

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, June 21, 2011**

ORLEANS TOWN CLERK



**PRESENT:** Arnold Henson, Chairman; Judith Bruce, Vice-Chairman; Bob Royce, JUL 5 12:27PM  
Adrienne Pfluger; Steve Phillips; James Trainor; Jamie Balliett; John Jannell,  
Conservation Administrator.

**ABSENT:** Jim O'Brien (Associate Member).  
8:30 a.m. Call to Order

**Continuations**

Last Heard 5/17/11, 6/7/11

**Garner LeStage, 12 LeStage Road.** by Ryder & Wilcox, Inc. Assessor's Map 50, Parcel 130. The proposed removal of an existing dwelling, pumping and abandoning of an existing cesspool, the construction of a single family dwelling, the installation of a new septic system, and the grading and installation of a new driveway. Work will occur within 100' of the Top of a Coastal Bank and in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox went over the changes to the revised plan which included the elimination of the second driveway and underground water service for the proposed dwelling. David Lyttle pointed out that the septic tank was not on the revised plan, and Arnold Henson asked that he revise the plan so that the Conservation Department may have a clear record of the system's proposed location within the buffer zone. Seth Wilkinson of Wilkinson Ecological went over the proposed land management and planting plan, and Adrienne Pfluger asked if the garden located near the now eliminated second driveway would remain or if the proposed meadow would take its place. David Lyttle said that the garden would remain intact. Steve Phillips asked if the green area indicated on the planting plan would be a no mow zone, and Seth Wilkinson said it would be mowed once a year. Jamie Balliett asked if the new house would be more visible from the water. David Lyttle explained that although the house would be 10' higher, going from one story to two, it still must meet the necessary setbacks required by the Zoning Board of Appeals and would therefore only be seen through one window from the water.

**MOTION:** A motion to approve this project pending a revised plan showing the proposed septic tank and septage lines was made by Steve Phillips and seconded by Judith Bruce.

**VOTE:** Unanimous

**Request for Determination**

**Joseph & Sarah McOsker, 34 Crystal Lake Drive.** by Ryder & Wilcox, Inc. Assessor's Map 55, Parcel 15. The proposed upgrade of an existing septic system including the removal of an existing cesspool. Work will occur within 100' of the Edge of Pond and the A.C.E.C. Stephanie Sequin of Ryder & Wilcox explained that the current septic system had failed, and the excavation work for only the pump chamber and septic tank would occur within the buffer zone. The area would be returned to its current condition once the work was completed.

**MOTION:** A motion to issue a Negative Determination was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

#### **Notice of Intent**

**Raymond & Joanne Dobson, 49 South Orleans Road, Unit E.** by East Cape Engineering, Inc. Assessor's Map 34, Parcel 17. The proposed construction of an addition, 3' walkway, and removal of trees. Work will occur within 100' of the Edge of a Salt Marsh and the Top of a Coastal Bank. Judith Bruce asked if the proposed walkway would be wooden. Tim Brady said yes, and that it would be level with the ground. John Jannell asked if the room would be fully enclosed. Tim Brady explained that the addition would be a 3-season room. Arnold Henson asked if the decking within the sun porch would be slotted, and Tim Brady said to his knowledge it would be built that way. Dexter and Judith Gilchrest were concerned about the impact to the septic system due to the potential increase in usage of the building. John Jannell explained that their issue was something to be brought to the Health Department, as the Conservation Commission did not address septage capacity. Arnold Henson asked if there were any additional questions regarding the impact on the Conservation resource areas being addressed at the hearing.

**MOTION:** A motion to approve this work contingent upon the Board of Health's approval was made by Judith Bruce and seconded by Bob Royce.

**VOTE:** Unanimous

**Paul & Mary Bosley, 34 Viking Road.** by Ryder & Wilcox, Inc. Assessor's Map 70, Parcel 24. The proposed licensing of an existing pier, ramp, and float in Namequoit River. The pier is located over a Beach, over a Salt Marsh, on Land Subject to Coastal Storm Flowage, on Land Under the Ocean, and in an A.C.E.C. (Pleasant Bay). David Lyttle and Mike Bosley, son/representative for the applicant, brought paperwork demonstrating the dock's presence since 1968, and went over the conforming/non-conforming issues with the unlicensed dock. Arnold Henson asked if David Lyttle thought it would be possible to receive a Chapter 91 Waterways license for the dock given the lapsed amnesty period. David Lyttle said that the Orleans Conservation Commission was the first step before he would be able to file for a Chapter 91 Waterways license, but was hopeful that within 6-8 months they would receive a license. Judith Bruce was concerned about issuing an Order of Conditions for a non-conforming dock which had missed the amnesty period and had been asked in writing by the Conservation Department to file a Notice of Intent for the dock. Judith Bruce was also concerned about the precedent which would be set for future applicants of illegal docks. Mike Bosley provided paperwork showing that Paul & Mary Bosley hired Ryder & Wilcox to begin the licensing procedure in September of 2009, one month prior a second letter being issued by the Conservation Department asking for a Notice of Intent filing. Judith Bruce brought up the regulations from the Pleasant Bay Resource Management Plan regarding docks. David Lyttle asked the Commission members for suggestions on improving the site plan. Steve Phillips and Adrienne Pfluger agreed that if mitigation measures could be taken to reduce potential prop scour given the present depth of the water to the float they would be inclined to issue an Order of Conditions.

