

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, June 5, 2012

PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman Bob Royce; James Trainor; Jamie Balliett; Jim O'Brien (Associate Member); John Jannell, Conservation Administrator.

ABSENT: Adrienne Pfluger.

8:30 a.m. Call to Order

Continuations

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. Mark Budnick of the Orleans Highway Department and Jessica Janney of GHD, Inc. were present. Mark Budnick went over the changes to the proposed repair, stating that in part this project was due to the public concern about the condition of the existing pipe. Mark Budnick noted that the pipe underneath the roadway was in good condition. Mark Budnick asked the Conservation Commission for approval of an Emergency repair of the pipe due to the eroding of the bank and current condition of the exposed portion of the pipe on the Salt Marsh side. The eroding bank itself would be treated as well, with a filter fabric installed and covered with a combination of conservation mix seed and rock. Mark Budnick explained that this process of an Emergency Repair would be a temporary solution until a more permanent solution could be addressed. Judith Bruce showed a picture of the site, and stated that this temporary solution would be best until the Town was able to determine the best long term solution to this culvert. Judith Bruce suggested that discussions between the Water Quality Task Force and the Conservation Commission take place to ensure there would be additional public input. Steve Phillips inquired about the limit of work, and whether or not excavation would occur. Mark Budnick felt that excavation would not be necessary, but that material would be brought in and back-filled to cover the filter fabric and rock. Judith Bruce asked if any work would occur on the Meadow Bog side, and Mark Budnick said no. Mark Budnick felt that the upland side of the culvert could be plugged during this repair, as the work itself should not take more than one business day to complete. John Jannell explained that while Mark Budnick had mentioned an Emergency Repair, the applicant had submitted a Notice of Intent, but had scaled back the amount of work proposed in the initial Notice of Intent. Any approval granted would be to issue a standard Order of Conditions.

MOTION: A motion to approve the plan dated May 31, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

Last Heard 5/1/12

Lawrence P. & Anne P. Gaine, 6 Marshwind Lane. by Ryder & Wilcox, Inc. Assessor's Map 31, Parcel 14. The after the fact construction of a larger dwelling than previously approved and the after the fact clearing of a path in a Salt Marsh. Work

occurred within 50' of a ditch, on a Salt Marsh, on Land Subject to Coastal Storm Flowage, and in the Inner Cape Cod Bay A.C.E.C. David Lyttle of Ryder & Wilcox explained that a planting plan had been developed in conjunction with Wilkinson Ecological Design to maintain the existing path through the marsh with plantings incorporated. David Lyttle provided the extent of the unapproved deck measurement as previously asked by James Trainor which was 427 square feet. David Lyttle reported that Natural Heritage wrote a letter dictating that an adverse impact would not occur, and passed around pictures showing the existing deck, and that the proposed deck expansion to be cantilevered. David Lyttle explained the revision to the plan also included the pruning of an oak and cedar trees surrounding the house. Steve Phillips asked if the applicant had considered an expansion of deck area outside of the 50' buffer. David Lyttle said the proposed deck was in an area the applicant had used outside of the kitchen area, and that no additional damage to the ground would occur through this expansion. Steve Phillips inquired about the planks along the path, and whether or not they would be removed. David Lyttle said the planks would be removed, and would be agreeable to a condition on the Order of Conditions as such. John Jannell asked about the size of plants proposed, and asked if they would be 1 gallon each, and David Lyttle said yes. John Jannell felt the pruning could be addressed in the Order of Conditions, and asked that the applicant bring in the old Order of Conditions to be closed out as this new filing was an accurate reflection of the current site conditions, and David Lyttle agreed. Steve Phillips clarified that the new Order of Conditions would act as a replacement for the older Order, and John Jannell said yes.

MOTION: A motion to approve the plan dated May 17, 2012, with the conditions that the boards be removed from the marsh was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

Notice of Intent

John Cooper & Lynne Eickholt, 39 Old Duck Hole Road. by Ryder & Wilcox, Inc. Assessor's Map 37, Parcel 66. The proposed removal of invasive species, planting of native species, and establishment of a view corridor. Work will occur on a Coastal Bank, on Land Subject to Coastal Storm Flowage, and in the Pleasant Bay A.C.E.C. Jen Exner and Tabitha Kaigle of Wilkinson Ecological Design were present. Jen Exner went over the existing conditions, citing that there was no understory present on site outside of invasive species. Jen Exner explained that the overall proposed management plan would be to have a stratified native herbaceous woodland. Judith Bruce asked if any removal of trees would occur outside of the view corridor. Jen Exner said the protocol for tree removal would be for the entire buffer zone to create a healthier community without changing the aesthetic feel of the area and allow the healthier trees to flourish. Judith Bruce inquired about the specific percentage of trees to be removed, and Jen Exner explained Eastern Red Cedars whose crown was less than 20-30% were to be removed. Jen Exner said she would like to request the initial removal of the invasive species, followed by removing the dead and dying trees located within the buffer zone. Judith Bruce confirmed that the first step would be the removal of the invasives, with a second site visit being conducted by the Conservation Commission once these species were removed, and Jen Exner agreed. Steve Phillips asked about the Black Cherry tree at the edge of the view corridor proposed to be cut for a view window. Jen Exner explained that there were two Black Cherry trees on site;

