

*C. May*

ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Work Meeting, Tuesday, September 23, 2014**

'14 OCT 21 12:11PM

**PRESENT:** Judith Bruce, Chair; Steve Phillips, Vice Chair; Judy Brainerd; Kevin Galligan; Jane Hussey (Associate); Mike Brink (Associate); Pam Herrick (Associate); John Jannell, Conservation Administrator.

**ABSENT:** Bob Royce; Jim O'Brien; & Rich Nadler.

*For the purpose of today's hearing, Jane Hussey will be a voting member.*

8:30 a.m. Call to Order

Judith Bruce announced that Mike Brink and Pam Herrick had been appointed as Associate Members to the Conservation Commission, and welcomed them accordingly.

**Continuations**

Last Heard 9/2/14 (BR1 RN1)

**Gerald T. & Caroline C. Mulligan, 16 Ewing Drive.** by Coastal Engineering Company, Inc. Assessor's Map 93, Parcel 17. The proposed construction of a steel sheetpile wall & replacement of an existing clay pipe with a high density polypropylene pipe. Work to occur on a within 100' of a Coastal Beach & Salt Marsh, & on a Coastal Bank, within Land Subject to Coastal Storm Flowage, & in the Pleasant Bay A.C.E.C.

John Jannell announced that a continuation from Coastal Engineering had been received to October 21<sup>st</sup>.

**MOTION:** A motion to continue the hearing to October 21<sup>st</sup> was made by Kevin Galligan and seconded by Jane Hussey.

**VOTE:** Unanimous.

Last Heard 9/16/14 (JO1)

**Philip & Janine Howarth, 16 Snow Way.** by Ryder & Wilcox, Inc. Assessor's Map 5, Parcel 22. The proposed driveway improvements to correct drainage issues including the installation of a rain garden & replacement of a culvert under the existing driveway. Work will occur crossing a Stream, in a Bordering Vegetated Wetland & within 100' of a Bordering Vegetated Wetland & the Edge of a Pond. David Lyttle of Ryder & Wilcox, Inc. and Caitrin Higgins of Wilkinson Ecological Design were present. Caitrin Higgins provided Jane Hussey with the Rain Garden Manual of New Jersey which Jane Hussey had requested a copy. Judith Bruce inquired where the Conservation Department could order additional copies, and Caitrin Higgins provided the Commission with that information. David Lyttle went over the changes to the proposed site plan, including his letter to Christine Odiaga regarding the perennial versus intermittent status of the stream. Caitrin Higgins reviewed the proposed Rain Garden Schematic Design, which had not changed from the previous hearing, reiterating that the rain garden was oversized and there would not be any mosquito ponding issues nor would there be any impact to trees. Judith Bruce inquired if the work was to begin immediately given that it was a dry year, and David Lyttle noted that the applicants wanted to have this done

right away. Kevin Galligan asked about the duration of the work, and recommended that a restriction that no work be done during the Spring be included in any Order of Conditions going forward. David Lyttle anticipated the work to take a couple of days, and Kevin Galligan asked that the stormwater information be gone over again to better understand the proposed invert elevations. David Lyttle presented the stormwater information which he had submitted to the Commission with their revised plans, and John Jannell noted that he had spoken with DEP, and believed that their original concerns had been satisfied. John Jannell asked that if a Time of Year restriction was proposed, that it be time specific. Pam Herrick inquired if any fertilizer would be used, and Caitrin Higgins replied that the proposed plantings would all be native species appropriate for the existing soil conditions. Judith Bruce commended the applicant on the work which had been done up to this point on the property.

**MOTION:** A motion to close the hearing was made by Jane Hussey and seconded by Kevin Galligan.

**VOTE:** Unanimous.

**MOTION:** A motion to approve the site plan dated 9-18-14 and Rain Garden Schematic Design dated 8-28-14, with the condition that no work be done between April 1<sup>st</sup> to June 30<sup>th</sup> of any given year was made by Steve Phillips and seconded by Kevin Galligan.

**VOTE:** Unanimous.

#### **Certificate of Compliance**

**Mark & Catherine Hollinger (2006), 149 Namequoit Road.** The request for a Certificate of Compliance for an Order of Conditions for the rebuilding of an existing deck on existing sonotube footings & the reconstruction of an existing stairway & landing. John Jannell explained that all of the work done on site was during the active Order period, which included time due to the permit extension act. The work had been done per plan, and the Commission could find this Order in Compliance.

