

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, November 1, 2011**

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ORLEANS TOWN CLERK

**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 10/25/11

**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. *Jim O'Brien recused himself.* Tim Brady went over the changes to the revised plan, including a table of the proposed plantings which illustrated what had been planted under the original Order of Conditions and what would be planted under the Amended Order of Conditions. Arnold Henson asked about the timeline for the plantings, and Tim Brady said although they had not decided, it was likely the plants would be installed in the spring. Judith Bruce was concerned that the area where the shed would be removed was not going to be replanted. Tim Brady explained that the planting plan was more of a schematic, and was not an exact location for each of the plantings. John Jannell stated that the approval of this Amended Order of Conditions would require the removal of special condition number 5 from the originally issued Order of Conditions. Steve Phillips asked why this condition would need to be removed. John Jannell explained that the special condition would need to be lifted so that when a Certificate of Compliance was filed for, it could be issued accordingly. Steve Phillips asked if drip irrigation would be used again on site, as he was concerned about the shrubs planted earlier which had difficulty thriving. Peter Coneen, builder for the applicant, said the irrigation would be extended with the additional plantings. Steve Phillips brought up a recommendation for a bond given the property history, and Judith Bruce felt a bond would be appropriate. Arnold Henson asked the Commission for suggestions on the price of the bond, and Steve Phillips suggested \$3,000.00. Tim Brady was concerned as to why the Commission wanted a bond given the mitigation area proposed. Judith Bruce and Arnold Henson felt that the history of this property made the implementation of a bond appropriate.

**MOTION:** A motion to issue an Amended Order of Conditions for the plan dated 10/28/11, eliminating special condition number 5 from the approval, and pending the receipt of a \$3,000.00 performance bond for the plantings, was made by Steve Phillips and seconded by Judith Bruce.

**VOTE:** 5-1-1; Bob Royce opposed, Adrienne Pfluger recused herself; motion passed.

Continued from 10/18/11

**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. David Lyttle of Ryder & Wilcox, Inc. and Jennifer Exner of Wilkinson Ecological Design were present.

Jennifer Exner addressed the Conservation Commission's previous concern with the gutters coming off of the house. A revised plan had been provided showing the removal of the asphalt channel, and replanting and installation of water bars. John Jannell reported that a DEP number has been issued, and the Commission may act on the application.

**MOTION:** A motion to approve this Notice of Intent with the revised plan dated October 24, 2011, was made by Jamie Balliett and seconded by Judith Bruce.

**VOTE:** Unanimous

### **Notice of Intent**

**Vivian Robinson, 7 Wildflower Lane.** by Felco, Inc. Assessor's Map 23, Parcel 22.

The proposed replacement and extension of an existing deck. Work will occur within Land Subject to Coastal Storm Flowage and within 50' of the Edge of Wetland. Arnold Henson asked what was already within the 50' buffer. David Lajoie said part of the building was already within the 50' buffer zone. Steve Phillips asked why two of the cleanouts on the southeast corner had been uncovered. David Lajoie said those were part of the old septic system which had been since filled. Judith Bruce asked that John Jannell clarify with the Board of Health that the old system had been abandoned and filled. David Lajoie asked if the Board of Health sign off would be acceptable, and Judith Bruce said yes. Steve Phillips asked if the applicant had considered locating the deck outside of the 50' buffer, and Arnold Henson suggested wrapping the deck around the corner away from the resource areas. David Lajoie said the deck design was to accommodate sliding glass doors to be located on the second floor to access the proposed deck. Judith Bruce asked if the enclosed area and outdoor shower would be abandoned underneath the existing deck, and David Lajoie said yes. Judith Bruce felt that this would be good mitigation in exchange for the proposed expansion, but asked that the newly proposed outdoor shower be located outside of the 50' buffer. Jamie Balliett asked if the applicant would consider a wraparound deck located outside of the 50' buffer, and David Lajoie felt the applicant wanted to have the deck in the existing lawn area located in the buffer zone. John Jannell reported that the Conservation Department was waiting on a letter from Natural Heritage. David Lajoie asked what the Commission would be looking for in a revised plan. Judith Bruce asked that the current shower and storage be removed, and the proposed new shower located outside of the buffer zone. Carter Buckley, an abutter, asked that the Commission determine where the drainage pipe was located on the property so that it was not damaged during construction. Judith Bruce felt a condition of the Order should be that the pipe was not disturbed. John Jannell reported that a 1995 plan found in the Health Department stated that the pipe was put in "a long time ago." John Jannell asked that the pipe be located in the field to assure that it would not be altered. David Lajoie asked that he continue the hearing for one week to November 8, 2011.

