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ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, September 24, 2013

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

8:30 a.m. Call to Order

For the purpose of this hearing, Rich Nadler will be voting.

Continuations

Last Heard 8/13/13

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 asked that he be taken second as his legal representation was not present.

Last Heard 9/17/13

Ramani & Louise Ayer, 22 Horseshoe Lane. by Ryder & Wilcox, Inc. Assessor's Map 89, Parcel 8. The proposed construction of a timber stairway on a Coastal Bank; bank nourishment; supplemental planting of salt marsh grasses; revegetation; invasive plant management; & landscaping. Work will occur on a Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage, Land Under Water, Salt Marsh, & in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc, Joy Cummings of Aline Architecture, Betsy Furtney of Land Line Design, Gordon Peabody of Safe Harbor Environmental, and Louise Ayer, applicant, were present. David Lyttle noted that at the previous hearing the Commission had asked for a few revisions, and explained that the site plan had been changed to reconfigure part of the house, provide the Commission with computer-generated schematic view of what the house would look like from the resource area, and the amount of driveway in the buffer had been reduced. David Lyttle commented that the planting plan had been revised to eliminate the work proposed on the abutting property, and that a schematic of the view corridors for this and abutting sites had also been generated for the Commission's benefit. David Lyttle also pointed out that letters of permission to access the site through abutting parcels had been received and submitted for the record from Pleasant Bay Narrows Trust, David Driscoll, and the Orleans Conservation Trust. Judith Bruce commended the applicants on providing what the Commission asked, and John Jannell noted that he had several conditions he recommended to be included in an Order of Conditions. John Jannell noted that the applicant had agreed at the previous hearing to perform the biomimicry work from October 1st to April 1st, and that an annual report of this work be provided. Gordon Peabody commented that a report would be submitted soon thereafter April 1st. John Jannell noted that David Driscoll asked for marsh mats to be placed on the path to the marsh as covered in the Coastal Report. John Jannell confirmed that the

nourishment was a one-time event, and suggested that now would be the time to incorporate nourishment from storm-related events. David Lyttle said that if a storm occurred where nourishment needed to be addressed, it would be addressed at that time under a separate filing. Judith Bruce pointed out that the staircase proposed was rather large, and additional nourishment may be required.

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 9/18/13, Environmental Protocol Report dated 8/29/13, the Land Management Plan and Planting Specifications, with the conditions read into record by John Jannell, including the submittal of an annual report after April 1st and that work on the shoreline occurred only between October 1st-April 1st was made by Steve Phillips and seconded by Judy Brainerd.

VOTE:

Last Heard 8/13/13

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. *For the purpose of this hearing, only the 6 regular members of the Conservation Commission will be voting.* Steve Simon, applicant, Bill Riley, legal representation from the Law Offices of Toabe and Riley, and Mike Murphy, abutter, were present. Bill Riley explained that the plan which the Commission received showed the location of the underground utilities at Silverstone Condominiums so that they could establish the difficulty and expense of bringing in a new water line through the existing driveway. Bill Riley submitted a written estimate by LVA Construction for \$12,500.00 for this work within the driveway, and felt that the proposed work within the easement was the preferred location by the Water Department. Bill Riley explained that the applicant was happy to complete the work in a timely manner, such as in a time period where there was no predicted waterfall for 48 hours. Bill Riley felt that this was a temporary disturbance to the buffer zone of the resource area and they had provided proper protection of the area. Judith Bruce commented that this proposal required the Commission granting a variance and needed to determine how much of a disturbance the proposed work would create. Judith Bruce noted that the Commission typically did not take cost into consideration with applications, but understood in this case that the cost was a factor of whether or not this work could be feasible for the applicant to do. Judith Bruce asked for a review of the variance regulations, and John Jannell noted that the variance requirements were similar to the regulations for the A.C.E.C., which asked for no adverse impact and all reasonable alternatives to be considered before granting relief. John Jannell commented that the applicant was demonstrating that the cost was unreasonable to come in through the driveway, and Judith Bruce inquired about the cost to come through the easement. Steve Phillips recalled that it was about \$4,500.00, and John Jannell confirmed that an estimate received in July was for \$4,500.00, with the cost of directional drilling to be between \$20-22,000.00. Bill Riley felt this work would create no adverse impact and would be completed within 1-1 ½ days. Judith Bruce noted that if the Commission chose to go forward with the issuance of an Order of

Conditions that an erosion control fence would need to be installed, no canopy or native shrubs were to be taken, and there may be an inspection prior to work commencing on site. Bill Riley agreed with these statements, and Judith Bruce asked the Commission if there were additional conditions they would like to incorporate. Steve Phillips asked that the disturbed areas be allowed to renaturalize, and James Trainor, Bob Royce, and Judy Brainerd felt that the work would have minimal disturbance. Kevin Galligan inquired the size of the diameter of the line proposed, and Steve Simon said a 2" line was proposed but it was conceivable that they could go to a 3" line. Judy Brainerd inquired if moleing would still be done, and Judith Bruce commented that this trenching work would be done with a mini excavator. Judith Bruce asked if anyone in the audience wished to comment, and there was none.

MOTION: A motion to close the hearing was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

John Jannell said that before the Commission considered acting on the application, that he re-summarize some of the Conditions brought forth throughout the long hearing process. John Jannell stated that no canopy species were to be removed, the Chair alluded to a silt fence being installed prior to work commencing, something which was a Standard Condition in all Orders, installing water line for the other units to use does not increase the scope of the project. John Jannell said that the disturbed area was proposed to be covered in chop straw and seeded with conservation mix, and this area was not to be maintained. John Jannell asked that the water line not be installed during nesting bird season, and commented that this work was taking place in the 0-25' buffer which was of high value. Rich Nadler noted that when an area was disturbed in such a fashion there could be a temptation to use it at a path, and suggested that after the work was completed the area be left untouched. Bill Riley noted that the applicant did not have a right to a fence at the Cole Place termination, and suggested that one could be installed at the Beach Road end. John Jannell pointed out that a stone wall already existed there, and Bill Riley said it would be rebuilt after the water line installation. John Jannell noted finally that this Order granted no property rights, and the applicant needed to demonstrate rights in order to move forward with this work.

MOTION: A motion to approve the site plan submitted dated 2/6/13, with the conditions stated for the record, was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

Administrative Reviews

Linda and Fred Bozek, 102 Skaket Beach Road. The proposed installation of a dormer. Work to be done by Michael Woessner. John Jannell explained that this work could be approved under this type of filing.

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

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on June 25, 2013

Erin Shupenis reported that these minutes were not available at this time.

Other Member's Business

Administrator's Business

Correspondence- 4 Duck Pond Lane- Dismissal of Lawsuit.

John Jannell explained that this was correspondence given to the Commission and warranted no discussion.

The Commission discussed the site visits.

The meeting was adjourned at 9:00am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department