

ORLEANS TOWN CLERK
K. DeLong, Asst.
12 SEP 25 2:43PM

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, September 11, 2012

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

ABSENT: Adrienne Pfluger; Jim O'Brien

8:30 a.m. Call to Order

Judith Bruce asked that a moment of silence be offered in memory of 9-11-2001.

Continuations

Last Heard 9/4/12 (AP1, JO1)

Janine M. Corsano, 100 Namequoit Road. by Ryder & Wilcox, Inc. Assessor's Map 69, Parcel 51. The proposed construction of a deck and patio; replacement of timber steps with handrail; and landscaping to include the removal of limbs from 2 oak trees and removal of English Ivy from buffer zone. Work will occur within 100' of the Edge of Wetland. Stephanie Sequin of Ryder & Wilcox, Inc. passed around a revised plan which highlighted the changes from the previous meeting, indicating the areas to be replanted after the English Ivy removal, the native species to be planted, a note indicating that the limbing of the Oak Trees would be approved by the Conservation Administrator, and that no machinery would be outside of the Limit of Work. Jamie Balliett asked how far the English Ivy went down the bank, and Stephanie Sequin said the concentration of the ivy was located by the driveway. John Jannell stated that the English Ivy did not go down the slope, and that a DEP number had been issued for this project.

MOTION: A motion to approve the site plan dated September 10, 2012, was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

Certificate of Compliance

T. Van de Graaf & Associates, Inc. (1987), 37 Towhee Lane. The request for a Certificate of Compliance for an Order of Conditions for the Construction of a house. No work was done under this Order of Conditions. *Judith Bruce announced that while she was President of the Towhee Lane Association, neither she nor the association had any financial interest in this Certificate of Compliance request.* John Jannell reported that the house had been constructed under a different Order of Conditions filed 11 years after this approved Order of Conditions. No Work occurred under this Order.

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

VOTE: Unanimous

Enforcement Order

Bruce Carey, 1 Ruggles Road. The proposed issuance of an Enforcement Order for the removal of trees and vegetation on Town Land and within Conservation Commission jurisdiction. Bruce Carey, owner, Mike Roma of Mike Roma Landscape Services, and Mark Budnick, Orleans Highway Department Manager, were present.

John Jannell reported that the proposed issuance of an Enforcement Order had come forth after the Commission asked John Jannell to conduct a site visit of 1 Ruggles Road to determine if work had taken place within Conservation Commission jurisdiction without approval, and whether or not the existing silt fence was in failure. John Jannell reported that some clearing had taken place without Conservation Commission approval and on Town Property. John Jannell circulated a packet prior to the hearing which included the approved planting plan for this site; an open Order of Conditions existed for the removal of an existing dwelling and replacement with a new dwelling. John Jannell explained the sequence of events which took place at 1 Ruggles Road. On August 13, 2012, John Jannell met with Mike Roma of Mike Roma Tree Services on site immediately following the unpermitted removal of trees both within Conservation Commission jurisdiction and on Town Property. It was determined that 1 White Fir, 1 Apple, and 2 Black locusts had been removed. Of those trees, the White Fir and Apple were located within Conservation Commission jurisdiction. On August 14, 2012, during a site visit with Dan Connolley, Tree Warden for the Town of Orleans, it was discovered that Joren Smith of JZ Landscaping covered the stumps of these trees and regraded the landscape. Dan Connolley asked for the stumps to be uncovered. The stumps were then determined to be on the Town property. Joren Smith returned to the Orleans Conservation Department to pick up a copy of the approved site plan from the open Order of Conditions and in turn regraded the area to somewhat of a natural state. Dan Connolley's jurisdiction over this area is that this is a Scenic Road, therefore the trees were scenic trees, and a formal Tree Hearing has been scheduled for Tuesday, September 25, 2012. On September 5th, a site visit was conducted during a storm event which showed that irrigation lines had been installed without Conservation Commission approval, and the result of their installation was further erosion and inundation of the silt fence on site had taken place. After this site visit, John Jannell notified the owner and two landscapers involved that a hearing would take place on Tuesday, September 11, to potentially issue an Enforcement Order.

