

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, June 19, 2012

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R. Kelly, Asst.
ORLEANS TOWN CLERK

PRESENT:: Judith Bruce, Chairwoman; Bob Royce; Adrienne Pfluger; James Trainor; Jamie Balliett; Jim O'Brien; John Jannell, Conservation Administrator.

ABSENT: Steve Phillips, Vice-Chairman.

8:30 a.m. Call to Order

Notice of Intent

Dean & Edna Wiegers, 9 Larboard Lane. by Ryder & Wilcox, Inc. Assessor's Map 36, Parcel 114. The proposed removal of an existing deck, and the construction of a screened porch and pergola. Work will occur within 100' of the Edge of 2 Wetlands. Russ Holden of Ryder & Wilcox went over the existing conditions on site, passing around a revised plan which included the removal of 5 locust trees to be replaced with 3 red maples and one white oak. Bob Royce pointed out that the plan showed 6 locust trees to be removed. Russ Holden said the locust closest to the bog was not proposed at this time, but would be removed if the Commission permitted its removal. Judith Bruce pointed out that the pachysandra was currently under control, and the Vinca would be good to eliminate as mitigation for the site. Russ Holden showed the 550 square foot mitigation area to be planted with a wildflower mix, to be mowed once a year to contain woody vines. James Trainor inquired about the proposed drywells, and Judith Bruce asked if they would be sufficient to contain the runoff. Russ Holden explained that the pipes which directed runoff from the driveway and roof would be rerouted and cut off. Adrienne Pfluger asked about the swing set in the buffer zone, and whether or not the plantings could be extended to include the area where the swing set was located. Russ Holden said it would be used in the summer and then removed, and the mitigation area could be extended to include this area. Judith Bruce suggested a date certain for the swing set to be removed, and Russ Holden said he was fine with that condition. Judith Bruce asked if the screened porch to be constructed would be just a screened porch without walls. Russ Holden explained that there would be no permanent walls, and this would be an area to sit outside without being bothered by insects. Jamie Balliett inquired about a 6' area to prevent mowing within the wildflower mitigation area, and whether or not it would be delineated by a living fence or boulders. Russ Holden said he would speak with the applicant about a semi-permanent line to delineate this area, and at the same time ensure that the view to the resource area was not obstructed for the applicant. Judith Bruce felt that while work was being proposed within the 50' buffer, the overall plan provided improvement to the area for wildlife. John Jannell asked if the plan would be revised and reviewed at a later date, and Russ Holden asked that the hearing be continued to July 24, 2012, to speak with the applicant about the proposed changes. Russ Holden reiterated that the Commission wanted to see the line of delineation, a date certain for the removal of the swing set, a note about the abandonment of the pipes, the removal of the locusts and the replacement trees, and the extension of the mitigation area to include the area underneath the existing swing set. The Commission concurred, and Russ Holden asked if all of the 6 locusts could be removed. John Jannell explained it was ultimately up to the applicant to propose what they would want to remove and replant at this time.

MOTION: A motion to continue the hearing to July 24, 2012, was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

