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K. Derly, Asst.  
ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, October 1, 2013**

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

8:30 a.m. Call to Order

**Continuations**

Last Heard 9/17/13

**Samuel J. & Nancy H. Scialabba, 32 Harbor View Lane.** by Ryder & Wilcox, Inc. Assessor's Map 29, Parcel 11. The after the fact cutting of trees on a Coastal Bank. Work occurred on a Coastal Bank & within 100' of the Edge of a Salt Marsh. John Jannell reported that an extension request had been received by Wilkinson Ecological Design stating that they had been contracted and needed time to create a plan. A request to continue to November 5, 2013 has been requested.

**MOTION:** A motion to continue the hearing to November 5, 2013, was made by James Trainor and seconded by Bob Royce.

**VOTE:** Unanimous

**Notice of Intent**

**Carol Nace, 75 Viking Road.** by East Cape Engineering, Inc. Assessor's Map 70, Parcel 31. The proposed removal & reconstruction of an existing licensed pier & seasonal float. Work will occur on a Salt Marsh, in Land Under Water, in Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. Tim Brady of East Cape Engineering, Inc., was present. Tim Brady explained that this was a straight forward project for a dock which needed to be reconstructed, and it would be in the same location with it being higher above Mean High water. Tim Brady noted that a letter was received from the Division of Marine Fisheries which asked the applicant to look at eel grass. Judith Bruce recalled that there was existing eelgrass on site. Judith Bruce commented that the Commission typically did not require an eelgrass survey when they knew it was already present, and asked if float stops were proposed. Tim Brady said yes, and Judith Bruce inquired about the grating which had been suggested by the Division of Maine Fisheries as an option. Tim Brady said that while the grating could hurt a person's foot, he would suggest it to his client. Kevin Galligan asked about the current length of the existing pier, and questioned whether or not the proposed reconstruction lined up with the existing license. Tim Brady noted that it had been constructed a little bit smaller than the license, which showed it as 92'. Judith Bruce commented that they were still waiting on NHESP, and Tim Brady asked that the hearing be continued for two weeks to October 15, 2013, when he would be bringing a second project for this site to the Commission.

**MOTION:** A motion to continue the hearing to October 15, 2013, was made by Bob Royce and seconded by Judy Brainerd.

**VOTE:** Unanimous.

John Jannell asked that when Tim Brady returns that he report to the Commission what the black plastic pipe on the ramp was used for and Tim Brady agreed.

**John & Olive Murphy, 25 Gull Lane.** by Ryder & Wilcox, Inc. Assessor's Map 24, Parcel 61. The proposed construction of a garage/studio addition to an existing single-family dwelling; the pumping & abandonment of an existing cesspool; & the installation of a new septic system. Work will occur within 100' of the Top of a Coastal Bank, Edge of Salt Marsh, & Land Subject to Coastal Storm Flowage. David Lyttle of Ryder & Wilcox, Inc, John Murphy, applicant, and Greg Delory Designer for the project were present. David Lyttle explained that a project very similar to this one was issued an Order of Conditions 11 years ago and was never completed. Since this time, the Board of Health has since changed their regulations, which now require that the septic system be upgraded in order to have the addition. The proposed work would eliminate two cesspools within the buffer zone, and the new septic system would be located as far from the resource area as possible. The addition would result in the removal of 3 scrub pines, 1 cedar, and a double holly tree. David Lyttle noted that there were a large number of pines and cedars to remain, and although the installation of the septic system would also result in tree removal, the site itself remained largely undisturbed. John Murphy explained that the previous approved work was delayed due to cost, and knowing that the septic system has to be replaced, felt that now was the best time to build the proposed addition. Judith Bruce commented that at some point the older expired Order would have to be declared invalid and closed, and Philips Marshall inquired about John Murphy's comment during the on-site to move the double holly tree. John Murphy said that he had spoken to a couple of people about moving it and was determining where it should be planted. Steve Phillips asked about the garden at the base of the marsh, and whether or not it was over the property line. John Murphy commented that it was slightly over the edge of the property line onto the neighboring lot. Steve Phillips asked about the rounded lines shown on portions of the plan, and David Lyttle explained that when the slope of a property is greater than 10:1 in the presence of a flood zone, under DEP it is defined as a Coastal Bank which is afforded a 100' buffer. When a slope less than 10:1 is present in a flood zone, a buffer to the flood zone is not afforded. Steve Phillips thanked him for the explanation, and David Lyttle noted that a DEP number had been issued for this project.

