

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, December 4, 2012

K. Darling, HSSJ
'12 DEC 11 1:06PM

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

8:30 a.m. Call to Order

Continuations

Last Heard 11/6/12

Richard & Geraldine Nolin, 125 Rock Harbor Road. by East Cape Engineering, Inc. Assessor's Map 16, Parcel 70. The proposed removal of an existing garage and slab, construction of additions to an existing dwelling, construction of an attached garage, revisions to the existing septic system, removal of an existing paved driveway and replacement with shell, and the creation of a 25' vegetated buffer. Work will occur within 100' of the Top of a Coastal Bank and Salt Marsh and within Land Subject to Coastal Storm Flowage and the Cape Cod Bay A.C.E.C. Tim Brady of East Cape Engineering, Clint Kanaga of Ponderosa Landscaping, and Richard and Geraldine Nolin, applicants, were present. Judith Bruce commended Tim Brady on outlining the existing and proposed changes to the dwelling. Tim Brady said that after speaking with the applicants regarding the Commission's concerns, the Nolin's were willing to remove additional structure and replant accordingly. The planting list has been revised to accommodate the new proposed slope and provide salt-tolerant species to be planted in this new area as a result of higher tides during storm events. The pier is proposed to be removed, with the posts to remain for bird perching. The bulkhead will be removed, as well as the wood walkway behind it, and the area regraded accordingly. Judith Bruce asked that if fill was proposed, and if the Coastal Bank would be planted in the new slope area. Tim Brady stated that there would not be fill in this area, but rather the bank will be cut back to a stable slope. Some of this material will be used to re-grade around the house, and other material will have to be removed from the site. Tim Brady said that the slope would remain at 3 to 1 or less than 3 to 1. The concrete slab adjacent to the garage will be removed, and the stone revetment currently existing will remain as to not damage the abutting property and end the newly created slope. Tim Brady said there was a discussion at the previous meeting about moving the garage, but the location where it is proposed allows for views of the resource areas and allows better access to the property. The current paved driveway will be removed and replaced with a stone or shell driveway. Tim Brady noted that the Mean High Water line was added to the plan by looking at a month's worth of tides, and taking the average. Clint Kanaga said that there were two distinct zones within the 25' buffer: the one most seaward indicating the regraded slope with the removal of the invasive species. Clint Kanaga said from the Edge of the Marsh, or the base of the bulkhead, would be graded about 18' landward at a 3:1 slope, and the western area shown would have less of a slope due to its current flatter contour. This lower area would be planted with more salt tolerant plants, and the plant schedule outlined the 4 groups to be planted. The low marsh area would be comprised mostly of plugs and smaller 1-gallon plantings. Once

