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ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, September 3, 2013**

**PRESENT:** Judith Bruce, Chairwoman; Bob Royce; James Trainor; Judy Brainerd; Rich Nadler, Associate; John Jannell, Conservation Administrator

**ABSENT:** Steve Phillips, Vice-Chairman; Jim O'Brien; Philips Marshall, Associate; Jane Hussey; Associate.

8:30 a.m. Call to Order

*For the purpose of this meeting, Rich Nadler will be a voting member.*

**Continuations**

Last Heard 8/20/13 (JO1)

**Stephen Brodeur, 25 Weeset Proprietors Way.** by Coastal Engineering Company, Inc. Assessor's Map 6, Parcel 4. The proposed reconstruction of a stone revetment, installation of stone retaining walls, removal of existing patio areas, and mitigation plantings has been Amended to extend the revetment reconstruction and restore the bank from recent storm event damage. Work will occur on the Top of a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within 100' of the Top of a Coastal Bank, Edge of Salt Marsh, Coastal Beach, Land Subject to Coastal Storm Flowage, and the Nauset Estuary. *Jane Hussey arrived at the meeting.* Jay Norton of Coastal Engineering Company, Inc., was present. Jay Norton explained that the meeting had been continued to provide the Commission with new plans showing section CC, Bank Restoration, a note that machinery would not be on the beach for the Bank Restoration, a proposed kayak storage area, and a change to Note#4 on the second page. Judith Bruce noted that the Commission already voted that this work was acceptable as filed under an Amended Order of Conditions. Judith Bruce announced that Rich Nadler and Jane Hussey would be voting during this meeting, and inquired if any of the Commissioners had any additional questions. Bob Royce felt that the applicants did what the Commission required, and John Jannell recommended that the Land Management Plan be completed as part of any Order the Commission may issue. John Jannell also noted that all of the special conditions from the original Order be incorporated, and suggested that re-landscaping would require a new filing to ensure the protection of the Bank.

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

**VOTE:** Unanimous.

**MOTION:** A motion to approve the site plan dated 8/26/13, with the Condition that all of the previous conditions be enforced from the original Order was made by James Trainor and seconded by Jane Hussey.

**VOTE:** Unanimous.

**Notice of Intent**

**Jeanne Hasenmiller, 28 Beach Plum Lane.** by East Cape Engineering, Inc. Assessor's Map 23, Parcel 7. The proposed construction of a detached garage with

Commission could move forward with this application while making a potential buyer aware that the proposed work did not grant the construction of a 4 bedroom house, and Judith Bruce inquired if an RDA could be conditioned. John Jannell explained that if the Commission chose to issue a negative determination for this project, that there was a spot where they could insert conditions, which could act as a bread crumb trail for a future person to look over when filing for additional work. Judith Bruce was concerned because the current location of the proposed septic system showed the tanks behind the building, which did not allow for someone to move the house outside of the 50' buffer. Stephanie Sequin noted that tanks and chambers could easily be relocated versus the leaching field. Stephanie Sequin explained that the plan was to have an approved plan with installation estimates available to a buyer, with any alteration to the house to come in front of the Conservation Commission. Judith Bruce felt that the plan should reflect what currently existed, which was the replacement of a 2 bedroom septic system with a 2 bedroom system, and have the buyer return to the Commission should they wish to expand to a 3 or 4 bedroom system. John Jannell inquired if the change needed to be made to the plan would be the leaching size, and Stephanie Sequin explained that changing this proposed plan would not change the size of the tank or the chamber. Bob Royce explained that the leaching field was the determining factor, and Judith Bruce did not want to introduce or enable someone to automatically be able to install a 4 bedroom system when such a proposed dwelling may not be approved. Rich Nadler felt the approval of this plan would put the Commission in a difficult position, and make the Commission appear inconsistent. James Trainor felt the proposed work was the best for the current situation, and that the homeowner could always move the house outside of the 50' buffer zone. James Trainor commented that a new owner would have to upgrade the system either before or soon thereafter a closing, and that a 1500 gallon tank was standard size. Rich Nadler noted that the Commission had been told that the purpose of getting a plan approved would be for the marketing of the property, and was concerned the Commission would be considered misleading if it approved a 4 bedroom system but at a later date did not approve the construction of a 4 bedroom dwelling. Stephanie Sequin explained that the leaching area, while oversized, was outside of Conservation Commission jurisdiction. Stephanie Sequin noted that the 1500 gallon tank and 1000 pump chamber were standard, and did not think the Commission should look at the use of the system but rather the work associated with the installation. Judith Bruce felt that Rich Nadler was correct, and noted that the septic components were behind the house. Stephanie Sequin stated that page 2 of the site plan showed that it was a 2 bedroom dwelling, and that any expansion of this would have to come in front of the Commission. Stephanie Sequin inquired if the plan was revised to show a smaller leaching system if it would be approvable, and Judith Bruce and James Trainor agreed that replacing a 2 bedroom system with a 2 bedroom system was something which the Commission could permit. Judith Bruce suggested that the applicant wait until the property had sold to determine what could be done, and Jane Hussey noted that this may be the cleaner option. Judith Bruce did not want to create problems for a future homeowner, and Stephanie Sequin suggested that a condition be added that suggested that any alteration to the existing building or increase in number of bedrooms requires Conservation Commission approval, and may require the relocation of the prior approved septic components. Judith Bruce was concerned that a potential buyer wishing to expand may proposed to put a new dwelling in the location which was being proposed for the septic system.

