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K. Darling, Asst.  
ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, March 20, 2012**

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

**ABSENT**: Jim O'Brien (Associate Member).

8:30 a.m.

Call to Order

**Continuations**

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. *(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.)* Tim Brady of East Cape Engineering, Clint Kanaga, Design Manager for Ponderosa Landscaping, and Charles Silbert, applicant, were present. Tim Brady went over the changes to the proposed site plan, explaining that the house construction had been completely removed outside of the 50' buffer zone, and the septic system had been proposed to be relocated to accommodate this adjustment. Clint Kanaga discussed that the goal of the planting plan would be to help restore the native plant community through removing invasive species, replanting with native species, and maintaining view windows. Steve Phillips was concerned that the limit of work on the site plan did not match the limit of work on the planting plan. Tim Brady explained that this was to accommodate the removal of the existing house, and could be tightened up once the current house was removed. Judith Bruce felt that the proposed plan was more structure than the site warranted, and was concerned that the 24" oak tree was unable to be saved due to the proposed garage location. Judith Bruce explained that her concern lay with the increase in square footage of used space, which included the overall increase in volume. Tim Brady expressed his concern that volume calculations were not part of Conservation's jurisdiction. Steve Phillips recalled a regulation which allowed the Commission to consider the overall increase of structure within a resource area, and told Tim Brady he would send it to him (196A-14.A.) Charles Silbert explained that through the design an attempt to save the oak tree had been made. Judith Bruce asked about the non-native species proposed on the planting plan, and Clint Kanaga said these plants were located outside of the 50' buffer zone. Charles Silbert stated that the proposed house would cast a smaller shadow on the water than the current house because it would be more narrow, and Judith Bruce stated that the current house was much lower to the ground than the proposed. Steve Phillips asked about the land management plan's method of stump control, and why in some cases the stumps would be pulled or ground. Clint Kanaga said that grinding the stumps of black locusts helped reduce the potential for resprouting. Steve Phillips asked about a

reference on the land management plan to sub contractors being approved by the commission, and asked if any of the planting mitigation would require Ponderosa Landscaping hiring sub contractors. Tim Brady explained the note was there in the event that Ponderosa was not the hired contractor, and John Jannell explained that typically there is a condition put in all Order of Conditions that states that any change to the approved contractor would require Conservation Commission approval. James Trainor asked about the proposed ridge height, and if the proposed house would be in compliance with Zoning Board of Appeals. Tim Brady explained that the building height calculation shown would meet the Zoning Board of Appeals requirement. Adrienne Pfluger explained that another Commission concern was the view from the water, and inquired as to how many view windows were proposed. Clint Kanaga said a specific number had not been decided, and Judith Bruce mentioned that view corridors were chosen once the house had been occupied. Judith Bruce asked if any work was proposed on the coastal bank, and Clint Kanaga said no. John Jannell asked if the limit of work would be adjusted for the trees, as the limit of work had not been adjusted around the existing linden tree as asked for in previous meetings. Tim Brady said the limit of work would be shifted once the existing house was removed. John Jannell asked if a similar approach could be taken to save the 12" oak, and Tim Brady suggested that the limit of work could be moved to the other side of the driveway to save this specimen as well. John Jannell asked about underground utilities, and Charles Silbert said there would not be underground gas, but that underground electric was already located on site. John Jannell asked about the offer to remove phragmites, and whether or not this proposed work would be in the Natural Heritage jurisdiction. Kris Ramsay of the Orleans Conservation Trust spoke on behalf of the removal of the phragmites, and was concerned the methodology of removal, as Orleans Conservation Trust Land abutted the parcel. Kris Ramsay felt the management of the phragmites would be a benefit to the waterway between the two properties, and would be helpful to the vegetation in the canal. Tim Brady asked for an unofficial poll of the Commissioners on the house and site plan before discussing the Landscape Plan in greater detail. Judith Bruce said she felt the house was a little big for the site, Adrienne Pfluger concurred, Jamie Balliett asked that more be done to save the 24" oak tree, Bob Royce felt the plan could not be approved without more details of the house, Steve Phillips was concerned about the cubic volume increase of the house, and James Trainor asked that proposed elevations be provided. Charles Silbert suggested that he could change the garage to a one-car garage, and thus save the 24" oak. Charles Silbert explained that he would speak with his architect to discuss different building options. Judith Bruce felt that the proposed site plan was a good starting point, but that more work needed to be done, and James Trainor stated that the increase in footprint was roughly 26%. Clint Kanaga felt the planting plan demonstrated an overall sensitivity to the area. John Jannell pointed out that of the 6 proposed canopy species only two were proposed between the house and bank. Clint Kanaga said that there were evergreen trees proposed in addition to the two canopy trees. John Jannell pointed out that if Locust trees were to be removed as invasive management that the Commission should consider what is being proposed to replace them for canopy species. Without adequate replacement view from the water to the house may be not screened. Tim Brady and Clint Kanaga asked for a 3 weeks continuance to April 10, 2012, to incorporate the Commission's suggestions into a revised plan. John Jannell offered to meet with the applicant to go over details on the Landscape Plan.

