

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

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K. Daly, Asst.
ORLEANS TOWN CLERK

PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; Adrienne Pfluger; James Trainor; Jamie Balliett; Jim O'Brien.

ABSENT: John Jannell, Conservation Administrator

8:30 a.m. Call to Order

Continuations

Last Heard 7/3/12

Vince & Evelyn VanNorman, 22 Karen Way. by JC Ellis Design, Inc. Assessor's Map 35, Parcel 44. The proposed construction of an addition to an existing dwelling and driveway extension. Work will occur within 100' of the Edge of Wetland. *Jim O'Brien recused himself.* Jason Ellis of JC Ellis Design Company and Keith Johnson of Billingsgate Landscape were present. Judith Bruce stated that after the previous hearing, the Commission's main concerns were with the illegal clearing done on site and the proposed restoration work. Judith Bruce said that the Commissioners had received the Land Management Plan, but would like an overview of what was proposed. Keith Johnson explained the most difficult challenge would be the removal of the Japanese Knotweed located on the property line. The main goal would be to manage the invasives to the best of his ability given the abutting properties inundation with this invasive species. Judith Bruce was concerned that there was no date specific for the installation of the restoration plants, and Steve Phillips inquired about the number of shrubs to be installed and a three year timeline of the Land Management Plan. Keith Johnson said the timeline for installation would be the fall, as herbicides would be used on the invasives species, and he wanted to ensure that the groundcover to be installed would have the best chance of survivability. Keith Johnson said he could provide the numbers of the shrubs and groundcover to be installed. Adrienne Pfluger asked about replanting around the driveway which had been cleared by the applicant, and Keith Johnson said the Land Management Plan included restoring that area. Judith Bruce asked for a blackout copy of the contract to ensure that the Land Management Plan would be executed. Keith Johnson asked if this contract needed to be received prior to the close of the hearing, and Judith Bruce said yes, in addition to the planting specifics which had been mentioned. Judith Bruce asked the Commission if there were any concerns with the proposed addition, and the Commission felt the addition was fine as proposed. Jason Ellis asked to continue the hearing to July 24, 2012, so that Keith Johnson could make the necessary changes to the Land Management Plan.

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

VOTE: 6-0-1; Motion passes.

Last Heard 7/3/12

Cove Condominium Trust, 13 South Orleans Road. by East Cape Engineering, Inc. Assessor's Map 26, Parcel 64. The proposed replacement of a seasonally removed pier, ramp, and float with a permanent pier and seasonally removed ramp and float. Work will occur in Land Subject to Coastal Storm Flowage, on a Salt Marsh, and in

Land Containing Shellfish. Judith Bruce stated a letter had been received asking for the hearing to be continued to August 7, 2012.

MOTION: A motion to continue the hearing to August 7, 2012, was made by Jim O'Brien and seconded by Jamie Balliett.

VOTE: Unanimous

Notice of Intent

John Ostman, 106 Baker's Pond Road. by Ryder & Wilcox, Inc. Assessor's Map 53, Parcel 23. The proposed construction of a 4' cantilevered deck extension to an existing single-family dwelling. Work will occur within 100' of an Inland Pond (Baker's Pond) and Edge of Wetland. David Lyttle of Ryder & Wilcox, Inc. and John Ostman, applicant, were present. David Lyttle explained the proposed work would be a 4' cantilevered deck which could be done without touching the ground. After the Conservation Commission conducted their site visit, David Lyttle revised the plan, now dated 7/10/12, to include two downspouts, one at the northerly side and one at the southerly side, to infiltrate to the ground and act as mitigation. Judith Bruce commended the applicant on being a good steward to the area, and asked if the outdoor shower could be connected to a drywell. David Lyttle said another drywell could be installed to allow the water to infiltrate into the ground. Steve Phillips asked if any trees would be taken down as a result of the deck extension, and Adrienne Pfluger asked if any limbing of trees would occur. David Lyttle said neither tree removal nor limbing would occur. Steve Phillips asked if the four downspouts could be connected to the two drywells, and the two drywells be moved further away from the pond. David Lyttle said he would address the shower drainage and adjustment of the downspouts and drywells in a revised plan. David Lyttle understood that a DEP number had not been issued, and asked that the hearing be continued to July 24, 2012.

