

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, November 12, 2013

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V. Delly, Assoc
ORLEANS TOWN CLERK

PRESENT: Judith Bruce, Chair; Bob Royce; James Trainor; Judy Brainerd; Rich Nadler, Associate; Jane Hussey; Associate; Kevin Galligan, Associate; John Jannell, Conservation Administrator.

ABSENT: Steve Phillips, Vice-Chairman; Jim O'Brien; Philips Marshall.

For the purpose of this hearing, Rich Nadler, Jane Hussey, and Kevin Galligan will be voting.

8:30 a.m. Call to Order

Continuations

Last Heard 9/17/13

Edward & Natalie Bagdonas, 54 Beach Road. by Ryder & Wilcox, Inc. Assessor's Map 36, Parcel 45. The proposed construction of a detached garage with artist studio above; extension of deck on existing single-family dwelling; & replacement of existing septic tank & D-box (if present). Work will occur within 100' of the Edge of an Inland Wetland. *James Trainor recused himself.* David Lyttle of Ryder & Wilcox, Inc., and Edward and Natalie Bagdonas, applicants, were present. David Lyttle went over the revised site plan, which included the twisting of the proposed garage and the upgrading of the existing cesspool system. David Lyttle provided a handout which explained what setbacks were required from building, septage components, and property lines, noting that it would be impossible to locate this garage outside of the 75' buffer zone. Judith Bruce felt that the revised plan was an improvement, and inquired if the garage was attached to the existing house, and therefore create fewer disturbances to the property. Bob Royce pointed out that there was a 25' setback which the applicant needed to meet, and David Lyttle said that this was the design which the applicant preferred. David Lyttle pointed out that the removal of the two cesspools and upgrading to a Title V septic system was a vast improvement, and Bob Royce felt that this was a good proposal. Judy Brainerd concurred, noting that this revised plan was a huge improvement. Rich Nadler said that while he preferred that the garage be located up by the house, this plan was a big improvement. Kevin Galligan commended the applicants on taking their time to develop this plan, and Jane Hussey inquired why the preferred choice was not to attach the proposed garage to the house. David Lyttle said that this would create less exposure from the road, and Jane Hussey asked if the profile would be lower. David Lyttle said that this would be a smaller structure, and Judith Bruce commended the applicant on exploring other options, and John Jannell noted that this plan would be an improvement to groundwater. John Jannell suggested a condition that any Order issued require that the new septic system be installed before a Certificate of Compliance is issued, and that the proposed driveway be pervious.

MOTION: A motion to close the hearing was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

MOTION: A motion to approve the proposed project with the conditions that the upgrade to the Septic System must be done as part of the Order of Conditions and that the proposed driveway extension must be comprised of pervious material was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

James Trainor returned to the meeting.

Last Heard 10/15/13 (JT1)

