

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, October 15, 2013

ORLEANS TOWN CLERK
CP May

PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; Jim O'Brien; Judy Brainerd; Philips Marshall; Rich Nadler, Associate; Jane Hussey; Associate; Kevin Galligan, Associate.

ABSENT: James Trainor; John Jannell, Conservation Administrator.

For the purpose of this hearing, Jane Hussey will be voting.

8:30 a.m. Call to Order

Continuations

Last Heard 10/1/13

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 hearing was continued because the Commission was waiting on correspondence from NHESP and to address a question of a black pipe. Tim Brady reported that a letter from NHESP had been received. Tim Brady explained that the owners did not know what the pipe was for, but it appeared to be an abandoned water pipe and it was blocked. Judith Bruce wanted to make sure that it was not an electrical pipe going to the dock, and Tim Brady said there had never been electric service to this pier. Judith Bruce inquired if the pipe could be cut, and Tim Brady said that it may have popped up recently and could be cut. Judith Bruce confirmed that non leaching materials would be used, and reminded that CCA treated material was prohibited. Kevin Galligan inquired if the work would be done by barge or piles, and Tim Brady said this was barge work.

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

VOTE: Unanimous.

Tim Brady asked if ACQ materials were also prohibited, and Erin Shupenis explained that there was direction given to the applicant in the Special Conditions for Existing Docks which outlined which materials were to be used.

MOTION: A motion to issue an Order of Conditions for the proposed project was made by Steve Phillips and seconded by Philips Marshall.

VOTE: Unanimous.

Notice of Intent

Jean & Thomas Russell, 74 & 75 Viking Road. by East Cape Engineering, Inc. Assessor's Map 63, Parcel 54, & Assessor's Map 70, Parcel 31. The proposed nourishment and stabilization of a Coastal Bank. Work will occur on a Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. Tim Brady explained that the proposed work was to restore part of an eroded bank, add fill to the bank, recreate the previously existing slope, provide fiber rolls at the bottom for

additional protection, stabilize the toe of the bank, and create a sacrificial dune. Tim Brady noted that the proposed work was above Mean High Water, and that after speaking with a contractor, access would be best via 75 Viking Road, with a shoot being used to move sand and equipment traversing down the bottom of the bank by the path. An excavator and a skid steer would be used to spread the sand and move it when it came off of the shoot. Tim Brady explained that at East Egg a similar approach with a delivery ramp had been used, but in this case some vegetation would have to be cut to get the sand down the bank. Judith Bruce did not notice a previously disturbed area, and inquired why vegetation needed to be taken from the Top of the Bank. Tim Brady noted that a truck would not be at the edge to dump the sand, but rather a skid steer would be used to move the sand as opposed to using the ramp method. Tim Brady felt that the vegetation growing was small, and would easily resprout. Judith Bruce said that she had misunderstood the site, and asked about the 3-4 significant trees to be removed. Tim Brady explained that it was their intention to remove 3 White Pines, which were decorative trees, and that the disturbed area was where there was a change in the contour. Judith Bruce asked if the White Pines were to be replaced, and Tim Brady noted that this was a possibility. Tim Brady explained that the Bank was well naturalized, and the trees were located on the edge of the existing lawn. Steve Phillips inquired if the machines could squeeze by these trees, and Tim Brady said that they may be able to get by near the stone wall. Jane Hussey noted that there were 4 white pines, and Tim Brady said he could speak with the contractor to determine if just trimming could be done. Judith Bruce inquired about the deteriorating stairs to the north, and was concerned that they could further damage the bank if left in place. Tim Brady explained that the stairs had some significance if they wanted to rebuild or if the property was to be sold as two separate properties, and that the area would be more stable once the bank was restored. Judith Bruce asked if there were any plans to replace the stairs, and Tim Brady stated that the owners did not want to address them at this time. Kevin Galligan pointed out that this was significant restoration, and inquired about the cubic yards of fill to be used and whether or not a Construction Protocol had been submitted. Tim Brady estimated that there would be 300 cubic yards, and the contractor used a tractor trailer truck which could fit 30 cubic yards, resulting in 10 trips with this vehicle. Tim Brady was not sure how many trips would be necessary with the skid steer, and Kevin Galligan inquired if this was outlined in a Construction Protocol. Tim Brady noted that the cover letter attached to the Notice of Intent had explained this process, and Judith Bruce pointed out that with coastal projects the Commission liked to get the opinion of Greg Berman, Coastal Processes Specialist for Woods Hole Sea grant and the Cape Cod Cooperative Extension. Tim Brady asked if this opinion had already been sought, and noted that correspondence from NHESP had not been received. Judith Bruce explained that the Commission discussed the need to reach out to Greg Berman during the hearing process, and asked the Commission if there were additional items which they would like to look at for this project. Rich Nadler wanted to know if there was documentation showing the existence of the stairs, and understood that while the applicant wanted to maintain the right, they were significantly damaged. Tim Brady said he would speak with the applicants. Philips Marshall felt it would be beneficial to eliminate the steps, and Judith Bruce was concerned that they were pulling on the Bank. Jim O'Brien said that this did not take away rights to rebuild the steps, and Judith Bruce pointed out that the existing steps were only on half of the bank. Jane

