

# Orleans Conservation Commission Town Hall, Skaket Room Hearing Meeting, Tuesday, April 3, 2012

PRESENT:; Judith Bruce, Chairwoman; Bob Royce; Adrienne Pfluger; James Trainor;

Jamie Balliett; John Jannell, Conservation Administrator.

**ABSENT**: Steve Phillips, Vice-Chairman; Jim O'Brien (Associate Member).

#### **Continuations**

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

<u>Town of Orleans, Quanset Road</u>. 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 that the Highway Manager requested to continue the hearing to April 24, 2012, to finalize the design of the culvert repair.

**MOTION**: A motion to approve the continuation of the hearing to April 24, 2012, was made by Bob Royce and seconded by James Trainor.

**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. David Lyttle of Ryder & Wilcox requested the hearing be continued to April 17, 2012, to put together a planting plan with Wilkinson Ecological Design. Judith Bruce asked if the plan would be ready as this was an after the fact filing for an illegal cutting, and David Lyttle said the plan would be ready for the two week deadline.

**MOTION**: A motion to continue the hearing to April 17, 2012, was made by Bob Royce and seconded by Adrienne Pfluger.

**VOTE**: Unanimous

## Last Heard 3/27/12 (JB1)

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 explained that he and Paul Moore of Ponderosa Landscaping met John Jannell on site to make sure Phase One, health pruning, was correctly marked in the field. David Lyttle reported that the revised plan showed 21 trees to be removed in Phase One, with a note stating that Phase Two would begin after an on-site was conducted by the Conservation Commission at a later date to determine the remaining trees to be removed. Judith Bruce asked if the trees proposed to be removed were for thinning purposes, and John Jannell concurred that he went out on site and witnessed all of the trees correctly marked that would be removed for Phase one; all additional flagging was removed. Judith Bruce stated that the plan showed that once Phase One was completed, the Conservation Commission would go out on site to determine any possible view corridor to be further created. Judith Bruce asked that there would not be any further mowing of the understory to

allow for growth, and David Lyttle agreed. John Jannell recommended a redundant condition within the Order of Conditions noted on the plan which stated that Phase Two be approved after a scheduled onsite by the Commission.

**MOTION**: A motion to approve the plan for health pruning removal only of Phase one was made by Bob Royce and seconded by Adrienne Pfluger.

**VOTE**: Unanimous

#### **Notice of Intent**

David Keeffe, 124 Monument Road. by Land Design Associates, Assessor's Map 55, Parcel 24. The proposed construction and repair of stone walls and steps, construction of a granite cobble apron, and mitigation plantings. Work will occur within 50' of the Edge of Wetland, 50' of the Edge of Crystal Lake, and within the Pleasant Bay A.C.E.C. George Reilly of Land Design Associates and John Burlane of Nauset Gardens, were present. Judith Bruce explained that she was concerned about the flagging along the edge of wetland, as the labeling was unclear. George Reilly clarified the location of the different components of the work. Judith Bruce was concerned that the amount of work proposed was a significant increase in structure within the A.C.E.C. George Reilly explained that the applicant wanted the wall to be rebuilt to aid in the bank restoration and provide additional habitat for critters within the new wall. Judith Bruce asked if the hydrangeas would be replaced, and George Reilly explained that the existing plants would remain and additional plants would be added. Judith Bruce was concerned that future disruption from building would increase the overall damage to the wall, but the installation of the drywells would help the runoff. Adrienne Pfluger asked about the ivy along the driveway, and George Reilly offered to remove the existing ivv and replace it with appropriate groundcover. Judith Bruce asked about the limit of work's present location, as it was far from the proposed wall. George Reilly stated that he would go out with John Jannell to determine where the limit of work could be moved so that it would not cause disruption to the lake and at the same time would prevent damage from the proposed wall. Judith Bruce asked what type of machinery would be used, and John Burlane explained that small machinery would be brought in to rebuild the wall from the front side. James Trainor was concerned that the mitigation proposed was not comparable to the work to be done. George Reilly explained that the proposed plantings were located in the area which would be disturbed, and asked for the Commission's input on further mitigation that could be provided. Judith Bruce said that she would like to see a no mow zone between the area called out as the bank and the existing beach. James Trainor clarified between the lower stone wall and the house would be a good no mow zone, as the previous erosion had been a problem and in the event in a heavy rain this would still be a concern. George Reilly felt the amount of plantings proposed was significant, but that it could be extended towards the wall. John Jannell said that during the onsite the ivy and limit of work were addressed, and George Reilly asked that they go on site to establish the limit of work accordingly. James Trainor asked about the green plastic retainers, whether or not they would remain, and what the slope was on site. George Reilly explained they would be coming out, and the slope was 3 to 1, to phase the bottom and lower the top. James Trainor asked about the proposed height of the lower wall, and George Reilly said 18 inches. James Trainor clarified that the current wall was roughly 12", and Judith Bruce asked if the lower wall would be mortared. George Reilly confirmed it would not be mortared, and the upper wall would be mortared due to its proximity to the foundation. Judith Bruce asked if the

