

C. May
TOWN OF ORLEANS
TOWN CLERKS OFFICE

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, February 15, 2011

11 FEB 22 AM 10:29

PRESENT: Arnold Henson, Chairman; Judith Bruce, Vice-Chairman; Bob Royce; Steve Phillips; James Trainor; Jamie Balliett; Jim O'Brien (Associate Member); John Jannell, Conservation Administrator.

ABSENT: Adrienne Pfluger
8:30 a.m. Call to Order

Continuations

Last Heard 2/1/11 (JO1)

Nello & Holly Trevisan, 69 Captain Linnel Road. by Ryder & Wilcox, Inc. Assessor's Map 32, Parcel 31. The proposed construction of a single family dwelling including installation of a septic system, utilities, grading, and landscaping. Work will occur within 100' of an Inland Bank and Bordering Vegetated Wetland. Stephanie Sequin of Ryder & Wilcox, Inc., explained the changes to the revised plan and discussed the planting plan to be incorporated into the Order. The Commission felt the planting plan was well executed. Arnold Henson asked whether or not there would be a pathway around the house within the 50' buffer. Stephanie Sequin said no path would be established, and a living fence would be installed to demarcate the 50' buffer line. James Trainor asked how many stories the house would be, and Stephanie Sequin said it would be two stories, but the second floor would only be over the center. Bob Royce was concerned because the entire structure was within the 100' buffer zone. Judith Bruce felt the plantings to the edge of the deck without a pathway was the best solution given the location of the house.

MOTION: A motion to approve this project and incorporating the Planting Plan was made by Steve Phillips and seconded by Judith Bruce.

VOTE: 6-1-0, Project Approved.

Last Heard 2/1/11 (JO1)

Janet Holian, 30 Twinings Lane. by Ryder & Wilcox, Inc. Assessor's Map 88, Parcel 20. The proposed removal of invasive species and replanting of native species. Work will occur within and on a Coastal Bank and on Land Subject to Coastal Storm Flowage. Theresa Sprague of Wilkinson Ecological Associates explained the revised plan looked to establish the existing view corridor as such and allow for its maintenance. Theresa Sprague discussed the Commission's concern regarding the views from the water of the house. Judith Bruce asked about the pitch pines proposed to be removed and whether or not they provided screening for the house. David Chalker of Bartlett Tree Experts said it was located within the grove of pines. Arnold Henson asked how many mature pitch pines were proposed to be removed, and Theresa Sprague said 6, 2 of which were standing dead. Steve Phillips was concerned that the revised plan provided no screening for the house from the water. Judith Bruce stated that although the existing view corridor was done illegally, the removal of the locusts would be beneficial. The pruning of the oak trees would result in a wide open bank, and would provide no screening from the water. Judith Bruce suggested removing only the dead pitch pines and the locust trees. Theresa Sprague asked about the proposed removal of the oak saplings and the transplanting of the pitch pine saplings. Arnold Henson was concerned that all of the trees were being removed and being replaced by low-growing

shrubs. Steve Phillips was concerned about the definition of the view corridor and asked whether or not that could be continued as Phase 2 of the project to be filed for at a later date. Steve Phillips was concerned that the view corridor proposed was much wider than the view corridor that existed, and that a future owner could open up the entire area if it was permitted as shown on the revised plan. James Trainor asked what the effect of leaving the pitch pine infested with the boring beetle would do to the other trees. David Chalker explained that the beetle could attack future trees, though the beetle was only discovered in one tree. The Commission voiced their concern of the definition of the work to be done in phase one versus phase two. David Chalker and Theresa Sprague were concerned about transplanting the saplings to ensure viability and migratory bird season. Arnold Henson suggested they return with a plan which addressed the Commission's concerns so that there would be a precise notion of the work to be done. Theresa Sprague asked to continue the hearing to February 22.

MOTION: A motion to continue the hearing to February 22 was made by Judith Bruce and seconded by Jamie Balliett.

VOTE: Unanimous

Notice of Intent

Harry Johnson, 35 Old Duck Hole Road. by Felco, Inc. Assessor's Map 37, Parcel 65. The proposed removal of invasive species, vista pruning, replanting with native species, and the establishment of a view corridor. Work will occur within 100' of the Top of a Coastal Bank. John Jannell asked why there would be tree removal within the cedar grove. David Chalker explained that due to the density of the trees light was unable to penetrate the groundcover layer and therefore the groundcover was suffering. Arnold Henson asked about the view from the beach to the house. Judith Bruce said that the area was not a concern, and Steve Phillips noted that the trees tagged to be removed were small.

