

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, January 8, 2013

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K. Denig
ORLEANS TOWN CLERK

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

ABSENT: Jim O'Brien.

8:30 a.m. Call to Order

Continuations

Last Heard 12/11/12

Ken Eisner, Countryside Building & Development, 8 High Street. by Ryder & Wilcox, Inc. Assessor's Map 37, Parcel 12. The proposed construction of a single family dwelling; installation of a septic system and utilities; construction of a driveway; grading; landscaping; and mitigation. Work will occur within 100' of an Intermittent Stream and the Edge of Two Wetlands. David Lyttle of Ryder & Wilcox, Inc, and Tabitha Kaigle and Jen Exner of Wilkinson Ecological Design, were present. David Lyttle went over the changes to the revised site plan, which included but were not limited to the reduction of the size of the house, the elimination of the garage, and the moving of the house and the limit of work outside of the 50' buffer zone. Tabitha Kaigle explained that the planting plan now showed additional shrub plantings as well as a limit of mowing to not proceed into the 50' buffer. Tabitha Kaigle noted a section of the plan where a future shed may be placed. Jen Exner said that the revised planting and landscaping plans took into consideration the abutters concerns brought up at the initial hearing on 11/20/12, using cedar trees and upland shrubs to supplement the back southwestern property line. David Lyttle noted the number of cedar trees had been increased and screening was provided. Tabitha Kaigle also explained that the management time had changed from 3 years to 5 years, hopefully resulting in an eradication of the invasive species on site. Judith Bruce felt the work proposed was a good start, but that the potential shed note on the plan needed to be eliminated as the Commission did not want something on the plan which detail had not been provided for approval. Jen Exner said that while the plan labeled this area for a potential shed, there was no reference to an approved building or dwelling within this potential shed location. Judith Bruce asked about the parking within the 50', and whether or not something more permanent to demarcate the 50 buffer line. Jen Exner said the area was labeled as a low shrub planting area so that larger sized plantings would not grow up adjacent to the house and create problems with their root systems. David Lyttle thought the driveway would be the only thing which would be permitted within the 50' buffer zone, and asked for the opinion of the other Commissioners. Steve Phillips felt the revisions to the plan were an excellent response to the Commission's concerns. Steve Phillips noted that John Jannell went out during a recent rain event and found the swale to be flowing, and asked if anything had been changed on the plan as a result. David Lyttle said the area was still being referred to Land Subject to Flooding, as their still was not a defined area with a definitive bank which would classify this area otherwise. David Lyttle did not think that the current proposal would alter the flow, and Steve Phillips was concerned if this flow would impact the proposed 8" pipe. Judith Bruce asked if it would be beneficial to

increase the size of the pipe to allow for critter passage. David Lyttle said the concern he addressed was for a limited amount of fill, which the 8" pipe would meet. Judith Bruce asked if a larger pipe would increase the elevation, and David Lyttle said yes. David Lyttle addressed the flow and stormwater, noting that this sized proposed pipe could handle a 25, 50, and 100 year storm event. Steve Phillips asked if a view corridor had been created on site. Tabitha Kaigle said while it was not a view corridor, there was a view shown across the property to show that there was a meadow on site. Steve Phillips thought this view went through the existing cedar and oak trees, and asked if any would be altered as a result of this view corridor. Tabitha Kaigle said that only one tree was to be removed due to construction, with proposed replacement at a 1 to 1, and any shrubs that were native and healthy to remain. Jamie Balliett asked what the distance from the house to the resource area was prior to the revisions, and David Lyttle said the original proposed house was at the 50' line, with the limit of work extending 8' into the resource area. The current proposed limit of work was now outside the 50' buffer at the southwest corner. Jamie Balliett asked about the amount of fill to be used for the culvert, and David Lyttle estimated it to be around 1.5'. Jamie Balliett agreed with Judith Bruce's concern about the delineation of the no-mow zone, and suggested that something more permanent be used as a delineation. Jen Exner suggested that instead of fencing that large stones or boulders be used, making it a much more permanent demarcation. Bob Royce felt stones were a vast improvement and good idea. James Trainor asked about the dimensions of the front stoop, and David Lyttle explained it was 5' by 5' with two steps, providing for a covered area to come into the house. Judith Bruce thought she was the only one concerned about the size of the parking area, and James Trainor felt that it would be better to allow the owner to turn around in the driveway versus backing out and potentially causing damage to the resource area. Judy Brainerd said she was pleased with the revisions to the plans, and Judith Bruce suggested an annual monitoring plan be provided of the progress on the site. John Jannell asked about the 4" cedar located within the limit of work, and whether or not dripline protection was provided. David Lyttle said yes, and the only cedar trees where trunk protection was proposed were located along the driveway. Tabitha Kaigle explained there was a plan notation saying dripline protection was provided where feasible, and all others would be canopy protection. John Jannell asked that the trees be assessed for health and that if there was tree damage from the limit of work, that they be replaced. John Jannell felt annual reports were beneficial, and Jen Exner said that she typically did annual reports in the late fall/winter to show the germination work from the spring and the additional plantings put in during the fall. John Jannell suggested that the 5 year management be incorporated into any approval should a Certificate of Compliance be requested prior to that time. John Jannell asked where the construction staging vehicles would be parked, and David Lyttle thought there would be a lot of parking along High Street. John Jannell noted that the only plan change needed would be to show the more permanent delineation of the 50 buffer line. Jen Exner showed the Commission a quick sketch, and the Commission agreed that it would be a suitable revision. Judith Bruce noted that the boulders should be placed so that a lawn mower would not traverse between to encroach within the buffer zone. Steve Phillips asked that the site plan showing a storage area be clear that there was not any type of structure within this area.

MOTION: A motion to approve the site plan final revision 12-18-12, Land Management Plan dated 1/13/13, and Restoration Plan dated 1/3/13, with the condition that a revised plan showing the Area within the Limit of Mowing be revised to show the permanent buffer; a 5 year management plan be implemented with an annual report given to the Conservation Commission, and a 1 to 1 tree replacement be offered on site was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

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. Roger Michniewicz of Coastal Engineering Company was present. John Jannell noted that the hearing was continued pending receipt of a letter from NHESP. John Jannell read into record the recommendation from NHESP, which stated that "All work must be completed during the period October 15-May 15." John Jannell noted that the recommendation of the Conservation Commission would be that no work could be done under Mean High Water. Roger Michniewicz said the applicant did not have a problem with either the NHESP or Conservation Commission conditions. John Jannell also noted that the plan included a condition that the asphalt and stone would be removed.

MOTION: A motion to approve the plan dated December 12, 2012, with the conditions that all work take place during the period of October 15- May 15 and that no work under Mean High Water was permitted was made by Steve Phillips and seconded by Jamie Balliett.

VOTE: Unanimous.

Revised Plan

Last Heard 11/13/12

Robert & Sally Roda, 187 Namequoit Road. The proposed installation of scour protection and beach nourishment on a Coastal Bank. Plans have been revised to present a revised grading schematic; the addition of 200 cubic yards of fill to the Coastal Bank; the installation of a Geocell layer on the Coastal Bank; the modification of the planting plan; and the removal of the existing groin to be used as toe stones. Work will occur on a Coastal Bank, Coastal Beach, Land Under the Ocean, and within 100' of the Top of a Coastal Bank. *James Trainor recused himself.* Jay Norton of Coastal Engineering Company and Robert and Sally Roda, applicants, were present. Jay Norton went over recent changes to this Revised Plan, included the removal of the use of the groin for additional toe stones. Jay Norton passed around highlighted excerpts from Greg Berman's report. Jay Norton felt the report showed that the geocell layer would have no adverse impact, and that American Beach grass would be a good start, with the increase of woody vegetation to the revised planting plan to a total of 150. Judith Bruce asked what the original proposed numbers were for the plantings on the approved Order of Conditions, and Jay Norton said 74 Beach Plum, 74 Virginia Rose, and 74 bayberries. John Jannell reminded the commission that in front of them today was the request for a change in contractor and a plan revision. The current Order of Conditions had a nourishment condition, and if the Revised Plan is accepted, no new

