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ORLEANS TOWN CLERK

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**Orleans Conservation Commission  
Town Hall, Nauset Room  
Hearing Meeting, Tuesday, May 24, 2011**

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

**8:30 a.m.** Call to Order

**Continuations**

Last Heard April 19, 2011 (AP1, AH1)

**Steve Simon, 8 & 10 Beach Road.** by East Cape Engineering, Inc. Assessor's Map 36, Parcel 23 & 24. The proposed establishment of a 4' path through a right of way over 8 & 10 Beach Road, the removal of invasive species, and the planting of native species. Work will occur within 25' of the Edge of Wetland. A revised site plan and planting plan have been submitted. John Jannell explained that Adrienne Pfluger had reviewed the video and minutes of the April 19<sup>th</sup> hearing, signed an affidavit, and would be the 7<sup>th</sup> voting member of the Commission. Arnold Henson, the Chairman, would not be voting. Tim Brady of East Cape Engineering, Inc. went over the changes in the plan, indicating that a proposed location for the path through the 12' Right of Way had been shown. John Jannell went over the correspondence received for this application to ensure the Commission had received everything including the memo from the Conservation Department regarding the rights to use Cole Place. Ben Zehnder, attorney for the applicant, stated that the Conservation Commission had no rights to provide roadway restrictions. John Jannell concurred. Ben Zehnder felt the Commission did not have a right to determine whether or not access to the bog would be deemed worthy, and asked what impact a path to the bog would be on the resource. Judith Bruce explained that the Commission did not grant permission just because a person wanted to access an area. Adrienne Pfluger explained that it was the job of the Conservation Commission to follow the regulations as presented, which explained that permissible work involving vista cutting and habitat improvement was for the establishment of a path. Tim Brady felt the work would be an improvement to the area. Adrienne Pfluger said if there were wildlife underfoot it would be intrusive to their habitat to establish a path. James Trainor was concerned because in the past the Commission had approved the removal of invasives and now they were saying no. Judith Bruce said that she felt if there was a plan to remove all of the invasives it would be one thing, but the plan asked for a 12' Right of Way to be cleared when the invasives extend 50-60' in width. Judith Bruce said that the removal of invasives within a small corridor would be a losing battle, resulting in more harm than good. James Trainor asked if the plan at 10 Beach Road was only a partial removal of invasives, and John Jannell explained that the removal of invasives at that site was for the entire area and it was not as invaded as 8 Beach Road. Jamie Balliett asked if the applicant had approached the owners of 8 Beach Road to determine if an agreement could be made regarding the invasive species removal. Steve Simon, the applicant, explained that one of the owners did not want to do the work and the second owner could not be approached at this time.

**MOTION:** A motion to close the hearing was made by Bob Royce and seconded by Judith Bruce.

**VOTE:** Unanimous

**MOTION:** A motion to approve the plan dated 5-18-2011 as submitted was made by Steve Phillips and seconded by Adrienne Pfluger.

**VOTE:** 2-5-0, Project Denied.

Last Heard May 17, 2011

**Pleasant Bay Narrows Trust, 111 Davis Road. by Ryder & Wilcox, Inc.** Assessor's Map 89, Parcel 23. The proposed extension of a stone revetment replacing an existing gabion revetment. Work will occur on a Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage, and in the Pleasant Bay A.C.E.C.. Arnold Henson asked for a summary of the changes in the revised plan. David Lyttle of Ryder & Wilcox, Inc. explained that a Planting Plan by Wilkinson Ecological Design had been provided and an addendum had been included to show how the proposed platform would be located 1' above the capstone, one step up from the existing concrete path, and reduced from 10'x12' to 10'x10' to eliminate the requirement for railings. The 4 pitch pines proposed to be removed will be replaced by 4 5-6' pines, and the proposed 2 oaks to be removed will be replaced by 4 7-gallon black oaks. Arnold Henson asked once the existing concrete was taken out what would be protected. David Lyttle explained that they would remove the existing gabion, concrete, and stone, and cut the bank back and match the existing revetment. David Lyttle explained that Jeff Norgeot would be the consultant for the revetment work to determine where the old revetment would stop and the new portion would begin, tapering from elevation 11 to elevation 13. David Lyttle anticipated the stone at existing grade. Arnold Henson asked if the stone groin was new, and David Lyttle said no. Steve Phillips asked if any filing for MEPA and the Chapter 91 Waterways License had begun, and David Lyttle explained that nothing could be done until they received an Order of Conditions from the Conservation Department for the proposed work. David Lyttle asked if he could be permitted to be the clerk of the works so that the invasive species work could move forward. John Jannell suggested that prior to any work commencing, a qualified individual flag all of the native species to remain on the Coastal Bank be made a condition of the Order. Steve Phillips asked where the gabions to be removed and reused at a later time would be stored. David Lyttle explained that they would be reused behind the garage where necessary and the remaining stored outside of the buffer zone. Judith Bruce asked that a note incorporating the reusing of the gabions be provided on a revised plan. Steve Phillips asked that when the gabions were stored on site that the applicant not create a wall making it difficult for wildlife to pass, and Mon Cochran, a trustee speaking on behalf of the Pleasant Bay Narrows Trust, said they would have a better idea of how it would be stored once they were removed from the bank. John Jannell asked if Theresa Sprague, author of the Land Management Plan provided for the site, had any suggestions as to where mechanical work may end and hand work may begin. David Lyttle said no. Arnold Henson asked if the applicant would be ok with a condition that the work methodology be contingent upon the approval of the town. John Jannell brought up Greg Berman's report, and asked if the applicant would be willing to wait until the marsh was dormant to commence work on the revetment. Mon Cochran felt this would not be a problem, and David Lyttle felt it would work best with their schedule. John Jannell reminded the applicant that they wanted the wall to have a rough face, and Steve Phillips asked that they maintain a similar look to their current revetment, which also had a rough face. Mon Cochran explained that the trustees were going to be looking at different revetment projects. The Commission discussed beach nourishment.