Rich Nadler explained that he was trying to prevent a situation in which the Commission was backed into a corner by approving a septic system for a larger home but did not approve a proposed new house on the site. Stephanie Sequin felt that a buyer would understand that even though work was being approved, the ability to expand is by no means guaranteed. By relocating the tank and pump chamber farther away from the existing house, additional vegetation would have to be removed, and there would be problems with the depth of the covers in relation to grade. Judith Bruce explained that she would feel more comfortable locating the components farther enough back to put a new house outside of the 75' buffer, and Jane Hussey said either this or reduce the proposed leaching field. James Trainor noted that the Commission did not regulate the size of the septic tank, and Judith Bruce reiterated that the Commission was potentially allowing for the expansion of an existing dwelling within the 50' buffer zone. Stephanie Sequin inquired if this was not a property for sale but rather a failed cesspool, if they could overdesign the septic system for a longer life. Judith Bruce noted that the Commission did not permit applicants to overdesign a septic system, and Jane Hussey felt the Commission would allow the applicant to replace what existed. John Jannell noted that in listening to the discussion from the Commission, the proposed septic components were being located in a space ideal of a new house, suggested directing the representative to locate the components outside of a suitable area for house reconstruction. Judith Bruce concurred, and Judy Brainerd said to move the components. Rich Nadler felt this would be best, stating that if this was just a paper approval for a potential buyer, and Judy Brainerd noted that there was nothing to guarantee that a future buyer would in fact come in front of the Commission. Stephanie Sequin suggested a note on the plan saying this may require relocation, and Judy Brainerd asked to change to the "may" to "must." Stephanie Sequin asked to continue the hearing for one week to speak with her client about the Commission's suggestions. **MOTION:** A motion to continue the hearing to September 10th was made by Bob Royce and seconded by James Trainor.

**VOTE:** Unanimous.

#### **Certificate of Compliance**

**Joy Fopiano (2007), 16 Honeysuckle Lane.** The request for a Certificate of Compliance for an Order of Conditions for the removal, reconstruction, and additions to an existing dwelling and the construction of a garage, shell driveway, and mitigation plantings. Tim Brady explained that he spoke with John Jannell about the potential release of this Certificate of Compliance or the Release of the Performance Bond. John Jannell explained that the plantings had just been recently completed, and had yet to survive for 3 years. John Jannell recommended that the Certificate of Compliance request be denied since it had not met this 3 year requirement, and Judith Bruce concurred. John Jannell pointed out that this would need to be acted upon today, since the Conservation Commission had 21 days to issue a Certificate of Compliance request. **MOTION:** A motion to issue this Certificate of Compliance was made by Bob Royce and seconded by Judy Brainerd.

**VOTE:** 0-6-0; Motion denied.

#### **Request to Release Performance Bond**

**Joy Fopiano (2007), 16 Honeysuckle Lane.** The request to release a \$3000 bond for performance. John Jannell explained that during the Amended Order of Conditions

hearing, a performance bond was executed with the applicant because not all of the originally approved mitigation had been completed. At this time, the plantings had been completed, although there was not a survivability clause incorporated into the Bond for the plantings. Tim Brady recalled that the funds set aside were for the installation of the plants, and Judith Bruce thought that Bonds were typically set aside for plant survivability. John Jannell explained that this Bond was for the building, and Judith Bruce inquired if he recommended releasing the funds. John Jannell felt that there was assurity within the Order since that was still open and needed to be completed before a Certificate of Compliance was issued. Judith Bruce noted that there was a level of comfort in releasing the Bond since the Order of Conditions was still open and would need to be completed. This work included the maintenance of the naturalized buffer, which would need to be maintained for its 3 year survivability, before a Certificate of Compliance was issued.

