

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, October 18, 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

**Continuation**

Continued from 9/20/11 (AP1)

**Joy Fopiano, 16 Honeysuckle Lane** by East Cape Engineering, Inc. Assessor's Map 23, Parcel 26. The proposed removal, reconstruction, & additions to portions of an existing dwelling has been amended to include the construction of a garage and a shell driveway. Work will occur within 100' of a Bog and Land Subject to Coastal Storm Flowage. A letter has been received by the Conservation Department asking for the hearing to be continued to October 25, 2011.

**MOTION:** A motion to continue the hearing to October 25, 2011, was made by Judith Bruce and seconded by Jamie Balliett.

**VOTE:** Unanimous.

Continued from 10/4/2011 (SP1)

**176 LLC & Peter H. Carter, 176 & 178 Quanset Road.** by Ryder & Wilcox, Inc. Assessor's Map 94, Parcel 4, and Assessor's Map 93, Parcels 21-1 & 21-4. The proposed construction of a new single family dwelling and septic system with I/A technology on an existing foundation, including an addition on a new foundation; the removal of a second existing family dwelling; the pumping & removal of two cesspools; & the pumping & removing of an existing septic system. Work will occur within 100' of the Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and in the Pleasant Bay A.C.E.C.

*(Prior to the commencement of the hearing, Steve Phillips signed an affidavit citing he had reviewed previous testimony, conducted a site visit, and read the approved minutes from the previous hearing, thus allowing him to be a voting member for this hearing.)*

The proposed construction of a new gravel driveway & parking area; the installation of new underground utilities (water, electric, telephone, & cable) to the proposed renovated single family dwelling; & the removal of a shed. Work will occur within 100' of the Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, on a Coastal Bank, and in the Pleasant Bay A.C.E.C.

David Lyttle of Ryder & Wilcox went over the revisions to the new plan, which included a dewatering area if needed. Jamie Balliett asked what precautions would be taken should they encounter more water than anticipated given the length of pipe to be installed, and if a curtain would be necessary. David Lyttle said a hand boring revealed that water was found at a depth of 4.5', and the dewatering area would be provided at the low elevation spots. John Martin, the contractor who would be installing the water line, felt that dewatering would only be necessary in this area. Additionally, the work would be done before the spring, and when the water main was installed, it would be backfilled as they progressed. David Lyttle said that although the plan called for the removal of all of the utility poles, the one which was located in the marsh would be kept

and used as an osprey pole. Steve Phillips asked when the property was recontoured if fill would be brought on site. David Lyttle said fill would be brought on site, but the amount had not been determined. Steve Phillips asked about the size of the driveway in relation to delivery trucks, and what type of heat would be provided on site. David Lyttle explained the driveway was designed to allow for delivery vehicles to pull in and turn around safely, and at this time, the heat proposed on site would be propane. Steve Phillips asked about the function of the drainage pipe coming from the north side of the existing foundation, and Judith Bruce felt that a condition should be made asking for the pipe to be plugged and removed. David Lyttle said the purpose of the pipe was unclear, but that he would be fine with the condition. John Jannell asked about the height of the viewing deck. David Lyttle wanted to provide a new deck at the same height as the existing deck. Steve Phillips asked Theresa Sprague if the vegetation surrounding the deck would be opened up for viewing purposes. Theresa Sprague explained that no vegetation would be removed for purposes of opening up the view for the deck, as it was being installed in this location to take advantage of the shade from the existing vegetation. John Jannell asked about the unpermitted removal of the 6 Cedar trees by The Tree Company, and Steve Phillips asked if a performance bond should be put into place given the number of plantings. Judith Bruce felt that given the track record of the applicant, a performance bond would not be necessary; Jamie Balliett agreed. Seth Wilkinson of Wilkinson Ecological Design offered to bring in a copy of the contract between Wilkinson Ecological and the applicant. Judith Bruce felt that a letter should be sent to The Tree Company addressing the illegal work done. Given that replacement plantings were incorporated into the Restoration and Land Management Plans, a fine would be unnecessary. Steve Phillips asked about the proposed location of the water main, as it had been a concern of Roger Reed, the abutter. David Lyttle said he was currently working with the abutters to ensure that this project would be the least invasive for the family, and the type of construction would be limited during the summer to avoid nuisance conditions.

**MOTION:** A motion to issue an Order of Conditions including all 5 plans and with the condition that the pipe from the existing foundation be plugged and removed, was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