the area is regraded, it would be reseeded, and jute blanket installed. The goal was to get that area established so that there would be a successful base to plant additional species. Judith Bruce asked if phragmites removal was proposed, as there was no protocol provided. Clint Kanaga explained that he had a draft narrative to present to John Jannell for his review, and the method of removal would be a cut and swipe protocol, and replanted with Spartina. Judith Bruce felt the planting plan addressed the Commission's concerns, and although the Commission typically did not look favorably upon platforms, there was a great deal of structure being removed from the buffer zone. Judith Bruce asked if the proposed platform could be pulled outside of the existing A.C.E.C. which would adjust its location by a couple of feet closer to the dwelling, as approving structure within the current A.C.E.C. was a difficult thing. Tim Brady said adjusting the location by a couple of feet would be fine. Judith Bruce asked if the platform would require railings or include screens, and Tim Brady said it would be kept low as to avoid rails, and no screens would be installed. Jamie Balliett asked if the platform would have steps onto it. Tim Brady said it would not have steps, and there would be a walking path to it. Judy Brainerd asked how the platform would be supported and anchored, and Tim Brady said it would have short sonotubes which would be hand dug. Steve Phillips asked if the sonotubes would be 4x4's and if the decking would be $\frac{3}{4}$ spacing and Tim Brady said yes. Jamie Balliett asked for clarification on the existing boulders, as Tim Brady's plan said boulders to remain, and Clint Kanaga's plan indicated otherwise. Tim Brady said that there would be a couple of stones by the slab which would be rearranged through its removal, but that in general the boulders would remain. Steve Phillips was concerned about the posts to remain with the removal of the pier being a navigational hazard to boaters and kayakers. Tim Brady said the posts were landward of the creek, and when Tim Brady was out on site, there was typically no more than 2-3" of standing water. Steve Phillips asked if the fence surrounding the property could be 6" off the ground for critter passage, but suggested that the garden fence be to the ground to prevent wildlife from entering. Tim Brady agreed that the garden fence should be to the ground, and that the other fence could be raised 6" off of the ground for critter passage. Steve Phillips asked if the neighbors had been spoken to about the removal of the Norway Maples, and Clint Kanaga said he was unable to contact them. Clint Kanaga asked what other filing method could be used to address these, and John Jannell said it would depend on the nature of the work proposed. Steve Phillips noted the plan did not mention the installation of drywells, and asked for those to be included. Tim Brady said that a revision to the plan could be made. Steve Phillips asked about the overall design of the house, and how much glass would be on the marsh side. Judith Bruce said the Commission's concern would be the aesthetic protocol, and how the proposed house would appear from the resource areas. Tim Brady showed a copy of a proposed architectural plan to Richard Nolin, and Richard Nolin said that while there were now regular windows proposed along part of the marsh side, that plan was a fairly accurate representation of the proposed house. Tim Brady shared with the Commission the architectural plan, noting that the proposed house would be a Cape style with some of the windows on the marsh side shown in fact being smaller. Steve Phillips asked what type of screening the house would have from the resource area. Clint Kanaga said that while the original plan showed the woody vegetation, this revised plan did not. Judith Bruce said the Commission was interested in seeing the canopy species on site, and

Steve Phillips asked if the height or bedroom count of the house would change. Tim Brady said that neither the height of the building nor the number of bedrooms would change. Steve Phillips asked if the proposed increase in square footage would have to go in front of the Zoning Board of Appeals for approval. Tim Brady said he was currently chatting with zoning about the property. James Trainor noted that the proposed plan including the installation of a platform was fine. Judith Bruce asked if some of the areas which were disturbed during the regrading and construction could in fact remain disturbed to provide new habitat for diamondback terrapins, since they were nesting on the Eastham side of Rock Harbor. Judith Bruce suggested chatting with Bob Prescott of the Wellfleet Massachusetts Audubon Society to see if this would be an opportunity to add habitat. Judith Bruce went over the proposed changes to the site plan discussed, which included providing a construction protocol, a phragmites protocol, the addition of drywells to the site plan, and the moving of the platform outside of the current A.C.E.C. John Jannell added locating the canopy species on the plan, allowing the garden fence to be 6" off of the ground, $\frac{3}{4}$ spacing on the decking, and the boulders to remain. John Jannell noted that drywells were a standard condition of an Order of Conditions, and asked that the remaining fill, chink stone, and debris to come out. Tim Brady asked if the hearing could be closed and these plan revisions be dealt with administratively. Judith Bruce explained that the Commission preferred to keep the final plan as part of the public hearing, and suggested that these revisions could be dealt with within a weeks' time. John Jannell suggested that Tim Brady and the Nolin's make an appointment to discuss the construction protocol, and Tim Brady felt a week's continuance would be fine.

MOTION: A motion to continue the hearing to December 11, 2012, was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous.

