

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, December 18, 2012

K. Darcy, Asst.
'13 JAN 8 1:59PM

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 12/4/12

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. John Jannell reported that the Conservation Department received a letter asking to continue the hearing to January 8, 2013, since the applicant was waiting for a letter from NHESP. Judith Bruce asked if all the other requested information had been received, and John Jannell said the revised plans had been circulated to the Commission.

MOTION: A motion to continue the hearing to January 8, 2013, was made by Jim O'Brien and seconded by Judy Brainerd.

VOTE: Unanimous.

Notice of Intent

Lesley E. Weller, 62 Barley Neck Road. by Ryder & Wilcox, Inc. Assessor's Map 43, Parcel 101. The proposed construction of an addition to a single family dwelling. Work will occur within 100' of the Edge of Wetland. Stephanie Sequin of Ryder & Wilcox, Inc, and Chris Nagle, Design Representative, were present. Stephanie Sequin explained that the proposed addition was located at the furthest point from the resource area, with no foundation proposed and the large cedar tree to be preserved. Judith Bruce asked if the current house was on a full foundation or crawlspace, and Stephanie Sequin said there was a full basement on the southern side, and a crawlspace on the northerly portion. John Jannell noted there was sump pump activity while on site, and whether or not there was an oil tank in the basement. Stephanie Sequin said there was an oil tank in the basement. Jamie Balliett asked where the sump pump discharged, and Stephanie Sequin said it went to a pervious gravel area underneath the deck. Judith Bruce asked if the oil tank was a double walled tank, and Stephanie Sequin said no. Steve Phillips asked if the tank was dated to the original construction of the house, and Judith Bruce was concerned if there was a potential hazard with the older tank. Stephanie Sequin said the applicant may be converting the heating system to natural gas as part of her renovation, and Chris Nagle said this would be very likely. Judith Bruce commended the applicant on trying to save the large cedar tree.

MOTION: A motion to approve the site plan dated November 12, 2012, and incorporate the Standard Conditions associated with All Orders and Pertaining to Construction was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous

Kevin & Lorraine Blute, 49 Pond Road. by Moran Engineering, Inc. Assessor's Map 41, Parcel 133. The proposed construction of an addition on an existing single family dwelling, filling of existing cesspools, and installation of a Title V septic system. Work will occur within 100' of the Edge of Wetland. Dan Croteau of Moran Engineering and Lorraine Blute of Schoolhouse Construction, were present. Dan Croteau explained that the closest part of the addition would be 91' from the Edge of Wetland, with the two existing cesspools to be pumped and filled. Once the work was complete, the area would be seeded with Conservation Mix and approved plants from the Conservation Department's recommendation list. Dan Croteau noted that after a discussion with John Jannell, the roof drainage within the 100' buffer zone would have drains downspouts, and two drywells. Steve Phillips asked if the number of bedrooms would be changing, and Dan Croteau said no. Judith Bruce and James Trainor felt it was a good plan, and John Jannell said his only concern of drainage was being handled with a drywell.

MOTION: A motion to approve this plan with a note that the drywells be included in this project was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous.

Revised Plan

Bruce Carey, 1 Ruggles Road. The proposed demolition of an existing dwelling & replacement with a new dwelling and utilities, including a septic system has been revised to include the after the fact construction of a laid stone patio, enclosed rinse area, bulkhead, installation of irrigation, and change to foundation and grade elevations. Work occurred within 100' of the Edge of a Cranberry Bog and Bordering Vegetated Wetland. Bruce Carey, applicant, explained that he worked with Coastal Engineering Company, Inc. to revise the site plan to show what deviations from the original site plan were made, and all of the sprinkler heads had been removed from Town Property. John Jannell gave a brief report to the Commission, noting the house was slightly different than the original approved one, with a grade change and subtle changes to the building corners. John Jannell said the tree hearing had taken place, and the Conservation Department was Carbon Copied on a letter from the Planning Department stating the appeal period had ended and the fine for the replacement trees to be installed by the Town of Orleans needed to be paid. Judith Bruce confirmed that the Town would replant its property, and that the applicant needed to plant the cleared area on his property. John Jannell said the clearing took place primarily on Town property, and this Revised Plan, if accepted, would replace the current approved site plan. John Jannell suggested that if the Commission approved this Revised Plan that they set a date certain for the mitigation plants which are a part of the Order of Conditions to be installed. John Jannell asked the applicant to report on the current status of the violation addressed at the Planning Board meeting, and Bruce Carey said the paying of the fine was in process. Judith Bruce asked when this would be resolved. Bruce Carey explained that he had to first pay the subcontractors for the work done, and would be paying the fine by the end of the month. Judith Bruce addressed the mitigation planting date, and asked if May 5, 2013, would be a suitable date for the plantings to be in the ground, and Bruce Carey said yes. Judith Bruce reminded the applicant that any further work done deviating from this Revised Plan within the buffer zone must be brought in front of the Conservation Commission for approval prior to the work being started.

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Jamie Balliett inquired about the Town of Orleans Highway Department's drainage work, and John Jannell said he was not sure. Bruce Carey recalled that Mark Budnick, Highway Manager for the Town of Orleans, needed to look at his 2013 budget, but the recent rain was being filtered through the bog. James Trainor asked why the rinse area had been located within the 100' buffer, and Bruce Carey explained that it was due to the location of the windows on the house.