Bruce Carey passed around a packet to the Conservation Commission outlining the sequence of events which lead to the work on site. In February of 2002, Bruce Carey purchased the property and noted that there was a historic washout down the road which in turn went down his existing driveway. Bruce Carey said that prior to a storm event; he approached Dan Connolley about removing the two black locusts, which Dan Connolley said would be ok. Bruce Carey was unaware that he had to go to the town for their formal removal. Bruce Carey explained within the packet were two letters from NStar explaining that tree removal work would be done on his property in the form of tree removal. Bruce Carey said he asked that the spruce and pine remain, and a second letter was received stating that pruning work was to be done. When he returned to the Cape, the levels of the pruning lead him to believe that the tree would be inundated by insects, and therefore Bruce Carey contacted Joren Smith of JZ Landscaping to work on the property. Bruce Carey announced that he takes full responsibility for the work done, and asked the Commission not to include either landscape company in his error. Bruce Carey said the regrading effort was to thwart further water problems from runoff, and once he met with the Orleans Planning Board on September 25, 2012, would be replanting the area. Bruce Carey said that after a discussion with Mark Budnick, a catch basin was proposed to be installed, but that at this time the budget did not allow for its installation. Bruce Carey explained the confusion lay within his discussion with Dan Connolley, where he was unaware that by

taking down the two black locust trees he would be working on Town Property. Bruce Carey stated that since the majority of the house work was complete, the work proposed within the approved planting plan would begin. Judith Bruce thought the best start would be to incorporate all of these ideas onto a plan which could be approved by the Conservation Commission. Judith Bruce explained that all of the work done without permission were violations, and that at any point in time a Revised Plan showing the removal of the trees or installation of the irrigation system could have been addressed and become part of the record for this file. Judith Bruce commended the applicant on his willingness to take responsibility for the work done without Commission approval, but explained that any landscaper working within Conservation Commission jurisdiction should be aware of the rules and regulations, in addition to what was approved for the site. Mike Roma explained that after walking with the contractor, he was assured that the work to be done was part of the approved plan for the site. Steve Phillips said that according to the landscape mitigation plan, it said the black locusts could be removed, and understood that after the applicant's discussion with Dan Connolley, he may have gotten confused. John Jannell noted that the 2 Black locusts were outside of Conservation Commission jurisdiction, and the issue of those trees would be between the Tree Warden, the Planning Board, and Bruce Carey. John Jannell said that while he was sympathetic to the runoff issue, the removal of the fir and cherry, as well as the regrading, were not a decision which the applicant could make. The regrading resulted in exposing the wetland to siltation, and Judith Bruce explained that where there was vegetation there was no siltation to the bog. Bruce Carey said he wanted to revegetate the area. John Jannell stated the site was devoid of vegetation except seed, and the focus would be to protect the area. Work has continued to go on without permission, such as the installation of irrigation, and a plan incorporating what will be done to stabilize and replant needs to be brought to the Commission for approval. Bruce Carey said he asked Joren Smith to stop work, and that there continued to be miscommunication resulting in additional work done without permission. Bruce Carey explained that he was currently speaking with Mark Budnick about the installation of a berm, and would speak with JZ Landscaping about the sprinkler heads. Judith Bruce noted that there was no permission given for the installation of irrigation, and that it should be removed immediately. Judith Bruce asked that a restoration plan be developed, and that a date certain provided for all the work to be done. Immediate action would include the removal of the irrigation, installation of a second erosion control fence because the current one was in duress, and that the applicant maintained this fence to ensure it did not fail. John Jannell said that two small sections or one larger section of silt fence could be used, but that work to stabilize the town property was the jurisdiction of the Town Selectmen and the Highway Department. Judith Bruce asked John Jannell if the site could benefit from the installation of an erosion mat. John Jannell said it could go on a future plan, but that the irrigation could be removed immediately. Steve Phillips asked if the regrading of the road could be done as soon as possible. Mark Budnick explained that there had been a runoff issue within this area for some time, as the natural direction for the water was to go into the bog abutting Bruce Carey's property. Mark Budnick explained that in 2013 Tonset Road repair and maintenance would be addressed, including drainage improvements. Mark Budnick was concerned about installing a berm around this area and creating further erosion problems down the street. Steve Phillips asked if the erosion problems had increased because of the tree removal. Mark Budnick said the area was well vegetated prior to