Request for Determination

Janine M. Corsano, 100 Namequoit Road. by Ryder & Wilcox, Inc. Assessor's Map 69, Parcel 51. The proposed expansion of an existing deck, removal of an existing roof over a drive-under garage, removal of 2 oak trees, and construction of a deck over a new flat roof. Work will occur within 100' of the Edge of Wetland. Stephanie Sequin of Ryder & Wilcox, went over the existing conditions, and clarified the location of the new proposed deck. Jamie Balliett inquired whether there would be steps up to the deck, and Stephanie Sequin explained that the roof over the garage would be taken off, lowered, turned into a flat roof, and the deck constructed in its place. Stephanie Sequin said the dug in stairway from the lower level of the driveway to the upper area would include the addition of a handrail to make it sturdier. Judith Bruce asked if the steps would be eliminated, and Stephanie Sequin stated that they would be replaced with dug in stairs as needed. John Jannell explained that in front of the Commission today was a Request for Determination. A vote of a negative determination to allow the work to be performed, a vote of a positive determination would require the applicant to file a Notice of Intent for the work proposed in the buffer. Stephanie Sequin reiterated that this work would be on top of an existing dwelling, with one post to be installed between the retaining wall and existing deck. Adrienne Pfluger asked about the trees to be removed, and John Jannell explained that the tree work had been changed to the pruning of the two oaks. Judith Bruce said that the proposed deck was within the 75-100' buffer, and provided an opportunity for mitigation and a limit of work. Stephanie Sequin explained there was a silt fence proposed along the driveway. James Trainor inquired as to the size of the deck, and Stephanie Sequin said the dimensions were 10x24 (240 square feet) and 10x16 triangular (80 square feet) for a total of 320 square feet. James Trainor asked how it would be determined if the deck was built to plan, and John Jannell explained that the engineered site plan would be part of the record should a site visit be conducted for additional work. Judith Bruce felt while the Commission would not have a problem permitting this work, however, under an RDA neither an inspection is made nor an acknowledgement of contractor received. The vote of negative determination would not allow the Conservation Administrator to ensure that the work was built per plan. John Jannell confirmed that there would be no final inspection, as the owner would not be under Order and they would not need a Certificate of Compliance. Adrienne Pfluger asked how the project would be signed off as having been completed, and John Jannell explained it would not be signed off at the end but rather a negative determination today would be a permit for the specific work proposed only. Bob Royce and Jim O'Brien felt the work proposed was a non-event and could be approved under an RDA. Jamie Balliett asked about construction notes 5 & 6 on the plan and whether or not they were valid for the proposed work. Stephanie Sequin explained there would be excavated material on site from the post installation, and it would be carried over to the westerly side. Janine Corsano, the applicant, asked what the Commission meant by mitigation. Judith Bruce explained that when work was proposed within the buffer zone to the resource area, the Commission often looked for some type of improvement to the area through the removal of invasives such as the English ivy on site or habitat enhancement. Janine Corsano said she would be willing to remove the English ivy from

the area. James Trainor made a motion and Bob Royce seconded the closing of the hearing to further discussion.

MOTION: A motion to issue a negative determination was made by Bob Royce and seconded by Jim O'Brien.

VOTE: 3-3-0; Motion failed to obtain the majority vote to pass, applicant to file a Notice of Intent.

Request for Extension

Phillip & Claire Ruggieri, 106 Beach Road. Request for a 1 year extension to complete work under this Order of Conditions. Judith Bruce asked if the request was due to the property recently changing hands. Stephanie Sequin said yes, and that the applicant needed the additional time to complete the planting plan and construction on site.

MOTION: A motion to issue this extension was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous

Revised Plans

Vivian Robinson, 7 Wildflower Lane. The proposed acceptance of a Revised Site Plan for demonstrating the changes to the original Order of Conditions in lieu of the recent Enforcement Order and Restoration Plan. John Jannell explained that this revised site plan was requested by the Orleans Conservation Department to provide an accurate record of the work already done including the relocation of the driveway and mitigation plantings.

MOTION: A motion to approve this Revised Plan was made by Adrienne Pfluger and seconded by Jim O'Brien.

VOTE: Unanimous

65 Old Colony LLC, 65 Old Colony. The proposed construction of a single office building and mitigation plantings has been revised to include an exterior stairway; the location of underground utilities shown on the site plan; the removal of 6 trees; the planting of 4 red maples; and the lowering of the elevations of the driveway and building resulting in the moving of the limit of work 9' to the east. Work will occur within 100' of the Edge of Wetland. Stephanie Sequin explained the changes to the revised plan, and Judith Bruce inquired whether the change in grading would result in water damage to the building. Stephanie Sequin explained that the water would be shed off and directed away from the building without compromising the resource area. John Jannell reminded the Commission that a comprehensive planting plan was also in place for this site, and the area proposed to be regraded would not impact the mitigation areas.

MOTION: A motion to approve this Revised Plan was made by Jamie Balliett and seconded by Jim O'Brien.

VOTE: Unanimous

Certificate of Compliance

Kevin Smith & Molly Jenks (2005), 25 Kenneth Lane. The request for a Certificate of Compliance for an Order of Conditions for the reconstruction of an existing single-family dwelling on an existing footprint with additions including a garage/barn; the installation of a new septic system; the pumping and removal of an existing septic system; and

restoration plantings. John Jannell reported the project was in substantial compliance, with an Administrative Review to be heard later in the hearing for invasive plant maintenance.

MOTION: A motion to approve issue this Certificate of Compliance was made by Jim O'Brien and seconded by Jamie Balliett.

