

K. D. Kelly, Ass.
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ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Skaket Room
Work Meeting, Tuesday, September 10, 2013

PRESENT: Steve Phillips, Vice-Chairman; Bob Royce; James Trainor; Jim O'Brien; Judy Brainerd; Philips Marshall, Associate; Rich Nadler, Associate; Kevin Galligan, Associate; John Jannell, Conservation Administrator

ABSENT: Judith Bruce, Chairwoman; Jane Hussey; Associate.

8:30 a.m. Call to Order

Continuations

Last Heard 9/3/13 (SP1, JO1, PM1)

Edward & Natalie Bagdonas, 54 Beach Road. by Ryder & Wilcox, Inc. Assessor's Map 36, Parcel 45. The proposed construction of a detached garage with artist studio above; extension of deck on existing single-family dwelling; & replacement of existing septic tank & D-box (if present). Work will occur within 100' of the Edge of an Inland Wetland. *Prior to the commencement of the hearing, Steve Phillips signed an affidavit citing he had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing him to be a voting member for this hearing. Due to the absence of the Chair, Steve Phillips will chair this hearing.* David Lyttle of Ryder & Wilcox, Inc., was present. David Lyttle explained that revised materials had been submitted showing the proposed mitigation within the buffer zone, and went over the details of the plantings. The plan had also been revised to show additional trees which had not been shown on the previous plan. *Judith Bruce arrived.* Philips Marshall inquired why this had not been sited closer to the house, and David Lyttle explained the setbacks needed from the two leaching pits. Judith Bruce thought that David Lyttle was going to ask the applicants about potentially moving the leaching pits, and David Lyttle explained that you could not move leaching pits, but instead would have to upgrade the septic system to current Title 5 standards. Judith Bruce noted that this was not a primary residence, and that the Commission preferred, where feasible, construction outside of the 75' buffer. David Lyttle noted that the applicants were looking to move here on a year-round basis, and Judith Bruce meant that this proposed garage and studio would be best located next to the house. David Lyttle explained that if the garage was attached to the house, based on the setbacks, would limit it to a one-car garage. David Lyttle felt that the only alternative would be to install a new septic system, and felt that he had presented a proposal which did not require a Variance since it was 55' from the Edge of Wetland, and it would be located in established lawn. Steve Phillips inquired about the red line shown on the plan, and David Lyttle said that this was an estimate of where the Limit of Work was to be located. James Trainor noted that there was a finished lower level where the plumbing went out back, and thought that moving the plumbing to the front yard may present a challenge. Kevin Galligan inquired if it was possible to renovate the plumbing, and David Lyttle said that a new septic system in the front yard was doable. Rich Nadler felt that if the septic was upgraded, then the homeowner could move the proposed garage farther from the resource area. David

Lyttle said this was correct, although the garage would still be partially located within the 75' buffer. Judy Brainerd thought that if the garage was moved closer to the house that the applicants could drive straight into the garage. David Lyttle pointed out that they could redesign this, but that the clients did not want to install a new septic system given the expense. Kevin Galligan was familiar with the area, and inquired about the ridge height of the existing dwelling. Kevin Galligan was concerned about the visual impact, and Judith Bruce understood the expense of a new septic system to be installed. Judith Bruce felt that the proposed location of the garage was not feasible, since there was a fair amount of disturbance proposed within the 50-75' buffer, and that this would avoid locating the driveway along the side of the property. Steve Phillips pointed out that during the site visit it was observed that lawn cuttings and trimmings were being disposed of into the wetland, and there was a heavy vine infestation in the trees. Steve Phillips pointed out that gutters and downspouts should also be included to attach to a drywell or stone, and suggested that they hookup downspouts to the main building. Judy Brainerd inquired how old the current septic system, and David Lyttle said he was not sure. David Lyttle asked that the project not be denied if the Commission was looking to have the applicant install a new septic system, and asked for guidance so that he may go back to the applicants. Judith Bruce suggested an informal poll, and Steve Phillips concurred. *Jane hussy arrived 8:49am.* Jim O'Brien was in favor, and James Trainor agreed, explaining that since the lower level had been finished, it would be a major project to install the septic out front. Phillips Marshall was against the work, and Steve Phillips was for the work. Judith Bruce was against the work, and Bob Royce said that while in an ideal world he would be against it, he did not think that it should be denied. Judy Brainerd did not like the proposed location and did not see a two-car garage as a necessity, and Rich Nadler was also against the proposed work. Jane Hussey was concerned where it was sited in relation to the wetland, and although it may legally be a permissible plan, was concerned about the overall aesthetics. Steve Phillips pointed out that aesthetics were not in the Commission's purview when not looking from the resource area, and Jane Hussey said she would have voted in favor. Kevin Galligan was not willing to make a formal decision, but rather would prefer additional information about the practicality of upgrading the septic system. Kevin Galligan noted that he would not have installed it in such a location, and Judith Bruce explained that if a vote was called for today, it would pass. John Jannell asked if the septic system was to fail where a new one would be installed, and David Lyttle said in the front yard. John Jannell inquired if there was a sale of the property if the system would pass, and David Lyttle explained that the presence of leaching pits were not enough to fail a septic system. John Jannell pointed out that the Commission was being asked to locate a garage within the buffer zone when there was the possibility that a septic system may be in failure, and David Lyttle asked that the meeting be continued for one week so that he may speak with the applicants and have them review the film of the meeting.

