

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, March 26, 2013

C May

ORLEANS TOWN CLERK

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

ABSENT: John Jannell, Conservation Agent.

8:30 a.m. Call to Order

Continuations

Last Heard 3/19/13

Michael J. & Elizabeth A. Jones, 32 Shore View Drive. by Ryder & Wilcox, Inc. Assessor's Map 44, Parcel 125. The proposed addition & renovations to an existing single family dwelling & the replacement of an existing septic tank. Work will occur within 100' of Two Inland Vegetated Wetlands. David Lyttle explained several changes to the plan, including the entrance to the garage now being located in front of the house and 8 additional feet of driveway to be located in the Limit of Work where lawn presently existed. Judith Bruce asked if any of the existing driveway would be removed in exchange for the new driveway, and David Lyttle suggested that a portion of the southeast corner of the driveway could be removed from the plan and allowed to become Cape Cod lawn in exchange for the proposed increase. David Lyttle noted that there was discussion about the landscape company pruning the area intended to be left natural, and there was now a split rail fence shown on the plan. Steve Phillips inquired about the island and area near the concrete wall, and David Lyttle said these were all existing features of the area. Judith Bruce stated that it appeared as if it was on the abutting property, and David Lyttle said these features dated back to 2007 and there had never been a problem with them. Judith Bruce asked if there were encroachment concerns, and David Lyttle explained that in 2007 they met with the abutter and there were no issues from which he was aware. Judy Brainerd asked if additional cedar trees should be added since the two shown on the plan looked to be in poor health.

John Jannell arrived to the meeting at 8:37am.

David Lyttle pointed out that John Jannell typically incorporated survivability conditions into Orders of Conditions, and Judith Bruce explained that the abutter's letter asked for 3 cedar trees to be planted because one was dead, one was alive, and one was barely alive. John Jannell passed around a series of pictures, explaining that after receiving the second correspondence from the abutter, John Jannell conducted a second site visit. John Jannell noted that there were a number of canopy species and that the cedar trees had struggled, perhaps because of dry conditions. Judith Bruce asked if all 3 were in fact alive, and John Jannell said yes. David Lyttle said he was amenable to a condition that they be replaced should they die. Steve Phillips asked if watering would help the cedar trees, and John Jannell said that he was not sure if they had a year left. Judith Bruce felt it would be reasonable to condition that after a year if they did not survive that they be replaced. John Jannell explained this would be a new condition for this Order of Conditions, as the Order which required their initial planting had been closed out. James Trainor noted that in 2006 a split rail fence was supposed to be

installed, and asked if the new proposed split rail fence would be installed prior to the start of construction on the addition. David Lyttle said it would be installed prior to construction, and Judith Bruce inquired if the replacement of the septic tank would impede on the split rail fence. David Lyttle felt this would not be an issue, and Judith Bruce felt that the split rail fence should be the first thing to be installed. John Jannell noted that there were only 2 cedars in the ground and the plan called for 3, and was not sure if a holly tree had been used for a substitution. John Jannell explained the abutter had requested a 3rd tree to be installed, and was not sure if the Commission wanted to request a 3rd cedar be planted. Judith Bruce felt the Commission agreed that the first thing to be done should be the split rail fence, and asked the Commission if they wanted to wait a year to see the survivability of the existing cedars. James Trainor felt the planting and monitoring should be a part of the Order of Conditions to be issued for this property, and Judith Bruce suggested a location roughly 12' from the property line. David Lyttle was agreeable to these conditions, and noted that he needed to submit a Revised Plan to match the parking area removed in exchange for the parking area to be installed. John Jannell asked that this revision include the location of the new Cedar, and Judith Bruce asked if this was something which could be approved subject to the receipt of the Revised Plan. John Jannell said it was up to the Commission, and Jamie Balliett was comfortable with John Jannell checking the plan for accuracy and issuing the Order of Conditions subject to the receipt of a Revised Plan.

