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K. Derry Asst.  
ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Work Meeting, Tuesday, July 9, 2013**

**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

*For the purpose of this meeting Nancy O'Mara will be a voting member.*

**Continuations**

Last Heard 6/18/13 (JB1, JO1)

**Mark & Elizabeth Burnett, 24 The Lane.** by Coastal Engineering Company, Inc. Assessor's Map 50, Parcel 116. The proposed renovation of an existing dwelling, relocation of an existing septic tank, & landscaping. Work will occur within 100' of the Top of a Coastal Bank & within the Pleasant Bay A.C.E.C. Brad Malo, of Coastal Engineering Company, Kimberly Mecurio of Kimberly Mecurio Landscape Architecture, and Kevin Dauphinais of Hutker Architects, were present. Brad Malo explained that there were several questions which had been raised during the prior hearing, and since that time Kimberly Mecurio met with John Jannell to make modifications to the landscape plan. In addition, modifications were added to the site plan, a coverage table for the work proposed in the A.C.E.C. had been provided, noting that the existing building and proposed increase of building within the A.C.E.C. was 170'. There was a reduction of decks, steps, walkways, and walls within the A.C.E.C. totaling 172', and a reduction of lawn with a proposed 2,269' of native plantings proposed. Brad Malo went over the additional details of the planting plan, and Judith Bruce felt that this was an improvement to the area, and asked the Commission for their thoughts. Steve Phillips asked about the non-native plants proposed outside of the 50' buffer zone, and Kimberly Mecurio said they included hydrangeas, perennials, Russian Sage, etc. Judith Bruce asked if these were all non-invasive species, and Kimberly Mecurio replied yes. John Jannell explained that since the last hearing a letter had been received from NHESP noting that the proposed work would not result in a take. John Jannell felt that the native species requirement within the 50' had been met, and that the applicant had been able to meet all of the other requests of the Commission. The applicant's desire for a non-native planting bed were species which were not invasive and was located next to the house. Judith Bruce inquired if anyone in the audience had any additional comments, of which there were none.

**MOTION:** A motion to close the hearing was made by Steve Phillips and seconded by Bob Royce.

**VOTE:** Unanimous.

**MOTION:** A motion to approve the site plan dated 7-3-13, including the Landscape Permit Plan dated 7-3-13, was made by Steve Phillips and seconded by James Trainor.

**VOTE:** Unanimous.

Last Heard 7/2/13 (NO1, JT1)

**Steve Simon, 8 & 10 Beach Road.** Assessor's Map 36, Parcel 23 & 24. The proposed installation of a water line. Work will occur within 25' of the Edge of Wetland. Steve Simon, applicant, and Bill Riley of Toabe & Riley, were present. Bill Riley explained that this was a request to install a water line which met performance standards, and since the last hearing a cost of alternatives had been submitted. Judith Bruce said that she was still confused, since it was her understanding that there was already water coming in from Beach Road, and was not sure where the costs listed in the submitted material were from. Judith Bruce noted that the Commission had a packet of what was being compared, and although cost was not the Commission's jurisdiction, when there was not a huge difference in cost and it meant that the resource area would not be impacted, and Bill Riley clarified that this work was not within the Resource area. Judith Bruce noted that the proposed work was within the 0-25' buffer, and Steve Simon explained that the driveway was partially paved, there were septic system and buried electric lines throughout, and those all contributed to the proposed cost of installing water from Beach Road. Judith Bruce asked if this was from the water pit to the house, and Steve Simon said that there were 4 units which used the water pit, and all of these lines would have to be avoided in order to install the water line from Beach Road. Judith Bruce asked where the proposed cost analysis submitted came from, and Steve Simon said they were from Lenny Avery. Steve Simon pointed out that if they chose to go from Beach Road they would end up with a jointed line, but that if they came from Cove Road through the easement that they could also offer water service to the other units within the Condominium. Judith Bruce inquired about a steel fence, and Bill Riley clarified that they meant a silt fence. James Trainor felt that it would be easier to go through the easement, noting that the area was in rough shape and it would be beneficial to clean it up and do plantings. Mike Murphy, abutter from 10 Beach Road, was concerned the applicant was trying to establish rights in an extinguished Right of Way. Mike Murphy was concerned about the installation of the water line creating privacy concerns, and that the proposed work within 5' of a bog would be more of a hindrance to the resource area. The proposed estimate did not provide any maps outlining potential water lines both within the Beach Road layout or the Right of Way. Mike Murphy understood what while this issue was not the Commission's concern, but he felt that the applicant did not want to bring in water because of landscape features on his property. Mike Murphy asked that the Commission formally deny the applicant. John Jannell pointed out that the requested work required a variance to permit work within the 0-25' buffer, although the applicant did not feel that an alternatives analysis needed to be provided, that the issue of avoidance is within the Commission's purview. John Jannell said that short of the applicant providing an existing conditions plan showing the conflicts of the different utility and septage lines, there had been recent success with trenching within close proximity to a resource area, as well as moling. John Jannell read into record and passed around correspondence from the Water Department, noting that they promoted relocation of water meters outside of pits, and preferred the water line to come from Cole Place as the meter is to be relocated in the house. Judith Bruce asked if the applicant wanted the meter in the house, and Steve Simon replied yes. Judith Bruce noted that while the alternatives analysis provided met the letter, it would be preferable