MOTION: A motion to continue the hearing to September 17, 2013, was made by Judith Bruce and seconded by Judy Brainerd.

VOTE: Unanimous.

Steve Phillips turned the meeting over to Judith Bruce, Chair. Judith Bruce announced that Philips Marshall had been elevated to a member, Kevin Galligan had been appointed as an Associate Member, and that there was now a full Commission.

Last Heard 9/3/13 (SP1, JO1, PM1)

John Munoz, 92 Tonset Road. by Ryder & Wilcox, Inc. Assessor's Map 26, Parcel 74. The proposed upgrading of an existing septic system including the pumping & abandonment of an existing cesspool; the installation of a new septic system to serve an existing single-family dwelling; & the installation of a new water service. Work will occur within 100' of the Top of a Coastal Bank. John Jannell reported that a request to continue the hearing to September 17, 2013, had been received and the Commission could accommodate this request with a vote.

MOTION: A motion to continue the hearing to September 17th was made by James Trainor and seconded by Jim O'Brien.

VOTE: Unanimous.

Certificate of Compliance

Robert Spenlinhauer (2007), 80 Gibson Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of dug-in timber stairs over a Coastal Bank to access Town Cove. John Jannell went over the history of the file, noting that the additional work requested for the homeowner to complete had been found to be in substantial compliance.

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

VOTE: Unanimous.

J. Bruce Mackey Revocable Trust (2001), 63 Kenneth Lane. The request for a Certificate of Compliance for an Order of Conditions for building renovations and construction of an addition to an existing single-family dwelling. Brad Malo of Coastal Engineering Company, Inc., was present. John Jannell went over the history of this filing, noting that there were two houses on site. There were sand bags added to the side of the dwelling down at the water to prevent flooding, as well as chicken wire fence to put dead eel grass. A storage "rack" had been constructed for the sandbags which were not being utilized. John Jannell explained that there was not a record of approval for this, and although this was not part of the Order issued, it was something which the Commission may want to address. Steve Phillips confirmed that the Order for which the Certificate of Compliance was being requested was for the main dwelling not the one down on the water. John Jannell said this was correct, and Bob Royce inquired if there were any Orders on the waterfront house, and John Jannell explained there had not been for quite some time. John Jannell passed around photos of the site, and asked the Commission for guidance on whether or not he should follow up with the applicant regarding these unpermitted sandbags. Judy Brainerd inquired if there was a policy on sandbags, and Judith Bruce felt they would be considered a soft solution, similar to the tubed used at the bottom of the bank. Judith Bruce did not think that the sandbags should impact the issuance of the Certificate of Compliance, but was not sure if it would be something which the Commission would permit and, if so, whether or not it should be