Hussey explained that during the site visit the Commission noted a very plush lawn that appeared to be treated with a lot of fertilizer, and Judith Bruce suggested a more naturalized area. Steve Phillips said that during the previous site visit the Commission noted a path to the water with some type of non-biodegradable drain, and wanted it to be removed. Tim Brady was not sure what it was, and thought it was used to stabilize the path. Kevin Galligan asked if the Commission would be notified when Greg Berman was going out on site, and Erin Shupenis said she would make the Commission aware. Tim Brady asked that the hearing be continued for one week in hopes that Greg Berman would be able to go out on site sooner than later, and could always continue the hearing should this not be possible.

MOTION: A motion to continue to October 22, 2013, was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

Nicholas Mazzaresse, 80 Tom's Hollow Lane. by Ryder & Wilcox, Inc. Assessor's Map 89, Parcel 5. The proposed replacement of an existing wooden stairway & landscaping. Work will occur within 100' of a Coastal Beach, & Coastal Bank, & on a Coastal Bank, Coastal Beach, Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc, Nicholas and Stephanie Mazzaresse, applicants, were present. David Lyttle explained that this stairway had received significant damage from the last 3 major storm events. David Lyttle went over the proposed site plan, noting that this would be located within the original spot to avoiding causing a lot of erosion or disturbance. David Lyttle noted that the special conditions for piers were a little different than for stairs, but that non leaching ACQ which does not have damaging preservatives, would be used. Judith Bruce hoped that these products would not end up in the water, and David Lyttle explained that Jeff Norgeot would be contracted to complete the work, who was also working on 22 Horseshoe Lane. David Lyttle pointed out that the applicants wanted to install a 6' privacy fence to the 50' buffer line which would have a 6" gap for wildlife, and that a loose stone wall following along the property line was proposed between the 50' line to the Top of the Bank. There was a shaded area on the plan which was proposed to have native trees and bushes planted, and the proposed plantings would be brought to John Jannell for his approval prior to their installation. David Lyttle explained that the applicants wanted to screen their property from the work being done on the abutting lot, and hoped to plant large cedars and bushes in the existing Cape Cod Lawn. Judith Bruce inquired if the applicant would be using trees from the property. Nicholas Mazzaresse explained that after speaking with Patrick Dale of Dale Tree Movers, that at least 2 or 3 trees from their property would be transplanted, although they were looking to plant between 12-15 trees. Judith Bruce noted that trees already established on the property were good transplant specimens, and that typically smaller trees did better than larger trees when transplanted. Nicholas Mazzaresse said that while Eastern Red Cedars grow slowly, the smaller less expensive easy survivors would not provide the screening they sought. Steve Phillips inquired where the trees were being taken from on the property, and Nicholas Mazzaresse said behind the tennis court. Judith Bruce recalled this area was outside of the 100' buffer zone to the resource areas, and asked that if any trees within Conservation Commission jurisdiction were used, that John Jannell be notified and approved accordingly. Steve Phillips asked if the fence would

cause any issues between the neighbors, and David Lyttle said its installation had been brought to their attention and both parties were fine with the proposed work. Judith Bruce noted that Jeff Norgeot's work was typically respectful of Conservation jurisdiction, and did not think that the Commission had any major concerns regarding the proposed work. Kevin Galligan noted that he had learned a lot by going out on site, given that the existing stairs were 40 years old. Stephanie Mazzaresse noted that Nicholas Mazzaresse had built them, and Judith Bruce noted that this property, along with two other lots, had experienced the same weather conditions and damage, and were each being treated in a different way. Judith Bruce explained that these properties would help the Commission over time to determine which approach worked best for future restoration work to this area.