MOTION: A motion to continue the hearing to July 24, 2012, was made by Jamie Balliett and seconded by Jim O'Brien.

VOTE: Unanimous

Thomas H. McAboy, 11 High Tide Lane. by Ryder & Wilcox, Inc. Assessor's Map 43, Parcel 6. The proposed construction of a gravel driveway. Work will occur within 100' of the Edge of a Bordering Vegetated Wetland, an Isolated Wetland, on Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. Stephanie Sequin of Ryder & Wilcox listed for the Commission the location of the resource areas on site, and their proximity to the proposed driveway. Stephanie Sequin explained that in 1952, 11 High Tide Lane was originally two lots, with 8 Pond View being a part of a separate subdivision. In 1992, an Approval Not Required plan was filed which combined the two lots at 11 High Tide, redivided them with the adjoining lot to the south known as 8 Pond View, creating the 9.7' panhandle abutting Pond View Road, but not granting access over Pond View Road. Stephanie Sequin stated that this proposal was to determine if a driveway could be installed to access a potential building envelope, and held up a plan to demonstrate a potential building and septage envelope outside a majority of the resource areas. Judith Bruce was concerned that since the entire parcel was located within the A.C.E.C., it would be difficult to make an argument that the proposed driveway would not have an adverse impact within this resource area. Judith Bruce was concerned that the isolated wetland was larger than indicated on the plan, and asked if soil sampling had been done to determine the extent of the wetland on the west side.

Stephanie Sequin said the isolated wetland was delineated in November of 2011, where standing water was observed for several months; however, soil tests were not conducted on the west side. Steve Phillips noted during the site visit that the depression west of the proposed driveway was collecting water, and inquired if a land swap to widen the flag pole area had been proposed. Judith Bruce thought that by accessing 11 High Tide Lane via Pond View Road that a majority of the wetland concerns would be eliminated. George Cavanaugh, legal counsel for the applicant, confirmed that 11 High Tide Lane had no legal right to Pond View Road. Judith Bruce asked if there was any way to obtain access from Pond View Road to High Tide Lane, and George Cavanaugh said the applicant would have to receive permission for access from every homeowner in order to be granted access over Pond View Road. Steve Phillips asked about the amount of fill that would be required to construct this driveway. Stephanie Sequin said due to the slope of the road, there would have to be a cut on the high side and fill on the low side of the road. James Trainor asked how runoff would be controlled, and Stephanie Sequin said the driveway would be pervious, with drainage running into the low area. Judith Bruce noted that the building envelope which Stephanie Sequin pointed out also had a large drainpipe, which would seemingly make the area unbuildable. Stephanie Sequin said this pipe was connected to a patio on 8 Pond View Road, and could be rerouted accordingly. Jim O'Brien asked if the proposed driveway was shown as far as possible from the isolated wetland, and James Trainor inquired about the test hole borings seen on site next to the proposed driveway. Stephanie Sequin stated that beyond the proposed driveway was the neighbor's driveway, and that clay was found within the test holes abutting the proposed driveway. James Trainor asked if there were plans to dig out the clay and replace it with gravel. Stephanie Sequin said the process would be to dig it out, fill it with hardening, and then put gravel on top of the hardening. Judith Bruce asked how the hardening material would allow the driveway to be pervious, and Adrienne Pfluger was concerned that the driveway appeared to extend northward of the property line. Stephanie Sequin explained that hardening is put under all gravel driveways, and the owners on High Tide Lane owned to the center of the road. Jamie Balliett asked if a plan could be provided which showed the proposed building, and Stephanie Sequin said one could be provided showing a potential building and septic envelope. Jamie Balliett felt it would be best if the Commission could see everything on the table, such as mitigation, septic, house, etc., to determine the impact on the resource areas. Stephanie Sequin said that would involve a much more detailed plan, and Jamie Balliett suggested the applicant take into account the response of the Commission. Judith Bruce felt that before the Commission determined what else would be proposed, there needed to be a determination that this proposed work would not adversely impact the resource areas. Judith Bruce did not think the proposal as it stood provided any positives for the resource areas, and Steve Phillips and Adrienne Pfluger concurred. Judith Bruce asked if any members of the audience wished to speak in regards to the application. Judith Brainerd, of 9 High Tide Lane, explained that High Tide Lane became treacherous and virtually impassible during storm events. The isolated wetland was very wet, and when a dead cherry tree was taken down on her property and replaced with a Tupelo, the tree installer hit groundwater while hand digging the hole for the replacement tree. Judith Brainerd was also concerned about the damage which would be caused by trucks going up and down High Tide Lane, the sensitivity of the existing bog, and any trees which would be damaged. Ann Brown, of 24 High Tide Lane, was concerned about the potential