**MOTION:** A motion to issue this Certificate of Compliance was made by Judy Brainerd and seconded by Jane Hussey.

**VOTE:** Unanimous.

**Philip & Claire Ruggieri (2007), 106-110 Beach Road.** The request for a Certificate of Compliance for an Order of Conditions for the construction of a dwelling. John Jannell went over the file history for the property, noting that this request was for the Order which pertaining to the house construction and the Order for Restoration Work would continue to move forward.

**MOTION:** A motion to issue this Certificate of Compliance was made by Judy Brainerd and seconded by Kevin Galligan.

**VOTE:** Unanimous.

**Warren & Elizabeth Spicka (2008), 24 Uncle Mark's Way.** The request for a Certificate of Compliance for an Order of Conditions for the construction of an addition to an existing dwelling & vegetation & invasive plant management. John Jannell provided the Commission with the file history for this property, and explained that the Commission also needed to act on a special condition put on the current Order which

required the Commission to approve the final location of a stockade fence. John Jannell explained that a fence similar in size and location had been removed to provide construction access for the completed addition. John Jannell passed around photos showing the area where the applicants wished to install the fence, and Judith Bruce asked whether or not the applicants would be raising the fence 4-6" for critter passage. John Jannell said that they were agreeable to this, and Steve Phillips recalled the reason for the fence had been previously approved by the neighbor, and was there to provide screening. John Jannell stated that the fence installation did not need the neighbor's approval since it was on the applicant's property. Judith Bruce asked the Commission whether or not they wanted to make a site visit or if they were comfortable with approving this location as shown in the photos, and the Commission did not voice any objections.

**MOTION:** A motion to issue this Certificate of Compliance and approve the location of the stockade fence was made by Steve Phillips and seconded by Jane Hussey.

**VOTE:** Unanimous.

**Joy Fopiano (2007), 16 Honeysuckle Lane.** The request for a Certificate of Compliance for an Order of Conditions for the removal, reconstruction, and additions to an existing dwelling and the construction of a garage, shell driveway, and mitigation plantings. John Jannell explained that a previous Certificate of Compliance request had been denied to ensure plant survivability. John Jannell reported that at this point all of the work had been completed, and the plantings were healthy and established.

**MOTION:** A motion to issue this Certificate of Compliance was made by Steve Phillips and seconded by Kevin Galligan.

**VOTE:** Unanimous.

**Edward Wheeler (2005), 26 Westwood Drive.** The request for a Certificate of Compliance for an Order of Conditions for the proposed upgrade of a septic system with a leaching field. John Jannell noted that this was an older order which had come up due to a property transfer, and was in substantial compliance.

**MOTION:** A motion to issue this Certificate of Compliance was made by Steve Phillips and seconded by Judy Brainerd.

**VOTE:** Unanimous.

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

**Meet with Dan Connolly Orleans Tree Warden**

**Discussion of the Black Oak Gall Wasp**

Dan Connolly, Tree Warden for the Town of Orleans, was present. John Jannell announced at the last meeting the Commission had asked to bring in Dan Connolly to speak about the gall wasp and its presence in the Town of Orleans. John Jannell provided the Commission with a series of links to different websites, including the Polly Hill Arboretum on Martha's Vineyard. The Commission expressed their concern about losing black oaks in Orleans, and Dan Connolly shared his personal experience battling the pest. Judith Bruce asked if it was only Black Oaks being infected, and Dan Connolly explained that it was host specific. Jane Hussey asked what homeowners could do to keep it from progressing, and whether leaving snags on site was dangerous

