

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, March 5, 2013

ORLEANS TOWN CLERK
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PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; James Trainor; Jim O'Brien; Judy Brainerd; Nancy O'Mara, Associate; Philips Marshall, Associate; John Jannell, Conservation Administrator.

ABSENT: Jamie Balliett.

8:30 a.m. Call to Order

The Chair announced that due to the absence of Jim O'Brien, Nancy O'Mara would be voting today.

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.

Last Heard 2/19/13

Denise D. and John P. McGeough, Jr., 11 Gull Lane. by FELCO Inc. Assessor's Map 24, Parcel 65. The proposed renovations to an existing dwelling including the conversion of an existing deck to a screened in porch, the construction of a deck above it, the construction of a second floor addition, & the construction of a shed. Work will occur within 100' of the Edge of Wetland, Edge of Salt Marsh, & within 200' of Edge of Riverfront. Dave Lajoie of FELCO Inc. was present. Dave Lajoie passed around a revised plan, explaining that in the previous meeting the Commission asked for the planting area within the A.C.E.C. to increase the planting area. Dave Lajoie said that due to the proposed work being within Land Subject to Flooding, they have proposed the foundation to be flood compliant which provides openings to allow flood waters to come in and out. Judith Bruce asked if there would be an oil tank which would cause problems with the water moving in and out, and Dave Lajoie explained that all of the utilities would be raised to be flood compliant. Steve Phillips brought up the proposed shed, and Dave Lajoie explained that since the shed could not be located outside of the 50' buffer that it had been removed from the proposed project. Steve Phillips confirmed that there would be no increase in bedrooms, and Dave Lajoie said yes, and that the existing septic system would remain the same. Judith Bruce inquired about details on the proposed mitigation planting strip, and Steve Phillips noted there were comments about arrowwood and highbush blueberry on the plan. Judith Bruce asked if this was the 2-gallon 6' off-center, and John Jannell noted that this was a standard plant density for 2-gallon plants. John Jannell asked if the Commission wanted a formal count, and Steve Phillips felt the 6' on center accurately spelled out the mitigation. John Jannell asked why the planting had not been continued from the 10' contour along the drainage easement, and Dave Lajoie said that area was currently vegetated. John Jannell felt the flood-zone compliant foundation could be considered mitigation as it allowed the property to function, and Judith Bruce felt these revisions were what the Commission had requested.

MOTION: A motion to close the hearing was made by Jim O'Brien and seconded by Bob Royce.

VOTE: Unanimous

MOTION: A motion to approve the site plan dated February 25, 2013, was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous

Continuations

Last Heard 1/15/13

Stephen Brodeur, 25 Weeset Proprietors Way. by Coastal Engineering Company, Inc. Assessor's Map 6, Parcel 4. The proposed property redevelopment including select structural & site demolition; reconstruction & reconfiguration of the existing dwelling; installation of a new septic system; & the enlargement of buffer planting areas. Work will occur within 100' of the Top of a Coastal Bank and within Land Subject to Coastal Storm Flowage. Dave Michniewicz of Coastal Engineering Company, Inc, Sarah Turano-Flores of Nutter, McClennen, & Fish LLP, legal representation for the applicant, Phil Cheney, Landscape Designer, John Meyer and Timothy Haynes, Architects from Meyer & Meyer, Inc., and Stephen Brodeur, applicant, were present. Sarah Turano-Flores introduced the revised plans stating that the increase of living space within the 50' buffer had been eliminated, there was a decrease to the square footage and living space up to the 75' buffer, and the increase in living space was now located within the 75-100' buffer. There will not be an increase in bedrooms as a result of this proposed work, and the house has been designed to be better screened along with the plantings. Dave Michniewicz said that the septic tank has been relocated outside of the 75' buffer, and the cantilevered deck within the 0-50' buffer has been removed. Judith Bruce asked if the 11 'of square feet of structure to be removed was currently located within the 0-50' buffer and Dave Michniewicz said yes. Dave Michniewicz pointed out that the existing garage would be removed, with a new garage to be located almost entirely outside of the 100' buffer. Judith Bruce asked if the dashed green area located on the site plan was a covered entry which would be closed off with surrounding walls. Dave Michniewicz clarified that the area would not have surrounding walls but would be to protect the applicant during inclement weather. Dave Michniewicz said the roof runoff would be collected in a biofiltration area for stonewater treatment, and discharged into a leaching facility outside of the 75' buffer zone. Timothy Haynes presented the house plans, demonstrating how the house was designed to take advantage of existing views. John Meyer explained the applicants desire to not have the house seen from the resource area, and that pictures were taken of houses within the surrounding areas and work was done in conjunction with Phil Cheney to determine how the plantings would screen the house. Judith Bruce inquired about the stone wall shown, and Timothy Haynes explained that was the wall approved under the previously approved revetment work. Steve Phillips recalled there had been problems with water in the basement, and inquired if measures had been provided for this possibility. Sarah Turano-Flores felt the secondary wall approved under the revetment project would thwart any concerns. Dave Michniewicz pointed out that the wall was the connector between the house and revetment, and the basement is located outside of the 100-year flood zone. Steve Phillips asked if the screened porch would be 3 season and Timothy Haynes said yes. James Trainor noted that the volume of the house was increased by over 20%, and

