

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557
617-693-3453

DATE: May 17, 1984
TO: Conservation Commission of the Town of Chilmark
FROM: Martha's Vineyard Commission
SUBJECT: DEVELOPMENT OF REGIONAL IMPACT
RE: PRIVATE PIER CONSTRUCTION
APPLICANT: Prudence M.W. Solon, Et al.
Panhandle Road, West Tisbury, MA 02575
and
Carly Simon
Creek Hill Road, Chilmark, MA 02535

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the "Commission") hereby approves with certain conditions the Application of Prudence M.W. Solon, et al, Panhandle Road, West Tisbury, Massachusetts, and Carly Simon, Creek Hill Road, Chilmark, Massachusetts, for the construction of a private pier in Menemsha Basin as shown on the plans entitled: "Plan accompanying petition of Carly Simon to construct a timber pile pier in Menemsha Basin, Chilmark, Massachusetts, October 1982," as amended by a second revised plan (undated) and which is attached to the October 1982 plan, consisting of two sheets, (the Plan).

The decision, with conditions contained herein, is rendered pursuant to the vote of the Commission on May 17, 1984. The Conservation Commission of the Town of Chilmark may now grant the necessary development permits for the Applicant's private pier in accordance with the conditions contained herein, or may approve in accordance with the conditions contained herein and place further conditions thereon, or may disapprove the development application.

FACTS

The proposed development is a Development of Regional Impact

as defined by the Commission's Criteria and Standards, Developments of Regional Impact, Section 3.502. The Application was referred to the Commission by the Conservation Commission of the Town of Chilmark for action pursuant to M.G.L. Chapter 831, Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated herein.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and Massachusetts General Laws, Chapter 30A, Section 2, on April 19, 1984 at 9:00 p.m. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the construction of a private pier in Menemsha Basin.

Marc Widdiss, Chairman of the Land Use Planning Committee opened the public hearing at 9.05 p.m., by reading the legal notice of the hearing and called for testimony.

Carol Borer, staff member of the Commission, described the proposal using an aerial photograph of the area, a plan and a Menemsha Basin lay-out. A memo used by the Land Use Planning Committee in reviewing the proposal was reviewed. It was noted that items one through three of the memorandum were directed more at the Conservation Commission of Chilmark than at the Applicant directly.

Attorney Marvin Geller asked the Applicant to respond as best as possible to each item.

William Marks responded that the Application, in Applicant's opinion, was complete as submitted but admittedly, however, the engineering plans were incorrect scale and require amendment.

Mr. Marks agreed and indicated that the item 3-2 of the intent application could have been checked.

Mr. Marks explained that they felt there would be no disturbance of the bank. The Commissioners were a bit confused by the

plan which indicated a difference.

In response to number one, the Applicant felt that "salt pond" was not checked (on application) by Town and Applicant because this basin is a commercial area with commercial docking zone, public marina, coast guard station, and Town dock and therefore, is not a salt pond per se.

In response to number three, the Applicant felt that land containing shellfish was not checked (on application) by Applicant and should not have been checked by the Chilmark Conservation Commission in their Order of Conditions because of shellfish not being present in the proposed dock area. It is a well-known fact by local shellfishermen that no shellfish are present in the area of Menemsha Basin. Applicant will clarify this point with the Town of Chilmark Conservation Commission as not being of significance to this resource.

A discussion of the difference between the scale and the application indication of length of pier. Mr. Marks stated that the 67-foot, 6-inch figure was the correct one.

Regarding the depth to which the spiles would be sunk, Mr. Marks indicated that a depth of ten to thirteen feet would be used. Regarding the spacing between the decking, Mr. Marks indicated one-half inch would be used. Regarding the meeting of the 25-foot set-back required by the Army Corps of Engineers, Mr. Marks explained this matter rather clearly noting that for the purposes of this application, two abutting land owners had filed a joint application thereby insuring the proper distances. Mr. Widdiss of the Commission asked if written confirmation could be provided from Corps of Engineers.

A discussion of driver vs. jetting of piles followed. The Commission had no concern one way or another, nor favored neither over the other. The Chilmark Conservation Commission has addressed issue.

A brief discussion followed as to how this issue might be addressed.

Mr. Widdiss of the Land Use Committee read the conditions from the Order of Conditions as written by the Chilmark Conservation Commission.

Mr. Widdiss called for proponents of the proposal. Mr. Widdiss read a letter from S. Whiting, a Commissioner indicating that M. Poole, an abutter had contacted her and that he had no objections to the proposal. Mr. Widdiss then read a letter from Marianne Connolly, Project Review Coordinator of Coastal Zone Management which indicated that the proposal did not meet review threshold criteria and therefore, would be exempt from CZM federal consistency review.

Attorney Alan Finer, representing the Applicant explained to the Commission that the application did not seek to harm the environment, but felt that the plans were upsetting to him with respect to the scale of the drawing and the confusion that had been created.

