

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, December 20, 2011

'12 JAN 3 11:10AM
K. Darling, Asst.
ORLEANS TOWN CLERK

PRESENT: Judith Bruce, Vice-Chairman; Bob Royce; Adrienne Pfluger; Steve Phillips; James Trainor; Jamie Balliett; John Jannell, Conservation Administrator.

ABSENT: Arnold Henson, Chairman; Jim O'Brien (Associate Member).

8:30 a.m. Call to Order

Continuation

Last Heard 12/6/11 (JB1, JO1)

Charles Silbert, 40 Gesner Road. by East Cape Engineering, Inc., Assessor's Map 42, Parcel 91. The proposed removal of an existing dwelling, construction of a single family dwelling, garage, and installation of a new water line and paved driveway. Work will occur within 100' of the Edge of Wetland, Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and the Pleasant Bay A.C.E.C. John Jannell announced a request had been received asking the hearing to be continued to January 3, 2012.

MOTION: A motion to continue the hearing to January 3, 2012, was made by Jamie Balliett and seconded by James Trainor.

VOTE: Unanimous

Notice of Intent

Stephen Brodeur, 25 Weeset Proprietors Way. by Coastal Engineering Company, Inc. Assessor's Map 6, Parcel 4. The proposed reconstruction of a stone revetment, installation of stone retaining walls, removal of existing patio areas, and mitigation plantings. Work will occur on the Top of a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within 100' of the Top of a Coastal Bank, Edge of Salt Marsh, Coastal Beach, Land Subject to Coastal Storm Flowage, and the Nauset Estuary. Jason Norton of Coastal Engineering Company passed around an additional graph depicting the amount of fill proposed, areas to be reconstructed, hardscape to be removed, and proposed hardscape. Jason Norton provided a detailed presentation outlining the specific reasons for the bank stabilization, outlining the owners desire to thwart the possibility of future damage to the bank due to a 100 year storm event. Judith Bruce asked for clarification on the handout, and Jason Norton went over the different portions of the plan, stating that there would be a zero net increase in hardscape. John Jannell said that according the Conservation Department's records, the wall had been partially rebuilt in 1992, and asked whether or not filter fabric was found on site. Jason Norton said there was no evidence of filter fabric found. Judith Bruce was concerned about the purpose of the re-build, as this wall did not appear undermined, was not showing any signs of weakening or giving way, and was well planted on the landward side. Jason Norton said the applicant was concerned about a storm event which would result in a replacement of the wall similar to the rebuild in 1992, and wanted to be proactive. Jason Norton showed a sea level graph which predicted future rise in sea level, and provided a photo of the wall during high tide. Judith Bruce felt a gentler slope for the proposed wall would be better, and Jamie Balliett asked if Greg Berman of WHOI had been consulted. John Jannell explained that the Commission could formally request

that Greg Berman provide a 3rd party opinion, with a written report giving his independent review of the project. Jason Norton said the proposed slope of the wall was per the standard of the Army Core of Engineers, which recommended a 1.5' to 1' slope. Steve Phillips inquired about the rebuild from 1992, and asked whether or not the trees had recovered. Jason Norton reported that the trees had recovered and were healthy. James Trainor stated that the retaining wall's square footage was doubling, and asked why fill was being brought in instead of allowing the area to drain naturally behind the new revetment. Jason Norton said the removal of the hardscape patios would result in a net zero increase in hardscape throughout the property, and a retaining wall was being built along with providing fill to avoid creating a sluiceway. Steve Phillips asked for clarification on the amount of fill, as during the on-sight visit the Conservation commission was told 0.5' of fill, and during the hearing Jason Norton mentioned 2' of fill. Jason Norton clarified that the fill levels would range from 0.5-2' depending on where along the wall it was located. Phil Cheney, landscape designer for the applicant, said there would be a minimal amount of disturbance, with an improvement to the area through the removal of non-native species. Phil Cheney went over the details of the planting plan, stating that 14 trees were to be removed and replaced with 16 trees, and 16 shrubs were to be removed and replaced with 79 shrubs. Judith Bruce asked for the location of new plantings and brought up the screening from the water. Phil Cheney said the removal of the patios would result in the compromise of the black pine on site. John Jannell felt this tree should be replaced given that it provided screening from the resource area, and Phil Cheney suggested that he could try to save it, or replace it with additional evergreen species. Steve Phillips asked if the representatives had any photos from the water to accurately demonstrate how the area would look before and after the screening vegetation was removed. Jason Norton suggested that they could provide a graphical representation. Steve Phillips voiced his concern that larger species were being replaced by smaller species, which may not provide screening from the resource area. John Jannell stated that since the site was not staked, the site visit was difficult, as it was hard to visualize where the 'sheet pile' limit of work would be established and where the access for the revetment reconstruction would be located. Steve Phillips was concerned because the trees flagged were quite large, and it was unclear if these trees would be removed. Jason Norton apologized for the site not being staked, and suggested that the Commission conduct a second site visit to more accurately visualize the work proposed. John Jannell asked about the existing cedar trees on side, and their location within the access area. John Jannell asked how these would survive the trampling of equipment. Phil Cheney said access there would be on the water side, and John Jannell asked that the plan be clarified to demonstrate this. Adrienne Pfluger asked about the potential removal of the ivy and whether or not mitigation plantings would be provided. John Jannell was concerned about the temporary limit of work damaging the upper marsh, and asked if a marsh restoration planting plan could be provided. Phil Cheney stated that any damage due to the limit of work could be replanted. James Trainor asked if there would be an increase in lawn area, and Phil Cheney said the lawn area would be reestablished and slightly reduced. Jamie Balliett asked how the work proposed would impact the planting plan and construction of stairway filed under a separate earlier Order. Jason Norton said the staircase would remain in place to reduce traversing, and Phil Cheney said he was prepared to replant the area as necessary.