MOTION: A motion to close the hearing was made by Jim O'Brien and seconded by Steve Phillips.

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 8-28-13 with the Standard Conditions on all Orders to be included was made by Steve Phillips. Kevin Galligan asked that any trees or plants relocated within jurisdiction or planted within the indicated area be approved by the Conservation Administrator be included as a special condition. Judy Brainerd seconded the motion with the additional condition.

VOTE: Unanimous.

William Gaughan, 40 Winslow Drive. by JC Ellis Design, Inc. Assessor's Map 91, Parcel 44. The proposed upgrading of an existing septic system including the pumping & abandonment of the existing system. Work will occur within 100' of the Edge of a Bordering Vegetated Wetland, Uncle Seth's Pond, & the Pleasant Bay A.C.E.C. *Jim O'Brien recused himself.* Jason Ellis of JC Ellis Design, Inc., was present. Jason Ellis explained that this was in an estate and the current septic system was located in groundwater and was proposed to be moved to the front yard, landward of the wetland. Jason Ellis noted that the new system would have to go to the Board of Health for variances due to its proximity to the A.C.E.C., and the existing system would be pumped and filled. Judith Bruce noted that since Jim O'Brien had recused himself, Rich Nadler would be a voting member. Steve Phillips explained that while he did not have a problem with the proposed location of the septic system, but was concerned about the lawn located on the pondside of the BVW shown on the plan. Steve Phillips wanted to establish that this area should not be mowed, and Jason Ellis did not think his client would be in opposition. Steve Phillips suggested that either stones or a fence be used to prevent landscapers from going into the BVW, and Jason Ellis noted that stones were preferred as they were more difficult to move. Judith Bruce did not think extensive plantings were necessary but agreed that stones would be beneficial, and Steve Phillips inquired if this would be acceptable. Jason Ellis pointed out that this was in an estate, and whatever the Commission thought was appropriate would then be what a new homeowner must do. Kevin Galligan commended the staking done in the field, and asked if at EOW #8 the 10' contour was present. Jason Ellis explained that due to the 24' pond elevation, the 100' buffer becomes from the Edge of Wetland, instead of from elevation 10'. Judith Bruce pointed out that the lot was otherwise well vegetated, and Judy Brainerd inquired if a DEP number had been received. Jason Ellis said no, and that the Circuit Rider had not been in office since the Thursday prior. Jason Ellis asked

that the hearing be continued for one week to October 22, 2013, in hopes of a DEP number being issued.

MOTION: A motion to continue the hearing to October 22, 2013, was made by Steve Phillips and seconded by Judy Brainerd.

VOTE: Unanimous

Jim O'Brien returned to the meeting as a voting member.

Michael & Patricia Schumaecker, 161 Monument Road. by JC Ellis Design, Inc. Assessor's Map 55, Parcel 58. The proposed expansion of an existing deck. Work will occur within 100' of a Bordering Vegetated Wetland, Coastal Bank, & Pilgrim Lake. Jason Ellis went over the proposed project, noting that the proposed work was outside of the A.C.E.C. Jason Ellis explained that there was a previous Order of Conditions for this work but that the applicant had budget constraints at that time, and it had since expired. Judith Bruce commented that she was unable to make the site visit and inquired if the site was well vegetated. Judy Brainerd did not see the need for a big deck since the house already had one, and suggested cutting it off to get it out of the 75' buffer. Philips Marshall agreed with Judy Brainerd, and Steve Phillips asked about the white birch on site. Rich Nadler did not feel the deck size was an issue, and since it was located away from the resource area there would not be a disruption to the aesthetic view from the resource area. Jane Hussey agreed with Rich Nadler as long as the Birch Tree was protected, sono tubes hand dug. Jane Hussey noted that the Birch Tree was a fantastic specimen, and did not think it was a big deal to have the additional deck. Kevin Galligan felt that the proposed deck would line up better with the size of the house, and agreed that the roots of the Birch should be protected such as through a fence or other means of protection. Jason Ellis explained that the applicant had some physical disabilities, and given the slope of the property, wanted a larger deck. Judith Bruce felt that as long as protective measures were provided for the Birch that the deck expansion could be permitted. Judith Bruce commented that there was no DEP number at this time, and asked the Commission if there were any additional concerns. Steve Phillips asked if anything else besides the stone wall in the corner would be impacted by this expansion, and Jason Ellis explained that there were shrubs closer to the house which may be impacted, but the remainder would be on lawn area. Judy Brainerd commented that it was a very natural lawn, and Jason Ellis asked for the hearing to be continued for one week to wait for receipt of a DEP number.

MOTION: A motion to continue the hearing to October 22, 2013, was made by Jim O'Brien and seconded by Judy Brainerd.

VOTE: Unanimous.

Elizabeth Ann Sanders Irrevocable Trust of April 9, 1999, & Charles A. Sanders, 3 South Little Bay Road. by East Cape Engineering, Inc. Assessor's Map 82, Parcel 6. The proposed stabilization of a Coastal Bank. Work will occur on a Coastal Bank, Land Subject to Coastal Storm Flowage, & the Pleasant Bay A.C.E.C. Tim Brady went over the existing conditions on site, noting that the current Coastal Erosion Structure in place had begun to fail, toppling over in certain areas, and the applicant wanted to restore the bank using some of the wire baskets. Material was proposed to be brought in down temporary access on Little Bay Road, with the machinery on the beach being put on mats to prevent disturbing the Salt Marsh Grass growing seaward of the MHW. Tim

Brady noted that fiber rolls were proposed in the area where no current protection existed, and would be at the bottom of the bank. Judith Bruce commented that the site did not appear as bad as it had been explained, and was concerned that the proposed work may do more damage than good. Tim Brady explained that it was difficult to see the large divot on the bank because of the Virginia creeper and bittersweet on the bank. Judith Bruce commented that if it was a mess that was one problem, and the concern with vines was that there were no roots to stabilize. Once the vines were removed, there would be huge scarps and holes. Judith Bruce felt that it may be more productive to do invasive species work and replanting on the bank, and Tim Brady inquired if the Commission had seen the failed baskets which had rolled over. Judith Bruce thought that it would be best to have Greg Berman look at this site as well, given the erosion problems a couple of houses away from this site. Judith Bruce noted that this would help the Commission to see if end scour may occur on either side of the fiber rolls. Tim Brady explained that he had spoken with the owner to the south of this property, and although his landform was different, he was not interested in doing anything to his bank at this time. Judith Bruce was concerned about the amount of lawn on this site and the pesticide use, and noted a peculiar drain to the bank. Tim Brady explained that it was part of the bank restoration project, and Judith Bruce asked if it was a drywell. Tim Brady said yes, and that runoff was also over the Top of the Bank. The drywell was installed to catch runoff before it eroded over the top, and Judith Bruce inquired if it was contributing to the erosion. Philips Marshall noted there was a similar catch basin on the driveway, and Judith Bruce requested that no herbicides or pesticides be used on this property by way of an improvement. Kevin Galligan noted that at the southeast corner looking up the shore that there were cutting and limbs tossed onto this bank from this applicant and the owner to the south. Tim Brady said he would look into this, and Judith Bruce thought that there were a lot of improvements which could be made to the property without proceeding with the gabions. Judith Bruce asked for Erin Shupenis to see when there was a time for Greg Berman to go out on site, and Bob Royce asked for a cross section to be provided of the proposed work. Tim Brady said he did not have this, and Judith Bruce inquired how many baskets thick the existing CES was in the bank. Tim Brady noted that he could get the original approved plan from 1993, and all together thought it was 12 rows of baskets. Judy Brainerd asked if it was proposed to take out 1,2,3, and destabilize the bank. Tim Brady explained this would be a short term destabilization, and in 1993 it was destabilized and restabilized since then. Bob Royce asked that for the record the Commission see this, and Tim Brady noted that he could submit the old plan. Judith Bruce was concerned that if the gabions were pulled from the bottom and the invasives left on the top that it could become a disaster. Judy Brainerd concurred, noting that it almost appeared as though the invasives were holding the bank together. Tim Brady explained that they were not holding the ground together, and was concerned that this could become a much larger project. Steve Phillips asked about the equipment and how it would be brought on site, inquiring if sand would be brought down to the bank and the equipment by the water. Tim Brady said this was correct, and they would build a temporary island. Judith Bruce was concerned about the fringe marsh and the impact it would have with the number of trips. Tim Brady asked that this also be continued to the October 22nd meeting, and Judith Bruce noted that this may be short notice for Greg Berman. Rich Nadler asked that there be

