

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, February 4, 2014

'14 FEB 11 9:57AM ✓
K. Deery, Assoc.
ORLEANS TOWN CLERK

PRESENT: Judith Bruce, Chair; Steve Phillips; Vice Chair; Bob Royce; James Trainor; Jim O'Brien; Judy Brainerd; Jane Hussey (Associate); Kevin Galligan (Associate); John Jannell, Conservation Administrator.

ABSENT: Rich Nadler (Associate).

For the purpose of today's hearing, Kevin Galligan will be a voting member.

8:30 a.m. Call to Order

Continuations

Last Heard 12/17/13 (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. Tim Brady of East Cape Engineering was present. Tim Brady went over the revised plan submitted to the Commission, noting that the fiber rolls were moved 10' from the property line, and that the owners agreed to make a rain garden at the Top of the Coastal Bank. This rain garden would involve the removal of the grass and the raising of the grate 6". When this area gets full, it will go into the catch basin. Tim Brady noted the shrubs proposed in this area, and Judith Bruce suggested that more moisture tolerant species be planted. Tim Brady explained that these types of basins typically were not flooded, and Judith Bruce suggested a mix of the species. Tim Brady asked that as part of the plan, the planting narrative by Cape Organics become part of any Order of Conditions issued. Judith Bruce inquired what the recommended distance suggested from the property line had been in the report by Greg Berman, Coastal Processes Specialist for Woods Hole Sea Grant and the Cape Cod Cooperative Extension. Judy Brainerd read that the recommended distance was 10-20', and Steve Phillips inquired if the proposed fiber rolls were biodegradable. Tim Brady said yes, and John Jannell pointed out that a DEP number had been issued for the work. John Jannell suggested in addition to making the plan by Cape Organics part of any Order that the Commission add some flexibility on the species proposed to create an appropriate rain garden. John Jannell also recommended that the Bank Restoration Protocol be incorporated into the Order, and Judith Bruce recommended swamp azalea as another possible plant.

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 1-23-14, to include the planting narrative by Cape Organics as well as the Bank Restoration details, and that appropriate species be considered for the rain garden was made by Steve Phillips and seconded by Judy Brainerd.

VOTE: Unanimous.

Notice of Intent

Gregory E. Lawler & Ann Logan, 7 Hammatt Road. by Ryder & Wilcox, Inc.

Assessor's Map 82, Parcel 11. The proposed replacement of the roof of an existing boathouse. Work will occur on a Coastal Bank, on Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc and John Kelsey, Architect, were present. David Lyttle went over the proposed work, stating that it was a straightforward application which would require minimal disturbance. David Lyttle noted that there would be a Zoning Board of Appeals hearing since there was an increase of the height from 18' to 21.7', with a volume increase of 1273 cubic feet within the A.C.E.C. John Kelsey presented a model to the Commission, pointing out that the applicant was not trying to increase the amount of space in the boathouse but rather make it more aesthetically pleasing. Judith Bruce noted that while the Commission has a regulation on volume increase in relation to buildings in the Resource Area, and that their aesthetic interest included how the boathouse disappeared more into the surrounding area. Judith Bruce explained that this had nothing to do with the attractiveness of the property but rather make it better than what currently existed. Kevin Galligan asked to be mindful of the performance standard which referenced the increase in volume and that this would be an adverse impact within the resource area. Kevin Galligan inquired if there was anything proposed to reverse that impact, and David Lyttle did not think that due to the increase in volume there was an adverse impact. David Lyttle thought that the bylaw should be looked at, and inquired if the Commission wanted mitigation, since there were opportunities on site for such work. Judith Bruce asked that mitigation be provided, and Jim O'Brien agreed with David Lyttle that the increase in cubic volume was not an increase in usable space. Judith Bruce concurred, but noted that the applicant could be permitted changes to the property while at the same time improving it from an environmental standpoint. Judith Bruce suggested the removal of the asphalt driveway to the Coastal Bank, and David Lyttle pointed out that there was an association driveway. John Jannell clarified that they were referencing the second one that had been abandoned as part of a previous Order of Conditions. John Jannell explained that the Commission did have the regulation which presumed any increase to have an adverse effect, and the Commission could find the proposed work negligible, and could request an improvement to the resource area to act as mitigation for the work proposed. David Lyttle felt the proposed work was negligible, and asked what type of mitigation the Commission sought for the proposed work. James Trainor thought to presume that any change was negative was the wrong approach, and thought that the proposed work was an improvement. Steve Phillips inquired about additional work to the boathouse, pointing out that while on site the chimney was observed as settling. John Kelsey said that the owner wanted to maintain the chimney, explaining that this building was the boathouse from the old Quanset Camp. John Kelsey explained that the current roof was leaking, and that the applicants wanted to maintain the property so that it did not fall down. John Kelsey pointed out that they could not have the construction exceed 50% of the value of the building, so the budget was very tight. Steve Phillips asked to confirm that the roof was the only thing proposed to change, and David Lyttle explained that crushed stone was proposed at the roof dripline. Steve Phillips brought up the pipe under the deck, and questioned how the applicant felt about removing the abandoned asphalt driveway. John Kelsey felt that if it was a condition of the approval of the roof that they would go along with it. Judith Bruce suggested removal and replanting with