John Jannell asked Jason Norton to explain the temporary limit of work through the installation of sheet piles, and what steps they would take to alter the rebuild of the revetment if toe stones were encountered. Jason Norton went over the sheet pile driving technique, explaining it would be installed between 5 to 10' in depth, with 5' exposed at the top. In the event toe stones were encountered, the revetment design would be moved landward. Jamie Balliett asked if probing for toe stones had been performed, and Jason Norton said some early probing had been done. John Jannell asked if the revetment rebuilding and planting would be done in conjunction with each other, and whether the sheet pile would protect the area during high tide events, or result in sloshing. Jason Norton said the work would be done side by side, and there would be some slosh. James Trainor asked for clarification that the revetment removed would be the same amount as the revetment installed. Jason Norton confirmed that the amount of revetment removed from the north would be placed in the south, resulting in the net zero increase. Judith Bruce asked when the work would take place, and Jason Norton said work would occur in the winter. Jamie Balliett asked about the additional proposed retaining wall, and if it was to provide secondary protection to the house. Jason Norton said it would be a typical mortared wall, and Judith Bruce suggested a non-mortared wall so that it would provide wildlife habitat opportunities. Phil Cheney suggested that the wall could be a dry stacked stone, providing room for wildlife and bringing up the grade by the house. John Jannell felt that the Commission should reach out to Greg Berman to discuss the sheet pile limit of work method, the potential impacts to the fronting marsh, and the proposed change in slope of the wall. Bob Royce asked where the rocks to be used would be stored, and Jason Norton said there would be a stockpile area located on the lawn. John Jannell inquired if the groin would be modified during the revetment rebuild, and Jason Norton confirmed that the groin would be left alone. Jason Norton requested that the hearing be continued for 3 weeks to January 10, 2012, with a site visit with Greg Berman scheduled for January 3, 2012.

MOTION: A motion to continue the hearing to January 10, 2012, with a site inspection with Greg Berman scheduled for January 3, 2012, was made by Jamie Balliett and seconded by James Trainor.

VOTE: Unanimous.

Certificate of Compliance

Pat & Jim Robert (2008), 207 Barley Neck Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of a dwelling, installation of a septic system and utilities, construction of a driveway, grading, landscaping, removal of invasive species, and restoration of a native plant community. John Jannell went over the file history, explaining that three different plans were incorporated in the Order of Conditions, one of which, the construction of the house and subsequent septic system, had been completed per plan. John Jannell passed around photos of the site. Judith Bruce stated that the plantings appeared inconsistent. John Jannell explained that certain plantings were proposed to be incorporated into a live fence which delineated the limit of work which had not been done. John Jannell contacted Wilkinson Ecological Design, the contractor executing the planting plan, to request a report on the status of the land management efforts that were required to be completed with this Order. John Jannell said that the third plan, which had two approved view corridors, had been cut but not replanted per plan. Jamie Balliett asked if the Certificate of Compliance could

be held until it was in compliance, but John Jannell explained that the Commission must act within 21 days of receipt of the request, and must make a formal decision.

MOTION: A motion to issue the Certificate of Compliance was made by Jamie Balliett and seconded by Bob Royce.

VOTE: 0-6-0; Motion Denied.

Administrative Reviews

Joe Spalluto, 14 Sages Way. The proposed over-dig for a foundation wall for an addition. Work will occur within 100' of the Edge of Wetland. Work to be done by Capizzi Home Improvement. John Jannell stated that the applicant has neither provided topography of the site, nor an acceptable delineation of the resource area. Steve Phillips asked if this proposed work would result in a change in the footprint, and John Jannell said yes. John Jannell explained without a plan he was unsure where the resource area and jurisdictional limits were on site. John Jannell asked that the Commission deny the proposed work under the Administrative Review Filing. Judith Bruce recommended that John Jannell explain to the engineer and the applicant that this type of work required a Notice of Intent filing.

MOTION: A motion to approve this application was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: 0-6-0; Application Denied, Please File a Notice of Intent

Beatrice Auty, 16 Lake Farm Lane. The proposed removal of a leaning oak tree. Work will occur within 100' of the Edge of Wetland. Work to be done by Lindsay Strode of Cape Organics.

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

VOTE: Unanimous.

Karen Marcarelli, 551 S. Orleans Road. The proposed removal of two pine trees. Work will occur within 100' of the Top of an Inland Bank. Work to be done by A to Z Treez. John Jannell reported that one of the pine trees was standing dead and the second one was in significant decline. This approval would be for the removal of the two trees only and no additional view pruning.

MOTION: A motion to approve this application was made by Bob Royce and seconded by Jamie Balliett.

VOTE: Unanimous

Lee & Barbara Ragsdale, 7 Prence Lane. The proposed pumping, filling, and abandoning of an existing cesspool. Work will occur within 100' of the Edge of Wetland and the Cape Cod Bay A.C.E.C. Work to be done by Brady Construction Company. Judith Bruce asked if the new proposed system would be outside the buffer zone to any resource areas. John Jannell reported that the new system would be outside of any Conservation Commission jurisdiction.

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on December 13, 2011

MOTION: A motion to approve the minutes as amended was made by Adrienne Pfluger and seconded by Steve Phillips.

VOTE: Unanimous

The Commission discussed the site visits. The meeting was adjourned at 9:40am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department