the one referenced in the Land Management Plan, not shown on the site plan, and closer to the house, would be removed due to its health. John Jannell passed around a series of photos of the existing site conditions, and felt the project lent itself more as a restoration plan as opposed to a view corridor plan. John Jannell asked about the overtopped cedar trees, and was concerned about the canopy species to remain after the establishment of the view corridor. John Jannell asked that the removal of the 20-30% crown covered Eastern Red Cedars be limited to the view corridor until the Conservation Commission determined through a site visit that this removal would not adversely impact the resource areas and the view from the resource area to the house. Judith Bruce concurred, and suggested that the removal of the invasive species would demonstrate the need for further removal of Eastern Red Cedars to be replaced with new Eastern Red Cedars. Jen Exner explained there was a provision within the proposal to include adding Holly and Eastern Red Cedars, and suggested that their exact locations be adjusted to provide the best survivability once the invasives were removed. John Jannell brought up the DEP comments regarding the automated irrigation to be installed, and Jen Exner felt the representative wanted to know that the irrigation system to be installed would not be an underground system, which it would not. Steve Phillips felt the irrigation note in the Land Management Plan was sufficient versus conditioning the Order about the irrigation being above-ground. John Jannell suggested a condition which stated that after the removal of the invasive species takes place, and the canopy species are thinned for view and health, that the Commission conduct an on-site to determine the canopy species needed to be re-installed. Jamie Balliett felt a specific condition outlining the Commission's needs should be provided, and asked how many of the 80 trees on site were to be removed. Jen Exner estimated the proposed Eastern Red Cedars to be removed would be minimal within the view corridor. Judith Bruce asked if there could be a condition that after the invasives were removed, the Commission return for an on-site to determine the amount of canopy species to be removed and replaced in kind. Jen Exner felt that once the invasive species were removed, they would be able to flag the Cedar trees to be removed between the view corridors. Steve Phillips explained the Commission's main concern was the loss of canopy. Jen Exner agreed, and wanted to ensure that larger canopied trees would be saved. John Jannell asked if the Commission wanted to grant permission to remove standing dead trees during the invasive species removal. Judith Bruce felt standing dead within the view corridor would be permitted, while standing dead outside of the view corridor should be addressed on a case by case basis. John Jannell agreed, and Jen Exner said that the view corridor on the upper corner would only permit the removal of 6 cedar trees. Steve Phillips asked about the timing of the project, and Jen Exner explained that it will be implemented starting in the late summer/early fall.

MOTION: A motion to approve this plan with the condition that the thinning of trees between the view corridors be permitted after an on-site is conducted by the Conservation Commission to determine the proposed tree removal's impact on the overall canopy after the removal of the invasive species was made by James Trainor and seconded by Jamie Balliett.

VOTE: Unanimous

Charles Silbert, 33 Gesner Road. by East Cape Engineering, Inc. Assessor's Map 42, Parcel 89. The proposed removal of an existing dwelling and cesspool, and the construction of a new single family dwelling, garage, driveway, and septic system. Work will occur within 100' of the Edge of Wetland, Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. Tim Brady of East Cape Engineering and Charles Silbert, applicant, were present. Judith Bruce asked when the existing house was built, and Charles Silbert estimated 1960. Jamie Balliett asked how many bedrooms the existing house was, and Charles Silbert thought there were two existing bedrooms. Steve Phillips asked why the underground utilities were not located within the new driveway, and Tim Brady said the new driveway longer route, and would require more vegetation to be removed versus the proposed location. Steve Phillips asked about trees to be removed, and Tim Brady said no trees would be removed during the taking down of the existing house. Tim Brady explained that once the building was removed, the limit of work would be moved upward to the Edge of the A.C.E.C. boundary. John Jannell asked if there was any lawn within the A.C.E.C., and Tim Brady said no.

MOTION: A motion to approve the plan dated May 9, 2012, was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous

Certificate of Compliance

David Hobson (2009), 58 Pershing Lane. The request for a Certificate of Compliance for an Order of Conditions for the construction of 2 additions to an existing dwelling and mitigation plantings. John Jannell reported that the construction, invasive species removal, and mitigation plantings were in substantial compliance and the Certificate of Compliance could be issued.

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

VOTE: 5-0-1; Jim O'Brien abstained.