to have a site plan showing the existing utilities. Although it had been stated that there were utility conflicts, these have not been shown on a plan, and would help the Commission determine whether or not a water line within the buffer zone to a resource area could be avoided by installing one outside of jurisdiction and without creating a negative impact. James Trainor did not feel a new plan was necessary, and felt that a new line coming in to potentially serve all of the units was more beneficial than having a line come in which would have to be wary of other utility lines on site. Steve Phillips inquired if the easement would be returned to its natural state, and Steve Simon said grasses would be planted. Steve Phillips inquired if this path would be maintained, and Steve Simon said no. Steve Phillips wanted the area to renaturalize, and Jim O'Brien inquired about any written estimates given to the applicant for digging within the easement or through Beach Road. Steve Simon said that he did not have them with him, and Bill Riley said the estimate provided on directional drilling was the result of 4 different conversations, and although they had not been on site, it was what they thought it would cost. Jim O'Brien felt it would be more helpful to have written estimates, and Steve Simon said it was difficult to find someone who could provide an estimate. Judith Bruce was surprised given the recent submissions by Keyspan and other companies in which they provided estimates for work within the buffer zone to a resource area. Bill Riley felt that those were larger companies, and this filing would require a contractor from Boston to come down to make an estimate. Bob Royce said that while it seemed easier to come in from Cole Place, they had no way to make that judgment because they did not know if there was a way to go down Beach Road. This proposed work was going right alongside the wetland, and Steve Simon felt the Water Department felt access from Cole Place was better. Judith Bruce noted that the Water Department said that if there were utilities in conflict along the access from Beach Road that Cole Place would be the preferred access, but that they were not aware of where these were located. Bill Riley explained that the cost of a site plan was one of their concerns, and did not know if a site visit with the applicant and John Jannell would be satisfactory. Bob Royce inquired if Dig-Safe was a free service, and Judy Brainerd felt the submitted site plan was very casual and difficult to see. John Jannell felt the Commission was down to whether they took action or required additional information. John Jannell suggested that the property could be flagged by Dig-Safe and the Commission could conduct a site visit. Bill Riley said that Ryder & Wilcox had a plan of the area, and they could call Dig-Safe, have them flag the site, and then have Ryder & Wilcox locate the flags and put them on a plan. Judith Bruce felt that would be good, and Bill Riley said this would require continuing the hearing. John Jannell asked the Commission to bring up any additional concerns so that the applicant had all of the required information, and Jim O'Brien asked for a written estimate, something in writing from Lenny Avery, and that it may be a little bit more accurate once the property was flagged. Judy Brainerd asked about specifics of what was to be planted, and while Steve Simon said it would be native grasses, Judy Brainerd asked that it be included on the plan. Judith Bruce asked that any canopy disturbed must be replanted, and John Jannell reiterated that they wanted a written estimate, the site flagged, and Bill Riley said that if the Commission visited the site that a site plan was not needed. Judith Bruce felt that a plan would be helpful, and Judy Brainerd said it would become part of the record. Steve Simon asked for the hearing to be continued to August 13, 2013.