size of the granite steps had been determined, and George Reilly stated it would be around 4 ½ feet. Judith Bruce asked that it remain at the existing 3 feet. Jamie Balliett asked if the no mow zone would be considered, and George Reilly said he would speak with his client to determine which area would be best for this zone. Jamie Balliett asked that this no mow zone be delineated. George Reilly suggested a split rail fence, and Judith Bruce also recommended a living fence. Judith Bruce stated that the Commission did not want to thwart the usage of the beach, but that this area would be best to be restored. George Reilly asked for the hearing to be continued to April 17, 2012 to speak with his client and make the necessary revisions.

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

**VOTE**: Unanimous

#### **Restoration Plan**

Vivian Robinson, 7 Wildflower Lane. by Wilkinson Ecological Design, Assessor's Map 23, Parcel 22. The proposed restoration plan for work performed without permits. Work has occurred within Land Subject to Coastal Storm Flowage, within a Wetland, and within 50' of the Edge of Wetland. Jen Exner of Wilkinson Ecological Design and Jonathan Arce of Classic Landscaping were present. Jonathan Arce apologized to the Commission for the work that was done, and explained that he was at the hearing so that the situation could be rectified. Judith Bruce summarized that the issue was for work done on the applicant's property and on town property, and Jen Exner went over the scope of the proposed restoration plan, stating that any driveway constructed within town property would be removed and the new driveway reconfigured accordingly. Judith Bruce asked about the driveway shown versus what had been approved, and Jen Exner explained that the applicant wanted to keep the shell driveway installed. Judith Bruce was concerned because the proposed driveway on the approved Felco plan was a grass driveway. Jen Exner suggested that the driveway be reconfigured to not continue to cause disturbance to the area, while at the same time eliminating driveway from Town property. Jen Exner explained that the applicant did not want to keep the driveway access to Honeysuckle Lane, and Judith Bruce asked why the area continued to be mowed. Adrienne Pfluger was concerned that the area now was bare of vegetation, and Jen Exner said the applicant had mentioned future plans to plant the driveway area. Judith Bruce asked that this planting be shown on a revised plan. Jen Exner explained that the swale was created to help rectify water collection on the road. Judith Bruce clarified that the area pushed in to create the swale would be replanted accordingly, and Jen Exner explained a small basin would be constructed including a berm area to displace collected water. Judith Bruce asked about the maintenance required to maintain this basin area, and Jen Exner explained the protocol would be to have monitoring scheduled, similar to vegetation projects executed. James Trainor asked to revisit the grass driveway, and brought up the need for access to the septic system for pumping. James Trainor was concerned about the overall expansion of the driveway into the 50' buffer zone, and asked if it would be moved outside of the 50' buffer. Jen Exner clarified the previous driveway location, and showed that the new driveway would be outside of the 50' buffer zone. Judith Bruce asked that the turnaround area be reduced to 10'. Judith Bruce asked if a fence had been considered to delineate the properly line, and Jen Exner felt the property owner would be receptive to the idea. Jamie Balliett asked about the swale area regarding the construction of the