Jean & Thomas Russell, 74 & 75 Viking Road. by East Cape Engineering, Inc. Assessor's Map 63, Parcel 54, & Assessor's Map 70, Parcel 31. The proposed nourishment and stabilization of a Coastal Bank. Work will occur on a Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. Tim Brady from East Cape Engineering, Inc., was present. Tim Brady said that the Commission had been waiting for a report from Greg Berman, which had since been received, and asked for an annual requirement for nourishment. Tim Brady pointed out that it was observed in Orleans at the outer beach that the Coastal Banks were providing sediment to other barrier beaches, and Judith Bruce felt that there was a full system in which the sediment moved. Tim Brady said that there were two types of Coastal Banks; one which provided nourishment from the bank, the second a vertical buffer. Judith Bruce felt that nourishment was needed on an annual basis if it looked like the system needed it, and Tim Brady inquired about the criteria for nourishment. John Jannell said that with fiber roll projects, they looked to keep them covered, and that the Commission looked to determine a trigger which nourishment would then be necessary. Tim Brady did not feel that nourishment would be necessary for the fiber rolls, and Judith Bruce pointed out that if there were exposed to sunlight they would deteriorate. Judith Bruce noted that plantings were also more natural, and Kevin Galligan pointed out in the report that some years nourishment would be required while in other years it would not be required. Kevin Galligan felt that if the Commission could come up with a reasonable trigger, they would be able to preserve the benefits of the resource areas. Tim Brady clarified that he was looking for a recommendation, and Judith Bruce asked that a Construction Protocol and Planting Plan be provided to the Commission. Tim Brady stated that the original cover letter outlined how the work would be done such as the equipment on the path and sand being delivered to the Top of the Bank. Tim Brady said that notes had been made about the removal of the existing stairway, and they were willing to replace the plastic peanuts noticed on the walkway with a stone trench or stone waddle. Judy Brainerd inquired if it would break apart during a storm event, and Tim Brady did not think that would occur. Kevin Galligan asked about a proposed construction schedule, and Tim Brady thought it was a 3 week project. Judith Bruce noted that there would probably be a condition asking for no work to take place from May 1 to November 1 of any given year to protect the Coastal Resource areas. Tim Brady pointed out a note saying that the area would be covered with biodegradable material, and that this was a nice natural bank which did not have a lot of shrubs. John Jannell presented the comments from NHESP, and noted that in Greg Berman's report the entire slope should not be contoured. John Jannell confirmed that Tim Brady's initial cover letter addressed the construction protocol, and

that nourishment would be an issue for this site. John Jannell asked that the construction access be restored, and felt that the Commission should have a planting plan outlining the size of the plants to be installed, and assure the Commission that they get the specific fill going back in for nourishment when reoccupying the toe. Tim Brady suggested an annual inspection at the site with the Conservation Agent and the engineer to determine if nourishment is requested, and John Jannell said the alternative to this would be to maintain cover and replacement of the fiber rolls. Judith Bruce commented that if it appeared that there was a lot of sediment and smothering of the marsh, then they could state that no additional nourishment was needed at that time. John Jannell asked about the replacement of the white pines, and Judy Brainerd inquired if all four had to be removed. Tim Brady said yes, and they would be replaced. John Jannell inquired about the stairs, and Tim Brady explained that while they would be removed, they would be part of the record to be considered at a later date. Tim Brady went over the other conditions, which included the rolls to be covered, some type of annual inspection, noting that no significant trees on the bank were to be taken down to do the work, and that the area would be cut and allowed to regrow. Kevin Galligan inquired whether or not a Revised Plan would encompass all of these changes, and Judith Bruce said either these could be made as conditions of an Order or modifications to the plan could be made. Tim Brady suggested a note on the plan regarding the stairs, and Kevin Galligan felt it would be best for the Commission to see and approve a revised plan showing all of the changes discussed. Judith Bruce asked that these conditions include the use of organic fertilizers on the property, and Rich Nadler pointed out that this work was based on the presumption that they were going to continue to see erosion. Tim Brady commented that as severe as it was, this was something where the applicant wanted to repair it, stabilize the toe, and go from there. Tim Brady asked to continue the hearing for one week to November 19th.

MOTION: A motion to continue the hearing to November 19th was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

Last Heard 10/15/13 (JT1)

Elizabeth Ann Sanders Irrevocable Trust of April 9, 1999, & Charles A. Sanders, 3 South Little Bay Road, by East Cape Engineering, Inc. Assessor's Map 82, Parcel 6. The proposed stabilization of a Coastal Bank. Work will occur on a Coastal Bank, Land Subject to Coastal Storm Flowage, & the Pleasant Bay A.C.E.C. Tim Brady pointed out that this project was also continued pending Greg Berman's report, and that he needed to speak with the applicants regarding the discontinued use of fertilizers. Judith Bruce commented that in this case, this was a highly fertilized lawn doing into a drain, then a drywell, and finally onto the bank. Judith Bruce noted that this project was not something which needed gabion replacement, and that there were a number of invasive species on the Coastal Bank. Judith Bruce felt that the invasive species problem needed to be addressed on site before additional bank work was done, and Tim Brady explained that a planting plan had been executed during the initial construction of the gabion baskets, but that the invasive species had taken over. Tim Brady did not think that the damage to the Bank had been caused by a lack of vegetation but rather due to wave action and tides. Judith Bruce pointed out that a planting plan required

