

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, January 17, 2012

K. Darling, Asst.
'12 JAN 24 9:52AM
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 1/3/12 (SP1, JB2)

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 reported that notification had been received to continue the hearing to February 7, 2012.

MOTION: A motion to continue to February 7, 2012 was made by Adrienne Pfluger and seconded by James Trainor.

VOTE: Unanimous

Last Heard 1/3/12 (SP1, JB1)

Raymond P. Ormerod, 101 Brick Hill Road. by Ryder & Wilcox, Inc, Assessor's Map 28 Parcel 154. The proposed replacement and extension of an existing deck onto a single family home. Work will occur within 100 feet of Edge of Wetland and an Inland Pond. *(Prior to the commencement of the hearing, Steve Phillips and Jamie Balliett signed an affidavit citing they had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing them to be a voting member for this hearing.)* David Lyttle of Ryder & Wilcox, Inc. asked that the hearing be continued to January 24, 2012, so he may provide the commission with a mitigation plan.

MOTION: A motion to continue the hearing to January 24, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

Notice of Intent

Richard & Wendy Cohen, 74 Freeman's Lane. by Coastal Engineering Co., Inc. Assessor's Map 1, Parcel 2. The proposed construction of a screened porch, reconstruction of a pool shed, modification of a deck, and planting mitigation. Work will occur within 100' of the Top of a Coastal Bank, Edge of Marsh, Land Subject to Coastal Storm Flowage, and the Nauset Estuary. John Schnaible of Coastal Engineering, Richard Cohen, applicant, and Mark Cohen, architect for the applicant, were present. John Schnaible went over the present conditions of the site, explaining the proposed mitigation planting area and proposed removal of asphalt is proposed in exchange for the construction of the screened porch on an existing deck. John Schnaible also noted that the deck would be changed to wooden decking with spacing between the boards, and downspouts and drainage would be provided through the installation of 6" of gravel infiltration. Judith Bruce asked if a foundation for the screened porch was proposed as indicated on the plan. Mark Cohen explained that this had changed to sonotubes, and

John Schnaible explained that the applicant was looking for an enclosed area to enjoy during greenhead season. Steve Phillips asked for elaboration on the proposed removal of a portion of the driveway, and what would be put in its place. John Schnaible explained that 185 sq. ft. of asphalt would be removed, and the area allowed to naturalize as Cape Cod lawn. Adrienne Pfluger asked for clarification that the proposed mitigation area on the south would be an extension of an existing mitigation area created under a 2001 Order, and John Schnaible said yes. Judith Bruce felt that while the proposed replacement of the existing pool shed within the existing footprint was fine, the proposed enclosed porch within 50' of the resource area required additional mitigation measures. John Jannell asked if the crawlspace for the porch was to be eliminated, and how the roof drainage off of the pool shed would be addressed. John Schnaible said the crawlspace had been eliminated, and no evidence of erosion was present around the existing pool shed. Steve Phillips asked that the drainage off of the pool shed potentially be guttered along the south side. Mark Cohen stated that drainage could be provided for both sides of the pool shed. John Jannell asked how many plants and what type of buffer plants were proposed within the planting area, and John Schnaible said this number could be provided in the form of a planting specification. Judith Bruce asked if the applicant had considered planting the driveway area where asphalt was to be removed, since the southern area had already been mitigated in a previous Order of Conditions. John Schnaible suggested that he could increase the proposed extension of the southern mitigation area by 50%, and Steve Phillips asked if it would be possible to alter the current paved driveway located within the 50' buffer zone. John Schnaible spoke with Richard Cohen, who suggested that he could remove an additional portion of the existing driveway and replace it with pervious stone. The Commission went over the changes they would like to see to the plan: the change from a full foundation to sonotubes as indicated during the hearing, an increase of the planting area by at least 50%, drainage on the pool shed, a note that the deck is seasonal, the spacing between the decking called out, and the species type and number of plants to be installed. John Schnaible asked for the hearing to be continued for one week to January 24, 2012.