Mr. Morgan of the Commission noted that if approval of the plan by DEQE were granted, then the plan would be a mistake to suggest 10-feet when using 4X6 stringers because 10-feet is too much of a span; he suggested 7-feet, 6-inches as a better span. He suggested that if indeed the plan had to change then perhaps some consideration of moving the inshore end of the pier slightly toward the property line on the east and moving the off-shore end of the pier slightly closer to the abutter's pier (M. Poole) but not so close as to represent a problem. Mr. Morgan believes that a property line in Massachusetts, no matter how it approaches the shore, for pier purposes in tidal waters meets at 90 degrees. He felt that if this were done it would give the applicant what they want and would give more space to the Town's plan for a small boat tie-up, allow the "L" to be constructed and felt that the applicant might have to agree to shorten the pier by 5 to 8 feet to make that work.

Mr. Delaney, Director of Coastal Zone Management office noted once again that the proposal did not meet CZM threshold criteria and therefore would not be reviewed by that office.

Mr. Widdiss called for opponents of the proposal. There were none.

There being no further testimony, the public hearing was closed at 9:47 p.m.

FINDINGS and CONDITIONS

The Commission has considered the Application and the information presented at the public hearing, and based upon such consideration, makes the following findings pursuant to Section 14 of the Act.

- A. The Commission finds that the probable benefits of the proposed development, subject to the conditions set forth herein, will exceed the probable detriments of the proposal in light of the considerations set forth in Section 15 of the Act.
- B. The Commission finds that the proposal will not interfere substantially or unreasonably with the achievement of the objections of any general plan of the Town or of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plan(s) will be consistent with local development ordinances and by-laws.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

The Commission has considered the question of the potential impact on existing public facilities resulting from this proposal pursuant to Section 15 of the Act. In order to ensure

that the minimal impact upon the adjacent public boating facility, the Commission sets the following condition:

THE CONSERVATION COMMISSION OF THE TOWN OF CHILMARK SHALL ISSUE A NEW ORDER OF CONDITIONS, IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 831 OF THE ACTS OF 1977, AS AMENDED, WHICH SHALL BE CONSISTENT WITH THE WRITTEN APPROVAL, DATED MAY 17, 1984 BETWEEN THE TOWN AND THE APPLICANT A COPY OF SAID APPROVAL BEING INCORPORATED AS PART OF THIS DECISION AS APPENDIX A, AND FURTHER SAID ORDER OF CONDITIONS MAY CONTAIN SUCH ADDITIONAL CONDITIONS AS THE CONSERVATION COMMISSION OF THE TOWN OF CHILMARK MAY DEEM AS APPROPRIATE AND NECESSARY AND FURTHER, SAID ORDER OF CONDITIONS SHALL BE FORWARDED TO THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING IN ACCORDANCE WITH THE REQUIREMENTS OF THE MASSACHUSETTS WETLAND PROTECTION ACT, M.G.L. CHAPTER 131, SECTION 40 ALONG WITH A LETTER EXPLAINING THE REASONS FOR THE NEW ORDER OF CONDITIONS AND FURTHER, SAID ORDER OF CONDITIONS PLUS LETTER SHALL BE FORWARDED TO THE COMMISSION, VIA CERTIFIED MAIL, FOR THE PURPOSES OF BEING PLACED IN THE APPLICANT'S DRI FILE IN THE COMMISSION OFFICES.

Further,

THE APPLICANT SHALL COMPLY WITH ALL POINTS CONTAINED IN SAID WRITTEN AGREEMENT BETWEEN THE TOWN AND THE APPLICANT AND WITH ANY AND ALL CONDITIONS THAT MAY BE SUBSEQUENTLY IMPOSED BY THE CHILMARK CONSERVATION COMMISSION IN SAID NEW ORDER OF CONDITIONS.

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the Application being before it at this time. The Applicant must, consistent with the Decision, apply to appropriate Town of Chilmark officers or boards for any other development permits which may be required together with any other development permits required by law.

The Commission approves the Town of Chilmark officials granting applicable development permits.

This Decision is written consistent with the vote of the Commission: May 17, 1984.

Any party aggrieved by a determination of the Commission may appeal to the Superior Court within twenty days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk of the town in which the proposed development is located.

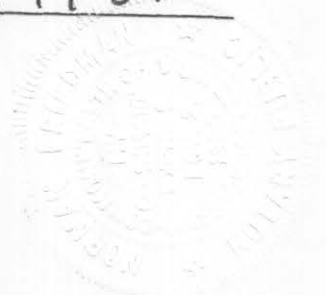
Leonard Jason Jr.
Leonard Jason Jr., Chairman

June 21, 1984
Date

Norman Friedman
Notary

June 21, 1984
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990



APR 21 1984
COMMISSION
MARTHA V. LINEAR
RECEIVED BY



TOWN OF CHILMARK
MASSACHUSETTS

TOWN OFFICE:
CHILMARK, MASS. 02535
TELEPHONE 617-645-2651

May 17, 1984

Martha's Vineyard Commission
Olde Stone Building
Oak Bluffs, Massachusetts

Dear Commission Members:

The Board of Selectmen of the Town of Chilmark, at their meeting of May 9th, approved the proposed Solon/Simon pier if certain changes were made. The first change was moving the ell on the end of the pier to the other side (toward the southwest). They also recommended that the span of pilings be 7' 6" center to center.

A new plan reflecting these changes was submitted to the board on May 15th.

Very truly yours,

Mary S. Larsen

Executive Secretary

/msl

Edgartown, Mass. June 26 1984
at 1 o'clock and 45 minutes PM
Received and entered with Dukes County Deeds
book 416 Page 513

Attest: *Suzerly W. King*
Register