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ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, October 9, 2012

PRESENT:; Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; James Trainor; Jim O'Brien; Judy Brainerd; John Jannell, Conservation Administrator

ABSENT: Jamie Balliett.

8:30 a.m. Call to Order

Judith Bruce announced that Judy Brainerd had been appointed to the Conservation Commission, and welcomed her accordingly.

Continuations

Last Heard 10/2/12 (JO1)

Michael W. & Rosanne D. Panio, 197 Quanset Road. by Coastal Engineering Company, Inc. Assessor's Map 93, Parcel 11. The proposed reconfiguring of an existing licensed float. Work will occur on Land Under the Ocean, in Quanset Pond, and within the Pleasant Bay A.C.E.C. Donald Munroe of Coastal Engineering Company, Inc. went over the letter submitted to the Conservation Commission which outlined the current condition of the pier in relation to the proposed change. Donald Munroe explained the applicant would be able to better navigate his boat by making the proposed reconfiguration, park berth in, and keep the motor in deeper water. Judith Bruce thought the applicant already parked the boat berth in. Donald Munroe said this was correct, but the motor had to be pulled up to avoid hitting the bottom, and someone else using the boat may not take such precautions. Judith Bruce brought up Dr. Graham Giese's, "Analysis of Tidal Data from Meetinghouse Pond, Chatham Fish Pier, and Boston: with Application to Management" in relation to the potential changes in depth surrounding this pier. Judith Bruce asked if it would be possible to keep a dinghy at the pier and moor the boat in deeper water thus preventing the motor from hitting the bottom. Donald Munroe suggested the applicant would be retiring to the area in the near future, and preferred to keep his boat at his licensed pier. Judith Bruce noted the applicant had been a good steward to the area, and Donald Munroe reiterated that someone else using the boat may not be as conscious by bringing up the motor and avoiding hitting the bottom. John Jannell said that since the seasonal portion of the dock had been removed prior to the Commission's on-site, he was unsure how the applicant parked his boat. John Jannell said the main concern was the increase of length, and asked that he be given time to draft for the Commission Findings of Fact for the modification of an existing licensed pier and dock to be accompanied with any approval for this Notice of Intent. Donald Munroe questioned if this would entail mitigation, and John Jannell noted that he is not making a recommendation on mitigation but rather he wanted the Commission to discuss specific findings for the proposal. James Trainor asked what the difference was between lengthening the pier versus reconfiguring it. Donald Munroe explained the float dimensions would change making the float to be longer instead of shorter. Though the length of the float would be increased by 4', the overall square footage would remain the same. John Jannell asked why the Commission had received an identical application in 2010 for this proposed work and then withdrawn, and whether or not the bathymetry for this site had been re-

surveyed, as the information for this application was identical to the filing for 2010. Donald Munroe explained the application was withdrawn because of additional outstanding issues regarding the bank nourishment, and that the previous Conservation Agent recommended the bank be addressed prior to any other new filings. Donald Munroe said the bathymetry was the same as 2010, and soundings were taken along the center line. Donald Munroe said the tides were changing, and the proposed reconfiguration would allow the maintenance of a 2.5' depth. Donald Munroe noted this application would also be reviewed by the State and the Army Core of Engineers. Steve Phillips asked if the Chapter 91 Waterways license would have to be reapplied for given this proposed modification. Donald Munroe clarified that the existing pier and float had a 99 year Chapter 91 Waterways License, and the 4' increase would be a separate Chapter 91 Waterways license good only for 33 years. Judith Bruce asked if the applicant would be amenable to continuing the hearing for two weeks to allow John Jannell time to prepare his draft Findings of Fact for the Commissioners discussion. Donald Munroe said that would be fine, and asked to receive a copy of the Findings once they were available.

MOTION: A motion to continue the hearing to October 23, 2012, was made by James Trainor and seconded by Jim O'Brien.

VOTE: Unanimous

Last Heard 10/2/12 (JO1)

Julian T. & Elaine F. Baird, 4 Mayflower Circle. by Ryder & Wilcox, Inc. Assessor's Map 56, Parcel 15-2. The proposed replacement of dug-in steps with new dug-in steps and an elevated stairway, and the removal of 2 locust trees on a Coastal Bank. Work will occur on a Coastal Bank, on a Beach, on Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc. addressed the outstanding question of the pruning of the cherry tree, suggested a condition that no more than 25% of the canopy would be pruned, and when it was pruned the Conservation Agent could be on-site. John Jannell said he was comfortable with the 25% condition, and David Lyttle noted this would be a one-time prune unless at the end of the Order of Conditions a second pruning was needed. Judith Bruce suggested any additional pruning outside of the initial 25% reduction be addressed in a separate Administrative Review. David Lyttle noted that a DEP number had not been issued for this project, and asked to continue for one week.

MOTION: A motion to continue this hearing to October 16, 2012, was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

Certificate of Compliance

Charles S. Adorney, 3 Norseman Drive. The request for a Certificate of Compliance for an Order of Conditions for the construction of dug-in steps and a timber stairway on a Coastal Bank. Mark Adorney, son of the applicant, was present. John Jannell reported the stair was installed with minimal disturbance to the bank, and was well screened from the resource area. John Jannell said the mitigation plants were installed per plan, and that typically when a Certificate of Compliance was sought prior to the establishment of mitigation plantings, a performance bond was necessary to ensure the survival of the plants. John Jannell passed to the Commission a copy of the receipt for the mitigation plants, 15 cedar trees, which was \$1,467.38. Judith Bruce noted that

during the hearing process she had voted against the installation of the stairs, but that they had been installed to provide ample screening from the resource area, and commended the applicant as such. Steve Phillips inquired about the necessary time needed for the plants to become established, and John Jannell explained the 3 years survivability clause which had been incorporated into the Order of Conditions. John Jannell recommended a bond which allowed for replacement cost for the mitigation plants and allow the applicant to close out the Order of Conditions and thus sell their home. Steve Phillips suggested a \$1400 performance bond which the applicants would be able to have released once the plants were established. John Jannell asked for the Commission to condition the approval of the Certificate of Compliance pending the receipt of the bond or escrow paperwork.

MOTION: A motion to issue the Certificate of Compliance subject to the receipt of a performance bond was made by Steve Phillips and seconded by James Trainor.

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. Last discussed on 9/11/2012. Follow up on restoration plans. John Jannell reported that a letter had been received by Bruce Carey asking for the meeting to be continued to October 23, 2012, and a second letter had been received by Coastal Engineering Company, Inc., stating they had been retained by Bruce Carey and to continue the meeting to October 23, 2012. John Jannell noted that during the Planning Board hearing on October 2, 2012, a restoration plan was not provided, and their discussion was similar in fashion to the Conservation Commission's September 11, 2012 meeting. Judith Bruce felt the Commission should wait to make a decision until the Planning Board makes its final determination, but that the lack of a restoration plan was of concern. Judith Bruce asked if fines should be discussed, and Steve Phillips was concerned that the proposed siltfence to be put up prior to this meeting was in failure. John Jannell felt it would be difficult to discuss fines since neither the applicant nor the representatives were present. James Trainor felt the installation of the second siltfence would help the resource area, and that it would be best to hear from the Planning Board before decisions were made. John Jannell noted that at this time, there was not an active Enforcement Order from the Conservation Commission for this unpermitted work. James Trainor asked when the applicant would return in front of the Planning Board, and Erin Shupenis said the meeting would be the evening of October 23, 2012. James Trainor suggested that the Conservation Commission meeting be continued to October 30, 2012. Erin Shupenis noted that there would not be a Conservation Commission meeting on October 30, 2012, making the next meeting November 6, 2012. John Jannell recommended the Commission accept the continuance and therefore not delay the receipt of the plan. Judith Bruce felt fines could be discussed at the October 23, 2012 meeting.

MOTION: A motion to continue this meeting to October 23, 2012, was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous.

Administrative Reviews

Last Heard 10/2/12 (JO1)

John O'Hanlon, 28 Thayer Lane. The proposed cutting of trees for a view corridor, removal of 2 black locusts, and trimming of neighboring oak limbs. 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 Bartlett Tree Company. Dave Chalker of Bartlett Tree Company passed around photos which depicted where the proposed trimming would take place. Steve Phillips asked if the rest of the canopy would remain, and Dave Chalker said yes. Judith Bruce asked what the proposed total reduction would be, and Dave Chalker said it would be a 2' height reduction. Dave Chalker said the applicant wanted to look at the water not across the water, and Steve Phillips inquired about the future plans for an established view corridor for this property. Dave Chalker explained that the applicant was meeting with contractors to determine the costs associated with a permitted view corridor. James Trainor inquired about the branches to be pruned from the neighbor's trees, and whether or not permission had been obtained for this proposed work. Dave Chalker said written permission by the neighbors had been received, and he would provide the Conservation Commission with a copy of it for their records. John Jannell asked what the proposed height of the pruned trees would become. Dave Chalker the 15 trees to be pruned would be pruned to 10'in some cases and 15' in others. John Jannell noted that this work would be looked at when a site visit was conducted by the Commission once a formal Notice of Intent was filed for a view corridor.

MOTION: A motion to approve this application was made by Jim O'Brien and seconded by Steve Phillips.

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on October 2, 2012.

Erin Shupenis explained the minutes would be ready for the October 16, 2012 meeting.

The Commission discussed the site visits.

The meeting was adjourned at 9:14am.

Respectfully submitted,

Erin C Shupenis, Principal Clerk, Orleans Conservation Department