### **Notice of Intent**

**Marion & Carolyn Kennedy, 96 Tonset Road.** by Ryder & Wilcox, Inc. Assessor's Map 26, Parcel 75. The proposed removal of invasive species, vista pruning, planting of native species, and establishment of view corridors. Work will occur on a Coastal Bank and within 100' of Land Subject to Coastal Storm Flowage. Carolyn Kennedy and Judy Keller, of 96 Tonset Road, and Seth Wilkinson and Jennifer Exner from Wilkinson Ecological Design, were present. John Jannell announced that neither a DEP number nor Natural Heritage comments had been received by the Conservation Department, and therefore the hearing could not be closed until such information was received. John Jannell asked about the pine located in the viewshed that on one plan said "to be removed" and on another said "to remain." Jennifer Exner explained that the tree would remain, and a revised plan showing as such would be provided. Steve Phillips asked whether or not dug in steps would be installed to help thwart erosion. Seth Wilkinson said that at this time steps were not proposed, but that the removal of asphalt to address roof runoff and the installation of an infiltrator will be done. John Jannell felt the

proposed view corridors were well executed, and Judith Bruce thought the area was well vegetated. Steve Phillips asked about the boat seen on the marsh during the on-site, and whether or not it could be removed. Carolyn Kennedy explained that the boat had washed up during the recent storm events, and was not theirs. Steve Phillips brought up his concern for a lack of a DEP number and comments by Natural Heritage. David Lyttle explained that the application to DEP could not be sent out until proof of his mailing to Natural Heritage, the signed certified green card, was received; This resulted in a delay in the filing. Seth Wilkinson asked for a continuation of one week pending the receipt of a DEP number and Natural Heritage comments.

**MOTION:** A motion to continue the hearing to October 25, 2011, was made by Jamie Balliett and seconded by Judith Bruce.

**VOTE:** Unanimous

**Lacy Herrmann et al., 1 Harbor View East.** by Ryder & Wilcox, Inc. Assessor's Map 21, Parcel 3. The proposed removal of invasive species, the planting of native species, and establishment of a view corridor. Work will occur on a Coastal Bank and within 100' of Land Subject to Coastal Storm Flowage. Steve Phillips was concerned about the project due to reactions from Orleans Residents residing on the Mill Pond Landing side of Mill Pond who saw similar work being performed at 5 and 7 Harbor View East. Steve Phillips wanted to know if the 12 oaks proposed to be removed could be phased to reduce this visual impact. Jen Exner said the stump sprout management timeline could be spread out to reduce the visual impact from the resource area. Steve Phillips asked how the 3 Area's identified on the plan were delineated. Jen Exner explained that the 25' contour was used to define the lowest area. Judith Bruce was concerned about establishing a view corridor which had been illegally maintained, and the usage of mulch on the lawn. James Trainor pointed out that the mulched area was outside the Conservation Commission's jurisdiction. Adrienne Pfluger felt the Commission could take jurisdiction over this area given its visual impact. Seth Wilkinson voiced the Commission's concerns regarding the mulched area to the applicant after the site visit. Minimal maintenance needed for the yard is a priority to the applicant given their age. Steve Phillips asked if the replanting area could be extended more to compensate for the mulched area, and suggested that Area 3 be expanded to retain more of the existing trees. Seth Wilkinson asked for the hearing to be continued to October 25, 2011, to speak with the applicant.

**MOTION:** A motion to continue the hearing to October 25, 2011, was made by James Trainor and seconded by Judith Bruce.

**VOTE:** Unanimous

### **Administrative Reviews**

**Robert & Judith Wilkinson, 20 Pershing Lane.** The proposed removal of 4 standing dead cherry trees near an existing house. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by applicant. John Jannell explained that during his on-site he observed a stand of dead cherry trees, 4 of which were proposed to be removed due to their proximity to the house.

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

**VOTE:** Unanimous

**One Stop Oil Change, 251 Route 6A.** The proposed removal of tree limbs as a result of the recent storm event, and the proposed thinning of brush for safety on the left side of the existing driveway. Work will occur within 100' of the Edge of Wetland. Work to be done by the applicant. John Jannell said the applicant wanted to remove branches broken during recent storm events. Arnold Henson asked that John Jannell remind the applicant that this was not permission for the removal of trees on 6A. John Jannell said he would include this stipulation on his approval.

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

**VOTE:** Unanimous

**Richard Klimoski, 64 Gibson Road.** The proposed trimming of 4 to 10 tree tops. Work will occur on a Coastal Bank. Work to be done by Bravo Company. John Jannell conducted a site visit, and passed around photos of the coastal bank. Arnold Henson thought the wording of the application suggested they wanted to clear the coastal bank for a view. Jamie Balliett asked if the applicant had ever established a view corridor, and John Jannell said there was not one on record. Steve Phillips asked about replacement trees, and whether or not trees that are topped if they can survive. John Jannell explained that in some cases trees which are selectively pruned can thrive, but in other incidents topping can easily shock and kill a tree. Arnold Henson suggested that the application be held until John Jannell had a chance to speak with the applicant.

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

Approval of the Minutes from the Meeting on October 11, 2011

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

**VOTE:** Unanimous

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

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

John Jannell announced that DEP had received and appeal to an Order of Conditions for 3 Norseman's Drive. DEP has scheduled a site visit for the Superseding Order of Conditions at 3 Norseman Drive for Wednesday, October 26, 2011, at 10:30am on-site.

John Jannell notified the Commission that he had circulated information from the Town Clerk regarding the Conflict of Interest Law. He agreed to follow up with the necessary steps for the Commission to take.

The meeting was adjourned at 9:33am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department.