**MOTION:** A motion to continue the hearing to August 13, 2013, was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

Last Heard 7/2/13 (NO1, JT1)

**Edward & Elizabeth Daly, 20 Driftwood Lane.** by Coastal Engineering Company, Inc. Assessor's Map 27, Parcel 28. The proposed construction of fiber roll shorefront protection. Work will occur within 100' of the Edge of Salt Marsh, on a Coastal Bank, & in Land Subject to Coastal Storm Flowage. John Jannell explained that a request to continue to the hearing to August 6, 2013, had been received by the Orleans Conservation Office and the Commission could accommodate this request with a vote.

**MOTION:** A motion to continue the hearing to August 6, 2013, was made by Bob Royce and seconded by Steve Phillips.

**VOTE:** Unanimous.

#### **Revised Plan**

**176 LLC & Peter H. Carter, 176-178 Quanset Road.** by Ryder & Wilcox, Inc. Assessor's Map 94, Parcel 4, and Assessor's Map 93, Parcels 21-1 & 21-4. The proposed redevelopment of the existing site has been revised to change the surface material of the courtyard to stone pavers. Work will occur within 100' of the Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc, passed to the Commission a small version of the plan which showed the proposed change, and stated that the last plan revision had not included the applicant's desire to have pavers for a turnaround by the house as opposed to a gravel surface. This proposed surface would remain pervious with a sand base in the courtyard. Judith Bruce felt this work was a non-event, and Steve Phillips inquired if the proposed rock wall shown was also new. Judith Bruce noted that the wall had already been approved, and asked if the surface was going from proposed gravel to proposed pavers. David Lyttle confirmed this, and John Jannell noted that this work would take place within the confines of the approved walls.

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

**VOTE:** Unanimous.

#### **Certificate of Compliance**

**Jeanne Hasenmiller (2010), 39 Willie Atwood/28 Beach Plum.** The request for a Certificate of Compliance for an Order of Conditions for the upgrading of the sewage disposal system, addition to the dwelling and attached garage, and the installation of underground utilities. John Jannell reported that the project had been completed and there were no special conditions associated with this Order of Conditions.

**MOTION:** A motion to issue this Certificate of Compliance was made by James Trainor and seconded by Jim O'Brien.

**VOTE:** Unanimous.

**William & Nancy Brotherton (2007), 17 Blue Rock Road.** The request for a Certificate of Compliance for an Order of Conditions for the construction of an addition

to an existing dwelling; renovation of the dwelling including a new foundation; additional driveway construction; installation of a water service; & upgrade of the sewage treatment & disposal system. John Jannell stated that he made a site visit and the property was in substantial compliance.

**MOTION**: A motion to issue this Certificate of Compliance was made by Jim O'Brien and seconded by Steve Phillips.

**VOTE**: Unanimous.

### **Administrative Reviews**

**Jeanne Hasenmiller, 39 Willie Atwood/28 Beach Plum**. The proposed removal of dead oak trees. John Jannell passed around photos of the property, and explained that the applicant wished to remove 2 trees and leave a large one as a snag. Judith Bruce inquired if replacement trees needed to be offered, and John Jannell commented that the two removals are adjacent to the house in the woods, and the applicant would probably be back for additional infected trees on site. John Jannell stated that replanting was not proposed at this time.