berm, and whether or not water will be stationary within the pool resulting in the creation of a vernal pool. Jen Exner felt it would drain and could be created accordingly, and had put the berm on the plan to see how the Commission would respond to the construction of this type of drainage method. Judith Bruce asked if the swale would be on Town property or on the cranberry bog owner's property, and Jen Exner thought it would be created on Town property, though she was not sure. John Jannell reminded the Commission that this work was being done under an Enforcement Order, and advised the applicant against the construction of a berm without stormwater calculations done by a professional engineer. John Jannell was concerned about creating an engineered drainage solution on the Town property without a proper filing. Jamie Balliett asked if a formal NOI should be filed for the berm, and John Jannell said if the applicant was concerned about stormwater drainage onto Town property that it come under a more formal filing. Jamie Balliett asked about the description of the NOI, and John Jannell recommended that the Commission focus on the disturbance and the restoration plan. Judith Bruce suggested that the dirt be replaced carefully, and John Jannell suggested the cut be restored through planting or siltation barriers. John Jannell recommended that the area be established to its original state through this filing, and Judith Bruce asked that a fence be installed to delineate Town property. Judith Bruce was concerned about the work being performed in the back yard outside of the limit of work, and wanted to ensure that the limit of work be respected. Judith Bruce asked John Jannell to prepare fines for the illegal work performed, and suggested that bonds also be provided for the restoration plantings. James Trainor asked if the road layout was accurately depicted on the site plan, and Jen Exner felt the edge of pavement was accurately shown on the Felco engineering plan. Judith Bruce asked if Felco engineering should return, and John Jannell felt the comments proposed ensured that the town property was not maintained by the homeowner. John Jannell asked that the work done in the back yard as well as the grass drive be incorporated into a revised Restoration Plan, as well as the option for a fence. John Jannell recommended that a date certain be established for the work to be complete. John Jannell asked that a revised site plan for the current open Order of Conditions thus providing a clear record of the work to take place. Jamie Balliett asked if the plantings would be located on Town property, and asked that stormwater engineering be completed to determine the best method for drainage. Judith Bruce was concerned that this would delay the restoration of the site, and Jamie Balliett asked when the plantings would be installed. Jonathan Arce said the plants would be installed upon the Commission's approval. Jamie Balliett was concerned that the stormwater issues would not be addressed right away, and Judith Bruce brought up that prior to the creation of the ditch, there was not a drainage concern. Judith Bruce agreed with John Jannell that the drainage swale should be under a separate filing, and Jen Exner suggested a condition on the revised plan that the area would be replanted accordingly. James Trainor asked about installing a fence to ensure that the plantings were not compromised, and John Jannell stated that while on site there was evidence a of barb wire fence. Jonathan Arce said there was no additional barb wire found. Judith Bruce asked if any replanting would be done on 7 Wildflower, and Jen Exner said a majority of the plantings would be on the Town property, but there would be plantings done on 7 Wildflower Lane. Judith Bruce asked about the native area to be used for recreational usage, and Jen Exner said that according to her records, it was always a grass laid area. John Jannell recalled that the front area was predominantly lawn, and the tree removal was on Town property.

Jonathan Arce confirmed that cedar trees had been removed 5 feet from the house. Judith Bruce asked about planting the proposed grass area with trees to delineate the driveway area. John Jannell asked if the drainage pipe was encountered while working on site, and Jonathan Arce explained there was no excavation on site, and the pipe was not discovered. James Trainor was concerned about driving on the proposed lawn area, and Judith Bruce suggested a living fence or additional shrubby vegetation. Jen Exner felt she would be able to provide a revised plan within a week's time, but was not sure about the time line for Felco Engineering. John Jannell asked that the Commission continue the hearing for two weeks to April 17, 2012.

