

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, February 18, 2014

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ORLEANS TOWN CLERK

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, Kevin Galligan will be a voting member.

8:30 a.m. Call to Order

Continuations

Last Heard 2/11/14

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. David Lyttle of Ryder & Wilcox, Inc. was present. David Lyttle noted that since the last hearing, the Commission conducted an on-site on February 11, 2014, to see the 3 cedar trees to remain and which to be removed. David Lyttle explained that he had made such notations on a revised plan, along with the removal of the gabion anchor, with the only work proposed for the south side would be for the one-time addition of 50-60 yards of sand to cover the existing fiber rolls. Judith Bruce felt it was helpful to have re-visited the site, and appreciated the willingness to save the cedar trees. Kevin Galligan asked for additional information about the covering of the fiber rolls, and whether or not the proposed sand would cover the entire area. David Lyttle did not anticipate a lot of sand cover at the higher elevation, and commented that this was a temporary solution while they went over additional options for the area. David Lyttle commented that they wanted to see what would happen over the short term to the site, and anticipated that it would be coming back in front of the Commission. Kevin Galligan inquired if additional erosion control measures were being put into place, and John Jannell clarified that this was sacrificial sand nourishment, and that there were no erosion control measures put into place for sand cover projects. David Lyttle pointed out that where the boathouse was proposed to be removed, both a limit of work and siltfence were proposed. John Jannell noted that because the sand would be coming in through the other area of activity, that marsh mats be used to cover the portion of the marsh to be crossed. Rich Nadler inquired if the rebuilding of the boathouse was considered reconstruction, and David Lyttle explained that there was greater than 25% of work proposed. Rich Nadler asked if a condition should be included that there would be no future CES's, and Judith Bruce pointed out that it was going up on pilings. Rich Nadler brought up the 1978 reconstruction regulation, and Joe Jannell noted that this was seaward of any toe of the Bank. Judith Bruce did not feel that this would be armored because it was seaward, and Rich Nadler explained that he was comparing this to the Mackey project at 63 Kenneth Lane.

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 2-11-14, with the details from Wilkinson Ecological Design dated 10-23-13, was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

Last Heard 2/4/14

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. Tim Brady of East Cape Engineering Inc. was present. Tim Brady explained that the limit of work had been changed to eliminate the use of the south side to access the original house for its demolition. The planting plan would not change outside of the proposed access. Tim Brady pointed out that a 15'x17' gazebo had been proposed at the wing of the existing building, and was now proposed to be a 17'x17' equal sided wide open gazebo with a bathroom and wet bar. John Jannell reported to the Commission that there was an Order of Conditions for the proposed new dwelling and removal of the existing dwelling. John Jannell reviewed the past record of meeting and noted a Commissioner requested elevations for the project but none had not been submitted with the original NOI and an Order was issued. John Janell read into record the one descriptive condition regarding the gazebo from East Cape Engineering's July 1, 2013 letter explaining that the gazebo was to be an "open framed structure with a roof and concrete slab." John Jannell stated that the entire project was within the A.C.E.C., and the proposed Amendment was for a small increase in the coverage proposed. Tim Brady provided the Commission with a schematic drawing of the gazebo to help illustrate what was proposed, and Judith Bruce inquired if it was a 2-story gazebo. Tim Brady explained that it was open and one story, but they had to pour frost walls. Bob Royce pointed out that it was not open since the bathroom would need to be enclosed, and Tim Brady said that was correct. Judith Bruce commented that the applicant was asking for an extension beyond the original footprint of the house, and Tim Brady noted that this was a proposed expansion within the footprint of the existing house. Judith Bruce explained that the reason she brought this up was that this work proposed was within the 50' buffer and within the A.C.E.C., and that the original understanding was all that was to remain was a gazebo with poles and a roof. Tim Brady understood this, and Judith Bruce said that what was before the Commission was a cupola with a bathroom, plumbing, similar to a guest house or a summer sleeping porch, and was nothing like what the Commission had in mind. Tim Brady said that it was neither a sleeping place nor a living space, and that it was wide open. Judith Bruce asked if there were any screens proposed, and Tim Brady said there was only an area wide enough for a bathroom. Tim Brady noted that he was not sure what the architect had in mind, and Judith Bruce asked that clarification be provided. Judy Brainerd pointed out that walls were proposed with the bathroom, and Bob Royce stated that