the work on site, and the removal in conjunction with heavy rains aggravated the erosion. Judith Bruce questioned if the erosion was a result of the regrading or lack of vegetation, and Steve Phillips asked what could be immediately done to reduce the impact of the runoff. Mark Budnick explained the easiest thing would be to install a berm, but was concerned about the impacts. A drain could potentially be installed, but if there were pool soils on site, a drain may not help. Steve Phillips asked what additional options there may be for the site. Mark Budnick explained it was difficult to secure the bank because the runoff was channelized, and that further down the road there was a pump house, a low point in the road, and the road itself was breaking apart. Steve Phillips explained he was trying to get a sense of what could be done now versus what could be proposed later with a more comprehensive plan. Mark Budnick suggested that a stone swale could be an option, but he was not an erosion control specialist. Bruce Carey said his intention was to regrade the area to allow the water to fan out, and after speaking with Joshua Sloan, owner of the abutting cranberry bog, it appeared that he exposed an issue of water going into the bog. Judith Bruce understood that while Bruce Carey would not want water to inundate his property, the removal of the vegetation caused a further problem. Bruce Carey felt it was the town's responsibility to keep water off of his property. Judith Bruce agreed, but pointed out that if the issue of drainage had been addressed prior to the removal of vegetation on town property, this issue would be addressed differently. James Trainor asked if any of the planting work from the plan dated 2009 had been done, and Bruce Carey said no. James Trainor was concerned that none of the mitigation work had been started, and asked if sandbags, which were also used further down the road, would be beneficial. Mark Budnick said there were drainage problems there as well, and had looked into installing a berm to see how water goes further down the road. Jamie Balliett asked how far a berm would have to be extended, and Mark Budnick explained a paved apron all the way to Ruggles road would have to be installed. Another concern was the runoff from Brick Hill, and Jamie Balliett explained that the Commission was interested in seeing something happen soon, and a more permanent solution sought later. Mark Budnick said he would tie into the driveway at the end of Tonset road and onto Ruggles road, and Jamie Balliett noted that they did not want to shoot water down Tonset road as a result. Mark Budnick said some type of leaching drainage could be addressed in the future when Tonset road will be resurfaced in 2013. Jamie Balliett asked about the cost associated with this work, and Mark Budnick estimated the installation of a berm to be roughly \$800 versus installing a catch basin for around \$3,000. James Trainor asked what the best plan would be for the Highway Department. Mark Budnick said the best solution would be to eliminate all of the road runoff, and thinks leaching some of the direct runoff would be the best solution. Typically, the Highway Department carries extra funds for unforeseen drainage problems, but due to the failure of 3 catch basins earlier this year, funds were quite limited. Mark Budnick stated that when Tonset road is resurfaced, he would look to create a berm along the road. James Trainor felt it was important to try to prevent runoff from going into the bog. Mark Budnick said the bog is the natural lowpoint, and that even with a drainage structure, there was still concern it could be overwhelmed. Judith Bruce suggested that if the shoulder was well vegetated that the majority of the runoff could be caught. John Jannell noted the spot grade elevations on the site plan of 97, and asked if the house had been raised or if there was a construction change. Bruce Carey said the house had to be raised because water was running underneath it, and John Jannell noted the change to the slope on the Tonset

