

K. Derly, Asst.
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ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, October 22, 2013

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

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

8:30 a.m. Call to Order

For the purpose of this hearing, Rich Nadler and Kevin Galligan will be voting members.

Continuations

Last Heard 10/15/13 (JT1)

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. John Jannell explained that a letter had been received to continue the hearing to November 12, 2013.

MOTION: A motion to continue to November 12, 2013, was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous

Jim O'Brien recused himself.

Last Heard 10/15/13 (JT1)

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. Jason Ellis of JC Ellis Design, Inc., was present. Jason Ellis explained that the hearing had been continued pending receipt of a DEP number, which had since been issued, and inquired if there were any additional questions or concerns. Steve Phillips asked if confirmation had been received that the applicants were agreeable to installing stones as a border for a no-mow zone, and Jason Ellis said the applicants were fine with that request. Jason Ellis asked where specifically the Commission wanted the stones to be installed. *Jane Hussey arrived to the meeting.* John Jannell noted that he had watched the hearing from the previous week and recommended that the Commission give the applicant specific guidance based on their site visit and what they had heard at the recent hearing. Steve Phillips suggested that the stones be installed along the BVW line, giving the applicant their lawn without permitting them into the BVW.

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

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 8/30/13 with the Condition that stones be placed along the Bordering Vegetated Wetland line to establish the boundary of the wetland was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

For the purpose of this hearing and because James Trainor was not present at the continued hearings, Jane Hussey will be a voting member.

Last Heard 10/15/13 (JT1)

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 passed around a Revised Plan, explaining that the applicant asked if the deck could be increased further, with the work to take place outside of the 75' buffer and all of the work outside of the A.C.E.C. Jason Ellis explained that the birch had been located, and had spoken to the building to make sure that provisions were made to ensure there was no damage to the existing birch tree. Jason Ellis asked that the Commission either consider the Revised Plan now, or continue it to have enough time to look over the revised materials. Steve Phillips asked for a summary of the proposed changes from what the Commission had to what had been given to them today, and Jason Ellis explained that the original proposal was for a 25'x10' deck, and now there was a proposed 15'x2' jog on the west side. Jane Hussey inquired if there were steps down from this deck, and Jason Ellis said no. Steve Phillips asked if this was the only change to the plan, and Jason Ellis said the birch tree had also been located on the plan. James Trainor did not see a problem with the new proposed increase, and Jim O'Brien concurred.

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

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 10-18-13, with the condition that special attention be provided to protect the existing birch tree was made by Kevin Galligan and seconded by Bob Royce.

VOTE: Unanimous.

Last Heard 10/15/13 (JT1)

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. John Jannell noted that a letter had been received asking for the hearing to be continued to November 12, 2013.

MOTION: A motion to continue the hearing to November 12, 2013, was made by Jim O'Brien and seconded by Bob Royce.

VOTE: Unanimous.

Last Heard 10/15/13 (JT1)

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 passed out revised plans, noting that there was a discussion during the previous hearing whether or not trees being removed due to the placement of the leaching field. Stephanie Sequin explained that a 15", a 12", and 5-6" oaks to be removed, and the site was otherwise well treed. Stephanie Sequin spoke with the owner, who was agreeable to planting tupelos to replace the oaks around the site marked Test Hole #2. Stephanie Sequin noted that the limit of work had been tightened up north of the pipe to the proposed pump chamber by the d-box. Steve Phillips asked if two trees were proposed to replace the trees to be removed, and Stephanie Sequin said yes. Stephanie Sequin asked to continue the hearing to November 5th, since a DEP number had not been issued. John Jannell asked if the Commission had any additional questions regarding this revised plan, and the Commission said no.

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

VOTE: Unanimous.

James Trainor will now be a voting member.

Revised Plan

John Whitesides, 22 Franz Road. The proposed construction of a new foundation and first floor, the reuse of the existing house as the second floor and roof, and the construction of a patio has been revised to no longer use the existing house. Work will occur within 100' of a Coastal Dune. David Lyttle of Ryder & Wilcox, Inc. was present. David Lyttle went over the history of this filing, noting that during the initial hearing process it was explained that the applicant wanted to reuse the existing house for sentimental reasons, and since meeting with builders and house movers, determined it was not economically feasible. The original proposal required that the house be moved to the side of the lot and placed on top of a newly constructed first floor, and the applicant now wanted to have a modular home put on the site instead. David Lyttle explained that this would be constructed off site, placed on the new foundation, and would result in less disturbance since the house would no longer be stored on site and materials would no longer be kept on site. David Lyttle explained that Skaket Beach Parking Lot would be used as a temporary location for the house for 1-2 days, but that the applicant still intended to complete all of the proposed plantings, and Steve Phillips inquired if the number of bedrooms were to remain the same. David Lyttle stated that the layout would remain the same as what had been proposed during the meeting, including size and configuration. Steve Phillips pointed out that the road access was narrow, and whether or not they could bring in the modular house without trimming branches on the road. David Lyttle said that there would be some trimming, and in previous experience with modular homes, noted that the road did not have to be trimmed more than 12-13' back. Steve Phillips asked if this would result in excessive

trimming, and David Lyttle said no. David Lyttle explained that they would have to go in front of the Selectmen to get permission to use the Skaket Beach Parking Lot. Jane Hussey inquired what time of year the parking lot would be used and David Lyttle said January. Steve Phillips recalled that the window for construction was roughly from October to April, and David Lyttle noted that the applicant wanted to be able to use the home by the upcoming summer. James Trainor inquired if this work would have to be approved by the Historic Committee, and David Lyttle said he was not sure, but would seek their approval if it was required. Steve Phillips asked if the building was historic, and David Lyttle explained that the work was in the Old Kings Highway district. John Jannell explained, for the Commission's benefit, that this was substantially the same project, and did not think that the Commission needed a revised landscape plan since the site plan reflected the proposed change to the scope of the work. John Jannell inquired if the applicant had to use Franz Road or if they could come in with the modular home the other way, since there was a Dune present in some areas of Franz Road. David Lyttle was comfortable with that condition, explaining that other recent abutters who had completed work on their property had used the southerly route. John Jannell asked that this route be used as long as the applicant had rights to use it, and Steve Phillips asked what the name of the roadway was to be used. David Lyttle said it was still Franz Road, but would refer to using the southerly side. Steve Phillips asked if the Commission had specified a particular planting scheme for the storage area of the original house, and David Lyttle explained that the note on the plan for that area simply stated that the temporary location was to be restored to its original condition upon completion of the construction. John Jannell clarified that there was a special condition under the Order which required the area where the house was located to be restored with native plantings, and now that this was no longer necessary, there was less of an impact on the site. John Jannell noted that this was a much more preferable plan since there was less impact overall, and Steve Phillips recalled there were a few small cedars located where the house was proposed to have been stored during construction. Kevin Galligan noted that he wanted to abstain from voting because he was not part of the initial hearing process, and wanted to commend the applicant on using a modular home and reducing the impact to the site.

MOTION: A motion to approve the Revised Site Plan dated 10-15-13, with the condition that the southerly portion of Franz Road be used for access was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: 6-0-1; Kevin Galligan abstained, motion approved.

Certificate of Compliance

Richard E. Dupont (2010), 18 Sages Way. The request for a Certificate of Compliance for an Order of Conditions for the removal of an existing dwelling including abandonment of the septic system and construction of a new dwelling and septic system. John Jannell explained that letters from Ryder & Wilcox, Inc., and Wilkinson Ecological Design, Inc., had been submitted with the Certificate of Compliance request stating that the work had been done per plan and the bank was work successful. John Jannell explained that Wilkinson Ecological has asked the Commission to consider on-going conditions to be attached to the Certificate of Compliance, which were to be able to manage the invasive species on the Coastal Bank through three site visits a year, the

annual mowing of the meadow in late March/early April, and replace any trees which die on the Coastal Bank. John Jannell suggested that if the Commission was agreeable to include on-going conditions for this Certificate of Compliance that they tie it to the contractor of record and require notification. John Jannell explained that in the past the Commission had accepted meadow creation as mitigation and in turn allow it to be mowed annually. Bob Royce felt the suggested conditions were fine, and Rich Nadler inquired what types of trees were proposed to be replaced. John Jannell explained that the Coastal Bank had been heavily invaded with invasives and there had not been many canopy species present. The proposed replacement was for the existing trees which were screening the house from the resource area, and recommended that the dead tree replacement be part of any on-going condition. John Jannell was not sure about including the invasive species work, and Steve Phillips inquired if the letter accompanying the Certificate of Compliance request stated that Wilkinson Ecological Design would be doing the work. John Jannell said yes, and Steve Phillips suggested attaching the letter as part of the Certificate of Compliance. John Jannell stated that it would be better to be specific and include the 3 on-going conditions with the Certificate, with the understanding that if a new contractor took over the work, he/she would understand the specifics of the work. Rich Nadler asked if the tree replacement meant any tree on the property was to be replaced, and John Jannell explained that the replacement was specifically for the trees on the Coastal Bank. James Trainor felt that the continued monitoring was beneficial, and Jane Hussey thought that keeping up with invasive species management was also important. Kevin Galligan inquired if this would be something which would be re-visited or open ended by including on-going conditions. John Jannell explained that these on-going conditions, if included with the Certificate of Compliance, would not require the applicant to return to the Commission to do this work. Rich Nadler was concerned about how it would be determined if a tree was dead, and noted that any other owner would have to ask permission. Rich Nadler was uncomfortable with a condition that would allow replacement continually, and James Trainor felt that the Commission would look favorably on an applicant that wanted to replace any tree that died on their Coastal Bank. Steve Phillips was concerned that replacement as needed was too open ended, and Rich Nadler suggested that a condition be incorporated that a good specimen tree be used to replace any canopy species removed. Kevin Galligan suggested a condition that a report be provided to the Commission after 3 years of maintenance, and John Jannell felt that the applicant was trying to honor the original 2010 Order with these specific conditions. Rich Nadler was concerned that should the tree replacement conditions be included, the applicant would be able to replace any tree on the bank without Commission approval. John Jannell suggested that they could ask that if replacement trees were needed, the applicant could file under an Administrative Review. James Trainor reiterated that this type of follow up was something the Commission looked favorably upon. John Jannell suggested that the Commission vote to issue the Certificate of Compliance with the management of invasives 3 site visits per year with the work in the form of hand-pulling resprouts, annual mowing of the field to be completed in late March/early April, and the replacement of dead trees on the Coastal Bank to be filed for under Administrative Review.

