

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

ORLEANS TOWN CLERK

JSS
[Signature]
23 MAR 28 11:48AM

PRESENT: Chair Ginny Farber, Vice Chair Drusilla Henson, Clerk Jerry Wander, Member Walter North, Member Bob Rothberg (Via Zoom), Member Mike Brink, Associate Member Judith Bruce, Associate Member Maia Ward (Via Zoom), Associate Member Ken Johnson, & Conservation Agent John Jannell

ABSENT: Member Ron Mgrdichian

8:30 a.m. Call to Order

Requests for Determination

Carolyn L. Kennedy 96 Tonset Rd
By Ryder & Wilcox, Inc. Map 26, Parcel 75. The proposed installation of a sewage disposal system to replace existing cesspools. Work will occur within the 100' buffer zone to the Top of a Coastal Bank.

Stephanie Sequin, Ryder & Wilcox, was present to review the application. She reported that the existing septic system is in the front of the house between the 50- and 100-foot buffer. The only proposed work that will take place within your jurisdiction is the installation of the septic tank, and piping the leaching system will be beyond the 100-foot buffer to the coastal bank. The area where the work is going to occur is previously disturbed area.

The Commission discussed the layer cake denitrification system.

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 at 96 Tonset Rd was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Real Estate Asset Legacy Foundation 7 Lockwood Ln
By J.M. O'Reilly & Associates. Map 70, Parcel 64. The proposed removal of eleven trees which are damaged due to storm events and threatening abutting structures. Work will occur within the 100' buffer zone to the Top of a Coastal Bank and within the Pleasant Bay ACEC.

Brian Wahl, attorney, and John O'Reilly, J.M. O'Reilly & Associates, were present on behalf of the applicant. The applicant is a charitable organization who acquired the property by donation, and they intend to sell the property. He discussed the neighbor dispute that included two issues, the neighbors were using a portion of the boundary of the subject property, and they had issue with trees that were threatening their property. That is what's brought them here to request 11 tree removals.

Mr. O'Reilly reviewed the tree removals.

Mr. Brink was nervous about trees numbered 10 and 11. Mr. O'Reilly responded that some of the photographs show that they are already leaning towards Pah Wah Pond, and the thought process was to remove them and avoid having the tree fall and take the roots with it, and then destabilize the bank. Mr. O'Reilly and the Commission discussed the protocol for the removal of those trees.

Ms. Farber asked if the work was being done from the Tringale property? Mr. O'Reilly reported that most of the access would occur over the Tringale property. The Commission requested a letter from the Tringale's giving permission for access to remove the trees.

Ms. Henson was worried about the sheer loss of trees, she thought it was too many. Many Commissioners agreed, specifically about leaving the Maple trees that are healthy. Mr. Wahl responded that the request is driven by the potential for property damage on the neighboring property and perhaps Ms. Tringale can speak to that. He said some of the tree removals are to allow room for access.

Mr. Brink suggested a couple of trees that could be saved.

Public comment:

Dorothy Mackey, abutter, provided a history of the property and the neighborhood. She thought it was ok for the trees to be removed.

Kathleen Tringale, abutter, and neighbor working with the applicant, was present. She stated she was concerned with the safety of her land and the people on her land.

Mr. Jannell summarized some major points from his notes. He said if you do act with a negative determination for the work, the work should take place from the neighbor's property to avoid disturbance, and written letter of approval from the neighbor should be provided before work start. I think it should be expected that there will be the light machinery around the removals that you approve, but I think the access from the Tringale property, with their written permission, will help avoid the machines tracking through the entirety of the buffer.

The Commission discussed the removal of Maples number 2 and 4. The Commission did not believe that those Maples should be removed. Mr. Wahl asked for a straw poll to see who was not in favor of granting permission for trees 2 and 4. Based on the poll, the applicant would ask to amend the RDA to remove trees 2 and 4 from the proposal and to please act on the amended proposal and we will provide a letter for access. The Commission can act subject to receipt of a revised plan.

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 7 Lockwood Ln with a negative determination subject to an amended proposal that does not include trees 2 and 4, allowing for only the removal of 9 trees and subject to receipt of a letter from the abutter allowing access and no mechanical work on the bank was made by Drusy Henson and seconded by Judith Bruce.

VOTE: 7-0-0 Unanimous

Quanset Harbor Club

Cul de Sac at 123, 125, & 126 Lake Dr

By J.M. O'Reilly & Associates. The proposed installation of a subsurface leaching facility for stormwater. Work will occur within the 100' buffer zone to the Top of Coastal Bank and within the Pleasant Bay ACEC.

John O'Reilly, J.M. O'Reilly & Associates, was present to review the application. He reported that they've were working with the Association before Covid hit and identified, at their request, 3 areas that had direct discharge to wetland resources, and this one in front of the Commission today is by far the easiest one to deal with. It's at the end of Lake Drive and runs directly out into Pleasant Bay, down the coastal bank, and ultimately, into Pleasant Bay. He detailed the leaching facility. He said they are improving the situation from a water quality point of view and eliminating direct discharge over the coastal bank. They tried to locate the leaching facility not to disrupt any trees.

The Commission asked a couple of clarifying questions. Ms. Bruce said this was no doubt an improvement but thought best management practices would call for a rain garden. There was some discussion about further improvements. Mr. O'Reilly provided further detail of their proposal.

