

Orleans Conservation Commission Work Meeting Minutes 1-22-13

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Work Meeting, Tuesday, January 22, 2013**

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K. D. G. ASS  
ORLEANS TOWN CLERK

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

**ABSENT:** Jamie Balliett; Jim O'Brien.

8:30 a.m. Call to Order

***Please note: the minutes reflect the order in which each filings were addressed, and is different than the published Agenda. This change was to accommodate the applicants for the proposed projects.***

**Continuations**

Last Heard 1/15/13

**David Wiener, 72 Keziah's Lane.** by East Cape Engineering, Inc. Assessor's Map 49, Parcel 53. The proposed removal of an existing licensed pier and float, and construction of a new pier and seasonal float. Work will occur within a Salt Marsh, Land Under Water, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. Tim Brady of East Cape Engineering, Inc. was present. Tim Brady explained that there was confusion over the time period which Amy Coman-Hoenig of NHESP asked that work take place between April 15-June 15 of any calendar year as to avoid disturbing nesting turtles.

**MOTION:** A motion to approve the site plan dated 11-15-12 with the condition that work only take place between April 15-June 15 of any calendar year was made by Steve Phillips and seconded by Bob Royce.

**VOTE:** Unanimous.

**Administrative Review**

**Alice Ronty, 648 S. Orleans Road.** The proposed replacement of stairs and deck on beach per licensed plan 8546. Work will occur on a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay A.C.E.C. Work to be done by Chris Norgeot. Paul Ronty, applicant, was present. John Jannell explained this was the replacement of a stairway with a Chapter 91 Waterways License. The stair had been lost during a recent storm event. John Jannell reminded the applicant that no expansion would be part of this approval. Paul Ronty agreed, and said they were planning on replacing exactly what was there prior to the storm, which included the stair and deck.

**MOTION:** A motion to approve this Administrative Review was made by Steve Phillips and seconded by Bob Royce.

**VOTE:** Unanimous.

**Revised Plan**

**Michael Schumaecker, 161 Monument Road.** The proposed construction of an addition has been revised to reduce the size of the addition from 87.5 square feet to 72

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square feet. Work will occur within 100' of the Top of a Coastal Bank. John Jannell reported that Jason Ellis of JC Ellis Design was unable to make it to the meeting, and said this was a reduction of the proposed addition from 87.5 to 72 square feet.

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

**VOTE**: Unanimous.

### **Certificate of Compliance**

**Jake Brown (1994), 50 Freeman Lane**. The request for a Certificate of Compliance for an Order of Conditions for the construction of a second shed and tree removal. John Jannell explained that this and the following request for a Certificate of Compliance both had a version of an addition which was never constructed. A shed was built and the closing of these orders no longer allows the construction of the addition, which the applicant was aware.

**MOTION**: A motion to issue this Certificate of Compliance was made by Steve Phillips and seconded by Bob Royce.

**VOTE**: Unanimous.

**Jake Brown (1998), 50 Freeman Lane**. The request for a Certificate of Compliance for an Order of Conditions for the expansion of a driveway and removal of cedar trees. John Jannell explained the driveway work and tree removal had been done, and that this would again close an Order referring to the addition.

**MOTION**: A motion to issue this Certificate of Compliance was made by Bob Royce and seconded by Judy Brainerd.

**VOTE**: Unanimous.

**Eleanor Fischer (2009), 62 Barley Neck Road**. The request for a Certificate of Compliance for an Order of Conditions for the installation of a septic system to serve an existing dwelling and the removal of the existing system. John Jannell explained that this open Order of Conditions was discussed during a recent on-site, and the Commission saw that it was installed per plan and in compliance with the Order.

**MOTION**: A motion to issue this Certificate of Compliance was made by Steve Phillips and seconded by Judy Brainerd.

**VOTE**: Unanimous.

### **Administrative Reviews**

Last Heard 1/8/13

**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 was present. Dave Chalker passed around a series of photos from the water showing the present location of the trees to be removed. Dave Chalker explained he used Photoshop to remove these trees from the second picture to give the Commission an idea as to how it would look with the trees removed. Dave Chalker said that after speaking with Seth Wilkinson of Wilkinson Ecological Design, replacement cedar trees could be installed wherever the Commission preferred. Judith Bruce noted that the public viewshed from the resource area had been unobstructed, and the

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establishment of the view corridor which existed under Order did not constitute that every tree could be removed. John Jannell went over the history of the site, noting that the house had been built outside of the 100' buffer, and the establishment of the view corridor included the removal of invasive species. Dave Chalker noted that the oak layer would still provide screening from the resource area. Steve Phillips asked about the potential location for the replacement cedar trees, and Dave Chalker said closer to the 100' buffer line to provide ample light for the trees. Bob Royce felt this location would be fine, and Dave Chalker said the pine trees would be taken out now while the bank was dormant, with the cedar trees to be installed in the spring. Dave Chalker said he would e-mail John Jannell when the cedar trees were to be installed. Judith Bruce said that while she was the only one with concern for this tree removal, within the view corridor she would not be amenable to additional trees being removed.