**MOTION**: A motion to continue the hearing to April 17, 2012, was made by James Trainor and seconded by Bob Royce.

**VOTE**: Unanimous

The Commission voiced their concern that they wanted a date certain to be shown on a revised plan. The Commission asked that the date certain be May 15, 2012.

#### **Revised Plan**

Peter & Susan Worley, 26 Deer Run. The proposed construction of a 4-bedroom dwelling and an attached garage has been revised to change the configuration of the building with an increase in total square footage of 574 square feet. Work will occur within 100 'of the Top of a Coastal Bank and Land Subject to Coastal Storm Flowage. David Lyttle of Ryder & Wilcox explained that Wilkinson Ecological Design had been working on site for the invasive species removal and soil stabilization. David Lyttle went over the proposed changes to the plan, explaining that the height of the building had not changed, but the overall appearance of the building had been altered. David Lyttle said the view from the resource areas would not significantly change from the originally proposed building. Adrienne Pfluger asked if the approved planting plan would be sued, and David Lyttle explained that the approved Land Management plan for the Order of Conditions as well as the limit of work would remain the same. Adrienne Pfluger asked about shielding from the abutting properties, and David Lyttle said those trees would remain. Judith Bruce recalled that this project was highly debated, and that the proposed house, although very large for the property, was offset by the land management plan. Judith Bruce felt the newly proposed house was more visible from the lot, and was too much for the area. David Lyttle asked why the view would change as the elevations were not being altered, and Judith Bruce felt a well-glassed building was very visible from the resource areas. David Lyttle felt the house proposed was modest compared to the abutting properties, and felt 222 square feet of habitable space with 352 square feet of a porch was not a dramatic change of usage within the recourse areas. Bob Royce said the newly proposed building was a larger structure than what the Commission had already felt was large for the area, and Jamie Balliett recalled that the initial plan showed a house much larger than the house approved. Jamie Balliett felt that this property was shown on the diagram as being visible from multiple points of the resource areas. David Lyttle agreed that the house would be more evident from the resource area, but showed a diagram of the approved architectural design versus the newly proposed design. David Lyttle suggested that an Amended Order of Conditions could be filed for which would include additional screening trees. John Jannell reminded the Commission that a condition under the local bylaw which said that more trees may be required under the current Order. Judith Bruce agreed that the condition

was present, but that certain trees to be planted will not provide screening until 20-30 years have gone by. James Trainor was concerned about the overall insert shown with the proposed building was not to scale, and David Lyttle explained that the drawing was a facade to show how the building may look. Jamie Balliett felt the scope fell under an Amended Order of Conditions versus a Revised Plan. Judith Bruce was not concerned about the filing but rather what was being proposed, and was not receptive to an increase in square footage. Adrienne Pfluger explained that she would like to revisit the site to see the plantings. David Lyttle explained that he would like to return to the applicant and the architect to determine the best approach. David Lyttle asked if the square footage was maintained from the approved Order of Conditions, but that the style of house changed to a gambrel, would this be able to be filed under a Revised Plan, still working within the approved limit of work. Judith Bruce brought up that Jamie Balliett explained that this was going in the "wrong" direction, and recommended that the applicant proposed a reduction in square footage such as the loss of the garage. James Trainor felt the side view was a better look, but the view from the front was much more visible from the resource areas. David Lyttle asked for direction for the applicants, and Jamie Balliett suggested that if it stayed the same size and did not further encroach on the resource areas that it may be a possibility. Jamie Balliett was concerned about the amount of glass proposed, and Adrienne Pfluger said she would be amenable to consider this if it was the same size. Bob Royce was concerned about the amount of building which would now be evident from the resource area. James Trainor asked about the wall proposed on the side of the driveway and suggested that it was an improvement from the approved Order. David Lyttle asked that the revised plan be withdrawn from consideration.

## **Certificate of Compliance**

<u>Susan Wright (1994), 24 Uncle Vick's Way</u>. The request for a Certificate of Compliance for an Order of Conditions for the construction of a Title V septic system. John Jannell reported that the Order was substantially in compliance.