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 Cul de Sac at 123, 125, & 126 Lake Drive with a negative determination and requested confirmation that the berm at the top of the Quanset Boat Ramp be significant enough to divert flow was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Notice of Intent

Terry T. Bergdoll

100 Tar Kiln Rd

By Down Cape Engineering, Inc. Map 96, Parcel 31. The proposed raze and replacement of existing sunroom and deck and patio area. Work will occur within the 100' buffer zone to the Top of Coastal Bank and Salt Marsh, and within the Pleasant Bay ACEC.

Daniel Gonsalves, Down Cape Engineering, was present via Zoom. He reviewed the proposal and the resource areas that affect the property. Ms. Henson asked if the new patio area is going to require regrading. Mr. Gonsalves responded that there may be minor regrading.

The Commission requested some mitigation for the removal of trees, possibly replacement. Mr. Gonsalves responded that the applicant is willing to plant some replacement trees.

The Commission and representative had further discussion about the brick patio and how it may affect stormwater runoff. They discussed the installation of drywells and where they would go in this tight space. They will be handling the roof runoff for the new 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 Unanimous

MOTION: A motion to approve the project at 100 Tar Kiln Rd with the conservation commission findings and standard conditions and with the special condition that 2 native canopy replacement trees will be planted on the property in jurisdiction, the patio be pervious and will not slope toward the bank was made by Drusy Henson and seconded by Jerry Wander.

References: Site Plan dated 2/14/2023; Floor Plans dated 11/10/2022

VOTE: 7-0-0 Unanimous

Continuations

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

****The applicant has requested a continuation to 3/21/23***

Ms. Farber reported that the Commission was in receipt of a continuation request from Coastal Engineering.

No public comment was heard.

MOTION: A motion to continue the public hearing to 3/21/2023 was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Chester & Therese Snaveley 20 Seacrest Dr
By Ponderosa Landscaping, Inc. Map 27, Parcel 13. The proposed installation of a path down the bank, removal of selected vegetation, and planting of native shrubs and perennials. Work will occur within the 100' buffer zone to the top of the Coastal Bank and on the Coastal Bank.

Charles Wentz, Ponderosa Landscaping, was present and reviewed the changes made to the application since the previous hearing. They are just going to take out one sapling for the path; they will remove 4 nonnative Leland Cypress; they removed the firepit and the fence; and the private access path to the water. They propose a larger no-mow zone.

The Commission appreciated that many of their concerns were addressed. Mr. Brink was concerned about mowing to the top of the bank, he thought they had discussed proposing a delineator. Mr. Wentz said they could put small stones there to delineate the area every 10' or so. Ms. Farber said she'd normally ask for replanting but if there are some natives that may naturally regenerate, she won't require that. Mr. Wentz and the Commission discussed mulching and planting and the reduction in number of shrubs.

Public comment:

Lynne Bruneau, abutter at 2 Seacrest Drive, thanked Ponderosa for the changes. She reviewed some questions she had about the updated documents and requested some revisions. These revisions were discussed amongst the Commission and the applicant's representative.

Chester Snavely, property owner, offered some points of clarity about grade changes and drywells.

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 20 Seacrest Drive attaching the conservation commission findings and standard conditions and with the special conditions that no work on the bank will occur for one year when we can revisit the property, and a delineator to demarcate the no-mow zone shall be installed and subject to receipt of a revised narrative without reference to the private path and view, and removal of the word public when referencing the association path, a note about stumps being ground, not removed was made by Drusy Henson and seconded by Jerry Wander.

References: Ponderosa Site Plan dated 2/22/23

VOTE: 7-0-0 Unanimous

Mr. Brink left the hearing at 9:45 a.m.

David & Sonja Formato 12 Tides End Ln
By Onsite Engineering, Inc. Map 43, Parcel 25. The proposed modifications to an existing licensed dock and installation of a seasonal walkway. Work will occur within Land Under the Ocean, within a Salt Marsh, within Land Containing Shellfish, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Ms. Farber reported that the applicant had requested a continuance to 3/21/2023.

MOTION: A motion to continue the public hearing to 3/21/23 was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Administrative Review

John Whitesides

22 Franz Rd

The proposed deck over existing patio.

Mr. Jannell reviewed the request and reported on the information the Commission had in their digital packets. Ms. Henson asked if there was any additional roofing. Mr. Jannell responded, no.

Mr. North requested we be able to share the digital packet with the public during the hearing.

MOTION: A motion to approve the Administrative Review for 22 Franz Road was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Administrator's Business

Vote to approve the Conservation Restriction for 66 Portanimitic Rd

Mr. Jannell reported that the Commission previously acted to approve this but when they went to get State approval they required that the Compact come back to the Commission to review and approve it again.

MOTION: A motion to approve and support and forward to the Select Board the Conservation Restriction for 66 Portanimitic Rd was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Discuss Town of Orleans Wetlands Regulations 196A

Mr. North asked what's the status of restrictions on other properties purchased with CPA funds. Mr. Jannell said he was having conversations about this but has only received verbal correspondence thus far. Mr. North suggested incorporating some language about native and indigenous communities.

Ms. Farber asked the Commission to read through the regulations and let the office know what you think needs to be addressed. Mr. North thought there should be extensive updates, specifically, climate resilience. He thought there should be consultations with other stakeholders and committees with interest in this. He isn't sure what that process would be or if there should be a deadline.

Ms. Bruce said typically the Commission will flag needs and then there will be public sessions to discuss those concerns. Mr. North suggested a roadmap moving forward, he detailed a potential outline. Ms. Bruce said let's start with what this Commission needs. Ms. Farber said it should include omissions and additions. Mr. Wander agreed there should be a roadmap for the entire process.

Chairman's Business

Meeting minutes of 2/21/23

Mr. Jannell reported that the minutes were not available this week.

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 10:41 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation