

Orleans Conservation Commission
Town Hall, Nauset Room
Work Meeting, Tuesday, February 11, 2014

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

For the purpose of today's hearing, Rich Nadler will be a voting member.

8:30 a.m. Call to Order

Continuations

Last Heard 1/21/14 (JT1 JO1)

Daniel & Andrea Schmieg, 13 Kingsbury Lane. by Ryder & Wilcox, Inc. Assessor's Map 71, Parcel 1. The proposed reconstruction of an existing boathouse; stabilization of an eroding bank; replacement of failing fiber rolls with gabion/fiber roll toe protection; removal of invasive plant species, & plant with native species. Work will occur on a Coastal Bank, on a Coastal Beach, on Land Subject to Coastal Storm Flowage, & within the Pleasant Bay A.C.E.C. (*Prior to the commencement of the hearing, James Trainor and Jim O'Brien signed an affidavit citing he had reviewed previous testimony and read the approved minutes from the previous hearing, thus allowing them to be voting members for this hearing.*) David Lyttle of Ryder & Wilcox, Inc, and Seth Wilkinson of Wilkinson Ecological Design, were present. David Lyttle explained that a revised plan had been circulated to the Commission which removed the shoreline stabilization portion of the work on the south side, with only the one-time sand cover to the existing fiber rolls on the south side. Judith Bruce said that while the Commission's focus had primarily been on the proposed gabion work on the south side, they now needed to focus their questions on the work for the boathouse and stairs. Judith Bruce inquired about the extent of the regrading work proposed, and if there would be any regrading to the left of the boathouse between the boathouse and stairs. David Lyttle said there would be some minor hand work, with biodegradable matting used. Judith Bruce inquired about the location of the limit of work, and David Lyttle said that it would be 10' from the property line. Judith Bruce inquired about the number of trees to be removed, and David Lyttle said that there were a few, with all that were located on the scarp portion of the bank to be removed. David Lyttle recalled only one significant tree behind the boathouse to be removed, and Judith Bruce recalled some significant oaks behind the boathouse, with others hanging in the air that would need to be removed. David Lyttle stated that he did not have an exact count of the trees to be removed. Judith Bruce understood that the applicant would not be planting a lot of trees given the site conditions, but explained that it was difficult to determine if there would be a visual impact from their removal. Seth Wilkinson said that there was a very dense forested area located from the 100' buffer line to the proposed work. Seth Wilkinson said that the proposed vine removal would release the understory, and there was a decent forested area with 2-4' diameter hardwoods in that area. David Lyttle noted that one of the important phases was the construction of the access road to allow in the future the applicant to have further access for nourishment. David Lyttle pointed out that they may

come back to the Commission with a proposal for work on the south side, but that this construction access would be ideal for the current as well as future work. Judith Bruce showed David Lyttle the site photos being passed around by the Commission, pointing out the trees which had been undermined that would need to be removed, and David Lyttle noted that there was one tree at the Top of the Bank that would need to be removed. Judith Bruce inquired about the 16" and 18" cedars shown on the site plan, and whether they would be going or staying. David Lyttle said that would mostly be going, and Seth Wilkinson pointed out that most of them were gone already. David Lyttle said he could not provide the Commission with an accurate number of the trees to be removed since the focus of the project had recently shifted, and Steve Phillip inquired about the extent of the Bank work, whether it was just proposed in the dark shaded area. David Lyttle showed on his site plan to the Commission where the proposed Top of Bank in relation to the scarp and construction access would be located, and Judith Bruce inquired if anywhere besides the shaded area would see tree removal. David Lyttle said no, and John Jannell asked for additional clarification about the cedar trees shown on the site plan. Seth Wilkinson explained that since the initial site plan had been created, the site had suffered some erosion from the winter storms. David Lyttle noted that the plan could be revised easily to show the extent of the regrading to determine if the 16-18" cedars would be removed. Kevin Galligan felt it would be best to clarify this so that the Commission had an accurate site plan, and Judith Bruce inquired if the Commission could conduct a site visit despite it not being posted. John Jannell said the Commission could conduct a site visit but could not deliberate, and James Trainor inquired about the timeline for the proposed work. Seth Wilkinson explained that they wanted to start as soon as possible, and James Trainor asked if a revised site plan would have significant changes. David Lyttle said that while he felt the plan was accurate, he could not report to the Commission the number of trees to be removed. Seth Wilkinson pointed out that if a tree was undermined it would be removed. John Jannell thought that the plan showed the contours of the bank 200' down from the staircase, and whether or not they would go beyond that point with any work. David Lyttle said that there may be work within a couple of feet, and John Jannell suggested that the Commission could discuss a Special Condition being incorporated into any Order for the performance of the work on the bank, and did not want to delay the proposed work longer than necessary. Seth Wilkinson agreed that the best thing would be to have a good record of the work to be done if there was another 10-12' of erosion on site. David Lyttle was comfortable going out on site with the plan to make the revisions by hand and then present a revised plan to the Commission. Rich Nadler inquired about the original assumptions discussed, and the applicant's thoughts on the erosion on the coast. David Lyttle stated that there was obviously an erosion problem on site, and felt that it was storm related. They were dealing with an eroded bank that they wanted to restore and stabilize, and felt that the statements about erosion occurring in the estuary were correct. Rich Nadler inquired what would happen if there was another nor'easter, and David Lyttle stated that they may be back in front of the Commission. David Lyttle stated that if he was a shorefront owner he would want the chance to comeback in front of the Commission to regrade regardless of the erosion history, and Rich Nadler asked if they were adding additional materials into the bay. David Lyttle did not feel that by adding sand to the site that they would damage the healthy fronting marsh present. Rich Nadler stated that after the last meeting, he read 137 Years of Shoreline Change in Pleasant Bay: 1868 to 2005, and A Report Prepared