Revised Plan

Joseph Boughan, 4 Cole Place. The proposed construction of a pool has been revised to change the location of the proposed pool fence and to replace the cedar tree removed during construction. Work will occur within 100' of the Edge of Wetland. Laura Schofield of Schofield Brothers of Cape Cod and Joseph Boughan, applicant, were present. Laura Schofield explained the Revised Plan came in as a result of modifications to the proposed pool fence, the location of the pool, and the cutting of an Eastern Red Cedar tree without permission from the Conservation Commission. Joseph Boughan addressed the Commission and apologized for the illegal removal of the Eastern Red Cedar, and asked for the Commission's acceptance of the revised plan which would provide two 8' Eastern Red Cedars in addition to other plantings as needed. John Jannell went over the file history, stating that the Eastern Red Cedar's cutting observed during an on-site conducted by the Conservation Administrator. Laura Schofield clarified that another Revised Plan would have to be submitted reflecting 2-8' tall Cedar trees to be planted as opposed to the either 2-8' trees or 1-12' tree to be planted as noted on the current revised plan. Laura Schofield showed the Commission the additional changes made to the plan, including but not limited to the location of the pool safety fence and reconfiguration of the staircase. Judith Bruce asked if it would be

able to be removed from the 50' buffer zone, and Laura Schofield said that portion of the plan would not be changing. James Trainor asked if the fence ran along the deck to connect to the house, and Laura Schofield said that due to pool safety requirements, there was a preventative measure underneath the deck which does not allow a person from accessing the pool without going through a gate. Laura Schofield noted that the safety fence was migrating towards the mitigation area, and reminded the applicant that it must remain to the approved plan. Jamie Balliett clarified that a Revised Plan would be submitted in lieu of the meeting, and Laura Schofield said she wanted to clarify the Commission's wants for tree replacement and ensure the additional proposed changes were satisfactory. Laura Schofield requested a more vertical face lower than the pool deck due to the installation of the pool lower than anticipated. Judith Bruce asked for clarification of the location of the 1' wall, and Laura Schofield indicated on the plan where the proposed 1' wall would continue for salamander protection. John Jannell asked if this was around the concrete pad, and Laura Schofield said yes. James Trainor asked why the cedars being installed on the plan were not in the original location of the cut Cedar. Steve Phillips asked if there was enough space for the Cedars within the proposed location, and Laura Schofield said yes. The Commission discussed the locations of the proposed plantings, and Steve Phillips asked if the mitigation plantings and invasive species removal had taken place. Laura Schofield said the invasives had been removed and native species replanted. Judith Bruce felt two-8' Cedar trees would be better than 1-12' Cedar, and Bob Royce felt there would be a better chance of survivability. Judith Bruce felt the 2-8' tall Cedars in addition to shrub species, as well as the extension of the 1' critter fence, would be sufficient. Judith Bruce reminded the applicant that the people working on site should have a concrete idea as to the approved work to be done on site. John Jannell asked for an updated plant key as well as the construction protocol to create an accurate record. John Jannell asked if the Commission would require a timeline, and asked if the landscaper was on site. Joseph Boughan said the landscaper was on site, and could install the proposed plantings within a week's time. The Commission discussed the implementation timeline, and felt the Conservation Administrator could work with the engineer to determine that the newly Revised Plan addressed the Commission's concerns.

MOTION: A motion to approve this Revised Site Plan subject to the proposed revisions including 2 8' tall trees, additional mitigation plantings, a new wall on the deck side, a moved safety fence, and an extension of the 1' critter wall, was made by Jamie Balliett and seconded by Jim O'Brien.

VOTE: Unanimous

Jim O'Brien left at 9:27am

Administrative Reviews

Mark Kritzman, 204 Barley Neck Road. The proposed removal of a dead cedar tree. Work will occur within 100' of the Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and the Pleasant Bay A.C.E.C. Work to be done by Uncommon Ground. John Jannell stated that this was a standing dead cedar adjacent to the road.

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

VOTE: Unanimous

Lindsay Iliff, 33 Bufflehead Lane. The proposed removal of a dead pine tree. Work will occur within 100' of the Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and Edge of Wetland. Work to be done by S&L Tree services.

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

VOTE: Unanimous

Laura Arnold, 18 Towhee Lane. The proposed trimming of the understory of 4-5 trees. Work will occur within 100' of the Edge of Wetland and the Edge of Deep Pond.

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

VOTE: Unanimous

Request to Use Conservation Properties

Windmill	Celebrate our Waters Weekend	9/22/12 & 9/23/12
OPC	10am-12pm	10-30 People

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

VOTE: Unanimous

Judith Bruce announced that it was turtle mating season and asked for the public to be aware of turtles crossing roadways and walkways.

Chairman's Business

Approval of the Minutes from the Meeting on May 22, 2012

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

VOTE: Unanimous

Other Member's Business

Administrator's Business

John Jannell to report on the status of 64 Tonset Road.

John Jannell reported that the applicant completed the reduction of the deck and mitigation plantings within the June 1, 2012 deadline. The deck was reduced to an area of 270'+/-, and mitigation plantings were installed per plan. Jamie Balliett asked if the light posts were removed, and John Jannell passed around photos illustrating that only one light post remained.

The Meeting was adjourned at 9:33am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department