

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, March 12, 2013

ORLEANS TOWN CLERK
C. May
13 APR 23 10:32AM

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

ABSENT: Jim O'Brien.

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.

Administrative Reviews

Pat & Kevin Cassidy, 44 Captain Linnell & 25 Blueberry Island Road. Proposed view maintenance including the pruning of branches and vines. Work will occur within 100' of the Edge of Salt Marsh, Edge of Pond, and within Land Subject to Coastal Storm Flowage. John Jannell reported that he had not spoken with the applicants, and would like to meet with them prior to a discussion on the proposed work. The Commission agreed to table the application until John Jannell could meet with the applicant.

Peter Fellman, 8 Tides End Lane. The proposed removal of a locust and a cherry tree. Work will occur within 100' of the Top of a Coastal Bank, Edge of Salt Marsh, and within the Pleasant Bay A.C.E.C. John Jannell reported the Black Locust was storm damage and wind thrown into the Cherry and recommended approval of the proposed work.

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

VOTE: Unanimous

Town of Orleans-Gavigan Property, 70 Willie Attwood Road. The proposed removal of Rip Rap rocks that have fallen on the beach and the re-establishment of a parking lot/turning area with new fence and rock. Work will occur on a Coastal Beach, in Land Subject to Coastal Storm Flowage, in the Cape Cod Bay A.C.E.C., and within 100' of the Edge of a Coastal Beach, Coastal Dune, and Land Subject to Coastal Storm Flowage. John Jannell passed around photos of the recent storm damage, noting that the proposed work would be from the parking area. Whatever rock material the machine could not reach would be addressed by the loader which would be on site for the renourishment of Skaket Beach in April. Bob Royce asked if a rock wall would be built, or if the stones would be returned to their original formation. John Jannell explained that the rocks had been used to delineate the parking area along with snow fencing, and this design would be used again at the top of the bank. Bob Royce was concerned that there appeared to be additional rocks on site, and John Jannell noted that these may have come from the eroding bank. Jamie Balliett inquired if there were any existing Orders of Conditions for this property which required Certificate of

Compliances, and suggested it would be good housekeeping to close out anything which remained open. John Jannell said he was not aware of any open Orders of Conditions, but would look through the files to ensure that was the case. Judith Bruce inquired as to where the town property ended and state property began on this site, and whether or not there were any rocks present on the state side. John Jannell pointed out the area where the state property began, and explained that there was not a lot of debris or rock on their side.

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

VOTE: Unanimous.

Town of Orleans-Skaket Beach Boardwalk, 192 Skaket Beach Road. The proposed repair/replacement of a lost section of the existing boardwalk/Handicap Access. Work will be completed in coordination with annual beach nourishment project. Work will occur on a Coastal Beach, in Land Subject to Coastal Storm Flowage, in the Cape Cod Bay A.C.E.C., and within 100' of a Coastal Beach, Coastal Dune, and Land Subject to Coastal Storm Flowage. John Jannell passed around a photo showing the damage from the blizzard, and explained that this work would be coordinated with the annual beach nourishment. John Jannell was unsure if there would be a need for a new boardwalk section. Jamie Balliett inquired about the donor site for the sand, and whether or not sand from the site was being moved to accommodate the nourishment requirements. John Jannell reported that it was the same off-shore donor site which had been used in previous years, and this open Order of Conditions for nourishment was still active for several years.

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

VOTE: Unanimous.

Proposed Issuance of Fines

Finlay Road Condominiums, 101,103, & 105 Finlay Road. The discussion of the issuance of fines for the after the fact removal of an oak tree including the potential levying of fines. Work occurred within 100' of the Edge of Wetland. John Jannell explained that he had spoken with the owners of the Condominium, all of whom could not be present for the meeting. John Jannell reported that the application was last presented to the Commission as the after-the-fact application for the removal of an oak tree. John Jannell was told that the tree was viewed as a threat by the owners to the vehicles in the parking area, and was cut down during Hurricane Sandy. The tree was then offered to a friend of one of the owners for firewood, and currently what remains is a 3' stump. Philips Marshall asked if tree companies were aware that they needed to file prior to commencing work on a site, and James Trainor clarified that it was the owners who completed the work. John Jannell explained that the majority of tree companies were good about filing for work within the buffer zones to resource areas. Judy Brainerd said she was unfamiliar with the site, and inquired as to the owner's knowledge of a wetland on site. Judith Bruce explained that the owners would have been able to see a large depression filled with water, and was not something which required a surveyed delineation in order to determine jurisdiction. James Trainor

clarified that the applicants cut down the tree prior to it coming down on its own, and John Jannell said yes. John Jannell explained that what was in front of the Commission was an after the fact application for which they had paid the previous after the fact filing fee, and the potential to fine the applicant for the work done. The proposed fine for the work done could be up to \$200, as it was only one offense. Steve Phillips asked what the fee was in the old structure, and John Jannell said it was \$20. James Trainor suggested a fine of \$100, and Judy Brainerd asked if this fine would be per owner or for the whole association. John Jannell explained that the fine would be per incident, and it would be \$100 total. Jamie Balliett asked if the applicant should be required to replant, and John Jannell said the area was well treed. Bob Royce felt the \$100 fine was not enough, and Steve Phillips thought a \$100 fine would make a statement. John Jannell noted that this fee would be prepared for the association. Judith Bruce asked if the Commission would be amenable to \$200, and Judy Brainerd noted that this would be a little more than \$60 per person. Steve Phillips and James Trainor felt a \$200 fine would be acceptable.

MOTION: A motion to issue a \$200 fine to the association was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

John Jannell asked that the Commission make a motion on the After the Fact application.

MOTION: A motion to accept the After the Fact application for the removal of the oak tree was made by James Trainor and seconded by Steve Phillips.

VOTE: Unanimous.

Request to Expend Funds

Sea Call Farm has requested the expenditure of \$350.00 from the Sea Call Gardeners fund for 10 cubic yards of compost for the 2013 gardening season. John Jannell noted that any expenditure over \$200 required the Conservation Commission's approval. James Trainor asked why the gardeners themselves could not each pitch in for the purchase of the compost. John Jannell explained that the funds used to pay for this material were taken from the funds gathered each year in rental fees for the plots.

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

VOTE: Unanimous.

Chairman's Business

Approval of the minutes from February 12, 2013.

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

VOTE: Unanimous

Correspondence

21 Bog Hollow Road: Sean Smith Progress Report on Enforcement Order

John Jannell noted that a progress report by Sean Smith had been circulated to the Commission, and there would be a multi-department site visit on Friday, March 15th.

15 Bog Hollow Road: NSTAR Request for an Extension to file RDA

John Jannell explained that this was the NStar property which had been asked to file for the after the fact regrading of the site and the installation of a fence within Conservation Commission jurisdiction. The applicant requested to file for the unpermitted work for the next hearing date available. The Commission asked when this would be, and Steve Phillips read that the applicant asked to file on Monday, March 18th for the April 2nd hearing. Judith Bruce noted that the delay was due to storm clean-up work, and John Jannell said the Commission did not need to act unless they were unsatisfied with the request. The Commission felt the request was fine given the extenuating circumstances.

The Commission discussed the site visits.

The meeting was adjourned at 8:55am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department