**MOTION:** A motion to continue the hearing to April 10, 2012, was made by Jamie Balliett and seconded by Bob Royce.

**VOTE:** Unanimous

Last Heard 3/6/12 (JT1)

**Peter A MacBride, 19 Gosnold Road.** by Ryder & Wilcox, Inc, Assessors Map 45 Parcel 12. The proposed after the fact cutting in a view easement and proposed restoration plantings. Work occurred and will occur within the Pleasant Bay ACEC, on a Coastal Bank, and within 100' of the Top of a Coastal Bank. John Jannell explained a letter had been received asking for the hearing to be continued to March 27, 2012 so the applicant may work on a planting plan. Judith Bruce asked if one week was a sufficient amount of time. John Jannell explained that he had advised the applicant to continue the hearing one week at a time, as this was a violation which was being corrected.

**MOTION:** A motion to continue to March 27, 2012, was made by Adrienne Pfluger and seconded by Steve Phillips.

**VOTE:** Unanimous

Last Heard 3/6/12 (JT1)

**Joseph Boughan, 4 Cole Place.** by Schofield Brothers of Cape Cod, Assessor's Map 36, Parcel 21. The proposed construction of a pool. Work will occur within 100' of the Edge of Wetland. Laura Schofield of Schofield Brothers of Cape Cod presented the revised plan which included the installation of an amphibian drift fence to prevent salamanders from entering the pool. Judith Bruce asked about the Edge of Wetland being the Edge of the Vernal Pool, and John Jannell clarified that the entire 100' buffer at this site is Vernal Pool Habitat. Judith Bruce asked if the vernal pool had been delineated, and Laura Schofield explained that it had been certified but never delineated. Laura Schofield demonstrated that the pool could not be shifted to the south without losing a cedar tree. Judith Bruce asked if the planted area would be allowed to naturalize, not mowed. Laura Schofield said it would be allowed to naturalize, and a secondary silt fence would be in place until the plants were established. Judith Bruce asked if the landscape wall would be without mortar, and Laura Schofield said the material had not been finalized. John Jannell asked where the pool would be drained, and if a drywell would be located outside of the buffer zone. Laura Schofield said the pool company would install a cartridge to maintain the pool, and it would not have to be drained during the winter months. Judith Bruce suggested a condition that the water be taken off site, and John Jannell recommended a condition that if another town board required a drywell that it be located outside of the buffer zone. The Commission debated the condition which would require that any pool water be removed from the site to the location of a drywell in the event that an additional Town of Orleans Board requires the installation of one.

**MOTION:** A motion to approve the site plan dated March 15, 2012, with the condition that any water from the pool be taken off site or drained outside of the 100' buffer was made by Steve Phillips and seconded by James Trainor.

**VOTE:** Unanimous

Last Heard 3/6/12 (JT1)

**Sarah Bartholomew, 6 Harveys Lane.** by JM O'Reilly & Associates, Inc. Assessor's Map 43 Parcel 98. The proposed construction of an addition, patio, screened-in porch, and deck onto an existing dwelling. Work will occur within 100' of the Edge of Wetland. John O'Reilly presented the changes to the revised plan dated March 14, 2012, which included a no mow zone within the 25' buffer zone and a reduction in the proposed addition. Judith Bruce asked for the applicant to clarify why the addition was not able to be located further outside of the resource area. Judith Bruce stated that we typically require new construction and additions to be located outside the 75' buffer where feasible. John O'Reilly explained that the septic system's present location and the house's location on the lot limited the area for building without requiring additional permitting from the Health Department and the Building Department. Judith Bruce asked if the no mow area could be extended to the retaining wall on site, and John O'Reilly felt that the proposed no mow zone would be sufficient given the addition would be located on what was currently lawn. Adrienne Pfluger inquired about the double staked haybales, and asked if it could be changed to a well-staked siltfence. John O'Reilly said he would have no objection to a condition that haybales be replaced with a properly installed siltfence. Jamie Balliett felt the mitigation area was sufficient given the current site conditions and the proposed size of the addition.

**MOTION:** A motion to approve the site plan dated March 14, 2012, with the condition that haybales be replaced with a properly installed siltfence was made by Steve Phillips and seconded by James Trainor.

**VOTE:** 5-0-1; Motion passes, Jamie Balliett abstained.

Last Heard 3/6/12 (JT1, JO1)

**Town of Orleans, Quanset Road.** by GHD Inc.. The proposed repair of an existing culvert. Work will occur within 100' of Meadow Bog Pond, Little Quanset Pond, Land Subject to Coastal Storm Flowage, Edge of Salt Marsh, and the Pleasant Bay A.C.E.C. John Jannell reported a letter had been received asking for the hearing to be continued to April 3, 2012.

**MOTION:** A motion to continue the hearing to April 3, 2012, was made by Adrienne Pfluger and seconded by James Trainor.