bayberry and beach plum, and also asked that the applicant discontinue mowing in front of the boathouse. Steve Phillips stated that he agreed with James Trainor in that the proposed work was an improvement, and Judy Brainerd inquired where the access would be located to complete the work. David Lyttle said the driveway to the association beach would be used, as well as a maintained path which had been used for other homeowners in East Egg for various construction projects would be used. Kevin Galligan inquired about how runoff was to be treated, and David Lyttle explained the stone dripline would be dug in all the way around. Kevin Galligan asked if the building material to be removed would be reused, and John Kelsey said that the 6" steel beams would be recycled. Kevin Galligan thought there was the presence of a heating hot water system, and John Kelsey explained that since the basement flooded every full moon tide, the heating system was abandoned, did not work, and the applicants did not intent to have the building heated. David Lyttle pointed out that there was a bathroom and it was habitable space, and Steve Phillips asked if there was an oil tank in the basement or presence of petroleum products. John Kelsey said no, and Judith Bruce and Jane Hussey agreed that the boathouse would become more visible. Judith Bruce went over the suggested mitigation, which including the removal of the driveway and replanting, the discontinuation of mowing in front of the boathouse, the removal of the pipes going into the beach, and the mitigation of some of the storm water. David Lyttle suggested a drainage trench at the end, and Judith Bruce suggested rain gardens. John Jannell asked that the Commission be clear about the driveway to be removed, and noted that the mowing was occurring in the high marsh. The Conservation Department file showed that they had tried to stop the mowing in the past with the previous owner having been notified in writing, and John Jannell felt that the mowing should to be limited to access paths only. John Jannell suggested that the hearing could be continued if additional information was required, and Judith Bruce asked for a site plan which eliminated the label of "Lawn" on the water-front side of the boathouse, removal of the asphalt driveway, and a planting plan showing how it will be restored. David Lyttle asked that the hearing be continued for one week, noting that there was a section of the pavement which acted as a path to the house, and that he would like to include a 4' wide path on a revised plan as well as speak with his client. Kevin Galligan asked that the work be sequenced, and Judith Bruce felt that a 4' path would be fine. David Lyttle would incorporate the Commission's recommendations on a revised plan.

MOTION: A motion to continue the hearing to February 11th was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

Amended Order of Conditions

Robert & Robin Bardwell, 14 Pond View Road. by East Cape Engineering, Inc. Assessor's Map 43, Parcel 11. The proposed removal of an existing dwelling, construction of a new dwelling, gazebo, & plantings has been Amended to change the approved limit of work, & increase the size of the gazebo, including the installation of a bathroom & sink. Work will occur within 100' of the Top of a Coastal Bank & within the Pleasant Bay A.C.E.C. *Steve Phillips recused himself. For the purpose of this hearing, Jane Hussey will be a voting member.* Tim Brady announced that he had not notified the abutters as required for a request to Amend an Order of Conditions, and inquired whether or not an informal discussion could take place. John Jannell advised the Commission that any discussion without proper notification of the abutters was not a

good idea and that discussion should be tabled until notice has been provided for this public hearing. Judith Bruce agreed with the idea that discussion should be tabled at this time. John Jannell inquired about the schedule to notify the abutters, and Tim Brady said they had to be notified 10 days in advance of the hearing.

MOTION: A motion to continue the hearing to February 18th was made by Bob Royce and seconded by Kevin Galligan.

VOTE: Unanimous.

Certificate of Compliance

Richard & Barbara LeStage (2008), 12 Hayward Lane. The request for a Certificate of Compliance for an Order of Conditions for the after the fact construction of a small addition. John Jannell explained that the applicant had completed everything that the Commission required, and a Certificate of Compliance could be issued.

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

VOTE: Unanimous.