filed for to become part of the record. Judy Brainerd agreed that these were two separate issues, and Steve Phillips suggested a Notice of Intent be filed for the work the applicant was trying to do to thwart the flooding problems. Judith Bruce recommended that the Commission start with a letter requesting a Notice of Intent, and Jim O'Brien suggested that it be some type of filing. Steve Phillips felt there was no way of avoiding a Notice of Intent since this was a type of Coastal Structure, and Jim O'Brien felt that it was a temporary removable structure. Steve Phillips pointed out that it had not been removed in a number of years, and Judith Bruce pointed out that the applicant may want to remove everything. John Jannell explained that the property was changing hands, and if they communicate to J. Bruce Mackey, it may only be for the short term. John Jannell suggested they recommend to the current homeowners to remove the storage area within the resource area, and James Trainor suggested a storage area outside of the buffer zone. Judith Bruce asked the Commission if they were comfortable treating the Certificate of Compliance request as one issue and the sandbag storage as another issue, and the Commission said yes.

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

VOTE: Unanimous.

John Jannell explained that he had asked Brad Malo to attend the meeting to determine if the recommendations of the Conservation Commission could be communicated to a new buyer. Brad Malo explained that while he was only at the meeting to discuss the Certificate of Compliance, he did speak with John Jannell, and asked that any correspondence to the Mackey's include a CC to Coastal Engineering Company, Inc. Brad Malo was not sure if a sale was imminent, but would see that the current owner received the communication from the Commission. Phillips Marshall inquired if there was an alternative to sandbags next to the house, and Brad Malo explained that they were placed during storm events. Brad Malo pointed out that a permanent solution should not be sandbags, and Steve Phillips inquired if the Commission should continue to discuss this issue since it had not been listed on the agenda. Steve Phillips thought it was best to not vote on this issue, and Judith Bruce suggested directing John Jannell to write a letter to the applicant on this matter. John Jannell felt he had clear direction from the Commission, and thanked Brad Malo for his willingness to communicate with the homeowner.

Administrative Reviews

Brenton Welsh & Ruth Terry, 34 Lake Drive. The proposed removal of 1 dead tree, trimming of 3 trees, and maintenance vista pruning. John Jannell explained that this was an annual request, and the vista pruning would be of the blueberry.

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

VOTE: Unanimous.

Nick Mazzaresse, 60/80 Toms Hollow Lane. The proposed removal of vines from cedars. Work to be done by Strong Roots & Mowing.

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

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on June 11, 2013

Erin Shupenis reported that these minutes would be ready for the next meeting.

It was announced that the MACC Fall Conference was on Saturday, November 16th, and anyone who wished to attend should let Erin Shupenis know.

Other Member's Business

Re-organization of all officers (Chair, Vice-Chair, and Clerk)

Chair

MOTION: A motion to nominate Judith Bruce for Chair was made by Steve Phillips and seconded by Bob Royce.

MOTION: A motion to close the acceptance of nominations for Chair was made by Steve Phillips and seconded by Bob Royce

VOTE: Unanimous.

VOTE: A vote to approve Judith Bruce as Chair was Unanimous.

Vice-Chair

MOTION: A motion to nominate Steve Phillips for Vice-Chair was made by Judy Brainerd and seconded by Bob Royce.

MOTION: A motion to close the acceptance of nominations for Vice-Chair was made by Judy Brainerd and seconded by Bob Royce

VOTE: Unanimous.

VOTE: A vote to approve Steve Phillips as Vice-Chair was Unanimous.

Clerk

MOTION: A motion to nominate Judy Brainerd as Clerk was made by Steve Phillips and seconded by Jim O'Brien.

MOTION: A motion to close the acceptance of nominations for Clerk was made by Steve Phillips and seconded by Jim O'Brien

VOTE: Unanimous.

VOTE: A vote to approve Judy Brainerd as Clerk was Unanimous.

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Administrator's Business

Request vote of the Commission to authorize up to \$110 to be expended out of the Wetland Filing Fees Account for the purposed of MACC training for Conservation Commissioners. John Jannell said that the Commission could authorize this with a vote, and the funds were available to accommodate this request.

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

VOTE: Unanimous.

Site Visits

The Commission discussed the site visits.

The Meeting was adjourned at 9:20am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department