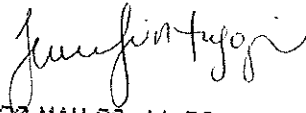


Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, February 7th, 2023


'23 MAY 23 11:03AM

PRESENT: Chair Ginny Farber, Vice Chair Drusilla Henson, Clerk Jerry Wander, Member Walter North, Member Bob Rothberg, Member Ron Mgrdichian, Member Mike Brink, Associate Member Judith Bruce, & Conservation Agent John Jannell

ABSENT: Associate Member Maia Ward

8:30 a.m. Call to Order

Request for Determination of Applicability

Frederick O. and Christine P. Yohn 50 Herring Brook Way
By Ryder and Wilcox Inc. Map 55 Parcel 43. The proposed removal of 6 trees invasive species and replacement with 6 trees and native woody shrubs. Work is proposed within 100 feet from the top of a Coastal Bank and within the Pleasant Bay ACEC.

Russell Holden, Ryder & Wilcox Inc., and Adrian Punch, Harrow & Seed, were present to review the proposal.

Mr. Holden reviewed that at a recent on-site he noted that 3 downspouts were coming off the dwelling and had plastic extensions aboveground, so he contacted his client. The homeowner informed him that they had been temporarily added to prevent water from filtering into the basement. He wants to put in drywells and to incorporate that into the project.

Mr. Brink asked about a leaning tree on the power lines that wasn't flagged. It may be worth including in the proposal, it looks like a hazard. Mr. Punch reported that the homeowner has tried to reach out to NSTAR, considering its so close to the electric lines he feels it is their responsibility, but he has not gotten a response. We can come back with an AR for that tree if he does have success contacting NSTAR. Ms. Bruce thought they could give permission to let it come down without the Administrative Review. Ms. Farber said we will add an X on the tree on the site plan or add this as a special condition.

Ms. Henson asked, was there any thought to putting trees back in where you're taking them out? Mr. Punch responded that part of the reason they're currently in bad shape is because the tree community is so densely planted.

Ms. Bruce was concerned about negatively impacting the public view shed but after seeing the site I don't think it will impact it at all.

Ms. Farber said that they don't need to deal with the downspouts with the RDA because the downspouts are a requirement of the open Order.

Mr. Brink said the work that's been completed with the open order looks great, it's a really good habitat restoration.

No public comment was heard.

MOTION: A motion to close the public hearing was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project with a negative determination, including the removal of the 7th tree, for 50 Herring Brook Wy was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Notices of Intent

Nicholas Athanassiou and Jeanne McNett 31 Loomis Lane
By Ryder and Wilcox Inc. Map 42 Parcel 14. The proposed construction of a screen porch over an existing deck and related work. Work is proposed within the 100-foot buffer to a Salt Marsh, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, was present to review the proposal. The homeowners, Mr. Athanassiou and Ms. McNett were also present. Mr. Lyttle reviewed the proposed project and why the homeowners would like it. He stated that in working with them we've come up with a plan to remove approx. 380 sf of deck and maintain approx. 264 sf of deck, of which 204 sf will have a screened porch on it. He described the resource areas on the site. He reported that the house was constructed before there was a flood zone protection. He provided a variance request because they will be working in the 50' buffer zone to the edge of the marsh. The area of deck removal will be replanted with native vegetation. We feel it's a straightforward project, but we do understand we're in a sensitive area, but we're hoping we've mitigated through lesser footprint and native plantings.

Mr. Brink asked about the downspouts underneath the deck. Mr. Lyttle said that the problem Nick and Jean have at their property is that they don't have the ability to install drywells because of the elevation of groundwater. There are three infiltration areas, and we are planning to connect gutters and downspouts into this area to produce for this same type of accommodation.

Ms. Farber stated there is planting proposed for mitigation, but we usually have a 3-year survivability special condition. Meaning, if the plants should die, you'd be compelled to replace them.

Ms. Henson thought the water structure seems it is uphill from the roof line so how do you propose to get the water there. Mr. Lyttle responded that it's more off to the side, I think we will be able to redirect the stormwater there.

Ms. Farber asked, are the pilings being replaced? Mr. Lyttle said yes, they will be hand dug sonotube footings. The Commission requested no bright colors for the proposed structure.

No public comment was heard.

MOTION: A motion to close the public hearing was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0

MOTION: A motion to approve the project for 31 Loomis Ln attaching the Conservation Commission findings and standard conditions and with the special condition that the plantings survive 3 years was made by Drusy Henson and seconded by Jerry Wander.

References: Ryder & Wilcox narrative dated 1-19-23; Site Plan dated 1-19-23; Architectural drawings.