maintenance, and Tim Brady felt that the plantings on the bank were not making a difference. Judith Bruce explained that there were big scarps underneath the invasive species, and Tim Brady pointed out that this was a clay bank where the addition of plantings would not make a difference. Judy Brainerd inquired if the owners had changed since the original gabion and planting work and Tim Brady said no. Bob Royce inquired what the original gabions looked like, and Tim Brady passed out a copy of the original approved plan. John Jannell noted that although the Commission had Greg Berman's report, they were still waiting for a cross section of the baskets. John Jannell explained that if the Commission was to issue a new Order, they should carry the profile of what exists and what would be replaced. John Jannell said that they had talked about a return on the fiber rolls, and noted that while fiber rolls in a Coastal Engineering Structure were not required to have a return, it was a good idea not to transfer the wave action onto the abutter's property. John Jannell explained that a Time of Year restriction should be considered, as well as a special condition for marsh restoration if there were any impacts from the construction. Kevin Galligan wanted to see the plans updated before the Commission made any decisions, and Jane Hussey asked to see that all disturbed areas were to be revegetated, a planting plan showing what was to be installed, and a maintenance schedule. Judith Bruce commented that the invasives needed to be dealt with on this site, including the pesticides on the property being used as well as addressing the planting issues for this property. Judy Brainerd pointed out that, as stated in Greg Berman's report, the invasives could take over, and that anything that the Commission could do to enforce pulling would be a benefit. Judith Bruce suggested getting the abutter to work on their invasives would be a benefit to the area, and Tim Brady commented that due to the neighbor's different geography and location of their house, they had no interest in doing such work. Rich Nadler felt that just handling the replacements would not address the erosion, and Kevin Galligan suggested that the applicant make the investment to systematically repair the system as a whole. Tim Brady said he would like to chat with the owner to change the scope of the work, and requested that the hearing be continued for a few weeks. John Jannell asked that when they returned, verify that 12 gabion baskets were buried with the toe in 1993, as well as provide information about the nourishment of the fiber rolls. Judith Bruce asked what date they would like to continue to, and Tim Brady asked that the hearing be continued to November 26th.

MOTION: A motion to continue the hearing to November 26th was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

Last Heard 11/5/13

Town of Orleans, 239 Beach Road. Assessor's Map 14, Parcel 11. The proposed construction of a semi-open air pavilion addition to the existing Nauset Beach Administration Building. Work will occur within 100' of a Coastal Dune, Coastal Beach, & Land Subject to Coastal Storm Flowage. Ron Collins, Building & Facilities Manager for the Town of Orleans, and David Lyttle, were present. Ron Collins explained that there were two issues which needed to be addressed from the previous hearing, one of which was the need for a Construction Protocol which had since been submitted. David Lyttle explained that the second item needed was to address the stormwater, and that

the roof of the dining pavilion would have a stone dripline. Judith Bruce commented that they generally preferred drywells, but that they may be difficult given the amount of sand, and inquired if the Commission was fine with the stone dripline. The Commission concurred that the stone dripline was fine. John Jannell stated that everything was contained in the existing paved parking lot, and the Commission could act on this application if they had no additional questions.

MOTION: A motion to close the hearing was made by Kevin Galligan and seconded by Jane Hussey.

VOTE: Unanimous.

MOTION: A motion to approve the plan dated 10-9-13 was made by Judy Brainerd and seconded by Kevin Galligan.

VOTE: Unanimous.