**MOTION**: A motion to issue the Certificate of Compliance was made by Jamie Balliett and seconded by James Trainor.

**VOTE**: Unanimous

#### Discussion

George & Carolann Najarian, 33 Bufflehead Lane. The proposed changing of Contractor for the replacement of an existing culvert (located within the Bufflehead Lane layout and the Illiff property at 33 Bufflehead Lane) and the removal of cattails and phragmites from the pond and bordering vegetated wetland on the Najarian property at 123 Freeman Lane. Stephanie Sequin of Ryder & Wilcox passed out a copy of the approved site plan along with the approved land management plan. Stephanie Sequin went over the file history of the project from 2009, which was the replacement of a culvert, creation of a headwall, and the removal of cattails and phragmites from within the pond. Stephanie Sequin brought up the special conditions within the Order of Conditions which asked that if the contractor was to change, they must come in front of the Commission. Stephanie Sequin introduced Jeff Castellani of Lycott Environmental Keith Johnson of Billingsgate Land Management who wanted to take over the project. Stephanie Sequin asked that the method of removal for the cattails by using a hydrorake which allows a piece of equipment to remove the cattails from the water.

Stephanie Sequin also asked that the total band of 20' of cattail removal be encompassed under one process as opposed to the two part process outlined in the Order. James Trainor asked what percentage of work had been completed from the approved plan, and Stephanie Sequin said none of the work had commenced. Judith Bruce was concerned about removing a native species from a pond, and the overall purpose of the project. John Jannell clarified that the work proposed was for a change in technique, a change in contractor and a change in property owner. John Jannell advised the Commission that a new NOI should be filed. Judith Bruce asked if the culvert work had been done, at Stephanie Sequin explained the applicant only wanted to do the work on the headwall side. John Jannell asked about the pen boards, and Stephanie Sequin explained they were taken off of the plan. Judith Bruce asked if there was any salt water found in the pond, and John Jannell said the water testing reports were in the file for review. John Jannell explained he had met with Jeff Castellani and felt he was experienced in this work and the Commission may want to hear from him. However, John Jannell pointed out that with a new filing for the work, DEP would have a chance to comment on the new plan and technique. Jeff Castellani went over the methodology of the hydrorake, and Judith Bruce asked if this method also removed phragmites. Jeff Castellani explained that it would be difficult to remove the phragmites through this method, but that hand wiping and treatment must take place in order to remove the phragmites. Adrienne Pfluger asked for additional time to look over the paperwork, and Jamie Balliett asked if there was sufficient water for this process to take place. Jeff Castellani said there was sufficient water within the area. Jamie Balliett asked if multiple deposit locations for the machine would be used, and Jeff Castellani said the pond was small enough to only require one drop location. Judith Bruce asked for clarification that the machine would be deposited within the pond, and Jeff Castellani explained a crane would put the machine in the water from Freeman Lane. James Trainor asked if the plan was the same as the approved plan in 2009, and whether or not the vegetation had spread. Stephanie Sequin said the plan had not changed, and no new survey to see if there was any further growth had been done. Jamie Balliett clarified that it would be an 18" draft, and Jeff Castellani explained the goal was not for the entire removal, but that it would be effective. Adrienne Pfluger asked if the narrative schedule would be the same. Stephanie Seguin explained that the removal of cattails would be condensed from two years to one year. Jeff Castellani explained that mid-October would be when the work commenced, when the majority of wildlife are not as active. Judith Bruce was still concerned about the scope of the work for this type of vegetation removal, and James Trainor suggested another site visit to go over the scope of the work. Judith Bruce suggested a new filing, and asked whether or not the overall scope of the work would change or a new contractor would take over the project. Stephanie Seguin explained the Order was valid until January of 2014, and outlined in the special conditions the separation of the two 10' areas to be combined into one process. Judith Bruce felt that although she was concerned about the project, this was still a valid approved Order. Bob Royce confirmed that the culvert would not be done, and Stephanie Seguin said yes. John Jannell was concerned that the plan of record had a specific type of methodology which was now changing, and showed the culvert work. John Jannell recommended at the very least a Revised Plan be brought in showing these changes, committing the applicant to the specific changes which have been outlined during the discussion. Stephanie Sequin asked about revising the 2008 management plan, and John Jannell said yes. Jamie Balliett asked about receiving