MOTION: A motion to issue the Order of Conditions with the conditions that the driveway area to be removed be returned to natural lawn, the addition of one cedar tree, the assessment of the health of the cedars at the end of the growing season, and that the first thing to be installed be the split rail fence on a Revised Plan was made by Steve Phillips and seconded by Jamie Balliett.

VOTE: Unanimous.

Last Heard 3/19/13

Timothy & Andrea Howell, 25 Cheney Road. by Ryder Wilcox, Inc. Assessor's Map 42, Parcel 1. The proposed reconstruction of an existing 4' by 20' licensed pier, & the reconfiguration & replacement of a float. Work will occur on Land Under the Ocean, on Land Subject to Coastal Storm Flowage, on a Coastal Beach, & within the Pleasant Bay A.C.E.C. David Lyttle explained that the only revision to the plan was the height of the deck of the permanent pier from 6.0' to 7.5' which still remained under the 4' maximum height. David Lyttle asked if the project could be approved subject to the receipt of a letter from NHESP and a DEP number. John Jannell recommended that the hearing not be closed until these two documents were received, and that it be continued for one week. James Trainor asked if the purpose of the PVC pipe had been discovered, and David Lyttle said it was some type of stormwater drain that would be removed.

MOTION: A motion to continue the hearing to April 2, 2013, was made by James Trainor and seconded by Jamie Balliett.

VOTE: Unanimous.

Last Heard 3/19/13

Tamara Fouche-Gamache, 77 Towhee Lane. by Ryder & Wilcox, Inc. Assessor's Map 93, Parcel 4. The proposed construction of a patio & the replacement of an existing timber stairway. Work will occur within 100' of the Top of a Coastal Bank, on a

Coastal Bank, on Land Subject to Coastal Storm Flowage, & within the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc and JC Stahl, Property Manager, were present. David Lyttle explained that the posts had been changed from 4x4' posts to 4x6' posts for the elevated stairway. The area where the stairway was accessed had been revised to include 150 of additional native plantings, and these increases were reflected on the numbers on the plant list, and a note that 4 black oaks are to be planted to replace 2 dead or dying existing black oaks which are part of the previous land management plan. David Lyttle said the coverage within the A.C.E.C. will go from 132' to 67' which includes the reduction in the timber stairway but not the additional mitigation. Judith Bruce asked if the clarified numbers were on the revised planting plan, and David Lyttle said the new numbers were under the Coverage Calculations but the 3,600' of mitigation did not include the additional 150' provided. Judith Bruce asked for the Commission's and audience's opinions, and David Lyttle noted that he had not provided the Construction Protocol asked for at the previous meeting. Judith Bruce asked if the disturbed areas would be immediately stabilized, and David Lyttle said a 900 gram biodegradable blanket would be used. David Lyttle said the Construction Protocol would also address trap rock which had fallen onto the beach, picked back up, and put back on the licensed revetment. John Jannell said that he was going to propose a special condition for erosion around the stair work, but was uncomfortable allowing revetment work under this filing. David Lyttle noted that the chinkstone had fallen by the posts, and it would not be a repair to the existing revetment. John Jannell said he wanted to make that clear, and suggested a condition that disturbed areas around the stair immediately be stabilized and replaced with native seed mix as comparable to what was there. Judith Bruce noted that the Commission was waiting on a Construction Protocol, and that this work could be addressed in it. John Jannell asked if this work with the stone would be where the platform was being removed, and David Lyttle said yes. John Jannell noted that this was on the bank, and David Lyttle explained that they had been sintered on the beach. John Jannell wanted to make sure that they were avoiding permitting work on the abutting property, and did not want to approve any new rock work. Judith Bruce felt comfortable approving the proposed work pending receipt of the Construction Protocol, and John Jannell suggested that the motion be subject to the Construction Protocol being acceptable to the Conservation Administrator. James Trainor suggested that it include the restoration to be done with the materials on site, and that no new material was permitted for the chinkstone replacement.

MOTION: A motion to approve the site plan dated 3/20/13, accompanying planting plan, and contingent upon the receipt of a Construction Protocol acceptable by the Conservation Administrator was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous.