MOTION: A motion to approve the plan and variance was made by Judith Bruce and seconded by Steve Phillips.

VOTE: Unanimous

Livingston Van De Water, 225 Brick Hill Road. by Ryder & Wilcox, Inc. Assessor's Map 12, Parcel 58. The proposed installation of a gravel driveway. Work will occur within 100' of the Edge of Wetland. David Lyttle of Ryder & Wilcox explained that subsequent to the site visit, the delineation of the wetland had changed. As a result, David Lyttle would be submitting a variance request for the installation of the driveway to access the lot in the back and continuing the hearing, but he wanted to hear the opinion of the Commission on a new location for the driveway. The original Order of Conditions issued for this work had expired, and the location of the proposed driveway had changed. Judith Bruce explained that she was opposed to the previous Order due to the amount of fill to be brought on-site, and asked whether or not the existing driveway could be used to access the lot in the back. David Lyttle explained that the existing driveway was used to gain access to the house, and by moving the driveway vehicles would be relocated to within 2-3 feet of the house. If the back lot was ever sold, the driveway to it would be too close to the front step of the existing house. Arnold Henson asked if the shape of the proposed driveway could be altered to avoid the wetland. Dave Lyttle suggested that he would explore new locations and restake the driveway in the field for the Commission. David Lyttle requested continuing the hearing until March 1st to draft a plan incorporating the Commission's suggestions.

MOTION: A motion to continue the hearing to March 1st was made by Judith Bruce and seconded by Jamie Balliett.

VOTE: Unanimous

Edmund R. & Sue E. Pitcher, 4 Harbor View East. by J.M. O'Reilly & Associates, Inc. Assessor's Map 21, Parcel 7. The proposed upgrade of an existing failed septic system. Work will occur within 100' of the Top of a Coastal Bank. Keith Fernandez of J.M. O'Reilly & Associates explained that the work was being done as a result of a broken waterline which resulted in the collapsing of the septic tank. John Jannell explained that he and Bob Canning, the Orleans Health Agent, went out on site when the Emergency Order was issued, and that Daniels Recycling had installed erosion control measures at that time.

MOTION: A motion to approve this project including the variances was made by Judith Bruce and seconded by James Trainor.

VOTE: Unanimous

Arey's Pond LLC, 10 Sparrow Lane. by Ryder & Wilcox, Inc. Assessor's Map 69 Parcel 17-4. The after the fact cutting of plants and trees and proposed replanting plan. Work occurred and will occur within 100' of the Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and in the Pleasant Bay A.C.E.C. David Lyttle explained the circumstances of the after the fact filing for the record. Ben Zehnder, representation for Arey's Pond LLC, went over the Enforcement Order that requires a Notice of Intent versus the option of a Restoration Plan through an Enforcement Order. Ben Zehnder discussed that his client would like to have the Notice of Intent requirement removed from the Enforcement Order. Attorney Zehnder described that the client was concerned over the potential appeal of a future Order of Conditions and a delay in the restoration of the site. Judith Bruce was concerned that the withdrawal of the Notice of Intent requirement would not enable the abutters to voice their opinions. Steve Phillips asked whether all of the abutters had been notified. David Lyttle said he had submitted the Certified Mailing Green Cards to the Conservation Department and all of them had been signed. Jim O'Brien felt the best course of action would be to just have the area replanted in its original condition as soon as possible. He stated he would be in favor of the applicants request if acted upon. Ben Zehnder read into the record the letter from Job Taylor, an abutter concerned with the illegal cuttings. David Lyttle explained this was the only correspondence which his office had received from the abutter notification forms. John Jannell suggested to the Commission that he speak with Town Counsel regarding the Enforcement Order with Notice of Intent versus requiring a Restoration Plan with an Enforcement Order. Arnold Henson asked about the planting plan, and Theresa Sprague explained that in addition to restoring the area to its original condition, more plantings were proposed in denser clusters. Theresa Sprague explained that the path was proposed to be widened: the current path was 2-3' wide, the proposed 8-10' wide. John Jannell stated that the Orleans regulations allowed for the path to be no greater than 4' wide. Arnold Henson was concerned that the plan provide screening from the water and that the work be implemented quickly. Jamie Balliett asked about temporary irrigation for the area, and Peter Rush of Arey's Pond LLC explained the previous irrigation used had been an elevated sprinkler system. John Jannell asked the Commission about issuing fines for the illegal cutting, issuing one to Arey's Pond LLC and the second to the laborer that did the work. The act of cutting was considered one violation, and had a fee of \$200.