**MOTION:** A motion to continue the hearing to November 8, 2011, was made by Judith Bruce and seconded by James Trainor.

**VOTE:** Unanimous.

**Beth & Larry Minear, 171 Monument Road**. by Littlefield Landscapes, Assessor's Map 62, Parcel 35. The proposed removal of invasives species and replanting with native species. Work will occur on a Coastal Bank, in the Pleasant Bay A.C.E.C., and within 100' of the Top of a Coastal Bank and Land Subject to Coastal Storm Flowage. Laura Kelley of Littlefield Landscapes went over the proposed changes in the construction protocol, which changed the number of locusts to be removed from 6 to 19. Laura Kelley explained that the stumps would remain, and a product would be used on the chainsaws to prevent stump sprout growth. Steve Phillips asked if the additional locust trees to be removed would open up more of a view from the resource area. Laura Kelley said that the removal of these trees would open up part of the northern view, but that the house itself was set back from the Top of the Coastal Bank and would not provide an open view. Steve Phillips asked about replacing the canopy species on site. Laura Kelly said that one of the Holly trees would be transplanted thus allowing for better growth and coverage once the invasives were removed. John Jannell said while on site they had discussed that the black cherry would remain, and though the canopy would be lower, the invasives would be removed. Judith Bruce recalled several oak species on site, and felt that they would provide a good canopy once the locust trees were removed. Steve Phillips was concerned about the installation of a silt fence to protect the resource area. Laura Kelley said she would install a silt fence along the 8' contour, and Steve Phillips asked that it extend the length of the water. Judith Bruce was concerned about the amount of root area exposed and its impact on the erosion, and John Jannell suggested that the silt fence be tied to a contour line. Arnold Henson asked for a recommendation, and John Jannell suggested the 10' contour line. Judith Bruce asked that no work be done beyond the silt fence, and John Jannell suggested that any work done beyond the silt fence be done by hand. John Jannell also recommended a condition that the silt fence should be installed the length of the work, not just the length of the water. Steve Phillips asked if the applicant had considered a biodegradable mat as opposed to chopped straw. James Trainor asked about the proposed pruning. Laura Kelley stated that the pruning would be done to the Swamp Maple which the applicant hoped to maintain and keep healthy. Laura Kelley said once the invasive vines were removed, and the large clumps of Clethra exposed, perennial winter rye would be planted.

**MOTION**: A motion to approve the plan with the condition that the silt fence be dug in at the 10' contour, that the loose soil be stabilized with chopped straw, and that work done beyond the 10' contour be handwork only, was made by Judith Bruce and seconded by James Trainor.

**VOTE**: Unanimous

### **Certificate of Compliance**

**James Trainor (2007), 48 Beach Road**. The Request for a Certificate of Compliance for an Order of Conditions for the removal of invasive species. John Jannell reported that the project was in substantial compliance.

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

**VOTE**: 6-0-1; James Trainor recused himself.

### **Administrative Reviews**

Continued from 10/25/11

**Laura Arnold, 18 Towhee Lane.** The proposed removal of a dead leaning pitch pine, pruning of branches over driveway, pruning of 3 Oaks in adjacent to deck, and the removal of an Autumn Olive. Work will occur within 100' of the Edge of Deep Pond. John Jannell said he was waiting for the applicant to contact the Conservation Department with the name of the arborist she would be using, and asked that the Commission hold the application.

**Ed Daly, 20 Driftwood Lane.** The proposed pruning of limbs from 3 oaks, 1 pine, and 2 locust trees hanging over the existing house. Work will occur within 100' of the Top of a Coastal Bank and Salt Marsh. John Jannell recommended approval for this work, and went on to say that Bruce White would be performing the work. Judith Bruce asked if he was aware of the Commission's best pruning practices, and John Jannell said yes.