road side. Bruce Carey said after the removal and installation of a swale, he wanted to know the best way to fan the water. Judith Bruce was concerned that the applicant should have come to the town prior to completing work on site, and Bruce Carey assured the Commission that he had no malicious intentions. Jamie Balliett suggested that the following ideas be implemented immediately: the installation of a second siltfence, removal of the irrigation system, and installation of additional loam and seed to stabilize the area. The creation of a Restoration Plan could be best done in conjunction with the town. Bob Royce felt the installation of a berm to redirect stormwater was necessary, and James Trainor suggested hydroseeding to allow the root to take faster. Bruce Carey suggested filling in the swale with burlap rolls or something in kind. Judith Bruce reiterated that a second siltfence, removal of irrigation, hydroseeding, and sandbags along the top were to be done immediately. Judith Bruce suggested the applicant come back to the Conservation Commission after meeting with the Planning Board with a Restoration Plan. Steve Phillips asked if the landscapers should be addressed, and Judith Bruce suggested the landscapers speak with John Jannell. Judith Bruce was concerned that since there was so much confusion throughout this project, the work to be done immediately versus the work required after meeting with the Planning Board be carefully outlined. Jamie Balliett suggested that John Jannell be brought onto site to determine the best possible location for the second siltfence. John Jannell suggested a straw waddle roll which worked in conjunction to stabilize a site and allow for revegetation. John Jannell sketched on one of the site photos the best location for a second siltfence, and Mark Budnick said he could continue to work to find the best possible solution given budget constraints. Judith Bruce asked that the owner have the four suggested items done immediately, with the applicant returning with an engineered site plan showing the remainder of the corrections to the site. James Trainor felt it would be beneficial to have the town involved to show where a potential catch basin and pit would be installed. Bruce Carey asked if the engineered site plan would only be for the town property. Judith Bruce said that one was needed for 1 Ruggles road, and John Jannell explained that the town property would have to be returned to its natural state.

MOTION: A motion to remove the irrigation from the Town property, stabilize the area, provide straw bales or straw waddle rolls along town property, and the installation of a second siltfence was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

John Jannell said he wanted Bruce Carey to speak with the Planning Board to determine what course of action is required, and suggested setting a date certain for the applicant to return with either a Landscape or Restoration Plan. James Trainor suggested October 9, 2012, to allow the applicant time to incorporate the Town's suggestions into a plan.

MOTION: A motion to require a revised Landscape or Restoration Plan be provided to the Conservation Commission by October 9, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

Judith Bruce stated the third concern would be the potential issuance of fines, and went over the subsequent fines which potentially could be levied. John Jannell noted the applicant had been responsive to all of the correspondence, and Steve Phillips felt fines were not necessary at this time.

Judith Bruce noted that all new materials would be due to the Orleans Conservation Department by noon on October 3, 2012, for the October 9, 2012 meeting.

Administrative Reviews

David Carvalho, 158 Namequoit Road. The proposed construction of a cobblestone driveway apron. Work will occur within 50' of the Edge of Ditch, 100' of the Top of a Coastal Bank, and within the Pleasant Bay A.C.E.C. Work to be done by Thomas Murzyn Landscape Design. Thomas Murzyn, of Thomas Murzyn Landscape Design, was present. John Jannell explained that previous work on site had gone well, and asked to make a note that no storage of material be within the Town Right of Way. Thomas Murzyn agreed, and stated that no work would occur within the Town Right of Way. Steve Phillips inquired about the size of the proposed apron, and Thomas Murzyn said it would be 7'x13' and connect to an existing cobblestone planter.

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

VOTE: Unanimous

Frank & Fran Weller, 1 Shoal Pond. The proposed removal of bittersweet and shrub honeysuckle from an existing path. Work will occur within 100' of the Edge of Shoal Pond and Bordering Vegetated Wetland. Work to be done by Billingsgate Land Management LLC. *Judith Bruce announced that as an abutter this work would not impact her property in any way.* John Jannell reported the work would take place along the 100' buffer line. Steve Phillips asked about the width of the path, and John Jannell reported it was 3' wide.

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on September 4, 2012

MOTION: A motion to approve the minutes was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

Administrator's Business

John Jannell reported that a follow up regarding the unpermitted dock Enforcement Orders would be presented at the following hearing.

The meeting was adjourned at 9:49am

Respectfully submitted,

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