what was proposed was no longer an open structure it was a closed structure. Tim Brady explained that it was open except the bathroom, and that it was located in one of the 9 little sections. Judith Bruce asked about the amount of proposed framing without any walls, and Tim Brady explained it was needed to hold up the roof. James Trainor questioned what was behind the proposed bar sink, such as a half wall. Tim Brady did not know all of the details and assumed a bar top and wall. Judith Bruce explained that this was not how she had envisioned the proposed gazebo, and was not amenable to expanding this to include a wet bar and bathroom in a closed type of structure. Steve Phillips assumed that there would be electric lines and a septic line proposed as well. Judy Brainerd asked why the applicant was expanding instead of reducing the size of the proposed structure to 15'x15' to make it symmetrical. Tim Brady stated that he would like to withdraw the request to Amend the Order of Conditions with the gazebo, and only proceed with the change to the Limit of Work under this request to Amend. Steve Phillips pointed out that the proposed gazebo would stand out from the resource area, and Jane Hussey felt that a plan was needed to show the Commission what was proposed. Tim Brady said that he would potentially return with another request to Amend the Order with additional details on the proposed gazebo, and James Trainor inquired if a refrigerator was proposed. Tim Brady said he was not sure, and James Trainor inquired if this proposed bathroom would be attached to the pump chamber and require the septage to be pumped up into the septic tank. Tim Brady commented that the current existing house had a gravity fed line to the current septic tank. John Jannell pointed out that a septage line connection was not shown on the proposed site plan, and wanted to be clear that there would not be a waste line hooked up to the gazebo. John Jannell noted that there had not been some debate on the proposed change to the Limit of Work, and asked that if it was accepted, that the drip line protection be afforded to the tree between the current house and the one being constructed. Tim Brady said this would be acceptable, and John Jannell asked for confirmation that they wished to only have the Commission act on the request to change the Limit of Work. Tim Brady confirmed that he wished to withdraw the gazebo request and ask that the Commission approve the change to the Limit of Work. John Jannell stated that they needed a plan showing the Limit of Work change as well as the dripline protection of the tree, and could act subject to a Revised Plan being submitted. Tim Brady suggested that he could make a note on the plan, and John Jannell felt that in order to make the record clear that a Revised Plan showing these changes would be the best approach. Steve Phillips asked for a brief summary of the changes to the Limit of Work, and Tim Brady showed him on the site plan the changes proposed. John Jannell asked that the Commission vote the appropriateness of the application, followed by closing the public hearing, and voting on the proposed work which would require the applicant to submit a revised plan. John Jannell explained that the conditions which were included with the original OOC would be incorporated into any new Order.

MOTION: A motion to approve this application as an Amended Order request was made by Bob Royce and seconded by Judy Brainerd.

VOTE: Unanimous.

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

VOTE: Unanimous.

MOTION: A motion to approve this project subject to receipt of a Revised Plan showing only the change to the Limit of Work and the dripline protection of the tree was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

Notice of Intent

Donald Widen, 19 Fox Ridge Drive. by JC Ellis Design Company, Inc. Assessor's Map 50, Parcel 47. The proposed construction of a portion of a patio & the clearing of brush & revegetation with lawn area to the 75' buffer line. Work will occur within 100' of a Bordering Vegetated Wetland & a Ditch. Jason Ellis of JC Ellis Design Company, Inc., was present. Jason Ellis went over the proposed site plan, explaining that the septic system was located in the only possible place due to the drainage on site. The area to be cleared would be between the 100-75' buffer line, the patio to be dry-laid bluestone, and the area to be replanted with a conservation grass seed mixture. Judith Bruce clarified that there would be no working within the 75' buffer, and Jason Ellis said this was correct. Jane Hussey inquired about the large viburnums on site and whether or not those were proposed to be saved. Jason Ellis explained that the applicant intended to do a selective removal versus a clearing, and wanted to save some of the cherry trees on site. Jason Ellis pointed out that a DEP number had not been issued for this work and that he would need to continue the hearing. Judith Bruce inquired if any other Commissioners had any other issues with the proposed work, and the Commission said no.

MOTION: A motion to continue the hearing to February 25th was made by Judy Brainerd and seconded by Bob Royce.

VOTE: Unanimous.

Nanon Winslow, Ginger & Kenelm W. Winslow, Jr, 2 & 4 Ewing Drive. by Ryder & Wilcox, Inc. Assessor's Map 93, Parcel 12 & 13. The proposed repair of an existing rock revetment. Work will occur on a Coastal Beach, Coastal Bank, Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C. David Lyttle of Ryder & Wilcox, Inc, Jeff Norgeot, contractor, and Ken & Ginger Winslow, applicants, were present. David Lyttle went over the history of the project, commenting that a copy of the 1930 license to install rip-rap at the toe of the bank had been provided to the Commission. In 1990, a second license was obtained to turn the rip-rap into a revetment. David Lyttle explained that on February 14th, John Jannell, Jeff Norgeot, John Martin, and Greg Berman met out on site, with the proposal to utilize the existing rip-rap on the beach as both the bedding and intermediate stones. The proposed construction access would be from Ewing Drive, following the Bottom of the Bank, going all the way around and providing access to the shorefront. David Lyttle explained that there were significant trees to be removed, and they were proposing to cut the scarp back where it was overhanging. They proposed to cut that portion back, work with the existing bank, stabilize, and plant it. Jeff Norgeot explained that alterna mats which were plastic/plywood would be used to bring the machine to the beach. The equipment would be brought down once and removed once, with the only reason to move the machinery to be in the case of a storm event. The delivery of the stone would be from the flagpole area, where trucks would back up onto a steel plate area, and the stones

placed on a steel chute. Judith Bruce inquired if this type of work would allow for the transportation of 6,000lb stones, and Jeff Norgeot explained that the rocks would not go straight down but rather be brought down parallel and lowered. Jeff Norgeot explained that this was a very surgical procedure, and that it was better than trying to bring in all of the material along Quanset Pond. Jeff Norgeot explained that they would start at the groin end, limiting the number of machine tracks. A machine would be sitting on lot 15, and there would be a little bit of clearing which would need to be done, most of which being invasive species. Judith Bruce recalled looking at this with a pier and float, and David Lyttle explained that the owners did have a Chapter 91 Waterways license for a pier, similar to the Whittaker pier, from the 1930's. David Lyttle pointed out that at this time they were not pursuing this, but did note that according to the Pleasant Bay Resource Management Plan, this was one of the areas where piers were allowed. Judith Bruce said that the Commission questioned whether the stone groin was a good idea, and had asked Greg Berman to prepare a report for the Commission. John Jannell confirmed that there had been an on-site between the proposed contractors and Greg Berman, explaining that they looked at some sediment deposits in the sand. John Jannell explained that the majority of the site visit focused on construction techniques, and John Jannell's suggestion had been to minimize the trips on the old dirt road which had become salt marsh and beach. Additionally, it was recommended that they come in and out the same way, and for this to be done during the dormant season. John Jannell pointed out that Greg Berman usually put these recommendations in his reports, as well as suggesting the dormant season from November 1st to April 1st, and asked for the Commission to keep that in mind. Jeff Norgeot explained that they would be pruning vegetation to keep the machine as close to the shore as possible, and John Jannell agreed that they would not want the limb of a shrub to push a machine further out into the resource area when they crawl in. John Jannell commented that the Quanset Pond shoreline was mostly sand, bayberry, and maritime shrubs, and the Commission was still waiting on paperwork from the state. Judith Bruce inquired if the bank work was allowing for the site to even out, and David Lyttle explained that there were a couple of large trees to be removed. David Lyttle explained that the planting plan would be family oriented. John Jannell inquired if additional trees were to be removed to bring in the heavy trucks for the chutes, and Jeff Norgeot explained that there was one pine and one 5" cherry to be removed, as well as one dead pine which had snapped in half. Jeff Norgeot pointed out that other than those trees, only woody shrubs and bittersweet were to be removed, and the trucks would be coming in on steel plates. David Lyttle suggested that he could prepare a detail of the staging area, as well as a restoration for the area when the work was complete. Judy Brainerd asked that the plan show the trees to be removed, and Jane Hussey asked for the well to be shown. Jeff Norgeot suggested that the plan include the flagpole since it was a good point of reference. Steve Phillips asked if the access road was entirely on the Winslow's property, and David Lyttle said yes. Kevin Galligan inquired if the chute would be tested out given the angle of the slope, and Jeff Norgeot pointed out that it would not be to the Top of the Bank. Kevin Galligan explained that while he did not attend the group scheduled site visit on February 11th, he did go out on site, and saw that there had been extensive clearing of the bank including topping. Kevin Galligan showed the Commission photos he had taken of the site, and did agree that the site was suffering from significant erosion. Kevin Galligan inquired whether or not the black rock on site was trap rock,

and David Lyttle commented that it had been there since the 1930's. John Jannell stated that they had discussed that there would be no moving of glacial boulders, and would carry a typical condition stating as such. Jeff Norgeot pointed out that they may have to move the rocks and put them back, and David Lyttle noted that the cutting back would allow for more sunlight to penetrate the area. John Jannell pointed out that they were still waiting on additional paperwork, and David Lyttle commented that Greg Berman had hoped to have the report done within a week. David Lyttle said he would create a construction protocol, as well as provide additional detail for the staging area, and asked for one week's continuance.

MOTION: A motion to continue the hearing to February 25th was made by Bob Royce and seconded by James Trainor.

VOTE: Unanimous.

Administrative Reviews

Steve Downs, 54-56 Tonset Road. The proposed removal of 4-5 trees for a Solar Roof Project. John Jannell explained that the applicant wanted to remove trees between their house and the neighbor's house, and were located outside of the 75' buffer. John Jannell also reported that the neighbor notified the Conservation Department of her permission to complete the work.

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

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on September 17, 2013,
Erin Shupenis reported that these minutes were not ready at this time.

Approval of the Minutes from the Meeting on February 11, 2014.

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

VOTE: unanimous

Other Member's Business

Judy Brainerd reported that the Orleans Conservation Trust trail map received their initial approval from the CPC, and hoped to be at Town meeting, subject to a hearing which was required as part of the process.

Jane Hussey reported that the Renters Guidelines Brochure had been progressing along well, and that a draft should be coming in front of the Commission in the near future with a request for funds for production. Judith Bruce thanked the CPA and other volunteers who had worked on this project.

Rich Nadler inquired about the deadline for the revision to the Orleans Regulation revisions, and John Jannell explained that under the Bylaw the Commission had the ability to make changes subject to a publically advertised hearing. John Jannell asked that anyone with revisions or notes they would like to incorporate to please contact him

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to determine if they were something which could be done. Rich Nadler asked if the proposed changes would be done as a group, and John Jannell explained that they would be put as agenda items, advertised in the local newspaper, and be open to both public and Commission opinion.

Judith Bruce commented that everyone received a copy of the conflict of interest paperwork to be signed, and asked that everyone watch the video and print out their certificate to be submitted to the Town Clerk's office.

The meeting was adjourned at 9:42am

Respectfully submitted,

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