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

**VOTE:** Unanimous

**Christopher Frey, 71 Briar Springs Road.** The proposed installation of a rope handrail along existing stairs. Work will occur on a Coastal Bank, the Pleasant Bay A.C.E.C., and within 100' of the Top of a Coastal Bank. John Jannell told the Commission that the handrail was part of a requirement by the applicant's insurance company. No digging was proposed to install the rope handrail. A hand rail had previously existed for these steps, and it would neither widen the access path nor be excessively visible from the resource area.

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

**VOTE:** Unanimous

**David Patterson, 44 Nichols Road.** Top of coastal bank and buffer pruning. This is the same request as the last 6 years in regard to height of pruning and removal of bittersweet and invasive plants.

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

**VOTE:** Unanimous

**John Hemmings, 48 Tonset Road.** The proposed building of a 4' x 19' step/deck in front of the sliding doors. Work will occur within 100' of the Top of a Coastal Bank and Salt Marsh. Work to be done by applicant. John Jannell said that this step would be installed between a deck and a breezeway, was located outside of the 50' buffer zone, and would be installed over an existing garden area. Judith Bruce felt while the applicant could reduce the width from 4' to 3', the installation of the step at a width of 4' was a non-event.

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

**VOTE:** Unanimous

**Stephen Bornemeier, 100 Monument Road.** The proposed removal of a fallen locust tree as a result of the recent storm event. Work will occur within 100' of Crystal Lake and the Pleasant Bay A.C.E.C. Work to be done by applicant.

**MOTION:** A motion to approve this application was made by Bob Royce and seconded by Judith Bruce.

**VOTE:** Unanimous

**Town of Orleans Parks Department, Skaket Beach.** The proposed removal of locust trees damaged by the recent storm events, stumps to remain. Work will occur within 100' of the Top of a Coastal Bank, Coastal Dune, Salt Marsh, Land Subject to Coastal Storm Flowage, and the Cape Cod Bay A.C.E.C. John Jannell explained the work area was located between the parking area and Franz Road.

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

**VOTE:** Unanimous

**Town of Orleans Parks Department, Nauset Beach.** The proposed hauling and screening of sand on the back trail at Nauset Beach between the Pochet Washover and Lower Parking lot. The roadway will be raised for safety access and environmental concerns. Work will occur on a Coastal Dune, Land Subject to Coastal Storm Flowage, the Pleasant Bay A.C.E.C., and within 100' of the Edge of a Coastal Beach and Salt Marsh. Arnold Henson asked what the environmental concerns were indicated on the application. Paul Fulcher, Parks & Beaches Superintendent for the Town of Orleans, explained that water coming in from high tides going onto the beach grass was resulting in the public driving up along the dune and widening the road. Steve Phillips asked where the sand would be coming from, and whether or not the National Seashore had to approve of this work. Paul Fulcher stated that the sand would be coming from Dennis pre-screened, and that the National Seashore did not have jurisdiction as the work proposed was roadway improvement for safety vehicles. Jamie Balliett asked about the status of the over wash, and Paul Fulcher said only one area was completely washing through, with the remaining area filling in.

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

**VOTE:** Unanimous

**Town of Orleans Parks Department, Skaket Beach.** The proposed relocation of the last section of the handicap ramp due to beach erosion. This section will be moved back and placed on the beach. Work will occur on a Coastal Beach, Coastal Dune, Land Subject to Coastal Storm Flowage, the Cape Cod Bay A.C.E.C., and within 100' of the Edge of a Salt Marsh. Judith Bruce asked if the work would be taking place at Skaket Main or Skaket Beach extension. Paul Fulcher said this work would be taking place at the ramp closer to Rock Harbor, as the dune had eroded and resulted in the boardwalk ending up underwater.