MOTION: A motion to accept the Revised Plan with the condition that the plants on the planting plan be installed no later than May 5, 2013, was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

Certificate of Compliance

Per John Ostman (2012), 106 Bakers Pond Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of a deck extension onto a single-family dwelling. John Jannell reported the deck had been installed per plan, with four downspouts being routed into two drywells, and the work, including the additional sonotube causing minimal damage. John Jannell noted there was 3' of gravel located beneath the outdoor rinse area.

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

VOTE: Unanimous

Administrative Reviews

Carolann S. Najarian, 123 Freeman Lane. The proposed after the fact clearing. Area mowed has been seeded with upland seed mix on disturbed area. Work occurred within 100' of Edge of Pond, Edge of Wetland, and within Land Subject to Coastal Storm Flowage. John Jannell said this unpermitted work was discovered during a site visit to the recently approved Amended Order of Conditions for the cattail removal along the abutting pond. John Jannell reported the applicant had previously cleared a similar area back in 2007 without filing, and passed around pictures of the site which showed temporary irrigation which had been installed for the replacement plants from this previous violation. John Jannell reported that the applicant had begun planning to prepare a Notice of Intent for this unpermitted work. Judith Bruce was concerned about the re-clearing of the mitigation area, and John Jannell said this area was adjacent to the area previously cleared. Jamie Balliett inquired about the enforcement process, and John Jannell explained that the Chairwoman signed a letter which went out to the applicant explaining that unauthorized work was discovered during a site visit. This letter asks the applicant to file with the Conservation Department, and to hopefully explained his goals for the area since it has been cleared on two separate occasions. John Jannell recommended this Administrative Review application be turned down and a Notice of Intent requested for the after-the-fact clearing and future restoration of the area. Judy Brainerd asked about the size of the cleared area, and John Jannell said while he was unsure of the dimensions, it was not as significant as the previous violation.

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

VOTE: 0-7-0; Motion Denied, Please File a Notice of Intent.

Norman Eaton, 88 Tonset Road. The proposed removal of invasive vines on a Coastal Bank and replanting with High Tide Bush, Bayberry, and Beach Grass. This is the third part of a three-phase project. Work will occur on a Coastal Bank. Sam Southworth of SWS Services of Cape Cod was present. Sam Southworth explained that this was the final stage of opening of the view corridor, with the other stages having been completed through Administrative Reviews. Judith Bruce asked if anything besides invasive vines were to be removed, and Sam Southworth said a couple of locust trees and sycamore maples were to be removed. John Jannell said this work was the result of unauthorized cuttings having been done in 2004. Since that time, Sam Southworth has worked under Administrative Reviews, and in 2010, was approved to go down into the middle of the bank. The trees to be removed are stump sprouts, with replanting of shrubs on the middle and top of the bank already in place. John Jannell suggested that the applicant come back at a later time to prune the stump sprouts for health. Judith Bruce asked if the stumps of the trees to be removed were going to be taken out, and Sam Southworth said no. Judith Bruce said that typically this amount of work was not permitted under Administrative Review, but felt the applicant was providing good results.

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

VOTE: Unanimous.

Last Heard 12/11/12 (JO1)

D. Beth McCartney, 135-137 Portanimicut Road. The proposed removal of 2 standing dead pitch pines and 2 additional pitch pines adjacent to street side of house. 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. D. Beth McCartney, applicant, was present. John Jannell explained that per the request of the Commission, the application had been split into two, with this application being for the removal of the 4 pitch pines which had the support of the Conservation Administrator.

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

VOTE: Unanimous.

D. Beth McCartney, 135-137 Portanimicut Road. The proposed removal of an oak tree. 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. D. Beth McCartney explained that this tree was located 9' away from the deck of the existing house, and she was concerned that if it was to come down, it would hit the house. John Jannell explained that he went on site to take additional pictures of the tree to show its proximity to the deck and to demonstrate whether the removal of the tree would result in the loss of a screening tree. D. Beth McCartney said there was plenty of screening from the resource area on site. James Trainor concurred, and Judith Bruce felt it would be best to remove the tree now before a storm event caused it to fall and cause damage and before nesting birds began to use it in the spring. Judy Brainerd asked if replanting was proposed, and D. Beth McCartney said she was not proposing replanting, as there was plenty of screening on site. John Jannell felt this was a great tree located in a bad

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place, and there was an additional open Order of Conditions on site which required additional plantings. John Jannell felt the property was well screened by mature trees.

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

VOTE: Unanimous.

Michael Bernatchez, 30 Beach Plum Lane. The proposed construction of a screened in porch and a pergola on an existing deck. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Kurzhaus Designs, Inc. Trevor Kurz of Kurzhaus Designs was present. John Jannell asked if the proposed work would include any foundation work. Trevor Kurz said no, as there was a girder underneath the deck, and they would not need to pour any additional sonotubes. Judith Bruce asked if there would be any windows installed, or if the work would include the enclosure of a space on the deck and Trevor Kurz said no. Jamie Balliett asked if a gutter would be installed, and Trevor Kurz explained there would be a wrap around the hip roof, with existing downspouts. Jamie Balliett asked if this went into a drywell, and Trevor Kurz said yes. John Jannell recommended approval of this work, noting that there were two open Orders of Conditions for work on the site for phragmites removal and bank restoration. James Trainor asked for clarification of the drainage, and Trevor Kurz showed on the site plan how the drainage would flow.

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

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on December 11, 2012

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

VOTE: Unanimous.

Other Member's Business

Administrator's Business

John Jannell reported that the Greg Berman report for 187 Namequoit Road has been circulated and will be part of the next meeting on January 8, 2013.

The Commission announced that this was the last meeting of 2012, and wished all a Happy and Safe Holiday Season

The meeting was adjourned at 9:17am.

Respectfully Submitted,

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