DEP input regarding this methodology, and John Jannell explained that a Revised Plan would not go to DEP for review. Jamie Balliett suggested that DEP be contacted for input to see if there would be any comments. Judith Bruce asked John Jannell to circulate the DEP comments made on the 2009 Order. John Jannell requested that the area of Phase one be quantified as a square foot calculation to determine the total amount of work to be done. The Commission discussed the potential calculations for work done versus the exceeding of the threshold. Stephanie Sequin confirmed that this discussion did not need to be continued to a date certain but rather would be scheduled as a Revised Plan when it was ready, and the Commission said yes.

#### **Administrative Reviews**

Last Heard 3/27/12 (JB1)

<u>David Reibstein, 32 Arey's Lane</u>. The proposed pruning of oak trees. Work will occur within the Pleasant Bay A.C.E.C., Land Subject to Coastal Storm Flowage, and within 100' of the Edge of Arey's Pond. Work to be done by David Gilmore. John Jannell reported that this was for pruning along the gravel area, and not around the electrical wires. John Jannell recommended approval of the application.

**MOTION**: A motion to approve this application was made by Jamie Balliett and seconded by James Trainor.

**VOTE**: Unanimous

Christopher & Jenna Sammartino, 17 Old Farm Road. The proposed removal of 2 oak trees leaning towards the house, 3 locust trees, and 1 standing dead cherry tree. Work will occur within 100' of the Edge of Wetland. Work to be done by Robb Morrison Tree Service. John Jannell reported that the trees were leaning towards the driveway, with the majority located 80 feet or more from the Edge of Wetland.

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

**VOTE**: Unanimous

<u>Town of Orleans/Parks & Beach Department, Nauset Beach</u>. The proposed digging out of steps at Nauset Beach. Work will occur on a Coastal Dune, Coastal Bank, in Land Subject to Coastal Storm Flowage, and within 100' of a Coastal Beach. John Jannell passed around site photos showing the current site conditions, stating that the sand would be displaced alongside the steps.

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

VOTE: Unanimous.

Steve Simon, 24 Beach Road. The proposed removal of fallen limbs, cutting of briars, and the removal of 2 dead trees. Work will occur within 50' of the Edge of Wetland. Work to be done by applicant. John Jannell reported the applicant was present, and went over the work outlined in the application. Judith Bruce asked if there would be remaining standing dead trees, and Steve Simon said yes. Steve Simon was concerned about additional branches coming down from the standing dead trees he would be removing. Steve Simon asked if a chainsaw could be used, and Judith Bruce told the applicant to remove the vines and trees from the area. John Jannell explained that there would be no disturbance of groundcover.

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

**VOTE**: Unanimous

Herbert Gullquist, 22 Indian Fort Hill. The proposed removal of one pine tree. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Albert Avellar. John Jannell explained that this one pitch pine was leaning over the tennis court.

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

**VOTE**: Unanimous

John Jannell reported a family conflict with the next agenda item and recused himself from the meeting and left the room.

Lee Klotz, 8 Sea Breeze Lane. The proposed removal of 1 Norway Maple and the pruning of 1 Hawthorn and 1 Oak tree. Work will occur within 100' of the Edge of Wetland and the Cape Cod Bay A.C.E.C. Work to be done by All Seasons Landscaping. Judith Bruce reported that she and Steve Phillips, Vice-Chairman, conducted the site visit and recommended approval.

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

**VOTE**: Unanimous.

### Chairman's Business

Approval of the Minutes from the Meeting on March 27, 2012 The Commission asked to hold the minutes until the necessary corrections could be made.

The meeting was adjourned at 10:33am.

Respectfully submitted.

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department