MOTION: A motion to continue the hearing to January 24, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

Philip Metzidakis et al, 64 Tonset Road. by Schofield Brothers of Cape Cod, Assessor's Map 34, Parcel 35-2-r. The after the fact filing of the construction of a deck and the establishment of a trail to the beach. Work has occurred on a Coastal Bank, on Land Subject to Coastal Storm Flowage, and within 100' of the Top of a Coastal Bank, Coastal Beach, Edge of Marsh, Land Subject to Coastal Storm Flowage, and the Edge of Wetland. Laura Schofield of Schofield Brothers of Cape Cod explained that DEP asked that additional flagging be provided delineating the Top of the Coastal Bank and additional pictures of the site were provided to the Commission. Judith Bruce asked if the additional flags altered the delineation as indicated on the plan, and Laura Schofield stated that the flagging flushed out the Coastal Bank. Laura Schofield explained that this Notice of Intent was an After the Fact filing for the construction of a deck on a previously permitted driveway, which had since been abandoned and turned into a vegetable garden. The second portion, the establishment of a walking path, had been started by the abutter, who shared a 6' easement. Laura Schofield explained that her objective was to ask that the deck remain, to provide mitigation accordingly, and

address the footpath, which had resulted in trespassing issues due to improper delineation of the property line. Laura Schofield suggesting delineating the property line by installing a split rail fence, and thus allowing wildlife passage. Additionally, the beach access through the phragmites could be initially mowed, with boards put down to allow for foot traffic. Laura Schofield said the applicant was willing, if the abutter wished, to replace the existing chain link fence with a more wildlife friendly split rail fence. John Jannell went over the history of the file, explaining that an initial letter had been sent but not received by the applicant in July. On August 26, 2011, the applicant came into the town offices and spoke with both Brian Harrison and John Jannell regarding the illegal deck. The applicant was told that a filing was required, and Philip Metzidakis explained that he would follow up accordingly. An additional letter was sent in November, and received by the applicant on December 8, 2011. A response letter from the applicant was received on November 10, 2011, explaining that Schofield Brothers would be hired as the engineer. Jamie Balliett asked if there was a building permit for the deck. John Jannell explained that the entire project was unpermitted, and suggested the Commission look at the application as though the deck had yet to be built, and the applicant should not be afforded any additional relief just because the structure has already been built. Judith Bruce reminded the Commission that building within the 50' buffer zone was prohibited without a variance. Judith Bruce thought that a footpath would be permissible, but the usage of wooden removable planks would be detrimental, and Adrienne Pfluger agreed that they should not be used. Laura Schofield explained that an elevated wooden walkway was considered, but unless it was removable, it could get damaged during storm events resulting in costly replacement. Steve Phillips stated that this was not the first time an applicant had suggested cutting a path through Phragmites, and challenged the applicant to explore additional options besides the usage of wooden planks to maintain a footpath. Laura Schofield thought a mowing option with permanent markers depicting where a path could be mowed, and Jamie Balliett suggested consulting with companies which specialize in Phragmites removal. Bob Royce asked if there were any markers in the field delineating the property line, and Laura Schofield said temporary stakes were on site. Steve Phillips asked if the proposed path was historically used, or if traversing across the neighbor's property was done. John Jannell stated that there was only a record that a path was maintained up to the BVW border along the chain link fence. Laura Schofield was concerned about changing the location of the pathway which would result in degradation to the resource area through the installation of an elevated walkway. James Trainor was concerned about the boards damaging the vegetation underneath, Adrienne Pfluger suggested a seasonal walkway, and Judith Bruce recommended an aluminum walkway which could be removed during storm events, and stored outside the resource area during the off season. James Trainor felt that the deck was a separate issue, and Laura Schofield asked the Commission to consider the regulations which discuss prior usage within an area. Judith Bruce pointed out that there were already two decks off of the house for the applicant to enjoy the outdoors, and Bob Royce felt that if the applicant had not built the deck that it would be asked to be moved outside of the 50' buffer zone. Steve Downs, the abutter at 56 Tonset Road, was concerned about the lighting from the new deck and amplified noise as a result. Elaine Downs, of 58 Tonset Road, was concerned that the proposed path would result in the abutter continuing to trespass on her beach. Elaine Downs was troubled because the abutter, whose frontage was over 100', needed to utilize her 15' of frontage. Both abutters were opposed to the construction of the deck and the establishment of a path along the property line. Elaine Downs suggested