damage to the road, as it was a private road, and its maintenance was the responsibility of the homeowners that utilized it. Michael Isner, of 14 High Tide Lane, also brought up the potential damage to the road by construction vehicles, the potential change to character and appearance by permitting construction and the view from the resource area. Michael Betlinski, of 3 High Tide Lane, agreed with Jamie Balliett's request to see the whole picture of what was being proposed, as the property was for sale, and the construction could potentially creep towards the resource areas even further. Judith Bruce read into record two abutters letters, one from Kathleen and John Patten of 17 High Tide Lane, and Ronald and Linnea Majewicz of 15 High Tide Lane, both of which were against the proposed project. Bob Royce asked how many trees were proposed to be taken out as a result of the driveway construction. Stephanie Sequin said that at least 6 trees would be removed, and that the ones in the area of fill could be protected as needed. Judith Bruce suggested that soil sampling be done to determine where the isolated wetland extended, provide the amount of trees to be removed, the amount of fill proposed, and suggested that while there was not a DEP number issued, the applicant may want to reconsider the proposal before accruing additional expenses for a project that may not be approved due to its proposed impact to the resource areas. Stephanie Sequin said that at the very least, she would like to speak with her client, relay the comments from the abutters, and if they decide to pursue the filing, would reevaluate the isolated wetland and provide the Commission with revised plans. Stephanie Sequin asked to continue the hearing to August 14, 2012.

MOTION: A motion to continue to August 14, 2012, was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

Certificate of Compliance

Sharon Perkins (2005), 30 Pine Ridge Lane. The request for a Certificate of Compliance for an Order of Conditions for the installation of a new septic system. Judith Bruce read into record that John Jannell, Conservation Administrator, reported that this application was in substantial compliance.

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

VOTE: Unanimous

Request for Extension

Edgewater Condominiums, 148 Route 6A (Anthony Drive). Request for a 2 year extension to complete the vegetation work under this Order of Conditions. Judith Bruce read that the request for the extension was to allow the plants installed last year to properly establish themselves on site, and was to the benefit of the Commission to keep the Order of Conditions active for 2 additional years.

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on July 3, 2012.

Steve Phillips requested two additional changes to the minutes. Judith Bruce asked if these changes would impact how the minutes read, and Steve Phillips asked that the

revised minutes be presented next week to ensure the changes were acceptable to the Commission. Erin Shupenis, Principal Clerk, said she would make the necessary changes and circulate them to the Commission.

Approval of the Minutes from the Meeting on July 10, 2012.

MOTION: A motion to approve the minutes dated July 10, 2012, was made by Adrienne Pfluger and seconded by Jamie Balliett.

VOTE: 6-0-1; Jim O'Brien abstained.

Other Member's Business

Adrienne Pfluger inquired if a site visit was to be conducted at 33 Bufflehead Lane prior to the continuation. Erin Shupenis read that the minutes reflected the potential for a site visit only if an Amended Order of Conditions was issued, and the work was proposed to be phased. No site visit was scheduled at this time, as the hearing had not been closed.

Administrator's Business

The meeting was adjourned at 9:23am.

Respectfully submitted,

Erin C Shupenis, Principal Clerk, Orleans Conservation Department