

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Work Meeting, Tuesday, December 10, 2013**

ORLEANS TOWN CLERK  
K. Dwyer, Asst.  
'14 AUG 6 8:51AM

**PRESENT:** Judith Bruce, Chair; Steve Phillips; Vice Chair; Bob Royce; Jim O'Brien; Judy Brainerd; Rich Nadler, Associate; Kevin Galligan, Associate; John Jannell, Conservation Administrator.

**ABSENT:** James Trainor; Jane Hussey (Associate).

*For the purpose of today's hearing, Rich Nadler and Kevin Galligan will be voting members.*

8:30 a.m. Call to Order

**Continuations**

Last Heard 11/12/13 (SP1, JO1)

**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 announced that a request to continue the hearing to December 17<sup>th</sup> had been made, and the Commission could accommodate this with a vote.

**MOTION:** A motion to continue the hearing to December 17<sup>th</sup> was made by Bob Royce and seconded by Judy Brainerd.

**VOTE:** Unanimous.

**Certificate of Compliance**

**Forrester Quinn, 4 Overland Way.** Vote on the issuance of a Partial Certificate of Compliance for an Enforcement Order for encroachment on town property. John Jannell announced that the Commission typically did not issue Partial Certificates of Compliance (COC), but the applicant had completed a majority of the work, and was considering leasing a portion of Town Property. John Jannell reported on the work which had been completed, explaining that the plantings now needed to be seen through their naturalization. Judith Bruce inquired about the barriers in place to prevent encroachment, and John Jannell explained that the applicant installed a split rail fence, and the Town completed their drainage work. Kevin Galligan asked for clarification on the seed, and John Jannell explained that the hydroseed mixture had been completed in the Spring. Judith Bruce pointed out that the Commission would not issue a full COC until the plantings had become established, and Rich Nadler inquired why the Partial COC was being requested. John Jannell reiterated that the applicant had a portion of Town Property to lease, and that this Partial COC would demonstrate to the Town that the majority of the work had been done. Rich Nadler inquired if a homeowner was looking to push the sale of a house if the Commission would do the same thing. Judith Bruce pointed out that this does not clear the record, and John Jannell reminded the Commission that this would not release the Order of Conditions. Jane Hussey pointed out that the applicant had done a lot of work on site, and Kevin Galligan concurred that the work looked very good.

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

**VOTE:** Unanimous.

John Jannell explained that he would put together a memo for the Town Administrator outlining what work had been done on site and what remained to be done.

### **Administrative Reviews**

**Peter & Joan Nix, 14 Lewis Road.** The proposed removal of 3 Hemlocks and replacement with 3 White Pines. Work to be done by A to Z Tree Services. Judith Bruce inquired if this was due to the Woolly Adelgid, and John Jannell said that it was the replacement of a hedgerow.

**MOTION:** A motion to approve this Administrative Review was made by Jim O'Brien and seconded by Judy Brainerd.

**VOTE:** Unanimous.

**Cathy & Mark Hollinger, 149 Namequoit Road.** The proposed rebuilding of an existing deck in the same footprint. Work to be done by Colin M. Stevenson. John Jannell explained that this applicant also had an Order of Conditions for the same work which only recently expired. John Jannell explained that a portion of the work under the Order had already been completed, and said that the Commission could approve this work under this type of filing. John Jannell recommended that when the deck work was complete, the applicant return to close out the now expired Order.

**MOTION:** A motion to approve this work was made by Jim O'Brien and seconded by Bob Royce.

**VOTE:** Unanimous.

### **Correspondence**

Memo from Marine and Fresh Water Quality Task Force RE: Boland Pond run-off. John Jannell went over the memo which suggested that the Commission require Friends' Marketplace & Garden Center to eliminate runoff from the Garden Center. John Jannell went over the details of the letter, explaining that he had spoken with the Health Department, who provided information about their discussion and reiterated that they were willing to work with other town boards on this matter. John Jannell commented that while the property was not within Conservation Commission jurisdiction, the pipe to the wetland discharges into jurisdiction. John Jannell noted that he had not been a part of the dye test to determine if the runoff came from the state outfall pipe, the school outfall pipe, or the pipe from the parking area. Judith Bruce recalled that during the meetings about the Condo's adjacent to Boland Pond, it had been determined that there was not a direct connection from the Friends' Marketplace parking area to Boland Pond, but a pipe from this parking area to a wet area, and then the wet area to Boland Pond. Bob Royce, a member of the Water Quality Task Force as well as a member of the Conservation Commission, pointed out that Friend's Marketplace did not own the parking area, but that the Water Quality Task Force hoped that while the new system was being installed at Friends', something could be done. Judith Bruce noted that Main Street as well as other businesses occupied this area, which would make pinpointing the pollution difficult, and Jim O'Brien commented that there may be more than one business contributing to the runoff. Judith Bruce pointed