**MOTION:** A motion to release this Performance Bond was made by Judy Brainerd and seconded by Jane Hussey.

**VOTE:** Unanimous.

#### **Administrative Reviews**

**Cindy Kawie, 36 Gibson Road.** The proposed replacement of the existing deck within the same footprint. Work to be done by Stanley Gove. John Jannell explained that this was held for the installation of a silt fence. The Conservation Department received a letter stating that the fence had been installed, and the remaining proposed work was within the existing footprint, which would not trigger reconstruction but rather was bringing the existing deck up to code.

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

**VOTE:** Unanimous.

**Michael Thonis, 29 Sparrowhawk Road.** The proposed pruning of 4 trees. John Jannell explained that this had been previously held to speak with the applicant. The applicant had since revised his application, and this revised application was work which could be approved.

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

**VOTE:** Unanimous.

**Rev. Philip H. Mitchell, 52 Gibson Road.** The proposed removal of 3 locust trees. John Jannell noted that the removal of these 3 locusts would still leave an existing canopy, and this would be a flush-cut removal.

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

**VOTE:** Unanimous.

**John Fitzpatrick, 38 Locust Road.** The proposed installation of a septic system. John Jannell explained that only one piece of the septic tank straddled the 100' buffer line, and although there was no additional work within the buffer zone, there would be a Limit of Work provided.

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

**VOTE:** Unanimous.

**Joshua Rosenbloom, 28 Viking Road.** The proposed installation of a downspout drywell and the re-roofing of an existing garage. Work to be done by Peter Coneen, LLC. John Jannell explained this was an existing garage within the A.C.E.C. which was going to be re-roofed, with the area adjacent to a paved driveway.

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

**VOTE:** Unanimous.

**Dee Kling, 168 Quanset Road.** The proposed removal of 2 pitch pines, 1 black oak, and 2 locust trees. Work to be done by The Tree Wizard. John Jannell noted that the applicant was concerned about these trees threatening the house and wires attached, and that the lot was otherwise well treed.

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

**VOTE:** Unanimous.

**William Reiher, 7 Richwood Farm Lane.** The proposed removal of 5 oaks and replanting with dogwood, Holly, and Rhododendron. John Jannell explained that this application had been held so that he could speak with the applicant. The applicant has committed to replanting the understory, and the Commission could approve this with a vote.

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

**VOTE:** Unanimous.

**Adrian Punch, 89 Namequoit Road.** The proposed removal of invasive vines and plants and reseeding with native warm season grasses. Work to be done by Harrow & Seed. John Jannell explained that there was an old overgrown garden, with the proposed work to take place within the 75' buffer to the White Cedar Swamp.

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

**VOTE:** Unanimous.

**Adrian Punch, 59 Hopkins Lane.** The proposed removal of 4 dead oak trees, briars, and grapevine. Work to be done by Harrow & Seed. John Jannell explained that these were standing dead large mature oaks, one of which had fallen last year and ripped out the wires from the neighbor's house.

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

**VOTE:** Unanimous.

**Request to Use Conservation Properties**

**Windmill**    **Wedding**    **10/5/2013**    **Leonard**    **10am-1pm**    **20 People**

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

**VOTE**: Unanimous.

**Chairman's Business**

Approval of the Minutes from the Meeting on June 4th, 2013.

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

**VOTE**: Unanimous.

Approval of the Minutes from the Meeting on August 27, 2013.

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

**VOTE**: Unanimous.

**Other Member's Business**

**Administrator's Business**

Request vote of the Commission to authorize up to \$170 to be expended out of the Wetland Filing Fees Account for the purpose of MACC training for Conservation Commissioners. John Jannell explained that these type of expenditures, for Commissioner training, is permitted, and would require the approval of the Commission and the Board of Selectmen.

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

**VOTE**: Unanimous.

The meeting was adjourned at 9:57am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department