**VOTE:** Unanimous.

### **Notice of Intent**

**Robert J. Anslow, Jr. Et Al, 46 Freeman Lane.** by Ryder & Wilcox, Inc. Assessor's Map 5, Parcel 27. The proposed establishment of a view corridor. Work will occur on a Coastal Bank, on Land Subject to Coastal Storm Flowage, and within 100' of the Edge of Salt Marsh and Top of a Coastal Bank. David Lyttle of Ryder and Wilcox, Paul Moore of Ponderosa Landscaping, and Roberta Anslow, co-owner of 46 Freeman Lane, were present. David Lyttle stated that the understory was mowed once a year, and that recently the seaward facing cedar trees had been "marked" in an unusual pattern not typical of traditional wildlife markings. Roberta Anslow said that there was a time period in which the markings may have occurred, and it was unclear what would have made these marks. David Lyttle admitted that Bob Anslow, father of the applicant, had limbed some cedar trees without permission from the Conservation Commission. Judith Bruce was concerned about the lack of understory which was subsequently mowed on a yearly basis, and about the number of trees proposed to be removed. David Lyttle said

that the removal of the trees was for a view window, and with a majority of the trees proposed to be removed smaller specimens will help improve the health of the grove. The total number of trees to be removed would be 54, or 28% of the total trees. Judith Bruce asked if the trees located outside of the buffer zone would remain, and David Lyttle said yes. Bob Royce asked if the stumps would be flush cut, and Steve Phillips asked if the plan could be revised to keep the mature cedar trees on the Coastal Bank. Paul Moore said the trees would be flush cut, and David Lyttle said the mature trees could be taken off of the plan as trees to be removed. Steve Phillips inquired about the specific location of the view corridor, and Roberta Anslow explained that it was chosen because of the view it would open up from several rooms within the house. David Lyttle demonstrated to the Commission that the view corridor would be limited to the trees shown to be removed, not the limits of the set of parallel lines drawn on the plan. The overall corridor would be more narrow; presently the plan indicated a 40' wide corridor, when in fact it would be closer to 15' wide. James Trainor asked if a phasing approach had been considered, so that the Coastal Bank would not be cleared of 54 trees at once. John Jannell suggested a revised plan showing a certain number of trees to be removed in the first phase, and the second and third phase to determine how many additional trees should be moved after a site visit was conducted. The Commission felt that a two phase approach would be sufficient and asked that a site visit be conducted after the first phase was completed to determine how the applicant should proceed. Judith Bruce asked that a condition on the revised plan that the understory not be mowed be included. James Trainor felt that once the understory was able to receive sunlight, the understory would be able to recover. David Lyttle was concerned about the amount of growth which would occur as a result of the no mow area, and Judith Bruce suggested that it could be addressed in an Administrative Review at a later time once the understory became established. David Lyttle asked for the hearing to be continued for one week to March 27, 2012, to revise the site plan per the Conservation Commissions suggestions.

**MOTION:** A motion to continue to March 27, 2012, was made by Jamie Balliett and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

### **Revised Plan**

**Roland & Ethel Nelson, 60 Champlain Road.** The proposed upgrade of the sewage disposal system including the abandonment of existing cesspools has been revised to include a 3<sup>rd</sup> septic tank. Work will occur within 100 feet of a Freshwater Wetland. John Jannell explained that the septic system served more than one house on site, and therefore the 3<sup>rd</sup> septic tank was required by the Orleans Health Department.

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

**VOTE:** Unanimous.

### **Administrative Reviews**

**Joel & Elizabeth Smith, 11 Sea Breeze Lane.** The proposed replacement of boards and railing components of an existing deck. Work will occur within 100' of the Edge of Wetland and within the Cape Cod Bay A.C.E.C. John Jannell explained that no change to the deck was proposed, and in the approval he would include a note saying that only



replacement of existing boards is allowed, and the applicant would not be allowed to change the deck configuration or size.

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

**VOTE**: Unanimous.

*Judith Bruce recused herself and left @ 10:08am*

*Steve Phillips took over as Chairman for the remainder of the hearing.*

**Judith Bruce, 26 Towhee Lane.** The proposed enclosing of an existing outdoor shower; placing of air conditioning units on plastic pads; removal of a brush pile; and the removal of honeysuckle and multiflora rose and replacement with swamp azalea, red cedar, and groundsel. Work will occur within 100' of the Edge of Deep Pond and Shoal Pond. Jamie Balliett asked if the water from the outdoor shower went into a drywell, and John Jannell explained that the water drained onto a gravel drip area. Steve Phillips asked if the air conditioning pads were for new or existing units, and John Jannell explained that the new air conditioning units were proposed on new plastic pads outside of the 50' buffer zone and aside the existing foundation.

**MOTION**: A motion to approve this Administrative Review was made by Bob Royce and seconded by James Trainor.

**VOTE**: Unanimous.

### **Chairman's Business**

Approval of the Minutes from the Meeting on March 13, 2012

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

**VOTE**: Unanimous

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

### **Administrator's Business**

Hopkins Garden: Update on Gardener's initiative to replace hoses and rototill the garden plots.

*Vote to support hose replacement and rototill requested.*

John Jannell explained that the expense would be out of the Hopkins Garden Fund account, but that since it exceeded \$200.00, it required approval by the Conservation Commission.

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

**VOTE**: unanimous

The meeting was adjourned at 10:13am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department