out the garden retail area at Friends' Marketplace, and the fertilizer used which in turn may be running into Boland Pond. Bob Royce commented that there was a recent Town ordinance which said that water on your property was to be contained on your property. Steve Phillips thought that while they were working on the septic system that there was an opportunity for improvement, and Judith Bruce was concerned about the potential to overwhelm the new system and send it into failure. Kevin Galligan inquired about the ownership of the pipe, and John Jannell noted that the marketplace pipe crossed at least one private property, and Judith Bruce questioned how the Commission should proceed. Judith Bruce suggested cementing the pipe to see what happened, and Steve Phillips felt that the question of point source pollution went back prior to the store being Friends' Marketplace. John Jannell felt that the WQTF wanted the Conservation Commission to weigh in their concerns while the property in question was in front of another regulatory Town Board. Kevin Galligan inquired about the Board of Health's (BOH) response to the WQTF letter, and John Jannell reviewed the letter for the Conservation Commission. Bob Royce reiterated that they needed to contain runoff, and Kevin Galligan felt that in order for Friends' Marketplace to go forward, they needed to work with the Town Boards. Judith Bruce inquired if the Commission should look into exerting jurisdiction, and Steve Phillips wanted to hear more from the BOH. Rich Nadler felt the Commission did not have the authority to solve the problem, and Judy Brainerd inquired about an advisory board. Rich Nadler felt that someone needed to make sure that it was done, and John Jannell stated that he would get on record with the WQTF acknowledging the BOH requirements. Bob Canning, Health Agent for the Town of Orleans, went over the history of the site as well as what the BOH has required Friends' Marketplace to do. Bob Canning felt that there was concern for the pond, and that while they focused on the applicant at hand, noted that there were additional contributors to Boland Pond's pollution. Judy Brainerd inquired about the urgency of the work, and Judith Bruce asked if Bob Royce was willing to be the liaison for the WQTF and keep the Commission aware of the progress. Steve Phillips inquired about gas stations and how they dealt with preventing oil and gas from causing pollution. Bob Canning stated that this was an emergency repair, and that the applicant may install a gas particle system to separate the hydrocarbons. John Jannell stated that he would draft a letter to go over the main points of the Commission's discussion, and the Commission thanked Bob Canning for his time.

**MOTION:** A motion to issue a letter of support to work with the Water Quality Task Force on this matter was made by Jim O'Brien and seconded by Judy Brainerd.

**VOTE:** Unanimous.

John Jannell said that he would provide the Chair with a letter to review. John Jannell inquired if the Commission wanted to copy the Board of Health, and if anyone else should be included. Judith Bruce suggested that the owner be notified, and reiterated that this property was only a portion of the problem.

### **Revised Plan**

**George Najarian, 33 Bufflehead Road.** The applicant would like to request a second passing of the hydrorake to remove re-growth of the cattails within the approved work area. Judith Bruce noted that the applicant was not present, and Judy Brainerd pointed out that there was a weather concern from where the representative was traveling. John Jannell announced that the applicant had requested a continuance to December 17<sup>th</sup>

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due to the weather, and that the Commission did not need have a formal vote since this was not a hearing. John Jannell said that the Conservation Department would put this on the agenda for the following week.

### **Liaison Report**

David Dunford, Conservation Commission Liaison from the Board of Selectmen, stated that he had a couple of pieces of information to share with the Commission. David Dunford brought up the discussion of the recently approved pavilion at Nauset Beach, and the recent newspaper article about this work. David Dunford explained that the lessee, John Ohman of Liam's at Nauset Beach, requested that the pavilion be removed from the lease due to the cost estimate which had increased significantly, and was to be paid by John Ohman. John Ohman was also concerned about the management, use, and maintenance details associated with the construction of the pavilion. The Board of Selectmen decided that the lease which was held by John Ohman expired in 5 years, 2017-2018, and that after that time he would be able to revisit this issue to determine if it was a possibility. Judith Bruce noted that the Order of Conditions would only be open for 3 years, and Kevin Galligan inquired about the concrete floor proposed for the pavilion which the article in the newspaper had made it appear optional, and David Dunford was not aware that it was an optional part of the construction. David Dunford thanked the Commission for their work with FL Quinn regarding 4 Overland Way, and felt that the solution was a great benefit for everyone.

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

#### **Administrator's Business**

John Jannell announced that a letter had been sent to the Selectmen's office about the Putnam access driveway, and was confident the Selectmen would continue to move the request forward.

The Commission discussed the site visits.

The meeting was adjourned at 9:28am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department