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

**VOTE**: Unanimous.

**Mike & Karen Mellor, 7 Skaket Circle**. The proposed installation of a 10'x12' shed, replacement of existing pine with a maple tree, replace existing stepping stones with 18"x24" bluestones, install a propane tank, and plantings. Work to be done by Philip Cheney. Phil Cheney, Landscaper for the project, was present. Phil Cheney explained that this was a straightforward application, and that the planting were to rejuvenate foundation plantings, a walkway needed to be connected, and the pitch pine currently hung over the driveway and its pitch was causing damage to vehicles. Phil Cheney explained that although the application called for a Red Sunset Maple to replace the pitch pine, he would be going with a straight form of the species. John Jannell noted that a plan had been submitted for the record, he felt that the pitch pine was quite healthy but understood the vehicle concern. John Jannell explained that there were rules about non-invasive plants within the 50' buffer, and that the island was within the A.C.E.C. John Jannell said that the proposed shed was adjacent to the above-ground septic, and could also be approved under this application. Phil Cheney noted that the pitch pine was 2-3' off of the edge of the driveway and hung over, and Steve Phillips inquired about the propane tank details. Phil Cheney said it would be an above ground unit on the front left, and was not sure of the size. Judy Brainerd asked if it would be a fairly large tank, and Phil Cheney said no. John Jannell said his only concern was the removal of the pitch pine, and Judith Bruce was surprised to hear that it was throwing pitch. Phil Cheney said this was something he had seen on previous sites, and Judith Bruce noted that as long as it was being replaced with a native maple it would be ok.

**MOTION**: A motion to approve this application was made by Jim O'Brien and seconded by Bob Royce.

**VOTE**: Unanimous.

**John & Susan Proctor, 14 Phoebe Close Road.** The proposed modification of an existing native stone driveway & porch. Work to be done by Jim SanGiovanni. Jim SanGiovanni was present. Jim SanGiovanni explained that there was no coverage for the back door entrance for the homeowners, and they wanted to have a porch to sit on which was proposed to be 8' out. The applicants also wanted to relocate the garage doors and driveway. John Jannell said he had been on the site twice, and that the porch would have two sonotubes for footings to go over the existing driveway. John Jannell explained that the applicant had provided drawings, and that the resource area was a ditch. John Jannell said that work was taking place outside of the 50' buffer but within the 100', and Steve Phillips inquired if the old driveway would be removed when the other portion was relocated. Jim SanGiovanni stated that the driveway would be reconfigured, and that the applicant was offering to remove a large chain link fence around the back. Judith Bruce did not feel that the proposed work warranted any special conditions, and John Jannell showed the Commission the site plan showing what existed and what was proposed.

**MOTION:** A motion to approve this work was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

**Ruth Singer, 30 Lake Drive.** The proposed upgrading of a septic system. David Lyttle explained that the applicant was installing a new system with the existing tank located at the 100' buffer line, and construction access to be on the north side. The only new work to take place in the buffer to the resource area would be the connection to the tank.

**MOTION:** A motion to approve this Administrative Review was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

**James Kelly, 46 Pershing Lane.** The proposed repair to a coastal bank stair by adding posts and ramp to the end of the stair. Work to be done by Mike Amerault. John Jannell explained that the applicant's stairs had eroded at the end, and the applicant proposed to add a new section of ramp to be supported by 4-6' dug-in posts with 1/2" spacing. Judith Bruce asked if they should have 3/4" spacing, and John Jannell said that the regulations required 1/2" spacing for Coastal Banks. Judith Bruce asked if this work was acceptable to the Conservation Administrator, and John Jannell said that this work addressed the light penetration requirements.

**MOTION:** A motion to approve this application was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

**Kathy Gordon, 3 Skaket Circle.** The proposed removal of locust cluster at Edge of Marsh, the removal of additional locust tree and top, and the proposed trimming of the overgrown privet to a height of 8-10'. Work to be done by A to Z Treez. Judith Bruce asked why the applicant was not removing the privet, and John Jannell said that he wanted to hold this application and speak to the applicant/contractor because the only trees on the property were the locusts. Judith Bruce suggested asking the



applicant/contractor to remove the privet and plant native species, and John Jannell said he would pass along this recommendation. The Commission held this application.