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

**VOTE:** Unanimous

Jamie Balliett asked about the Army Core of Engineers Permit for Beach Nourishment at Skaket Beach. Paul Fulcher explained that the Army Core of Engineers Permit was approved until 2021, but that the Department of Environmental Protection would not endorse the project and the permit would expire in 2015. Jamie Balliett asked why the DEP would not endorse such a project given the level of erosion. Judith Bruce asked about the possibility of dredging the channel at Rock Harbor. Paul Fulcher said at this time the sand being brought in for nourishment was the same grain size and color, and if DEP did not sign off on the project, an inland source for sand would have to be sought. At this time, Eastham was not willing to endorse the dredging of Rock Harbor. Judith Bruce asked about the stairs to be installed at Skaket Beach extension. Paul Fulcher said they were presently working on a design for the project.

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

**Kent's Point** Educational Walk 12/3/2011 Orleans Conservation Trust 10am-12pm  
20-30 People

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

**VOTE:** 6-0-1; James Trainor recused himself.

**Paw Wah Pond** Educational Walk 1/7/2012 Orleans Conservation Trust 10am-12pm  
20-30 People

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

**VOTE:** 6-0-1; James Trainor recused himself.

**Kenrick Woods** Educational Walk 1/7/2012 Orleans Conservation Trust 10am-12pm  
20-30 People

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

**VOTE:** 6-0-1; James Trainor recused himself.

**Bakers Pond** Educational Walk 1/7/2012 Orleans Conservation Trust 10am-12pm  
20-30 People

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

**VOTE:** 6-0-1; James Trainor recused himself.

### **Request for Conservation Restriction**

Kris Ramsay from the Orleans Conservation Trust wants the endorsement of the Conservation Commission to hold a Perpetual Conservation Restriction on 10 & 18 Twinings Lane and for the Conservation Commission to be the lead applicant for a state L.A.N.D. grant. *James Trainor recused himself.* Kris Ramsay went over the financial breakdown, demonstrating that if the necessary grants to pay for this property were not received, the application would be null and void. Arnold Henson clarified that what the Orleans Conservation Trust required was an endorsement of this concept. Kris Ramsay said yes, and said that the Conservation Department would need to be the

applicant and hold the Conservation Restriction. John Jannell said that if the Conservation Commission chose to be the lead applicant, the Conservation Department would prepare a letter to sign to include in the CPA application. Steve Phillips asked about the remaining parcels surrounding the resource area. Kris Ramsay said the remaining parcels were privately owned properties, many of whom had been major supporters and endorsers for the Orleans Conservation Trust.

**MOTION**: A motion to approve to be the lead applicant and provide a letter of endorsement was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE**: 6-0-1; James Trainor recused himself

Kris Ramsay from the Orleans Conservation Trust wants the Conservation Commission to provide endorsement for and sign the municipal certificate for a Conservation Restriction on 38 Kenneth Lane. *James Trainor recused himself*. Judith Bruce thought that the Commissioners were to receive a packet so that could make a site visit. Kris Ramsay said this restriction was simpler than the previous presentation, and would eliminate another potential home. John Jannell said he had a limited amount of packets which he could provide to the Commission. Arnold Henson appointed a sub committee comprised of Jamie Balliett, Steve Phillips, and Bob Royce to go over the application.

*Jim O'Brien left at 10am.*

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

Approval of the Minutes from the Meeting on October 25, 2011

**MOTION**: A motion to approve the minutes pending the changes were made by Judith Bruce and seconded by James Trainor.

**VOTE**: Unanimous

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

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

Request to expend \$2,250 from the Wetland's Filing Fees Account for work on Kent's Point Conservation Area. Arnold Henson asked who would be doing the work, and John Jannell said the Parks and Beaches department would be completing it. John Jannell explained that the funds would be for fencing materials, erosion control blanket and bio mat, seed and soil mixture, and shrubs to be located at the top of the area where the stairs were presently located. Jamie Balliett asked whether the area was accessible for the public, and John Jannell stated it had been fenced off since the damage to the stairs had occurred earlier this year.

**MOTION**: A motion to approve allocations of these funds was made by Jamie Balliett and seconded by Judith Bruce.

**VOTE**: Unanimous

The meeting was adjourned at 10:06am.

Respectfully submitted,

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