Bob Royce felt that the dock being in for over 40 years also played a role in its licensing. James Trainor felt since the dock has been in existence for over 40 years that no additional damage was occurring to the resource area through its licensure. David Lyttle suggested that he could amend the proposed plan which would include changes to the existing dock to make it less non-conforming, such as installing float stops to reduce prop scour. James Trainor asked about the size of the float, and Jamie Balliett suggested a reduction in its size to aid in the conformity concerns. David Lyttle also said he could propose a longer ramp to reduce the size of the float. John Jannell reminded David Lyttle that any revisions to the plan could not increase the scope of what presently existed. David Lyttle asked that the hearing be continued for 2 weeks to July 5, 2011, to review the Commission's suggestions. Judith Bruce asked John Jannell to circulate the Pleasant Bay Resource Management Plan section on docks.

**MOTION:** A motion to continue the hearing to July 5, 2011, was made by James Trainor and seconded by Jamie Balliett.

**VOTE:** Unanimous

### **Certificate of Compliance**

**Richard & Lisa Pell, 114 & 118 Barley Neck Road.** The proposed request for a Certificate of Compliance for an Order of Conditions for the removal of an existing dwelling, construction of a new dwelling & guest house, and grading and landscaping. John Jannell reported that the applicant was in substantial compliance. John Jannell noted that the barn on site had not received any improvements and a filing would be required for any work to be done.

**MOTION:** A motion to issue the Certificate of Compliance was made by Judith Bruce and seconded by James Trainor.

**VOTE:** Unanimous

### **Discussion**

**David Farquahr would like to address the Conservation Commission regarding the Gavigan Property/former revetment site.** David Farquahr spoke to the Commission on behalf of the resource area and his concern regarding the continual usage of the access trail in spite of the removal of the state boardwalk. The Commission discussed the private versus public access to the area through Willie Atwood road. The Commission discussed the installation of elevated seasonal stairs to reduce the impact to the resource area. David Farquahr asked about handicapped access being provided for this area. Jamie Balliett asked that John Jannell speak with Town Counsel about the possibility of the installation of access steps and whether or not handicapped access would have to be provided as well. Judith Bruce suggested an on-site meeting with Paul Fulcher to go over the options which he could discuss with the Park's Commissioners to determine the best actions to take. John Jannell said he would schedule an on-site visit. Arnold Henson reminded the Commission that this area was a tourist attraction that should be preserved. The Commission thanked David Farquahr for being a good steward to the area and appreciated his concern over the resource area.

### **Administrative Reviews**

**Molly Jenks & Kevin Smith, 25 Kenneth Lane.** The proposed request to continue invasive species removal and coastal bank restoration in conjunction with approved restoration plan. Work will occur within 100' of the Top of a Coastal Bank, Salt Marsh, and within an A.C.E.C.

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

**VOTE:** Unanimous

**Michael Levangie, 55 Freeman Lane.** The proposed removal of Asiatic bittersweet, shrub honeysuckle, and multiflora rose. Work will occur on a Coastal Bank, and within 100' of the Top of a Coastal Bank and Land Subject to Coastal Storm Flowage. Work to be done by Wilkinson Ecological. John Jannell explained that this work would be done independently of the open Order of Conditions which included mitigation plantings for the proposed pool. John Jannell asked if machinery would be used on site. Seth Wilkinson explained that he would be using a small machine to uproot the honeysuckle which in turn would better prepare the seed bed. John Jannell felt that the removal of invasive species to allow for the native vegetation to restore itself would be an overall improvement to the site.

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

**VOTE:** Unanimous

### **Chairman's Business**

Approval of the Minutes from the Work Meeting on June 14, 2011.

**MOTION:** A motion to approve the minutes pending changes was made by Jamie Balliett and seconded by Adrienne Pfluger.

**VOTE:** 6-0-1; Steve Phillips abstained

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

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

John Jannell went over the status of the Kent's Point access stairs and asked the Commission for guidance on either removing the stairs or roping off the damaged access area. The Commission felt that roping off the area and installing signs for liability reasons would be best at this time, with the removal of the stairs to be done as soon as possible.

The meeting was adjourned at 10:02am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department

## Addendum to the Minutes from June 21, 2011

Please note that the original Agenda for the June 21, 2011 hearing indicates that Raymond Dobson's application was for 29 S. Orleans Road when in Fact it was for 49 S. Orleans Road. Steve Phillips, a Conservation Commission member, also brought up this concern during the hearing at which time Erin Shupenis, Principal Clerk for the Conservation Department, admitted she had made an initial error and had changed the agenda after she had circulated it to the Commission members.

All the appropriate abutters were notified prior to the hearing, and the number was subsequently changed on the agenda. Please refer to the file for any additional questions or concerns. We are sorry if this has caused any confusion.