MOTION: A motion to issue this Certificate of Compliance with the management of invasives 3 site visits per year with the work in the form of hand-pulling resprouts, annual mowing of the field to be completed in late March/early April, and the replacement of dead trees on the Coastal Bank to be filed for under Administrative Review was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

William B. & Diane C. Richardson (2008), 17 Rock Harbor Road. The request for a Certificate of Compliance for an Order of Conditions for the removal of an existing barn and greenhouse; construction of a dwelling with septic components; and construction of a porch. John Jannell explained that there were no on-going conditions with this project, it was in substantial compliance, and the Commission could vote to issue this Certificate of Compliance.

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

VOTE: Unanimous.

James Trainor recused himself; Jim O'Brien left the meeting at 9:17am, and Jane Hussey became a voting member.

Administrative Reviews

Kris Ramsay/OCT, 20 Cheney Road. The proposed mowing of an early successional field habitat, including the cutting of invasive vines from oak and cherry trees, and the cutting of invasive shrubs 6 inches from the ground. Work to be done by Billingsgate Land Management. Kris Ramsay of the Orleans Conservation Trust was present. Kris Ramsay explained that this was an annual request to try and control invasives. Kevin Galligan explained that he was very familiar with the project, and that this work needed to be done.

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

VOTE: Unanimous.

James Trainor returned to the meeting.

Richard DeMorias, 14 Sea Breeze Lane. The proposed removal of locust trees on an unbuildable lot. Work to be done by Meredith Landscape Company. Bob Royce inquired how many trees were to be removed, and John Jannell said the applicant was only removing locust trees, and leaving the oak and cedar trees.

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

VOTE: Unanimous

Paul Ware, 15 Barley Neck Road. The proposed construction of a handicapped ramp, a set of steps, and the removal of one bush. Work to be done by Tom Hague III Builder. John Jannell explained that the house and proposed ramp were located at the outer

reaches of Conservation Commission jurisdiction, with the freshwater wetland located on the other side of the street.

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

VOTE: Unanimous.

Pine Ridge Realty Trust, 24-26 Pine Ridge Lane. The proposed removal of 2-3 damaged trees, removal of 2 shrubs, removal of 1 oak limb and the pruning of an oak tree. Work to be done by various contractors. John Jannell noted that the applicant had an Order of Conditions for the construction of the septic system and addition of a screened porch, and explained that the applicant was going to relocate a River Birch in addition to the work proposed. John Jannell recommended that this work could be approved as presented.

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

VOTE: 6-0-1; Kevin Galligan abstained

James Trainor recused himself.

Vote of Support

Kris Ramsay/OCT, 24 Twinings Lane. The Orleans Conservation Trust is looking for a vote of support from the Orleans Conservation Commission relating to the gift of a perpetual Conservation Restriction at 24 Twinings Lane from Ann Fleck- Henderson to the Orleans Conservation Trust. Kris Ramsay passed to the Commission a map outlining the areas owned by the Orleans Conservation Trust. Kris Ramsay explained that a Conservation Restriction was a legally binding document, and that while Ann Fleck-Henderson would still own the property privately, the Conservation Restriction prohibits certain uses of the property. Kris Ramsay explained that the applicant reserved a right to maintain a 4' walkway to access the Twinings Pond Conservation Area. Kris Ramsay noted that while the Commission did not need to sign off on this document, it would go to the Board of Selectmen for legally sign off on the Conservation Restriction.

MOTION: A motion to approve this Conservation Restriction was made by Philips Marshall and seconded by Bob Royce.

Kevin Galligan asked if the Commission had received the baseline documentation report, and Kris Ramsay explained that he would be happy to provide this to the Commission. Kevin Galligan explained that this document identified the habitat for the area and strengthened the value of the Conservation Restriction. Kris Ramsay said that he would draft a baseline proving the worth of the restriction, as well as the history of the site, and would be included as part of the record. Steve Phillips inquired if this baseline was mentioned in the document given to the Commission, and Kris Ramsay noted that the documentation circulated to the Commission was not something which they had to sign. Steve Phillips asked if the Conservation Restriction would be recorded, and Kris Ramsay said it would be an attachment. Kevin Galligan explained that he was in support of the Conservation Restriction, and Kris Ramsay noted that Ann Fleck-Henderson would look over the materials.

VOTE: Unanimous.

Chairman's Business

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

Erin Shupenis that the minutes were not ready at this time.

Other Member's Business

Administrator's Business

Site Visits

The Commission discussed the site visits.

The meeting was adjourned at 9:30

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department