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

**VOTE:** Unanimous.

**MOTION:** A motion to approve the site plan dated 9/5/13 with the condition that the older expired Order be closed was made by Steve Phillips and seconded by James Trainor.

**VOTE:** Unanimous.

### **Certificate of Compliance**

**Kevin & Lorraine Blute (2012), 49 Pond Road.** The request for a Certificate of Compliance for an Order of Conditions for the construction of an addition on an existing single family dwelling, filling of existing cesspools, & installation of a Title V septic system. John Jannell explained that the work had been completed and the Order was in substantial compliance.

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

**VOTE:** Unanimous.

### **Revised Plan**

**Christopher Frey, 11 Freeman Lane.** Assessor's Map 5, Parcel 48. The proposed replanting of the buffer zone as a result of the unpermitted removal of trees & bushes has been revised to extend the grass area. Work occurred and will occur within 100' of the Edge of Wetland. Christopher Frey, applicant, was present. Christopher Frey explained that he neglected to include this area during the hearing process. Christopher Frey said that he was not sure of the square footage of the proposed area, and John Jannell felt that it was a small area. Judith Bruce thanked the applicant for filing for this work.

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

**VOTE:** Unanimous.

### **Administrative Reviews**

**Frank Middleton, 126 Skaket Beach Road.** The proposed installation of a new sewage disposal system replacing existing cesspools. John Jannell stated work is within existing gravel driveway and lawn within the 75-100' buffer. John Jannell felt that this work required no additional filing and the Commission could approve it with a vote.

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

**VOTE:** Unanimous.

**Erik Jorgensen, 7 Harborview East.** The proposed removal of 4 trees and pruning of 3 trees. Work to be done by Tom Coburn. John Jannell explained that this was a property for which the Commission had an Order of Conditions for the proposed removal of invasive species and planting of native species to be done by Wilkinson Ecological Design. This Order, which was still open and active, carried a condition that no canopy trees were to be removed, and therefore John Jannell recommended that the Commission deny this Administrative Review request and instruct the applicant to file in a differed manner such as a Revised Plan or Amended Order of Conditions.

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

**VOTE:** 1-6-0; Motion denied.

### **Chairman's Business**

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

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**MOTION**: A motion to approve the minutes from June 25, 2013, was made by Bob Royce and seconded by Judy Brainerd.

**VOTE**: Unanimous

Approval of the Minutes from the meeting on September 24, 2013

**MOTION**: A motion to approve the minutes from September 24, 2013, was made by Bob Royce and seconded by Steve Phillips.

**VOTE**: Unanimous

Judith Bruce announced that the Conservation filings thus far for 2013 was double the workload from 2010, and felt that while this meant more jobs in Orleans, the Conservation Department needed to pursue a full-time clerk. Judith Bruce urged John Jannell to apply for full time staff. Kevin Galligan inquired how Erin Shupenis's time was split between the Health and Conservation Departments. Erin Shupenis reported that she worked 22.5 hours in the Conservation Department and 17.5 hours in the Health Department.

Committee Orientation and Conflict of Interest Training Monday, October 7, 2013. Judith Bruce asked that anyone on the Commission who has not attended the training to please attend, as it was a good time to be able to speak with Mike Ford and John Kelly regarding conflicts of interest.

Judith Bruce noted that prior to that meeting the Orleans Pond Coalition would be meeting at 5:30pm.

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

### **Administrator's Business**

John Jannell announced that the Commission was fortunate to have Parks & Beaches staff working on Conservation Properties, and they would be working Wednesday, Thursday, & Friday of this week at Kent's Point to address such concerns as the erosion issues on the south facing shoreline, the erosion from the parking area, and the new stair. John Jannell noted that at some point the Commission would need to discuss all of the properties under Conservation Commission jurisdiction and control.

Judith Bruce announced that the Water & Sewer Board joined the Board of Health to write a letter asking not to spray herbicides in the areas within the drinking water wellhead protection area. Judith Bruce explained that while they were working on this, the Orleans Water Department cleared all of the vegetation to the right of way so that NStar would not have anything to spray. Judith Bruce commended the staff of the Orleans Water Department and Bob Royce said this work should be announced in the newspaper. David Dunford, liaison for the Board of Selectmen, said that the Board would commend the Water Department at its meeting on Wednesday, and also was planning on addressing the pesticide concerns. David Dunford pointed out that the Forrester Quinn would also be discussed at this meeting. James Trainor and Jane

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Hussey brought up that goats had been used off-cape and in Eastham for plant control along the NStar easements, as well as by Town Landings.

The meeting was adjourned at 9:06AM.

Respectfully submitted

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