VOTE: Unanimous

Robert & Robin Bardwell (2007), 14 Pond View Road. The request for a Certificate of Compliance for an Order of Conditions for the installation of a septic system to serve an existing dwelling; the pumping and filling of an existing cesspool; and completion of a Restoration Plan. John Jannell stated that the leaching field, as a condition, was revegetated and well established.

MOTION: A motion to issue this Certificate of Compliance was made by Adrienne Pfluger and seconded by Jamie Balliett.

VOTE: Unanimous

Administrative Reviews

Kevin Smith & Molly Jenks, 25 Kenneth Lane. The proposed annual clean-up of invasive species. Work will occur within 100' of the Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. Work to be done by applicant.

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

VOTE: Unanimous

Daniel Schrag, 11 Pond Road. The proposed removal of 2 oaks, 2 pines, and poison ivy. Work will occur within 100' of the Top of Bank and the Pleasant Bay A.C.E.C. Judith Bruce asked if the area was well treed. John Jannell said yes, and the trees to be removed were within close proximity to and touching the existing structure.

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

VOTE: Unanimous

Bill Langley, 32 Jack Knife Point. The proposed repair to an existing stair including the hand digging and sistering of two new posts. Work will occur on a Coastal Bank, on Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. John Jannell explained that the two posts had been undermined, and this staircase would eventually be taken up in a future filing. Judith Bruce questioned the construction within the resource area, and John Jannell stated that this was repair of an existing structure.

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

VOTE: Unanimous

Dawson & Lynn Farber, 53 Kenneth Lane. The proposed removal of an oak tree to increase solar panel efficiency. Work will occur within 100' of the Top of a Coastal Bank and Pleasant Bay A.C.E.C. John Jannell explained that the property as a whole was well treed, but the proposed removal is between the house and the top of bank. The tree proposed to be removed would negatively impact the solar panel collection on the

roof due to shading. Jamie Balliett inquired if this was a tree proposed to be saved under the rock revetment Order of Conditions on this site, and if any trees were proposed to be planted in its place. John Jannell went through the file history and determined this was not a tree which had been singled out to be saved, and no replacement was being proposed at this time. Judith Bruce felt that the house faded well into the bank given its natural look on the waterfront side, and James Trainor was concerned that the newly installed solar panel would reflect and make the house more visible from the water. Jamie Balliett preferred that a replacement tree be offered, and Judith Bruce felt it would be difficult to screen the house from the resource area without screening the panels themselves.

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

VOTE: 5-1-0; Motion approved, Jamie Balliett opposed.

Man-Kong Tsui, 31 Ruggles Road. The proposed trimming of an existing view corridor and thinning of an oak tree. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Bartlett Tree Service. Bob Royce recalled the Scarlet Oak, and John Jannell explained the same work had been approved in 2009. John Jannell reported that the tree had been recovering from an insect infestation and was in better health and pruning work would not impact it.

MOTION: A motion to approve this work was made by James Trainor and seconded by Jim O'Brien.

VOTE: 5-1-0; Motion approved, Bob Royce opposed.

Request to Use Conservation Properties

Kent's Point	Kayak Event	7/7/12 (7/8/12 Rain Date)
Friends of Meetinghouse Pond	10-11am	30-40 People

MOTION: A motion to approve this event was made by Jamie Balliett and seconded by Jim O'Brien.

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on June 12, 2012

MINUTES: A motion to approve the minutes was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous

Other Member's Business

Administrator's Business

John Jannell reported that any change to the fine structure of Chapter 160 Orleans Wetland Protection Bylaw would have to be done under a formal Town Meeting, as the fines themselves were imbedded in the bylaw. A timeline of December to begin reviewing altering the Bylaw would allow for the change to be on the Town meeting warrant, and the Commission agreed to go ahead with such a timeline.

John Jannell reported that Sea Call Farm had a stand of Phragmites located at the bottom of the Coastal Bank, and asked that it be addressed initially through the usage

of AmeriCorps volunteers at the end of the month. John Jannell explained that the additional treatment and eventual eradication of the plant would require a filing and the hiring of licensed pesticide applicator, and asked if the Commission would like to proceed with such a project. The Commission agreed that the Conservation Properties must be held to a high standard, and did not want to be criticized for not taking care of its own properties. The Commission felt the investment of Land Management Funds would be appropriate. The Commission asked John Jannell to file an AR for the cutting of the Phragmites and solicit cost estimates for the follow up work.

The meeting adjourned at 9:45am

Respectfully submitted,

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