VOTE: 7-0-0 Unanimous

David V Lawler, Trustee, 56 Nauset Road Realty Trust 56 Nauset Road
By Coastal Engineering Co., Map 22 Parcel 24. The proposed removal of an existing dwelling and construction of new dwelling and associated site improvements. Work is proposed within 100 feet from the top of a Coastal Bank

Sean Riley, Coastal Engineering Co., and Caitlin Camilliere, BlueFlax Design, were present via Zoom. He reported that Ben Zender, attorney, was also present because this proposal requires ZBA approval. Mr. Riley reviewed the resource areas and the existing conditions on site. He reviewed the proposed site plan. Their goal was to get the dwelling outside of the 50' buffer zone, they were able to achieve that despite the many limitations caused by setbacks on a small lot. They were able to decrease the cover in the 0-50, decrease in the 50-75, but increase in 75-100. We are providing mitigation that Caitlin will discuss. He provided elevations from the water.

Ms. Camilliere, BlueFlax Design, reviewed the mitigation planting plan. She stated their mitigation plan includes proposed invasive species management in approx. 1,117 sf directly adjacent to the Top of Bank. Total area of proposed native plantings in the 75' buffer zone is 2,226 sf. An easement path is proposed to be maintained for beach access. Foundation plantings are proposed to be native perennials.

The Commission reviewed some drone photos provided by Coastal Engineering. Mr. Brink requested these photos be included in a final packet.

Ben Zender, stated the house was built sometime in the 1920s, there have been some interior changes but has a fairly similar exterior.

Ms. Farber pointed out that while you have pulled the house out of the 50' buffer zone, the limit of work is still in the 50', this will still trigger the requirement for a variance request and alternatives analysis.

Ms. Bruce said, our regulations say to stay outside of the 75' buffer where possible, taking it back 5' just to the 50' buffer is not enough to warrant additional square footage. Mr. North concurred with Ms. Bruce.

Ms. Farber pointed out that the local bylaw that drives our review on this project was not included in the performance standards. Mr. Riley said they can provide that.

Ms. Henson asked, is there a calculation for the increased volume in the 75' BZ? Mr. Riley said no because they are not proposing anything in the ACEC. Ms. Henson was concerned for the increase in volume and hardscape and how it may affect the wildlife corridor.

Mr. North thought we should look at, what's the objective of the mitigation? I think we should be more refined; the mitigation may be improving conditions for pollinators but not providing wildlife corridors for larger animals.

Ms. Farber said that a patio could be eliminated in some way to eliminate the wall-to-wall hardscaping. Ms. Henson said in addition to that, you could pose an alternative that would back the house up further, so the lawn space is outside of the 50' buffer.

Mr. Farber said, let's move on to the mitigation plan. She asked, can you confirm there is no work being done on the bank? Mr. Riley said that's correct.

Public comment:

Joseph Kinney, 1 Priscilla Rd, abuts this property. He said the house was built between 1902 and 1904. It was there when my family built in 1916 or 1917.

The applicant requested a continuance to 3/7/23.

MOTION: A motion to continue the public hearing to 3/7/23 was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous
RM, MB, JB, DH, GF, JW, WN.

Continuations

Philip Dutton

38 Weston Taylor's Ln

By Ryder & Wilcox, Inc. Map 57, Parcel 58. The proposed replacement of existing dug-in timber steps with new dug in steps and a timber stairway and the installation of a kayak rack. Work will occur on a Coastal Beach, on a Coastal Bank, and within Land Subject to Coastal Storm Flowage.

Drusy Henson recused.

David Lyttle, Ryder & Wilcox, was present to review the revisions made since the previous hearing. The revised plan has 2 specific revisions including to restore the lawn area back to its original approved planting plan with the exact restoration mix that was previously approved by the Commission. The second revision is in the area seaward of the split-rail fence along the top of Bank. Mr. Lyttle said he added a note that says what they will plant the area with. I believe the project itself, with respect to the stairway, is appropriate for the site and I'm hoping with those two notes and revisions to the plans we've done everything you've needed.

Ms. Farber said normally we like some monitoring reports. She asked, will you need temporary irrigation? Mr. Lyttle said I would like the ability to install temporary irrigation if needed.

Mr. Brink said, it's my recollection that we talked about the kayak rack being anchored. Mr. Lyttle asked, can the Order include a condition that it be securely anchored into the ground? Other than that, its properly oriented. Mr. Brink said he would be comfortable with that, and with a tag with homeowner information placed on it.

The Commission discussed the break in vegetation in the marsh. Mr. Lyttle said he isn't sure how to address this concern, but the Commission should condition the project so that they are comfortable moving forward. Ms. Bruce said what matters is the size of the break. That area should be restricted to what is a typical width of a marsh break for access. We could perhaps require them to get some of that break restored.

Ms. Farber suggested we move forward by educating the homeowner. She asked Mr. Lyttle to please remind his client to minimize their traffic over the marsh and remind them that that marsh is saving their coastal bank.

Mr. Wander asked if we'd like to define a delineator for the meadow? Mr. Lyttle suggested we could extend the existing single rail split-rail fence to the meadow area. Ms. Farber said it can include an annual mow.