for the Pleasant Bay Resource Management Alliance, By Mark Borrelli, Ph.D, which contradicted the erosion rate of 1.8' per year reported to the Commission. The report stated that the erosion rate was 0.4' per year on this shoreline, and he wanted to know if there was analysis done to determine if the 1.8' rate was based on accurate or inaccurate data. Rich Nadler was concerned that the south side where the gabions had been proposed was in fact experiencing erosion at a rate of 1.4' a year according to the study, and the east side was in fact accreting. David Lyttle said while they were not trying to change the cycle they were trying to help the applicant. They proposed to use existing bank material to regrade, and if they get another storm, they would be giving back existing material, not creating a future problem by providing additional material. Rich Nadler asked when you move material does it not change the strength of the Bank, and Seth Wilkinson said this work would provide an opportunity to replant. Seth Wilkinson pointed out an instance where a Bank had migrated 8' in one evening, and Rich Nadler explained that this study was specific to that site, and was concerned when experts report one figure and other reports state another figure. Rich Nadler explained that the Commission needed to base their reviews on as much factual data as possible, nothing that there was a great deal of research available to the Commission. Rich Nadler wanted to create a baseline for future projects, so that they could ensure they were being provided the most factual data. David Lyttle suggested hiring a consultant to complete that work, and they were trying to stabilize the bank naturally. Rich Nadler stated that what he was trying to communicate was that when this proposal came in front of the Commission, the research for the tides showed that while they increased dramatically from 2007-2010, they have since dropped off. Rich Nadler recognized that the goals were in the best interest, but asked if the assumptions were clearly showing how the Bay was transitioning. Kevin Galligan asked how many open Orders there were on this property, and John Jannell reported 2. Kevin Galligan inquired if the sand nourishment could be done under an existing Order, and David Lyttle explained that it would be more appropriate to ask for a Certificate of Compliance, since the first had expired. Kevin Galligan asked that since the applicant wanted to return with a revised site plan, the additional sand cover be clearly defined, showing the quantity, how the work would be done, and in what timeframe. John Jannell pointed out that the cross section CC shown on the plan outlined what the Commission would be approving, and Judith Bruce did not think that there was a concern that the marsh was going to be buried. Judith Bruce commented that the Commission was in favor of solutions which were the least permanent, least interfering with natural processes, and by eliminating the slab under the boathouse and allowing wave action underneath the structure they were supporting a good project. Judith Bruce asked if the Commission had any other details which needed to be incorporated on a revised plan, and Steve Phillips inquired about the proposed plant management. David Lyttle stated that there was a significant amount of cat brier to be removed, and John Jannell explained that there was information provided by Wilkinson Ecological Design addressing what was proposed. Judith Bruce asked that anything from the bottom of the bank to the top of the bank of trees to be removed, and David Lyttle said that he could clarify that on his site plan and get back to you in a week.

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

VOTE: Unanimous.

Last Heard 2/4/14 (RN1)

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. *For the purpose of this hearing, Jane Hussey will be a voting member.* David Lyttle explained that a revised plan had been circulated to the Commission showing the removal of the old 8' wide asphalt driveway upon the completion of the work on the boathouse to be replaced with a 4' gravel walk on the south side and a 4' native grass strip on the north side. Additionally, the mowing of the marsh grass would be discontinued. Steve Phillips recalled that the path from the boathouse to Pleasant Bay was to be shown on the plan. David Lyttle noted that he spoke with Gregory Lawler, who was not in a position to define the path, but moving forward comprehended that he could only have a 4' wide path. David Lyttle suggested that a condition in the Order stating as such would be fine.

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

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 2-5-14 with the condition that a 4' path between the Boathouse and Pleasant Bay be established was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

Administrative Reviews

Roger Stacey, 626-632 S. Orleans Road. The proposed pruning of 10 English Oaks, cedars, & species along driveway between houses. Work to be done by Bartlett Tree Services. John Jannell noted that the applicant had worked with Bartlett Tree Services to do this work two years prior. This work was pruning for health, and the Commission could approve it without further filing.

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

VOTE: Unanimous.

Nancy O'Leary, 24 Franz Road. The proposed removal of a diseased cherry tree. Work to be done by Wilkinson Ecological Design. John Jannell noted that this was a rotted tree next to the driveway that needed to come out and recommended approval.

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

VOTE: Unanimous.

Burton & Eleanor Jaffe, 43 Briar Springs Road. The proposed construction of a shed dormer. Work to be done by Peter Coneen LLC. John Jannell explained that this work was in the outer buffer to the resource area, and could be approved under this type of filing.

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

VOTE: Unanimous.

Chairman's Business

Approval of the Minutes from the Meeting on September 3, 2013

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

VOTE: Unanimous

Approval of the Minutes from the Meeting on September 10, 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 February 4, 2014.

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

VOTE: Unanimous.

Other Member's Business

Administrator's Business

John Jannell explained that he had been working on the Regulations so that he could bring some proposed changes to the Commission for their review.

Kevin Galligan noted that in the correspondence sent to the Commission regarding the upcoming litigation did not include a site plan. John Jannell asked that the Commission hold all comments on the pending litigation.

Site Visits

The Commission discussed the site visits.

The meeting was adjourned at 9:13am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department