**William Appgar, 24 Ellis Road.** The proposed removal of oaks by wires, the broken top of an oak, the pruning of pine and oak limbs, and the removal of all low brush and saplings between the grass and the road. Work to be done by A to Z Treez. Judith Bruce was concerned about the severity of the proposed work, and John Jannell said this was a strip of thickly vegetated road between the house and Ellis Road, and the oaks there were standing dead adjacent to the wires. Judith Bruce was concerned about the removal of the low brush and saplings, as the Commission did not generally recommend removing a mid-layer. John Jannell said the applicant was proposing to gravelly the area, leaving a couple of trees standing. Judith Bruce was concerned about the use of the gravelly, and John Jannell reminded the Commission that they cannot condition an Administrative Review, although the applicant could try to revise the application. Jim O'Brien asked if there were any distances from the resource area, and John Jannell said the strip was located 85-110' away. Judith Bruce felt that if the applicant was looking to remove a lot of invasives and replant this would not be an issue, and Jim O'Brien was fine with the proposed work given its proximity to the resource area. Steve Phillips suggested that John Jannell go back to the applicant to determine the impacts of the mowing, and John Jannell said he was happy to speak with him. Judith Bruce asked if once the material was removed if the applicant would continue to mow, and James Trainor asked that John Jannell speak with the applicant and return to the Commission.

**George Brescia, 15 Packet Landing.** The proposed removal of 2 standing dead oaks and 2 standing dead cedars. John Jannell stated that he had asked the applicant to leave these trees to see if they would survive, and they did not. The trees are located within the lawn close to the house. Judith Bruce asked about replanting, and John Jannell said it was not proposed at this time, and the cedars to be removed were under a healthy oak.

**MOTION:** A motion to approve this work was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

**D. Beth McCartney, 137 Portanimiticut Road.** The proposed removal of a lighting damaged pitch pine. John Jannell passed around photos of the damaged tree, noting that there was an open Order of Condition on the property, and there were still a number of pines between the guest house and the water's edge.

**MOTION:** A motion to approve this Administrative Review was made by Jim O'Brien and seconded by James Trainor.

**VOTE:** Unanimous.

**Larry Gaine, 6 Marshwind Lane.** The proposed removal deadwood and suckers on oak, the removal of small dead cedar under existing oak, the pruning of limbs from cedar tree off garage roof, and removal of vines. Work to be done by A to Z Treez. John Jannell stated that an Order of Conditions in June of 2012 had been issued with

permission to prune, but the work was not specified. This Administrative Review clarified the proposed pruning work, and John Jannell recommended allowing this work.

**MOTION:** A motion to approve this work was made by Bob Royce and seconded by Jim O'Brien.

**VOTE:** Unanimous.

**Larry Gaine, 6 Marshwind Lane.** The proposed removal of fox grape and bush honeysuckle by hand to maintain 12-14' clearing off of house. Work to be done by A to Z Treez. John Jannell said that some of the Commissioners may recall that the resource area on this side was a ditch and cranberry bog. John Jannell explained that the applicant initially wanted to remove it all, which was something that he would not recommend, but that he was amenable to allowing some removal around the dwelling. John Jannell passed around photos of the site, and Judith Bruce commented that there was nothing but fox grape and honeysuckle. John Jannell noted that was the growth in this specific area, and Judith Bruce asked to make sure that this work would not result in a clearing as they had seen with recently on other sites. John Jannell noted that the work would only be for a 12-14' wide area alongside the house.

**MOTION:** A motion to approve this application was made by Jim O'Brien and seconded by Judy Brainerd.

**VOTE:** Unanimous.

#### **Chairman's Business**

Approval of the Minutes from the Meeting on April 16, 2013

Erin Shupenis reported that the minutes from the April 16, 2013 meeting were not ready at this time.

#### **Other Member's Business**

#### **Administrator's Business**

The Commission discussed the site visits.

The meeting was adjourned at 9:40am.

Respectfully submitted,

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