conditions can be added to the Order. Judith Bruce asked about how much nourishment was included in the approved OOC, and John Jannell said it was 1-2' of nourishment to cover the bags. John Jannell said the nourishment was not proposed to be changed, but instead a change in grade and landscaping, of which John Jannell was not in favor of changing the landscaping plan. Jamie Balliett said the proposed landscape plan represented shrinkage in proposed plantings, and Jay Norton said it introduced more American Beach Grass. Judith Bruce was concerned that the elimination of the mixture of grasses created less diversity, and Jay Norton said that the woody plants would be installed after the American Beach Grass. Steve Phillips noted that on a property close to the applicants they had utilized 4 different types of grasses to create a stable slope, and felt that the applicant's planting plan needed to incorporate a variety of grasses in addition to the American Beach Grass. Judith Bruce concurred, and Steve Phillips asked what was in the native seed mix listed to be on the geocell layer. Jay Norton said it would be consistent with what had been approved during the hearing process. Steve Phillips asked where the 300 yards of fill would be used on the bank, and Jay Norton said since the sand envelopes would be repositioned, the location of the nourishment would be the same. Steve Phillips asked about the comment on the plan next to the 900 gram coir biodegradable fabric which said "or equal as approved by engineer," and asked that it be removed. Jay Norton said this was a typical condition put on a plan. Steve Phillips said there had been problems with this type of notation resulting in different building materials being substituted, and asked for this notation to be removed from the erosion control blanket. Judith Bruce asked about the type of sand to be used for nourishment, and Jay Norton was concerned that the Commission was going off-track. Judith Bruce clarified that the proposed Plan Revisions were extensive, and the Commission wanted to make sure that each proposed change was addressed accordingly. Jay Norton said the sand nourishment would be consistent with CZM's recommendations. Steve Phillips addressed the final paragraph of Greg Berman's report, which indicated that "it would take far less erosion to expose the coir envelopes." Robert Roda said that the installation of a stable access ramp would be the best approach to ensure proper maintenance. Bob Royce confirmed that the groin removal and relocation was no longer part of the proposal, and Jay Norton said yes. John Jannell asked about a new work protocol had been generated, and Jay Norton said this was something which would have to be submitted before work could commence. John Jannell said this was part of the original approval, and that during the hearing process the contractors were present for the Commission to meet. John Jannell asked if the new contracting team had something which they could present, and also noted that he remained in favor of the original approved planting plan. Judith Bruce concurred, and Jay Norton suggested that the plants be monitored to determine if the planting revisions were working accordingly. Bob Royce felt a diverse planting plan was important, and the Commission discussed a change from the planting plan going from 3 to 5 years. John Jannell reminded the Commission that this was not an Amended Order of Conditions, and a change to the monitoring of the planting plan could not be made under a proposed plan revision. John Jannell passed around the original approved work protocol, and Judith Bruce felt this was something which was needed. Judith Bruce explained that the Commission wanted to make sure the contractor had experience with these types of projects. Robert Roda felt that Greg Berman's report endorsed the usage of American Beach Grass on the site, and did not understand why

the original approved planting plan was so heavily favored. Judith Bruce said the concern was the reduction of the shrub material by 1/3, and this planting plan revision was primarily a monoculture of American Beach Grass. Jay Norton asked if the original approved planting plan was used if this would be approvable under a plan revision. Judith Bruce asked who the proposed landscaper would be, and Jay Norton said NETCO would be the project manager, with Greg Morris Landscaping out of Truro as the landscaper. Judith Bruce asked that the applicant get the Commission information about their experience with such projects. John Jannell went over the corrections which would be needed for this Revised Plan to be accepted, which were the change to the plan to reflect the original approved planting plan being used, the removal of the "or as approved by engineer" where Steve Phillips had indicated, and the submission of a work protocol. John Jannell felt the commission was concerned that the 900 gram coir blanket be used, and Judith Bruce felt the Commission was fine with the usage of the geocells.