Last Heard 3/19/13

Cape Tradewinds II Realty Trust, 8 Canal Road. by Coastal Engineering Company, Inc. Assessor's Map 18, Parcel 21. The proposed installation of a 1,000 gallon grease trap, 2,500 gallon septic tank, & associated piping, & the repaving of disturbed areas to replace an existing cesspool. Work will occur within 100' of the Top of a Coastal Bank. Dave Michniewicz of Coastal Engineering was present. Dave Michniewicz recalled that in the previous hearing the Commission was concerned about the sump pump in the

back of the building, and the Revised Plan showed a drywell in the front and 2 proposed drywells for roof runoff. Judith Bruce said this was what the Commission had requested. Judy Brainerd asked if the applicant had determined where the oil by the dumpster was coming from, and Dave Michniewicz said the owner was going to call the refuse waste company and request a new dumpster for the site.

MOTION: A motion to issue a negative determination was made by Jamie Balliett and seconded by Steve Phillips.

VOTE: Unanimous.

Administrative Reviews

James Trainor recused himself.

Orleans Conservation Trust, 13 Champlain Road. The proposed installation of a wooden 14' long x 4' wide walking footbridge. Kris Ramsay of the Orleans Conservation Trust explained that the Trust wanted to install a small footbridge to allow safe passage for walkers. Kris Ramsay passed around photos of the proposed work, stating that this would be done in conjunction with Green Week and AmeriCorps volunteer time. Judith Bruce asked if 1" spacing would be provided. Kris Ramsay said it would be ¼" spacing, and Steve Phillips said it needed to be consistent with dock spacing which required 1". Steve Phillips asked if this was considered new construction, and whether or not new construction could be approved under the Administrative Review process. John Jannell said this may need to be addressed under a different capacity, and Judith Bruce inquired when Green week was scheduled. Kris Ramsay said Green Week started April 22, and John Jannell said that more information is needed to understand if the work requires a formal hearing. Judith Bruce asked if either of the wetlands were vernal pools, and Kris Ramsay noted that where the proposed work was not within 100' of a vernal pool. Jamie Balliett inquired about the filing fees associated with a Notice of Intent, and John Jannell said that the Conservation Department waives all trust fees from the local level. Kris Ramsay noted that the proposed work was a footbridge and would not comply with handicapped specifications because the trail itself could not meet those standards. Judith Bruce said this needed to stay within the guidelines of the regulations, and John Jannell recommended that the Commission take no action and the applicant return at a later time with more information.

Orleans Conservation Trust, 11 Drummond Road. The proposed installation of a wooden 20' long x 4' wide walking footbridge. Kris Ramsay explained that this area had historically been filled in, and was consistently wet. Judy Brainerd concurred that the area was very wet. Kris Ramsay said he would return with a different approach for this site in addition to the previous application.

Mike Losordo, 57 Davis Road. The proposed regrading of the front of an existing garage. John Jannell said this was minor grading within the outer buffer zone, and Judith Bruce asked if this was a new garage. John Jannell said this was a new garage outside of jurisdiction. Judith Bruce asked if all of the grading would be done within the buffer zone, and John Jannell said a portion of the grading work was located just within the buffer zone.

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

VOTE: Unanimous.

Jim Bast, 128 Monument Road. The proposed removal of a storm damaged maple and pruning of trees. John Jannell stated that this work was related to the recent storm events including one tree that has already been removed from wires.

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

VOTE: Unanimous

Linda Scholle, 7 Lockwood Lane. The proposed removal of 10-15 trees. John Jannell explained that while this sounded like a lot of work, the entire lot was filled with standing black locusts which had been there since the microburst of December 9, 2007. Judith Bruce asked if the site was otherwise well treed, and John Jannell said after their removal it would remain a well treed site.

MOTION: A motion to approve this Administrative Review was made by Jamie, Balliett and seconded by Judy Brainerd.

VOTE: Unanimous

Peter Fellman, 8 Tides End Lane. The proposed installation of a 3'x6' gravel generator pad. John Jannell noted that this was referenced incorrectly in the agenda, and that the work was outside of the A.C.E.C. and recommended approval.