Administrative Reviews

Dr. Robert Campbell, 76 Freeman Lane. The proposed repair covering and seeding of fiber rolls on the East Side, and anchoring fiber rolls, covering, and seeding on the West Side. Work to be done by Anchor Marine. John Jannell did not feel that this application could be approved under an Administrative Review, and was not sure how they planned to access the site. Judith Bruce inquired if John Jannell wanted the Commission to hold the application or formally deny it, and John Jannell did not see how this work could be permitted any other way other than a Notice of Intent.

MOTION: A motion to approve this work was made by Bob Royce and seconded by Judy Brainerd.

VOTE: 0-7-0; Motion Denied, Please file a Notice of Intent.

Applewood Realty Trust, 50 Sipson Island. The proposed temporary structural repair of an existing building. Work to be done by Peter Coneen. Peter Coneen was present. Peter Coneen explained that the chimney on the building was starting to remove, and that the abbreviated scope of work required 3-4 wheelbarrows of concrete until the long-term goal of removing the building could be met. Judith Bruce pointed out that fixing the entire building would require a Notice of Intent, but that this was a small piece to be done. John Jannell felt that this work would prevent the building from falling onto the fronting beach and marsh, and Peter Coneen pointed out that the building was no longer allowed to be used. Rich Nadler inquired when they were planning to remove the building. Peter Coneen said sometime in the next year, and that the building was in the bank, on an island, and its removal would require a comprehensive protocol.

MOTION: A motion to approve this Administrative Review was made by Judy Brainerd and seconded by Jane Hussey.

VOTE: Unanimous.

Dan Dietrick, 20-30 Sipson Island. The proposed removal of marked trees. Work to be done by Scott Svenningsen. John Jannell noted that this was mostly pitch pine over structure, with the brush to be chipped on the island. The equipment gets barged over to the island, and the log material would be stock piled.

MOTION: A motion to approve this application was made by Judy Brainerd and seconded by James Trainor.

VOTE: Unanimous.

Matt & Brielle Digiacomo, 10 Jones Road. The proposed removal and trimming of trees adjacent to house. Work to be done by applicant. John Jannell explained that the trees were either overhanging or next to the dwelling, and either black locust or white poplar; the oak tree on site was to be pruned.

MOTION: A motion to approve this work was made by Bob Royce and seconded by Jane Hussey.

VOTE: Unanimous.

Cecelia Buckley, 23 Blue Heron Way. The proposed raising of 2 large oaks, removal of two shrubs, and reduction of 2 rhododendrons for view. Work to be done by Bartlett Tree Experts. John Jannell reported that this was pruning work between the dwelling and the water, and the area was well treed. Judith Bruce inquired about the removal, and what the applicant meant by raising the 2 large oaks. John Jannell said only the shrubs were to be removed, and the raising was to remove the bottom 2/3rds. Judith Bruce asked if the Commission was comfortable with these specific limbs, pointing out that most of the canopy was within the top 1/3rd of the tree. Rich Nadler pointed out that gall wasps were attracted to trees under stress, and Judith Bruce commented that this pruning may be stressful to the trees. Bob Royce suggested not approving the raising of the trees, and Judy Brainerd noted that there was ivy growing up the trees. Rich Nadler felt that the trees needed all of their resources during the winter, and recommended not touching the two oak trees. Judith Bruce suggested that the Commission approve the removal of the shrubs and rhododendrons, and Judy Brainerd and Bob Royce concurred.

MOTION: A motion to approve the removal of the two 7-sons shrubs and pruning of the rhododendrons was made by Bob Royce and seconded by Jane Hussey.

VOTE: Unanimous.

Norma Quine, 38 Herring Brook Road. The proposed removal of 2 oak trees and pruning of 1 oak tree. Work to be done by Bartlett Tree Experts. *Judith Bruce recused herself, and Judy Brainerd, Clerk, took over this portion of the meeting.* John Jannell explained that this was pruning for oaks around wires on the property, and recommended approval.