MOTION: A motion to issue a fine to the Arey's Pond LLC and the laborer who had done the illegal cuttings was made by Judith Bruce and seconded by Bob Royce.

VOTE: Unanimous.

Ben Zehnder asked to continue the hearing to March 1st to present a revised planting plan and get the opinion of Town Counsel.

MOTION: A motion to continue the hearing to March 1st was made by Judith Bruce and seconded by Jamie Balliett.

VOTE: Unanimous.

Amended Order

Frederick M. & Terri L. Clark, 14 Pride's Path. by Ryder & Wilcox, Inc. Assessor's Map 12, Parcel 21. The proposed construction of additions to an existing dwelling & the alteration of an existing septic system (outside of the 100' buffer) has been amended to reduce the scope of the work to the construction of the breezeway, the garage addition, installation of the new driveway, septic system alterations, and the removal of 3 trees. Work will occur within 100' of the Edge of a Marsh, Coastal Bank, & Land Subject to Coastal Storm Flowage. John Jannell explained that this Amended Order was filed as a result of the Commission's suggestion to accurately reflect in the record the work completed so the applicant could in turn apply for a Certificate of Compliance. Arnold Henson asked where the trees were located, and David Lyttle said northwest of the pool. Judith Bruce felt that the small amount of work completed was more than compensated by the drainage installed.

MOTION: A motion to approve the Amended Order of Conditions was made by Judith Bruce and seconded by Bob Royce.

VOTE: Unanimous

Revised Plan

Ethel Alemian, 41 Willie Atwood Road. The approved Order for the installation of a new septic system including the abandonment of existing cesspools, conversion of the existing well to an irrigation well, and the installation of town water, has been revised to change the location of the gas line to within the driveway. Installation will be done through vibratory flow. Work will occur within 100' of the Top of a Coastal Bank.

MOTION: A motion to approve this revised plan was made by Jamie Balliett and seconded by Steve Phillips.

VOTE: Unanimous

Administrative Reviews

Kayleen Rosato, 140 Portanimicut Road. The proposed removal of 2 oak trees leaning over the Top of Bank on Eli's Creek. Work to be done within 100' of the Top of a Coastal Bank and the A.C.E.C.

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

VOTE: Unanimous

Town of Orleans/Harbormaster, Pilgrim/Lonnie's Pond. The proposed removal of brush for the clearing of the herring run. This is a historical herring run and per the requirements of Mass. Division of Marine Fisheries must be maintained in good working order. Work to be done by the Town and Herring Run Keeper.

MOTION: A motion to approve this work was made by Judith Bruce and seconded by Jamie Balliett.

VOTE: Unanimous

Last Heard 2/1/11 (JO1)

Dolores Alberti, Gesner Road. The proposed preliminary pruning and cutting of invasive vines, and the removal of dead wood and fallen branches surrounding the house. Work to occur within 100' of the Edge of Wetland, Coastal Bank, and within the A.C.E.C. Work to be done by Wilkinson Ecological. Doug Guey-Lee of Wilkinson Ecological explained that the house was a teardown and would be coming in front of the Commission for restoration of the area once the property was sold

MOTION: A motion to approve the application was made by Judith Bruce and seconded by Steve Phillips.

VOTE: Unanimous

Request to Use Conservation Properties

Windmill Wedding 6/27/2011 Capparelli & Toy 3-6pm 21 People

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Work Meeting on February 8, 2011.

MOTION: A motion to approve the minutes was made by Steve Phillips and seconded by Judith Bruce.

VOTE: 6-0-1; Jamie Balliett Abstained

Other Member's Business

Judith Bruce asked the Commission to co-sponsor the workshop with the Pleasant Bay Alliance entitled *Bay Friendly Landscaping and Lawn Care* on Friday, March 25th from 9 am to 12:00 pm at the Club House at Captains Golf Course located on Freeman's Way in Brewster.

MOTION: A motion to approve this co-sponsorship was made by Judith Bruce and seconded by Steve Phillips.

VOTE: Unanimous

Administrator's Business

Site Visits

The meeting was adjourned at 10:26am.

Respectfully Submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department