Revised Plan

Jim O'Brien, 24-26 Pine Ridge Lane. The proposed septic system upgrade, abandonment of existing septic system components, & construction of an addition has been revised to increase the size of the addition. Work will occur within 100' of the Edge of an Isolated Vegetated Wetland. *Jim O'Brien recused himself as a Commissioner, and Jane Hussey became a voting member.* Jim O'Brien, applicant, explained that he would present the proposed revisions, take any questions, and then would leave the room. Jim O'Brien explained that he would be available should any additional questions arise, and John Jannell explained that they met with Cynthia May, Town Clerk, who had explained that Commissioners were occasionally allowed to present applications and this is not in conflict with the conflict of interest laws. Jim O'Brien went over the history of the filing, noting that it was for the replacement of a septic system and the proposed revisions were to increase the size of the approved smaller 3 bedrooms to 3 larger bedrooms by having a 14'x19' addition. *Kevin Galligan recused himself.* Jim O'Brien explained that the replacement of the septic system had been completed, and they were now in the process of renovating the dwelling. Board of Health requirements for a bedroom space indicate that a bedroom less than 100-square feet is limited to a one-person bedroom. Jim O'Brien explained that they did not want to have that limitation and the proposed increase of 54' and reconfiguring would allow at least 100' per bedroom. Jane Hussey inquired about the proposed dimensions under this Revised Plan, and Jim O'Brien explained that it was proposed to become a 16'x20' addition. Judy Brainerd felt this change was minor, and Steve Phillips asked if this was an existing 3 bedroom dwelling to remain a 3 bedroom dwelling. Jim O'Brien said yes, and Steve Phillips asked if there were would be additional changes to the site. Jim O'Brien explained that there was a proposed rinse area, bulkhead, and two privacy fences proposed. Jane Hussey inquired about the location of the laundry, and Jim O'Brien explained that while it had previously been located in the shed, its new location was to be determined. *Jim O'Brien left the room so that the Commission could deliberate.* John Jannell provided the Commission with a brief report on the property, explaining the previous filing history. John Jannell pointed out that there were a couple of special conditions which the Commission included in the Order of Conditions, which

stated that *"The 36' contour line shown on the plan will be delineated by either a fence or large rocks to delineate the no mow zone east of this contour line. Mowing is permitted above the 36' contour line once a year in late winter/fall."* The issue in front of the Commission is a footprint change, and the Commission could vote accordingly. Judith Bruce noted that a Revised Plan did not require the notification of abutters, and recalled that this project had a fair amount of abutters who came out against the proposed work. While Judith Bruce felt this project was minor, she suggested that the shed be removed as mitigation. John Jannell pointed out that if the Commission wanted additional conditions, they would have to deny the revised plan and request an Amended Order of Conditions. James Trainor did not seem like much of an expansion to make a room livable, and Jane Hussey agreed. Jane Hussey asked what the laundry shed was being used for now that it no longer had the laundry components, and Judith Bruce said it was a storage shed. Steve Phillips pointed out that visually from the roadside the proposed change was only 2'. Judith Bruce was concerned that the abutters may have wanted to weigh in on this proposed work, and recalled that this was a highly debated discussion. Jane Hussey asked if the current driveway was paved, and if they could request that it be porous. John Jannell said that it was currently paved, and Judith Bruce noted that such a condition would require an Amended Order. Steve Phillips recalled that the majority of the discussion during the Notice of Intent hearing had to deal with the delineation of the wetland, and that the addition was not of significant concern to the abutters. John Jannell recalled that the initial hearing saw a lot of abutter turnout, but that there concern was also for Parcel 77, which was not approved for any work. Judith Bruce felt the issue was whether or not this was a minor change which could be approved under a revised plan or required an Amended Order, and Bob Royce and Judy Brainerd both felt the proposed work was minor.

MOTION: A motion to approve the Revised Plan was made by Steve Phillips and seconded by Judy Brainerd.

VOTE: 5-1-1, Judith Bruce opposed, motion approved.

Chairman's Business

Approval of the Minutes from the Meeting on August 13, 2013,

MOTION: A motion to approve these minutes was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

Approval of the Minutes from the Meeting on January 28, 2014

MOTION: A motion to approve these minutes was made by Steve Phillips and seconded by Kevin Galligan.

VOTE: Unanimous.

Other Member's Business

Administrator's Business

Putnam Farm Access Letter

Vote to sign letter to Barnstable County requesting access easement.

John Jannell explained that a letter had been drafted to Michael Brillhart of Barnstable County requesting a meeting to discuss access at Putnam Farm. In addition to the letter, a site plan and GIS map would be included, and John Kelly, Town Administrator,

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and Chris Kanaga, Barnstable County Assembly of Delegates, would be copied as well. Kevin Galligan noted that he would be happy to attend any meeting with the County and say a few words of support on behalf of this proposed work.

MOTION: A motion to approve the sending of this letter was made by Kevin Galligan and seconded by Judy Brainerd.

VOTE: Unanimous.

Authorize spending from the Wetland Filing Fees Account

Vote to authorize spending of up to \$300 for Commission participation in the MACC Annual Conference.

John Jannell reported that action no longer needed to be taken on this since the Commissioners who wanted to attend MACC had scheduling conflicts. No action was taken.

The Meeting was adjourned at 9:32am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department