MOTION: A motion to approve this application was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

Ginia Pati, 25 Ellis Road. The proposed pruning of a large limb. Work to be done by A to Z Treez. John Jannell recommended approval of this work.

MOTION: A motion to approve this work was made by James Trainor and seconded by Jane Hussey.

VOTE: Unanimous.

Patricia Mackey, 63 Kenneth Lane. The proposed utilizing of sand bags and fencing as a seasonal protective measure, and to be removed in the spring. Brad Malo of Coastal Engineering Company, Inc., was present. Judith Bruce recalled that there had been an extensive discussion about this application, and John Jannell reported that the applicants removed the stockpile and the pallets. John Jannell stated that what remained were the sandbags around the building and some within the Marsh. Brad Malo explained that the homeowner wanted to have sandbags present during the winter months and then be removed in the springtime. Judith Bruce recalled that some of the sandbags were on the deck as well as the Marsh, and inquired if it was possible for all of them to be on the structure. John Jannell showed her a site photo, and Judith Bruce inquired if there was a catwalk deck or if the fence had been previously approved. Brad Malo noted that there was not a catwalk deck, and John Jannell said that the Conservation Department did not have a record of the approval of the fence. Judy Brainerd pointed out that the newer Commissioners were not present during the last discussion of this application, and Bob Royce confirmed that the purpose of the sandbags was to keep water out. Brad Malo said that the sandbags had been placed at the direction of Patricia Mackey's husband to protect the house from the ever-rising tides and harsh weather conditions. John Jannell commented that he had spoken with the homeowner, and that the Commission could allow the sandbags, order them out, or permit them in a seasonal capacity. John Jannell noted that the fence had less of an impact than the sandbags, and passed around photos of the site to the Commission. James Trainor inquired about the long term plan for the property, and Brad Malo said that the house was on the market. Brad Malo wanted to start the dialogue to receive an acceptable position on whether or not the sandbags were allowed to remain, and Rich Nadler asked if removing the sandbags would increase the risk of the building washing away. Jane Hussey pointed out that these were the old duck camps, and felt that the temporary sandbags fit the needs for the winter months. Judith Bruce pointed out that since this was an Administrative Review, the applicant would need to apply every year for the placement and removal of the sandbags, and John Jannell agreed that this type of application was not something which the Commission could condition. Brad Malo agreed that in the fall of 2014 the applicant would have to refile, and Rich Nadler inquired if the sandbags were to be removed from the structure or the Marsh. John Jannell said that some of them appeared to be on a brick patio. Kevin Galligan asked about the fence, and Judy Brainerd said that she did not have a problem with it, as water could flow through the fence. Judith Bruce felt that it was important that any new applicant understood that the fence and the sandbags were a temporary solution, and James Trainor felt that the sandbags presence conveyed that message. John Jannell suggested that the Commission could accept this After the Fact Administrative review with the sandbags to be installed November 1st, removed by May 1st, and that they were not permitted to be stockpiled in the adjacent Marsh.

MOTION: A motion to approve this After the Fact Administrative Review was made by James Trainor and seconded by Judy Brainerd.

VOTE: Unanimous.

Request to Use Conservation Properties

Windmill	Wedding	9/27/14	Fisher	2:30-6pm	150 People
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Orleans Conservation Commission Work Meeting 11-12-13

MOTION: A motion to approve this event was made by James Trainor and seconded by Kevin Galligan.

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on October 15.

MOTION: A motion to approve these minutes was made by Kevin Galligan and seconded by James Trainor.

VOTE: Unanimous.

Approval of the Minutes from the Meeting on October 22, 2013

Judith Bruce announced that these were not ready at this time.

Other Member's Business

Administrator's Business

Request a vote of support to authorize spending of up to \$500 from the Wetland Filing Fees Account for Commissioner Training.

MOTION: A motion to approve this expenditure was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous.

The Commission discussed the site visits.

The Meeting was adjourned at 10:06am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Commission