**MOTION:** A motion to approve this application was made by Bob Royce and seconded by Steve Phillips.

**VOTE:** Unanimous.

**Andrew Santonelli, 67 Uncle Israels Road.** The proposed after the fact construction of a split rail fence. Work occurred within 100' a Bordering Vegetated Wetland and the Edge of Uncle Israel's Pond. John Jannell passed around photos of the fence, and Bob Royce inquired if the fence was chain link or split rail. Judith Bruce said this was chain link around split rail fence. John Jannell explained that this application came in response to a Notice of Violation sent out, and felt that this type of structure so close to the wetland edge was not something he would support. Bob Royce asked what the fencing was for, and Judy Brainerd asked if it went around the entire property. John Jannell said it was to enclose dogs, and that it did go all the way around. Judith Bruce was sympathetic to the applicants need to secure the dogs on premises, but that this created a complete barrier to wildlife passage. Judith Bruce thought that an electric fence may be a better solution, and Judy Brainerd asked about the size of the lot. Steve Phillips said the lot was just over ½ acre. John Jannell suggested that he reach out to the homeowner to speak about the application. Judith Bruce was uncomfortable recommending the applicant file an NOI when this would not be something which the Commission was not in support. Steve Phillips suggested that John Jannell mention to the applicant that an electric fence may be a softer solution. John Jannell said he would call the applicant.

**Kevin & Stacie Higgins, 43 Kenneth Lane.** The proposed removal of a storm damaged spruce tree. Work will occur within 100' of the Top of a Coastal Bank and the Pleasant Bay A.C.E.C. John Jannell recommended approval of this Administrative Review.

**MOTION:** A motion to approve this work was made by Bob Royce and seconded by Steve Phillips.

**VOTE:** Unanimous.

**Max Makowsky, 5 Deep Pond Circle.** The proposed removal of a leaning pine tree. Work will occur within 100' of the Edge of Shoal Pond and a Bordering Vegetated

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Wetland. John Jannell reported that this was a wind thrown pine which was hung up in the other remaining pines.

**MOTION:** A motion to approve this application was made by Steve Phillips and seconded by Bob Royce.

**VOTE:** Unanimous.

**Town of Orleans/Tree Warden, 26 Doane Road.** The proposed brushing back of invasive vines, autumn olive, and bush honeysuckle at the Town Landing. Work will occur within 100' of the Top of a Coastal Bank. John Jannell reported that Dan Connolley, Tree Warden, and Mark Budnick, Highway Department Manager, were working on the town parcel brushing back invasive vines by the parking for beach and boating access. Judith Bruce asked if roots would be pulled, and John Jannell said no excavation was proposed.

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

**VOTE:** Unanimous.

### **Informal Discussion**

Steve Simon of 24 Beach Road asked to be heard by the Conservation Commission informally to discuss his property. John Jannell noted that Steve Simon came to the Conservation Department on the morning of January 22, 2013, and asked if he could be heard. Judith Bruce, Chair, chose to recognize Steve Simon. Steve Simon explained that he had a failed water line at his property at 24 Beach Road and wanted an Emergency Permit to install a new water line through his easement which connected to Cole Place. Judith Bruce asked if the current line could be repaired, and Steve Simon said that he had been unable to find the water line and subsequent broken component which has caused the failure. Judith Bruce said that under an Emergency Permit it was not possible to approve a new location without filing, and said the repair of the current line would be something which could be approved as an Emergency Order if Conservation Commission Jurisdiction existed in that location. Steve Simon said that the repair of the existing line would be cost prohibitive as the utilities would have to be moled. Steve Phillips noted that the repair of the existing line would be outside of Conservation Commission jurisdiction, and Judith Bruce said that the Emergency Permit approval of a new water line within 5-10' of a resource area was not something which could be permitted without a Notice of Intent. Steve Simon said that he walked the proposed water line application to the Water Department, and John Jannell said this type of work required filing with the Conservation Commission prior to the review of the Water Department. James Trainor asked if the existing water line was the same length as the water line through the easement, and Steve Simon said it was the same distance, but that the driveway would need work as a result of the water line repair. James Trainor asked if he had a plan with the water department, and Steve Simon said that he had a non-engineered plan which the Water Department reviewed. Judy Brainerd felt the Commission needed to see a site plan before a decision could be made. Steve Phillips asked why the neighbor's water line could not be tapped into, and Steve Simon said he would have to try to figure out a temporary solution. Judith Bruce said it would be up to the applicant to decide if he would like to repair the existing line or

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file for a new water line. Steve Simon asked if he spent the money on filing a Notice of Intent if it would be something which was approved, and Judith Bruce explained that they could not issue a predetermination until it was filed. Steve Phillips wanted to hear from the Water Department to determine how this had not come to the attention of the Conservation Commission sooner. Steve Simon thanked the Commission for their time, and Erin Shupenis said she would provide Steve Simon with the next filing deadline and subsequent hearing dates.

<b>Meadow on the Cove</b>	Wedding	9/14/13
Sligar/Duket	12-5pm	150-200 People

John Jannell explained that Erin Shupenis spoke with the applicant, who was aware that the area could not be trampled or damaged due to the high capacity of the wedding. Erin Shupenis said that the applicant made a verbal commitment to ensure the property was respected.

**MOTION**: A motion to approve this event was made by Steve Phillips and seconded by Bob Royce.

**VOTE**: Unanimous.

### **Chairman's Business**

Approval of the Minutes from the Meeting on January 8, 2013

Erin Shupenis reported that the minutes were not ready at this time and should be at the next hearing.

The Commission discussed the site visits.

The meeting was adjourned at 9:13

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department