to leave resulting in the pest spreading. Dan Connolley explained that homeowners could treat their trees by being proactive through watering and mulching, and noted that his area of focus were trees located on the edge of roadways. Dan Connolley said that he and John Jannell shared concern over trees located in heavy traffic areas, near houses, parking areas, and walking paths. Judith Bruce asked if infested trees infected healthy trees, and whether or not it was better to take down a dead tree to protect the others or better to leave standing dead. Dan Connolley replied that it was so widespread that it did not matter whether or not the dead trees were left, but that gall wasp targeted live trees. Pam Herrick asked if insecticide had been successful, and Dan Connolley said that he had tried on his property without success. Dan Connolley explained that the injections were tough because the insect mined into the tree. Judith Bruce pointed out the argument that systemic injections could cause reciprocal problems with acorns produced by the tree impacting the species living off of those acorns, and Dan Connolley noted that there was no way to know. Jane Hussey questioned if it was better to be proactive and remove potentially infected trees located adjacent to high powered lines, and Steve Phillips asks what replacement trees are best. Dan Connolley replies that the tree replacement would be site specific, with each having to be looked at, and Steve Phillips notes that guidance would be helpful. Dan Connolley noted that he could work with John Jannell. Betsy Furtney, of Land Line Design, noted that Bartlett Tree Experts would only climb a live tree, and that she felt it would be best to remove a tree threatening a home versus being asked to leave it until it was dead, and thus incurring additional expenses for the homeowner. Judith Bruce noted that while the Commission appreciated snags for habitat, they did not advocate keeping a tree that was threatening a house. Judith Bruce explained that trees which provided screening from a public viewshed and were not threatening a house may be asked to leave, and John Jannell questioned if replanting another tree species was possible adjacent to the stump of the removed black oak. Dan Connolley replied that a person could plant right up against a stump as long as you could physically dig a hole. Kevin Galligan commended the discussion, and inquired if there were possible USDA grants available for the town to have an inventory of their black oaks, as well as a study be conducted, to better educate other areas in the future about this insect. Dan Connolley noted that the US Forestry was well aware of the problem, and that their funds were limited given the costs associated with such programs. Kevin Galligan asked about the range of the black oak, and John Jannell noted that while it is generally an East Coast Species, with range as far north as the southern end of Maine. Judy Brainerd asked if some trees had recovered, and Dan Connolley said that there had only been some success. The Commission discussed different native species which could be planted in place of a removed black oak, and Dan Connolley discussed some of the different species which had seen success in the Town of Orleans. John Jannell recalled a PhD student at UMass extension who was doing research on the problem, and hoped to get her contact information for the Commission. Jane Hussey felt it would be important to provide a link on the website to help educate the public on this pest, and Judy Brainerd asked if cedar trees were suitable replacement species given that they also had a pest problem. Dan Connolley noted that while cedars were good species, he had shied away from planting them since they are difficult to get established. The Commission thanked Dan Connolley for his time.

Judith Bruce announced that the Orleans Conservation Trust had a presentation on fishing & fishermen at 7pm at the Orleans Yacht Club for those who wished to attend.

Judith Bruce pointed out that the Committee Orientation Meeting would be on Monday, September 29<sup>th</sup> at 7pm in the Nauset Meeting Room for new committee members, and asked that Pam Herrick and Mike Brink attend. Jane Hussey asked about the Conflict of Interest Training, and John Jannell said that he would follow up with the new members.

#### **Administrative Reviews**

**Kathleen Patten, 17 High Tide Lane.** The proposed removal of 5 cedar trees. Work to be done by Bravo Landscaping. John Jannell pointed out that the applicant had come in front of the Commission earlier in the year to discuss her property, and that the Commission had given her guidance on replanting. John Jannell explained that this application did not propose any replanting, and Judith Bruce suggested that the application be tabled until the applicant was contacted, and John Jannell recalled that there was not much room on site for replanting. Judith Bruce questioned if the site was otherwise well treed, and John Jannell explained that while it was well vegetated, there may be at least one spot for replanting a tree. Steve Phillips concurred, and Jane Hussey asked if the trees could be cut and staggered to make snags for wildlife. Steve Phillips brought up his experience with cedar snags and that they had a tendency to rot at the base, and John Jannell said that he would contact the applicant regarding replanting. The Commission agreed to table the application.

**Gary Gordon, 21 Preservation Path.** The proposed removal of 3 diseased trees. Work to be done by S&L Tree Service. John Jannell explained that this was black oak removal, with the application having been revised to remove only 2 of the 3 trees. Judith Bruce inquired if the 3<sup>rd</sup> tree was threatening the house, and John Jannell commented that while it was in close proximity, it was not dead.

**MOTION:** A motion to approve this work was made by Judy Brainerd and seconded by Jane Hussey.

**VOTE:** Unanimous.

**Scott & Nancy Powers, 38 Weston Taylors Lane.** The proposed enhancement of the filtered view of Little Pleasant Bay and improvement of the health of existing native plants by selective limb pruning, removal of invasive plants, & implement annual mowing of restored meadow. Betsy Furtney went over the file history of the property, and the proposed work which included removing some of the lower limbs on the trees on the Coastal Bank to attempt to alleviate the weight and ensure that they not pull the tree off of the Coastal Bank. Judith Bruce had no problems with the invasive species being removed, but asked if the oak tree was to be pruned. Betsy Furtney replied that dead and lower limbs were proposed to be removed, and Judith Bruce noted that the Commission had a history of trees to be pruned being trimmed into stalks. Judith Bruce explained that they would prefer to see the limbs to be removed be flagged, and Betsy Furtney noted that they were marked. Betsy Furtney suggested that she could be on

site while Bartlett Tree Experts was completing the work, and Judith Bruce asked if this work would still provide screening of the house from the water. Betsy Furtney noted that it was an otherwise dense site, and John Jannell explained that the pruning he observed was for health only, and would not have an impact on the view. John Jannell felt that the removal of the two evergreens would be the most substantial. John Jannell noted that while the applicant wanted to remove the black oak next to the stairs, it was recommended to leave alone. Betsy Furtney said that they would be treating that tree, and had used air spading and watering on another site and had seen success. John Jannell pointed out that while the application specified an annual mow, the applicant had been made aware that they would have to reapply each year, and Betsy Furtney noted that she understood this requirement. Pam Herrick inquired about when the property would be mowed, and Betsy Furtney said November to avoid nesting birds. Steve Phillips asked for more detail on the Coastal Bank work, and Betsy Furtney explained that she would be taking the weight off of some of the trees so that the root ball remained in place on the Coastal Bank. Betsy Furtney brought up the maintenance needed to complete such work, and that homeowners needed to be made aware of the necessary diligence needed, and Judith Bruce reminded that Orders were only good for 3 years.

**MOTION:** A motion to approve this Administrative Review was made by Steve Phillips and seconded by Judy Brainerd.

**VOTE:** Unanimous.

#### **Request to use Conservation Properties**

**Windmill**      **Wedding**      **6/13/15**      **Young**      **2-7pm**      **75 People**  
John Jannell announced that the date was available and the Commission could approve this with a vote.

**MOTION:** A motion to approve this event was made by Judy Brainerd and seconded by Jane Hussey.

**VOTE:** Unanimous.

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

Update on Putnam Farm:

Upcoming RDA for water service (seasonal)

Grant Award: Barnstable County Land Management \$4,000

John Jannell announced that the Town of Orleans received a Barnstable County Land Management Grant in the mount of \$4,000.00 to be put towards the proposed installation of a seasonal water line from Bridge Road to Putnam Farm. Judy Brainerd inquired if the County had followed up with the Conservation Department regarding access to the site. John Jannell explained that the County was agreeable to access provided that the Town receive approval from NStar, who has an easement. John Jannell noted that NStar had not gotten back to the Conservation Department, with whom he had corresponded as recent as last week. Kevin Galligan inquired if we were still in the reasonable stage for when they should respond, and John Jannell said no. Kevin Galligan suggested that the Board of Selectmen be made aware of the lack of NStar's response, and John Jannell suggested that when the proposed water line came in front of the Commission, if there was still no response from NStar, that it would be

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highlighted at a public hearing and brought to their attention. Judith Bruce inquired about the access to Putnam Farm, and Pam Herrick explained that at the Celebrate our Water's Weekend walk, it was explained by Alan McClennen, Selectmen, that the public could walk the site.

John Jannell announced that on October 28<sup>th</sup> the Commission would be discussing Kent's Point, with topics to include the Wildfire Assessment being completed, as well as allowing the neighborhood group the opportunity to list their concerns. Steve Phillips suggested that the Commission conduct an on-site, and John Jannell said that he would schedule that for the October 21<sup>st</sup> meeting.

The Commission discussed the site visits.

The meeting was adjourned at 10:03am.

Respectfully submitted,

Erin C. Ellis, Principal Clerk, Orleans Conservation Department