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

VOTE: Unanimous

Richard & Elizabeth Cryer, 52 Willie Atwood Road. The proposed replacement of a skylight with a 10' shed dormer and the installation of two skylights. John Jannell explained that there was no additional floor space proposed, and Steve Phillips asked how a 10' shed dormer could be installed without increasing the living space. James Trainor noted that this would be bringing in light, and John Jannell clarified that while the volume would increase, there would not be an increase in floor space. Steve Phillips asked if this was cathedral and going over existing space, and John Jannell said it was explained to him as a bank of windows.

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

VOTE: unanimous

Eric & Reva Fischman, 27 Ruggles Road. The proposed disassembling of stone retaining walls; removal of burning bush and replacement with native species; installation of retaining walls and salt water pool; rebuilding of stone walls alongside pool; replacement of existing patio with new stone; installation of a grill area; installation of drywells to connect to existing downspouts; and shaping of existing wooden deck. Dustin Wolfe of Artistic Grounds Landscape was present. John Jannell felt this work required a Notice of Intent and did not recommend this be approved under the Administrative Review filing. Dustin Wolf said that he spoke with John Jannell about the application, and asked if the Commission wanted a full Notice of Intent or if an Abbreviated Notice of Intent would be acceptable. John Jannell explained there were

details omitted in the ANOI, and that they were typically not accepted. Steve Phillips asked if details would be omitted in an ANOI, and John Jannell said a lot of details would be omitted with this form and recommended a full NOI be filed. Judith Bruce explained that the applicant would run the risk that a full NOI may be required if more information than what is presented in the ANOI is required. Dustin Wolf said they would file a full NOI, and noted that there would be no change in grade, no removal of vegetation, and the irrigation system would be removed. Judy Brainerd asked what size the proposed pool would be, and Dustin Wolf said it was 30 by 15, replacing the existing stone walls and patio. Judith Bruce asked if retaining walls were proposed, and Dustin Wolf said they would be around the pool. Judith Bruce noted that a Construction Protocol would also be required.

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

VOTE: 0-7-0 Motion Denied; Please file an NOI.

Ralph Sawyer, 39 Chase Lane. The proposed removal of a brush pile, broken top of an oak, and a fallen tree. John Jannell said the site had tree damage from storms that was minor and recommended approval. No removals were proposed only trimming.

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

VOTE: Unanimous.

Gary Brusseau, 11 Center Place Unit H. The proposed continuation of a garden bed including the removal of 4 standing locusts; 18 maple saplings; one cherry tree; removal of underbrush; trimming of two maples; removal of underbrush; and installation of 6-12" of loam, and the opening of a view to the pond including the removal of 3 locusts; removal of downed trees; and the mowing of briars to create a view corridor. Judith Bruce was concerned about the amount of work listed, and John Jannell said that there were a lot of invasives on site, and he wanted to speak with the new owner and recommended no action at this time on this application. Steve Phillips inquired if this was an existing view corridor to be trimmed, and John Jannell said this was a pretty steep grade and another unit holder had created a view. John Jannell noted there were several Administrative Reviews which had been filed and approved for work on the back portion of the property. Judith Bruce asked if these were to establish view corridors, and John Jannell said there was not a record of a view corridor under the current Order of Conditions. John Jannell said he would pass along the concerns of the Commission to the applicant.

Dan Bloomer, 11 Richwood Farm Lane. The proposed removal of 5 trees near house and removal of downed trees from recent storm. John Jannell asked the Commission to hold this application so that he may speak with the homeowner. John Jannell explained that this area had a long history and wanted to reach out to the homeowner. The Commission agreed to hold the application.

Andrea Reed, 6 Crystal Lake Drive. The proposed removal of a storm damaged red maple and black cherry tree. John Jannell explained that this was a damaged tree over the fence and recommended approval.

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

VOTE: Unanimous.

Basil Bourque, 7 Blossom Lane. The proposed maintenance of an existing view corridor and the removal of 2 storm damaged cedars. John Jannell explained that this was annual work in an approved view corridor which had experienced a couple of blow downs, but was otherwise well planted.