Timothy Haynes said this was because the building was two stories, and the majority of the increase was within the 75' buffer. James Trainor clarified that the increase was not on the water side, and Timothy Haynes confirmed this. John Jannell asked to confirm that there was no work happening within the flood zone, and Dave Michniewicz said that was correct. Phil Cheney explained that the revised landscape plan showed the new footprint for the proposed house, and that none of the proposed plantings from the previous meeting had decreased. There would be some trees which would be displaced by the new driveway, and 6 new trees would be planted within the 0-50' buffer. Judith Bruce commended the work done by the applicants, and asked for opinions from the other board members. James Trainor commended the applicant on keeping the house shielded from the resource areas, and John Jannell asked if the house work would follow the revetment work, if it would be done during the dormant season, or if the site would be vacant at any point. Sarah Turano Flores asked if there would be limited times which the work would be done, and Stephen Brodeur thought the work would be done from November to April, and in whatever order was most appropriate. Dave Michniewicz clarified that the revetment work access would be done simultaneously with the reconstruction, as no work was approved to be done from the beach. John Jannell noted that there was a lot of work already permitted for this site, and wanted to see how this site would be disturbed in total. Sarah Turano Flores said the applicants would have a better idea after the Zoning Board of Appeals hearing, and Judith Bruce asked if the application warranted a Construction Protocol. John Jannell felt a Construction Protocol was not needed given the stringent Protocol already in place for the revetment work. Steve Phillips was concerned about the applicant starting the work within the next month, and Stephen Brodeur stated that work would not begin this April. John Jannell did not recommend any construction timeline for the house, and Sarah Turano Flores said the rock wall work would be amended later this year to change the proposed work from a straight line to a more curved line. Judith Bruce appreciated the heads up to the Commission, but noted that the hearing today was only for the proposed house work, and agreed that a timeline for the construction of the house was not warranted.

MOTION: A motion to close the hearing was made by James Trainor and seconded by Jim O'Brien.

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 2/26/13, landscape mitigation plan dated 3/1/13, subject to Board of Appeals approval, with the Landscape Mitigation be required and work to be done in conjunction with revetment work was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous.

Jim O'Brien left at 9:28am.

Phillips Marshall is now a voting member.

Last Heard 2/19/13

John V. & Loraine E. O'Hanlon, 28 Thayer Lane. by Ryder & Wilcox, Inc. Assessor's Map 63, Parcel 45. The proposed removal of invasive species & planting of native species, & the removal of 4 trees. Work will occur with the buffer zone to & on a Coastal Bank, in Land Subject to Coastal Storm Flowage, within the Pleasant Bay

A.C.E.C., and within 100' of the Edge of Salt Marsh. Jen Exner of Wilkinson Ecological Design was present. Jen Exner explained that there had been confusion about the saplings to be removed not located within the proposed view corridor, and that the revised plan showed the two of the trees which were to be removed for thinning would now remain. Jen Exner explained that the land management strategy was to keep the canopy less dense and allow them to receive more nutrients. Steve Phillips said he had been convinced that removing the 4 trees would improve the area, and now that they are to be left, what is the best thing for the property. Jen Exner explained that the greenbrier was outside of that area, and that they did not have an opinion either way if the two trees were to remain or were to be removed. Judith Bruce explained that while she was unable to attend the second site visit, one of her concerns was that the A.C.E.C. should be a naturalized area. Judith Bruce was concerned about the existing Cape Cod lawn, and that there should not be any activity within the 50' buffer. Jen Exner noted that the applicants bought the property 10 years ago, and while they had filed for the removal of 3 black locusts under an Administrative Review, they had kept the property the same way that they had gotten it. Steve Phillips inquired if the naturalized edge could be moved to the 25' buffer line. Jen Exner said that while she would have to consult with her client, she did not think that they used that area extensively. Jen Exner said that the area had been maintained to control the greenbrier spikes in that area, and that it was not over seeded with bluegrass, and thus deemed Cape Cod Lawn on the site plan. Steve Phillips asked about the location of the flagpole on the plan, and Jen Exner apologized for not putting it on the revised plan. Steve Phillips wanted to make sure that the area by the flagpole was not touched, and Jen Exner said it was in line with the fir tree. Jen Exner pointed out that there had not been a file record from the construction of the house, and that they would try to revegetate the back area which had crept into the buffer zone of the resource area. Steve Phillips asked if the path had been removed from the plan, and Jen Exner said it was in the smaller plan as a dashed line 18" wide. Jen Exner explained it was not survey located, and that the applicant had a good relationship with their neighbors to access the waterfront if they were unable to use the proposed path. Steve Phillips confirmed that the path was still part of the proposed work, and Jen Exner said yes. Judith Bruce felt the proposed mitigation brought an improvement to the area, but was concerned about the Cape Cod lawn becoming an over seeded lawn which would be maintained. Jen Exner suggested a condition limiting the mowing, and John Jannell suggested that the project be conditioned to include the view corridors and the area noted as Cape Cod lawn not be fertilized or maintained as a lawn. Jen Exner felt this area was used sparingly, and there were no worn paths throughout the area.