Mr. North brought up the density of the top of bank planting. Ms. Farber asked, can we adjust plantings to be 3-4' on center.

Public Comment: Drusy Henson, owner of the neighboring property, said she wanted to make a PSA. She said if you put impervious surfaces over marsh grasses, it will kill it. And it reduces the marsh's ability to protect the upland.

David Lyttle asked if the Commission can act subject to receipt of a revised plan showing split rail along meadow, and plan noting 3-4ft on center.

MOTION: A motion to close the public hearing was made by Jerry Wander and seconded by Judith Bruce.

References:

VOTE: 6-0-0 Unanimous

MB, GF, RM, WN, JW, JB

MOTION: A motion to approve the project at 38 Weston Taylor's Ln with the conservation commission findings and standard conditions and with the special conditions that temporary irrigation be allowed if necessary, annual monitoring reports be supplied in December 2023, 2024, 2025, an annual mow be allowed with notice to the Conservation Department, and the kayak rack be anchored and tagged, and subject to receipt of a revised plan showing the suggested delineator of a split-rail fence for the meadow and changed note for Coastal Bank plantings was made by Jerry Wander and seconded by Walter North.

References: Project narrative dated 12-15-22; site plan 2-1-23; DMF letter 1-3-23

VOTE: 6-0-0 Unanimous

MB, GF, RM, WN, JW, JB

Town of Orleans

Rock Harbor Navigation Channel (adjacent to 46 Anchor Dr & 113 Rock Harbor Rd)

By Foth Infrastructure & Environment, LLC. The proposed maintenance dredging of the Rock Harbor Navigation Channel. Work will occur within Land Under the Ocean, on a Barrier Beach, on a Coastal Beach, and within Land Containing Shellfish.

Christine Player, Foth Infrastructure, was present via Zoom. The multiple continuations of this project were to make sure we got all the supporting documentation. This project requires approvals from both the Town of Eastham and Orleans Conservation Commission. Eastham has approved the project on their side of the harbor. She provided an overview of the project including history, protocols, disposal, timeline restrictions, and resource areas. The proposed project is avoiding an impact to Salt Marsh.

Mr. Wander asked, will there be a conflict with the commercial wharf project. Ms. Player said the projects can coexist and that they are trying to do both projects at once.

No public comment was heard.

MOTION: A motion to close the public hearing was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at the Rock Harbor Entrance Channel with the conservation commission findings and standard conditions and the special conditions that the time-of-year restrictions laid out in the Foth narrative and DMF, and NHESP letter be adhered to and that the Conservation Agent be involved in discussions of turtle habitat per the NHESP letter was made by Drusy Henson and seconded by Jerry Wander.

References: Foth narrative 12-4-22; Foth dredge plan; Foth section plan dated 1/23/23; DMF letter 1/3/23; DMF letter 1/20/23.

VOTE: 7-0-0 Unanimous

Administrative Review

Bob Palumbo

8 Alewife Wy

The proposed removal of existing brick walkways and steps and installation of bluestone patio and bluestone slab steps. No grade changes are proposed.

Bob Palumbo, property owner, was present and reviewed his proposed project. He reported that the patio is becoming dangerous, and we do need to replace it and at the same time we'd like to enlarge the area. The nearest edge to the run would be about 80' from the resource area. He also proposed to have the stairs replaced because they are not to code.

Ms. Farber was concerned with stormwater runoff and the difference between the pervious pavers and grass.

Ms. Bruce said she would prefer that instead of the bluestone they use dug-in timber. She asked, would you consider dug in wood timber with possible pea stone to absorb the stormwater.

Mr. Palumbo said he would consider it.

MOTION: A motion to approve the AR for 8 Alewife Wy was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Administrator's Business

Vote to authorize the spending of up to \$2,000 out of the Wetlands Protection Fund for the MACC educational trainings for staff and commissioners.

Ms. Farber described that this amount would cover the Commission and staff if everyone took full advantage of the MACC annual conference.

MOTION: A motion to approve the spending of up to \$2,000 out of the Wetlands Protection Fund for the MACC educational trainings for staff and commissioners was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Acknowledgements

Clough family - Crystal Lake Bench Donation

MOTION: A motion to send a thank you letter for the generous donation of a bench at Crystal Lake was made by Drusy Henson and seconded by Judith Bruce.

VOTE: 7-0-0 Unanimous

Chairman's Business

Meeting minutes of 1/17/23

Mr. North provided two edits.

MOTION: A motion to approve the minutes for 1/17/23 as amended was made by Drusy Henson and seconded by Jerry Wander.

Ms. Bruce requested follow up visits to 53 Kenneth based on the last monitoring report. She also stated that she thought it was time to review and update of our regulations.

Mr. North said in preparation, we should encourage John to touch base with the state to find out is there any movement on LSCSF.

MOTION: A motion to adjourn the public hearing was made by Drusy Henson and seconded by Jerry Wander

VOTE: 7-0-0 Unanimous

The meeting adjourned at 10:18 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation