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

VOTE: Unanimous

Kathi Whitaker, 176 Quanset Road. The proposed emergency dike repair including stabilizing the undercutting of the existing dike from recent storm events. David Lyttle explained that after the recent larger storm events, the marsh north of the dike filled with enough water that the water was trying to get out on the east side of the island through a 24" culvert. This pressure built was resulting in erosion on the landward side, and Jay Putnam of Wilkinson Ecological Design has proposed to take biodegradable fabric, and fill the undercut area on the bank to keep construction access safe. David Lyttle explained that they have also sub-contracted and installed two tide monitors under the dike, and a NOI would be filed in the near future to install a larger culvert to allow for tidal flow. The utilities moled under the Open Order of Conditions which went 17' below the surface were done without harming the marsh and at this time were not exposed. Judith Bruce asked if it was possible to put in planking, and David Lyttle said while there was a steel plate over the culvert, additional planking could be put down. David Lyttle was concerned about addressing the current erosion, and Judith Bruce felt it would be advantageous to have a larger culvert to allow for tidal flow. John Jannell explained that if the road failed resource areas would be damaged. John Jannell stated that there was an open OOC on the roadway on this property.

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

VOTE: Unanimous.

Andrew Covell, 47 Woodsneck Road. The proposed removal of 3 storm damaged pine trees, one diseased cherry tree, and the pruning of another cherry tree. John Jannell explained that this was storm damage work. Judith Bruce asked if the area was well treed. John Jannell said yes, and that it was a modestly developed site.

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

VOTE: Unanimous.

James Trainor recused himself.

Julie Barnwell, 33 Granny's Lane. The proposed removal of a fallen tree, a dead tree, and trees adjacent to the house. John Jannell said that the applicant was concerned about the trees growing up closer to the house, and that after an on-site with the applicant, John Jannell was able to change their focus from clear cutting to selective

removal. John Jannell noted that any further work on this site would require restoration, as no shrub layer existed. Judith Bruce asked for clarification, and John Jannell said there was a shrub layer abutting the Edge of Wetland. Judith Bruce asked if the lack of a shrub layer meant that it had been removed, and John Jannell said due to the shading by the trees an understory was unable to establish itself. Steve Phillips reminded the Commission that they could not condition an Administrative Review, and Judy Brainerd suggesting reaching out to the applicant to suggest replanting. John Jannell felt that the Commission would see the applicant again, and Judith Bruce suggested indicating that any further requests would require additional plantings. Jamie Balliett suggested writing a note to the applicant under the comments section of the Administrative Review stating as such.

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

VOTE: Unanimous.

Chris Frey, 71 Briar Springs Road. The proposed of 4 broken cedar branches. John Jannell passed around pictures of the proposed work, and explained that these branches were from trees which had been previously managed and addressed under an older Order of Conditions which had since received a Certificate of Compliance. John Jannell explained that after an on-site with the applicant, it was John Jannell's recommendation that the area be revisited at a later time to replant and revegetate the area. Judith Bruce asked if this work should be done once the applicant was able to produce such a plan, and John Jannell stated that the applicant was made aware that only the trimming of these branches was permitted. Steve Phillips asked if John Jannell could follow up with an on-site once the work was done, and John Jannell said he would follow up with the applicant per the Commission's request.

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

VOTE: Unanimous.

John Jannell announced that he had a conflict with the following application and would therefore leave the room and recuse himself.

Scott Greico, 119 Beach Road. The proposed removal of 5 trees. Diane Greico, owner, was present. Steve Phillips reported that 4 of the 5 trees were close to the house, with the 5th being wind thrown. Steve Phillips noted that a brushpile within the buffer zone had been used by the previous owner, and the new owner said they would include the removal of it with this application and amended it as such.

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

VOTE: Unanimous

Chair's Business

Approval of the minutes from February 19, 2013.

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

VOTE: Unanimous.

Orleans Conservation Commission Work Meeting 3-26-13

The Commission discussed the site visits.

The meeting was adjourned at 9:49am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department