something in the notes referencing the fertilizing, and Judith Bruce said that it would be part of the minutes.

MOTION: A motion to continue the hearing to October 22, 2013, was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous.

John F. McCoy, 20-23 Preservation Path. by Ryder & Wilcox, Inc. Assessor's Map 24, Parcels 100 & 104. The proposed upgrading of an existing septic system including the pumping & abandonment of an existing leaching field, & the installation of a new septic system to serve an existing single-family dwelling. Work will occur within 100' of a Salt Marsh, Coastal Bank, & Land Subject to Coastal Storm Flowage. Stephanie Sequin of Ryder & Wilcox, Inc, was present. Stephanie Sequin explained that this was two pieces of property used as one single property, with various resources. Stephanie Sequin went over the existing conditions on site, noting that the proposed septic system allowed them to put the leaching area 100' away from the Edge of Marsh, with the work area to be from the existing driveway into existing lawn. Stephanie Sequin noted that there would be some vegetation to be removed, and Steve Phillips inquired how many trees were to be removed. Stephanie Sequin said that 2 significant species were to be taken down, and the rest to be removed were saplings. Kevin Galligan suggested replacement for the large forest trees to be lost, and Judy Brainerd noted that this was a naturalized area. Stephanie Sequin noted that the symbols shown on the plan were trees to remain, and Kevin Galligan suggested planting between the two parcels to provide nourishment. Judith Bruce asked about moving the proposed leaching area, and Kevin Galligan said no given the constraints of the site. Stephanie Sequin inquired what proposed sized trees should be used for replacement, noting that there were other trees on site. Judith Bruce asked if there were additional oaks such as these there, and Stephanie Sequin said yes. Judy Brainerd felt that while these were significant species, there was no other place to put replacement trees. Stephanie Sequin noted that there was not a DEP number for this file, and suggested that she get together with John Jannell to assess the need for replacement trees on site. Steve Phillips asked for clarification on the flood zone elevations on site, and Stephanie Sequin said that there were two flood zones present, one of which was a Velocity Zone, the other which was an A Zone. Judy Brainerd suggested that the Limit of Work may be tightened up, and Stephanie Sequin explained that there was a 5' overdig around the leaching field and the Limit of Work was held at 10' off of the leaching field. Judy Brainerd was concerned about the size, and Stephanie Sequin explained this was to allow equipment access. Judy Brainerd suggested protecting the dripline of the trees in the surrounding area, and Bob Royce suggested going between tree roots. Judith Bruce suggested for mats to be put down as means of protection, and Kevin Galligan suggested speaking with John Jannell to discuss viability. Judith Bruce thought that silt fencing may drive traffic away from the roots. Stephanie Sequin asked that the meeting be continued to October 22, 2013, to address the Commission's concerns.

MOTION: A motion to continue the hearing to October 22, 2013, was made by Jim O'Brien and seconded by Judy Brainerd.

VOTE: Unanimous.

Orleans Conservation Commission Hearing Meeting 10-15-13

Chairman's Business

Approval of the Minutes from the Meeting on October 8, 2013

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

Other Member's Business

Administrator's Business

The meeting was adjourned at 9:46am.

Respectfully submitted,

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