Notice of Intent

Gary & Ethel R. Furst, 27 Beach Plum Lane. by Coastal Engineering Company, Inc. Assessor's 23, Parcel 3. The proposed repair of an existing licensed timber bridge & revetment maintenance. Work will occur on a Salt Marsh, in Land Subject to Coastal Storm Flowage, within the Cape Cod Bay A.C.E.C. and over Namskaket Creek. Roger Michniewicz of Coastal Engineering Company went over the proposed project, explaining that the original design for the timber bridge resulted in the corner poles to fail and the intermediate pole to split. The existing piling themselves were still in good shape, with the bridge's purpose to carry pedestrians and utilize a go-cart to bring the owner to the beach. The proposed work would be to straighten timber members, remove the tension members at the end whose components have corroded since their 1990 installation, eliminate the support poles, and replace the decking. The work itself is all above Mean High Water, with no work needing to be done underneath the licensed bridge. The gabion baskets have become well established with marsh grass growing through them, and Roger Michniewicz asked that the application also include for future maintenance of these gabion toe protection baskets. Judith Bruce said that type of maintenance could be addressed under an Administrative Review. Judith Bruce agreed that flat decking versus a crown made better sense for the site, and asked if this work would trigger a new Chapter 91 Waterways license. Roger Michniewicz said this type of work was minor, and that a new license was not needed. Judith Bruce stated that the

asphalt needed to be removed, and Roger Michniewicz agreed. Judith Bruce said the plan needed to reflect this change, and Roger Michniewicz explained that the bluestone would also be removed and would reflect so on a plan revision. Steve Phillips asked if this timber bridge in any way restricted tidal flow, and Roger Michniewicz said no, as the ditch itself was very wide. Judith Bruce noted that a letter from NHESP had not been received for the project, and John Jannell explained that the Commission would not be able to close the hearing until this letter was received. Roger Michniewicz stated that a letter from DMF had been received. John Jannell asked if the asphalt and processed stone would be removed, and if so, must be shown on the plan. Roger Michniewicz said he was fine with revising the plan showing this removal, and would show the square feet to be removed. John Jannell said the current Chapter 91 Waterways license did not show the crown, and made sure that no work would be permitted below MHW. John Jannell asked about the gabion maintenance work brought up, and what the applicant was looking for with this proposed maintenance. Roger Michniewicz said that there was the potential for future damage should there be an astronomical high tide, and wanted to know the area could be restored. Judith Bruce said it would be best for the applicant to return to the Commission when this was a problem, as the Commission could not give carte blanche approval for work in the future. Roger Michniewicz said he did not see any side slope issues for the site, and would use rubber track mounted small excavator, with the piling being replaced one at a time to make sure that there was always the correct amount of cross support. Roger Michniewicz said a continuation of two weeks to December 18, 2012, should allow for NHESP to provide the Commission with their findings and allow him to revise the plan.

MOTION: A motion to continue the hearing to December 18, 2012, was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

Judith Bruce left at 9:10am.

Certificate of Compliance

Peter Rozema (2012), 1 Little Cove Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of dug-in timber steps on a Coastal Bank. John Jannell reported that there was very little disturbance due to the installation of the stairs, and this Order of Conditions could be issued a Certificate of Compliance.

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

VOTE: Unanimous.

Joseph & Barbara Dudrick (2006), 21 Manito Way. The request for a Certificate of Compliance for an Order of Conditions for the installation of a new septic system to serve an existing dwelling and the pumping and abandonment of an existing cesspool. John Jannell explained that this was a 2006 Order of Conditions whose septic upgrade had been completed and the area put back together.

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

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

Conservation Commission Hearing Meeting Minutes 12-4-12

Chairman's Business

Approval of the Minutes from the Meeting on November 13, 2012, November 20, 2012, and November 27, 2012

Approval of the Minutes from the Meeting on November 13, 2012.

MOTION: A motion to approve the minutes from November 13, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Approval of the Minutes from the Meeting on November 20, 2012.

MOTION: A motion to approve the minutes from November 20, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Approval of the Minutes from the Meeting on November 27, 2012.

MOTION: A motion to approve the minutes from November 27, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

The meeting was adjourned at 9:13am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department