David Lyttle was concerned about the frequency of nourishment in relation to the impact it may have such as covering the marsh. Arnold asked if it could be conditioned as approved subject to inspections, and Steve Phillips suggested marking a stone with drill holes and establishing a specific elevation. John Jannell suggested an elevation of 6', which had been decided during the first project but omitted from this project. David Lyttle was concerned about committing to a 6' elevation without going on site and ensuring that the slope of the beach taken into account. The Commission discussed beach nourishment options, suggesting that if a storm event was to occur and cause a significant change that the applicant would return to the Commission. Arnold Henson asked what the current elevation of Mean High Water (MHW) was on site, and John Jannell said the plan indicated MHW at 4.5. The Commission discussed the necessary changes required for a revised plan, as it was the wish of the applicant to begin the removal of the invasive species over the holiday weekend.

**MOTION:** A motion to approve pending the receipt of a revised plan showing the area of nourishment, toe stones marked, rough stones out, and the area of nourishment to be determined by the Conservation Administrator was made by Judith Bruce and seconded by Steve Phillips.

**VOTE:** Unanimous

### **Revised Plans**

**Jeanne & Richard Berdik (2009), 150 Quanset Road.** Request to revise the plan to include the installation of underground utilities and water lines to an existing barn along an existing driveway. Work will occur within 100' of the Edge of a Freshwater Pond. John Jannell explained that the establishment of a water service and utilities would be to provide irrigation to the mitigation area. Arnold Henson asked if the Commission had any concerns, and Judith Bruce expressed that the revised plan would be ok as long as the existing barn did not become habitable space.

**MOTION:** A motion to approve this Revised Plan was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

### **Administrative Reviews**

**Bernd Zeller, 645 S. Orleans Road.** The proposed removal of 3 dead pine trees. Work will occur within 100' of the Edge of an Active Cranberry Bog, Coastal Bank the Pleasant Bay A.C.E.C. Work to be done by Mason Tree Service. Steve Phillips asked if replacement trees were offered. John Jannell reported the area was heavily vegetated and did not require replacement trees at this time.

**MOTION:** A motion to approve this work was made by Steve Phillips and seconded by Judith Bruce.

**VOTE:** Unanimous

Last Heard May 17, 2011

**Richard Costa, 10 Hayward Lane.** The proposed removal of 1 dying Maple, 2 dead Locusts, 9 additional Locusts, and the pruning of 2 Cherry trees. Work will occur within 100' of the Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and within the A.C.E.C.. Work to be done by A to Z Treez. John Jannell explained that the applicant revised the application after the close of the agenda to the pruning of dead

limbs off of the maple tree versus its removal. Arnold Henson asked about the locusts, and John Jannell explained that he supported their removal.

**MOTION:** A motion to approve the Administrative Review was made by Judith Bruce and seconded by Bob Royce.

**VOTE:** Unanimous

**Frank & Maureen Fernandez, 14 Kescayogansett.** The proposed management of invasive vines along the top of bank. Vines to be cut and wiped with herbicide. Debris to be removed from site. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Bartlett Tree Service. John Jannell explained that the applicant wanted to remove vines out of a mitigated bank.

**MOTION:** A motion to approve this work was made by Adrienne Pfluger and seconded by Bob Royce.

**VOTE:** Unanimous

**Town of Orleans, 50 Bridge Road: Putnam Farm Conservation Area.** The proposed removal of abandoned green houses, miscellaneous metal, and debris from a Conservation Area. Work to be done within the Buffer Strip to a Freshwater Wetland. Work to be done by the Town of Orleans.

**MOTION:** A motion to approve this Administrative Review was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

#### **Request to Use Conservation**

Windmill Wedding 9/18/11 Nickerson/Richards 12-2pm 150 People

**MOTION:** A motion to approve this event was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

#### **Chairman's Business**

Approval of the Minutes from the Work Meeting on May 17, 2011.

**MOTION:** A motion to approve the minutes was made by Bob Royce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

#### **Other Member's Business**

#### **Administrator's Business**

The Commission discussed the site visits.

The meeting was adjourned at 10:30am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department