

# PROVINCETOWN CONSERVATION COMMISSION

September 20, 2005  
6:30 P.M.

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

**Members Absent:** George Bryant and John Santos (unexcused).

**Others Present:** Doug Taylor (Building Commissioner), Maxine Notaro (Permit Coordinator), Brian Carlson (Health Inspector) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:40 P.M.

## **PUBLIC STATEMENTS:**

Peter Souza spoke to the Commission about the presence of dirt bikes and ATVs in the Clapp's Pond resource area during the past weekend. Mr. Souza had photos of the alleged damage that these vehicles and their drivers had caused. He invited the Commission to do a site visit and inspect the area. He also encouraged the Commission to approve a management plan for Clapp's Pond. Co-Chair Dieter Groll informed Mr. Souza that he could contact any member of the Commission if he feels that damage is being done to an area under the purview of the Commission. That Commissioner can then contact the police and stop any activity that will harm the resource area.

Carl Roach, a member of Cape Tip Motocross Association (CTMXA), appeared to rebut Mr. Souza's version and answer any questions the Commission might have regarding what occurred at Clapp's Pond. Mr. Roach stated that the club was only using established trails at the site and denied the allegation that any damage was done to the environment. He also alleged that there were, in fact, no threatened or protected species in the area, and that CTMXA had successfully sued the Town several years ago and won the right to use the land. Finally, he alleged that the Attorney General supports the inclusion of their activities under his definition of "passive recreation". When Mr. Groll told Mr. Roach that he would like to see documentation to support any of these allegations, Mr. Roach walked out of the meeting. Co-Chair Dieter Groll suggested that the Commission continue the discussion of the issue and conduct a site visit on September 21, 2005 at 10 A.M. The Commission will hold a public hearing for October 18, 2005 to discuss the issue.

*Co-Chair Dieter Groll moved to add a public hearing to finalize the Clapp's Pond Management Plan on the Conservation Commission agenda for October 18, 2005, Elaine Anderson seconded and it was so voted, 3-0.*

Brian Carlson will attend Conservation Commission hearings and administratively assist the Commission until the Town hires a Conservation Agent.

*Elaine Anderson moved to recognize Brian Carlson as a representative of the Conservation Commission for opinions and investigation as needed, Paul Tasha seconded and it was so voted, 3-0.*

## **REQUEST FOR CERTIFICATE OF COMPLIANCE**

Estate of Raymond Wagner, 29 Commercial Street, Installation of Title V

Estate of Raymond Wagner, 29 Commercial Street, Retaining wall

Brian Carlson, representing the Commission, made a site visit.

**Public Comment:** None.

*Elaine Anderson moved to approve the 1996 Certificate of Compliance and the 2003 Certificate of Compliance for 29 Commercial Street, Paul Tasha seconded and it was so voted, 3-0.*

### **Determination of Applicability**

Application by James Walker on behalf of American Lighthouse Foundation/Race Point Lighthouse, 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 install a Title V septic system at the property located at **Race Point Lighthouse** in Provincetown.

The applicant, who was not present at the hearing, requested a continuance since the plans were not yet available.

***Elaine Anderson moved to continue the application, Paul Tasha seconded and it was so voted, 3-0.***

### **Notice of Intent**

Application by Joseph Smith represented by Reggie Donoghue of Coastal Engineering 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. The applicant seeks approval for proposed renovations to an existing single-family dwelling and associated site improvements to the property located at **151A Commercial Street** in Provincetown. The application is continued until the October 4, 2005 hearing.

### **Notice of Intent**

Application by Anthony Yeager and Cygnet Realty Trust, Daniel Drake Elias, Trustee, represented by David LaJoie of Felco Engineering, Inc., 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. The applicant seeks approval for a garage addition to an existing single-family dwelling and proposed pool with surrounding deck within the buffer zone to a bordering vegetated wetland to the property located at **30-36 Bradford Street Extension**, Provincetown. Co-Chair Dieter Groll explained to the applicant that given only 3 members of the Commission were seated, a unanimous decision would need to be reached in order for the Notice of Intent to be granted. The applicant had a choice of having the application heard or continuing until more members were seated. The applicant chose to proceed.

**Presentation:** Alan Cabral, of Felco Engineering, Inc., Anthony Yeager and Daniel Drake Elias appeared to present the application. The work limit will be established on the downhill side of the proposed garage addition. Access will be from the driveway and all material will be stored in the driveway, which is located outside the buffer zone. Disturbance to the site will be minimized and all destabilized areas will be re-vegetated. Hay bales will be placed along the work limit and monitored weekly.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Cabral, Mr. Yeager and Mr. Elias. The Commission questioned the applicant about mitigating the consequences of building within the buffer zone. The Commission requested more information concerning the installation of the pool because of its proposed location within the buffer zone of a wetland. The Commission is looking to insure that there is no adverse impact on the wetland. It was suggested to the applicant that the pool installer should appear before the Commission for questioning. The applicant then requested a withdrawal without prejudice of the portion of the application that concerned the installation of the pool. The Commission informed the applicant that an amended Notice of Intent would have to be submitted along with revised plans to the Commission and that a letter had to be sent to the Department of Environmental Protection notifying them of the intent to amend. The applicant then requested a continuance.

***Dieter Groll moved to accept the request for a continuance, Paul Tasha seconded and it was so voted, 3-0.***

### **Notice of Intent**

Application by Alan L. Pinkerson represented by David LaJoie, of Felco Engineering, Inc., 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. The applicant seeks approval for alteration to an existing residential structure within historic tidelands at the property located at **49A Commercial Street**, Provincetown. Co-Chair Dieter Groll explained to the applicant that given only 3 members of the Commission were seated, a unanimous decision would need to be reached in order for the Notice of Intent to be granted. The applicant had a choice of having the application heard or continuing until more members were seated. The applicant chose to proceed.

**Presentation:** Alan Cabral, of Felco Engineering, Inc., and Bob Galligan, contractor, appeared to present the application. The applicant seeks to renovate, reconstruct and raise the building on site. The bulkhead and deck will also be rebuilt.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Cabral and Mr. Galligan.

*Elaine Anderson moved to grant a Notice of Intent with the construction protocol submitted by the applicant incorporated by reference into the standard Order of Conditions.*

*Elaine Anderson moved to amend the original motion to include a revision of condition #10 on the applicant's construction protocol. The revision would add language to the effect that heavy machinery with rubber tires will be substituted if weather conditions render a crane unusable, Paul Tasha seconded and it was so voted, 3-0. Brian Carlson will be the Commission's representative on this project.*

#### ***Notice of Intent***

Application by Titchnell Family Irrevocable Real Estate Trust, represented by Independent Environmental Consultants, Inc., 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. The applicant seeks approval for a proposed addition (30' by 9') to an existing house within a secondary coastal dune on the property located at **6 Winston Avenue**, Provincetown. Co-Chair Dieter Groll explained to the applicant that given only 3 members of the Commission were seated, a unanimous decision would need to be reached in order for the Notice of Intent to be granted. The applicant had a choice of having the application heard or continuing until more members were seated. The applicant chose to proceed.

**Presentation:** Attorney Lester J. Murphy, Paul Shea, of Independent Environmental Consultants, Inc., Gary Locke and Joyce Titchnell appeared to present the application. The applicant seeks to add an artist's studio and deck to the structure on site.

**Public Comment:** None. There was one letter in the file from an abutter opposing the project.

**Commission Discussion:** The Commission questioned Attorney Murphy, Mr. Shea, and Mr. Locke. *Dieter Groll moved to approve the Notice of Intent with the standard Order of Conditions with the additional condition that a planting plan, including erosion protection of the resource area, be submitted for review by the Conservation Agent or its representative and incorporation of the construction protocol submitted by the applicant in the standard Order of Conditions, Elaine Anderson seconded and it was so voted, 3-0.*

#### **ANY OTHER BUSINESS:**

The Commission discussed bringing the local wetland by-laws more into conformity with the State wetland by-laws.

The Clapp's Pond Resource Area was discussed.

Doug Taylor reported to the Commission about the uses of CCH treated wood, including the fact that its suggested best use is in a marine environment. The Commission decided to table the discussion.

**MINUTES: September 6, 2005 – Elaine Anderson moved to approve the language as written, Paul Tasha seconded and it was so voted, 3-0.**

**ADJOURNMENT:**

*Elaine Anderson moved to adjourn the meeting at 9:30 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2005.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2005  
Dieter Groll and Elaine Anderson, Co-Chairs