MOTION: A motion to continue the hearing to January 15, 2013, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Charles Silbert, 33 Gesner Road. The proposed removal of an existing dwelling and cesspool, and the construction of a new single family dwelling, garage, driveway, and septic system has been revised to relocate the proposed driveway and moving the limit of work further from the buffer zone to the resource area. Work will occur within 100' of the Edge of Wetland, Top of a Coastal Bank, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. John Jannell explained that this revision was to move the driveway further from the resource area.

MOTION: A motion to approve this Revised Plan was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous

John Jannell said he would call Tim Brady of East Cape Engineering to sign the copies of the approved Revised Site Plan.

Certificate of Compliance

Francis E. Lajoie (1984), 23 Pochet Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of a single family residence with a porch and garage. John Jannell reported this Order was in compliance.

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

VOTE: Unanimous

Administrative Reviews

Gary Webster, 28 Twinings Lane. The proposed removal of 4 pitch pines. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Bartlett Tree. Dave Chalker of Bartlett Tree explained that there were 4 pitch pines within the view corridor which were proposed to be removed and replaced with Eastern Red Cedars. A site plan showing where they would be planted had been provided showing their location in the lower area to provide ample sunlight. Judith Bruce brought up that when the view corridor was approved, there was concern about the view from the resource area which

would now be opened up. David Chalker felt the view was filtered from the resource area, and the house itself was located outside of the 100' buffer zone to the resource area. John Jannell noted that there was an open 2009 Order of Conditions for the removal of 90-100 locust trees, and that part of the work included an approved view corridor. Judith Bruce was concerned that this tree removal would open up the view from the landing and Quanset Pond. David Chalker suggested that the replacement cedar trees could be planted within this area, and Judith Bruce was concerned about the amount of time it would take for the trees to grow in and shade the area. John Jannell provided the Commission with photos from the deck area looking at the trees, and Steve Phillips suggested that a picture from the resource area showing the pines would be more beneficial. Judith Bruce concurred, and felt pictures from the resource area looking back at the site would help determine the outcome of the tree's removal. Judith Bruce asked if the applicant could wait until the spring to take a photo of the site, and David Chalker explained that the removal was part of an effort to address turpentine beetle concerns. David Chalker said he would like to hold the application for a future hearing so that he could take photos of the site. The Commission decided to hold the application.

Peter Rush, 10 Sparrow Lane. The proposed removal of 2 storm damaged trees. 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. John Jannell explained that both trees were on the ground within the mitigation area, which had been replanted and looked good.

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

VOTE: Unanimous.

Richard Rowson, 14 Alden Road. The proposed replacement of an existing deck within the same footprint, handrails and stairs to be modified. Work will occur within 100' of the Edge of Wetland. Work to be done by Michael Ciampa. John Jannell stated that this would be the replacement of the deck within the same footprint, with the railings to be modified per building code regulations.

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

VOTE: Unanimous.

Bruce Taylor, 3 Larboard Lane. The proposed removal of a down black cherry. Work will occur within 100' of the Edge of Pond. John Jannell reported that this tree was down from the recent storm events, and would be replaced with a crab apple.

MOTION: A motion to approve this application was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on December 18, 2012

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

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VOTE: Unanimous

Other Business

Vote to authorize expending funds from the Wetlands Filing Fees Account for Commissioner training.

-Request to expend up to \$60 to participate in upcoming MACC Training

John Jannell said this was for an upcoming webinar for the Fundamentals for Conservation Commissioners Training program. Jamie Balliett inquired about how many people could participate in the webinar. John Jannell said that the cost associated with the class was per commissioner, and the members who signed up would receive the credit for taking the course and eventually the certification for the Training Program.

MOTION: A motion to approve this expenditure was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous.

The Commission discussed the site visits.

The meeting was adjourned at 9:57am.

Respectfully submitted,

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