***The Order of Conditions will be filed with the deed to the property.***

Notice of Intent (continued from June 26, 2003)

Application by William N Rogers, II, P.E., P.L.S., representing Phillip Retzky, 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 **61 Pleasant Street** in Provincetown.

Presentation: William N. Rogers, II appeared to present the application. There were plans drawn up to install a septic system by the previous owner, who never had the system installed. Mr. Rogers is resubmitting the plan, which has been approved by the Board of Health.

Public Comment: None.

Commission Discussion: The property is surrounded by wetlands and Roger Dias has concerns about seepage of the effluent into the wetlands. He suggested that the applicant install a sampling well that can be monitored in order to try and prevent any contamination. Mr. Rogers agreed that the sampling wells that could be monitored would be a good idea in view of the sensitive location of the property.

George Bryant moved to grant the Notice of Intent for the property located at 61 Pleasant Street, with the following Order of Conditions:

- ***Monitoring wells be placed on the property (one on the west side and one on the east side). The wells are to be installed and monitored by an environmental testing company. The wells are to be tested prior to the septic system installation, in order to establish a baseline report, and then the wells are to be tested yearly in September with reports turned into the Conservation Commission and the Board of Health,***

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

Notice of Intent (continued from June 26, 2003)

Application by Chester Lay, R.L.S., of Slade Associates, representing Bruce A. Flint, 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 **191A Commercial Street** in Provincetown.

Presentation: Attorney E. James Veara appeared to represent Bruce A. Flint. The subject of the application is a deck replacement and the re-support of an existing deck. The Conservation Commission approved a Notice of Intent application for the project in January of 2000. Since then, the applicant has endeavored to obtain a Chapter 91 license for the property. In March of 2003, a Chapter 91 license was obtained, but by the time this occurred, the original Notice of Intent had expired without any work being done on the deck. The applicant is, therefore, requesting a replacement for the lapsed Notice of Intent with the same Order of Conditions. Those conditions included:

- A dumpster being located on the property;
- A silt fence being erected; and
- The pilings being dug by hand.

Public Comment: None.

Commission Discussion: Roger Dias suggested that the request be approved with the same Order of Conditions.

Acting Chair Susan Avellar moved to grant a Notice of Intent for the property located at 191A Commercial Street, with the same Order of Conditions that were stated in the original Notice of Intent, granted in January of 2000, with the following addition:

- ***That the debris be place on the north side of the building and NOT the west side,***

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

VI. OTHER BUSINESS:

Presentation by Mark Adams of the Cape Cod National Seashore regarding trails at Herring Cove (management update, no changes proposed) - Mr. Adams did not appear at the meeting.

Discussion of Clapp's Pond management plan – Acting Chair Susan Avellar suggested that the Conservation Trust appear before the Commission because the two organizations work in partnership to manage resources such as Clapp's Pond. ***Acting Chair Susan Avellar moved to postpone this agenda item and schedule a public workshop in order to discuss the management plan, Paul Tasha seconded the motion and it was so voted, 3-0.***

17 Somerset Road – There was a brief discussion of a possible violation of the Order of Conditions at the property.

Agenda items – There was a brief discussion regarding limiting the number of items on the agenda for the monthly meeting, possibly to two Determinations of Applicability and two Notices of Intent.

Kimberly Lane – There was a brief discussion of a property on Kimberly Lane. An abutter notified Roger Dias that there was clear-cutting going on at a certain property and this abutter felt that the cutting extended to her property as well. Mr. Dias made a site visit and could see no evidence of the allegation. Acting Chair Susan Avellar would like to schedule a site visit for members of the Commission to investigate further the matter further.

VII. MINUTES:

June 26, 2003 – Acting Chair Susan Avellar moved to approve the minutes of June 26, 2003, Paul Tasha seconded and it was so voted, 2-1 (abstain).

ADJOURNMENT:

Paul Tasha moved to adjourn the meeting at 8:50 P.M. and it was so voted unanimously.

These minutes were approved by a vote of the Conservation Commission at their meeting on August 28, 2003.

NEXT MEETING

The next meeting will be on August 28, 2003.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2003
Susan Avellar, Acting Chair