that the Phragmites had grown as a result of non-usage of the beach area, and thought that a path created to access a different area on the applicant's frontage would be better. Laura Schofield suggested that the area near the rocks could be cleared of Phragmites and used to access the water with the least environmental impact. Judith Bruce asked if a path through the center of the property could be established, and Laura Schofield was concerned that the application would change from a footpath to a raised structure. Jamie Balliett asked when the chain link fence was installed, and Elaine Downs said it was done within the past two years. Jamie Balliet asked if there was any record of the work being done, and John Jannell did not know but could find out for the record. Jamie Balliett asked if there was any indication as to why the deck was built, and Laura Schofield said no. James Trainor suggested that the Commission conduct a second site visit to look at additional locations for a proposed path to the water. Steve Phillips asked if they could address the issue of the deck, and Laura Schofield asked that it be encompassed with the site visit. John Jannell suggested that the Commission address fines for the illegal work, and Judith Bruce asked if fines should be discussed now or after the second site visit. John Jannell suggested they address the issue of fines after the second site visit. Steve Phillips asked if the eastern boundary had been staked, and Laura Schofield said there was a stone wall which delineated the line. Laura Schofield asked for the Conservation Commission to schedule a site visit for January 24, 2012, and to continue the hearing to February 7, 2012.

MOTION: A motion to continue the hearing to February 7, 2012, with a site visit scheduled January 24, 2012, was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

Joseph Spalluto, 14 Sages Way. by Vaccaro Environmental Consulting, Assessor's Map 5, Parcel 17. The proposed construction of an addition and deck to a single family dwelling, and planting mitigation. Work will occur within 100' of the Edge of Wetland. Jack Vaccaro of Vaccaro Environmental Consulting explained that 16 shrubs comprised of sweet pepperbush and bayberry would be planted at the 25' buffer line as mitigation for the proposed addition. James Trainor felt that the mitigation was a fair swap for the proposed work. Steve Phillips inquired about the brush pile located within the buffer zone, and whether or not it could be relocated. Jack Vaccaro asked for guidance from the Commission of a good place to relocate the brush pile. Steve Phillips suggested an area more towards Sages Way, near the existing shed, and Judith Bruce asked that it be kept outside of the 75' buffer zone.

MOTION: A motion to approve the site plan and buffer restoration plan with the condition that the brush pile be relocated was made by Steve Phillips and seconded by Adrienne Pfluger.

VOTE: Unanimous

Request to Use Conservation Properties

Windmill Wedding 7/1/12 Blake/Kaiser 3-5pm 30-35 People

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on January 10, 2012

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

VOTE: Unanimous

Other Member's Business

Re-Organization

Appoint: Chair, Vice Chair, Clerk

MOTION: A motion to nominate Judith Bruce as Chairwoman was made by Adrienne Pfluger and seconded by James Trainor.

No additional nominations were made

MOTION: A motion to close the nominations was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

MOTION: A motion to vote for Judith Bruce was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

MOTION: A motion to nominate Steve Phillips as Vice-Chairman was made by Adrienne Pfluger and seconded by James Trainor.

No additional nominations were made.

MOTION: A motion to close the nominations was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous

MOTION: A motion to vote for Steve Phillips was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous

MOTION: A motion to nominate Adrienne Pfluger as Clerk of the Works was made by James Trainor and seconded by Jamie Balliett.

No additional nominations were made.

MOTION: A motion to close the nominations was made by James Trainor and seconded by Jamie Balliett.

VOTE: Unanimous

MOTION: A motion to elect Adrienne Pfluger was made by James Trainor and seconded by Jamie Balliett.

VOTE: Unanimous

The meeting was adjourned at 9:54am

Respectfully submitted,

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