MOTION: A motion to close the hearing was made by Philips Marshall and seconded by James Trainor.

VOTE: Unanimous

Steve Phillips asked about the oak trees which were proposed to be removed, and whether or not they would in fact be removed. Jen Exner said she would leave it up to the Commission, and John Jannell explained that there were 4 oaks marked to be removed. Judith Bruce felt they should remain, and Steve Phillips felt the plan should be clarified to say exactly what work was proposed. Jen Exner said if the Commission agreed to allow their removal that she could mark the plan, and Judy Brainerd felt the trees could be taken out. Bob Royce asked that the flagpole also be shown on the plan.

MOTION: A motion to approve the Land Management Plan dated 2/1/13, Restoration Plan dated 3/5/13, site plan dated 2/1/13, including the removal of the two saplings, no fertilization, no increase in grass cutting beyond 3 times a year, and the drawing in of the flagpole was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

Last Heard 2/19/13 (JO1)

William N. Kubsch, 9 Lewis Road. by FELCO Inc. Assessor's Map 36, Parcel 156. The proposed replacement of wooden piles for an existing licensed dock. Work will occur within Land Subject to Coastal Storm Flowage, Land Under Water, Land Containing Shellfish, Salt Marsh, & the Pleasant Bay A.C.E.C. Judith Bruce announced that the applicant requested the hearing be continued to March 19, 2013. John Jannell explained that the applicant was considering raising the existing pier which would require additional permitting.

MOTION: A motion to continue the hearing to March 19, 2013, was made by James Trainor and seconded by Judy Brainerd.

VOTE: Unanimous

Amended Order of Conditions

Charles Silbert, 40 Gesner Road. by East Cape Engineering, Inc. Assessor's Map 42, Parcel 91. The proposed removal of an existing dwelling, construction of a single family dwelling, garage, and installation of a new water line and paved driveway has been revised to include the proposed installation of an underground propane tank. Work will occur within 100' of the Edge of Wetland, Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and the Pleasant Bay A.C.E.C. Tim Brady of East Cape Engineering and Charles Silbert, owner, were present. Tim Brady said that this was the proposed Amendment to an Order of Conditions where the applicant had previously wanted oil heat and had since changed to propose propane as it was better for the house and more environmentally efficient. Judith Bruce noted that the proposed tank appeared to be within the resource area, and inquired if this was the best location for the tank. Tim Brady explained that there were setback requirements which needed to be met for the tank's distance from the foundation, and this would be the best location for it to be serviced from the driveway. Judith Bruce noted that this was a difficult location given the curvature of the Coastal Bank, and Tim Brady said that a revised variance request had been submitted to the Commission. Steve Phillips inquired if additional trees would have to be removed, and Tim Brady stated no. John Jannell explained there was a comprehensive mitigation plan which accompanied the current Order of Conditions, and recommended that any approval of an Amended Order of Conditions carry over the current existing conditions. John Jannell asked about the limit of work which was to be moved to protect the linden tree during construction of the new house, and Charles Silbert said he would speak with his contractor to ensure that was done. John Jannell made the applicant aware that this was a condition of the Order, and stated that any motion should include all of the original conditions.

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

VOTE: Unanimous.

MOTION: A motion to approve the Revision to the plan and issue an Amended Order of Conditions to allow the installation of a propane tank with the condition that the Limit of Work be adjusted to the construction line and the original conditions of the Order accompany the Amended Order was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

Certificate of Compliance

Melvin Hochman & Beverly Ackerley, 9 Drummond Road. The request for a Certificate of Compliance for an Order of Conditions for the expansion of a deck on a single family dwelling. John Jannell explained this was the construction of a small deck with no special conditions, was built per plan, and could be found in compliance.

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

VOTE: Unanimous.

Administrative Reviews

Dwight Wilson, 14 Tides End Lane. The proposed removal of a leaning locust tree and dead pine. Work to be done by A to Z Treez. John Jannell noted that this was storm damage and recommended approval

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

VOTE: Unanimous

Town of Orleans/Parks Department, Nauset Beach. The proposed planting of American Beach Grass at Nauset Beach.

MOTION: A motion to approve this Administrative Review was made by Bob Royce and seconded by Nancy O'Mara.

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on February 5, 2013

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

VOTE: Unanimous

Other Member's Business

Administrator's Business

John Jannell thanked the Commission for supporting his attendance to MACC, where he attended 4 workshops.

The meeting was adjourned at 10:08am

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