

Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, May 2nd, 2023

ORLEANS TOWN CLERK

Jerry Wander
23 MAY 22 11:03AM

PRESENT: Chair Ginny Farber (via Zoom), Vice Chair Drusilla Henson, Clerk Jerry Wander, Member Walter North, Member Bob Rothberg, 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

Ms. Henson chaired the meeting.

Notices of Intent

Eastward MBT LLC Trustee

44 Tonset Rd

By Eastward Companies. Map 34, Parcel 27. The proposed construction of a single-family dwelling, pool, and associated hardscape. Work will occur within the 100' buffer zone to a Vegetated Wetland.

Ms. Henson reported that this proposal does not have a DEP number yet.

Susan Ladue, Eastward Companies, Andrew Garulay, Yarmouthport Design group Landscape Architect, and Bob Reedy, Coastal Engineering Co., were present. Ms. Ladue reviewed the existing conditions and the proposed project. Mr. Garulay reviewed the landscape plan.

Ms. Bruce thanked them for keeping all the hardscape and building outside of the 75' buffer zone. Mr. Brink commented that the patio and hardscape was large but since it was dry laid its semipermeable and there are areas of drainage improvements.

Ms. Henson asked if the flagged trees were associated with a future proposal for vegetation management? Ms. Henson asked that there be better protection for the wildlife corridor. Theresa Sprague, Blue Flax Design, joined the meeting via Zoom. Ms. Sprague said she flagged native trees for identification purposes.

Mr. Brink asked about sliding the house to provide more wildlife corridor. Mr. Garulay responded that by moving the home they slide more into the buffer zone and more excavation would be required because it's more sloped.

Ms. Farber asked if it was possible to move the fence closer to the pool? Mr. Garulay argued that there wasn't a lot of area to draw it back except for one spot near the spa and perhaps clip the corner on the east side. Mr. Jannell said some of the natives could jump on the outside of the fence to bring the fence in closer to the pool. Mr. Brink said he would be comfortable leaving the fence where it is. The Commission continued discussions about the pool fence.

Public comment:

Scott Feen, abutter at 94 Main St, spoke to the wildlife corridor in this area.

Mr. Garulay responded that all of the proposed work is crammed into the corner as far away from that area as possible.

Ms. Farber said she was pleased that a fescue mix was being proposed. She requested rear elevations so we can see the deck with the area underneath it.

Ms. Ladue requested a continuance to 5/16/23.

Ms. Farber and the applicants discussed the rear elevation drawings.

MOTION: A motion to continue the public hearing to 5/16/23 was made by Jerry Wander and seconded by Mike Brink.

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

Eastward MBT LLC Trustee
By Eastward Companies. Map 34, Parcel 29-1. The proposed construction of a single-family dwelling, pool, and associated hardscape. Work will occur within the 100' buffer zone to a Vegetated Wetland. 46 Tonset Rd

Ms. Henson reported that this proposal does not have a DEP number yet.

Susan Ladue, Eastward Companies, Andrew Garulay, Yarmouthport Design group Landscape Architect, Theresa Sprague, Blue Flax Design, and Bob Reedy, Coastal Engineering Co., were present. Ms. Ladue reviewed the existing conditions and the proposed project. Mr. Garulay reviewed the landscape plan.

Ms. Henson said she had the same concerns about wildlife corridor as the previous proposal. Mr. Wander had the same concerns about a lack of wildlife corridor. Mr. Jannell said you could consider special conditions. On the west side there is room for screening. You could propose special conditions that would later become ongoing conditions when they go to close this out so that the wild areas remain undisturbed to serve both 44 and 46 Tonset Rd.

The Commission asked about an old garage that sits on site but is not shown on the site plan. They would like to see it on the site plan.

Mr. Garulay asked for direction on what the Commission would like to see for a wildlife corridor. Ms. Henson responded that they don't have a metric, but they'd like to see understory and canopy cover.

No public comment was heard.

The applicant requested a continuance to 5/16/23.

MOTION: A motion to continue the public hearing to 5/16/23 was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

William & Patricia McIvor

71 Briar Spring Rd

By Ryder & Wilcox, Inc. Map 51, Parcel 38. The proposed construction of a screened porch over an existing patio and native mitigation plantings. Work will occur within the 100' buffer zone to the Top of a Coastal Bank, and within the Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, Inc., and Dave Hawk, Hawk Design, were present to review the application. Mr. Lyttle reviewed the existing conditions on the site and asked Mr. Hawk to review how they intend to improve the site. There is some existing native vegetation that they'd like to leave on site and let grow back into its natural state. Mr. Hawk reviewed the existing landscape and the proposed planting plan.

Mr. Jannell said the applicant has to overcome the presumption of negative impact for proposed alteration in the ACEC and the project should be mitigated. Ms. Bruce said this is a very high bar to meet and it will need to be heavily mitigated. Ms. Bruce and Mr. Brink thought the existing path should be eliminated.

Mr. Jannell said if the path isn't needed the meadow could be extended and the whole thing could be a buffer to the top of the bank. Ms. Henson agreed and requested the mowing all the way to the top of the bank stop. She also said there appears to have been some clear cutting on the top of the bank which should no longer occur.

Mr. Rothberg asked what the advantage of the path is? Mr. Hawk said there is an advantage to being able to use it for the right kind of maintenance, but they could ask their client. We could have a maintenance path at least while things are getting established. Mr. Lyttle asked if we could find a middle ground, perhaps a 3' path? Mr. Jannell suggested an annual mow of the meadow may be the time when you could perform maintenance.

Ms. Bruce asked for information on what will be in the meadow. Mr. Hawk said it will be the coastal meadow sea mix that's shown on the plan.

Mr. Jannell asked if there are any thoughts on some more aggressive correctional pruning? Perhaps you could talk to whoever is going to care for the landscape and put them on some kind of rotation, you could put it to a timing schedule and protocol. Mr. Brink suggested a monitoring report on an annual basis. Mr. Jannell said pictures and a letter would suffice, end of the calendar year.

Mr. Wander said he would require a drywell not a drip line for the screened porch. Mr. Lyttle agreed and said he would revise the plan to show that.

Ms. Henson requested a no mow zone along the entire top of the bank all the way to the property line, she suggested 10'. Mr. Lyttle said he wasn't sure they'd be able to do 10', he said maybe 5' but he'd have to visit the site again. Mr. Brink suggested a no mow delineator may be necessary. Mr. North agreed that a delineator is needed. Mr. North thought there should be more proposed canopy.

Mr. Lyttle requested a continuance to 5/16/23.

No public comment was heard.

MOTION: A motion to continue the public hearing to 5/16/23 was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

Amended Order of Conditions

Towhee Lane, LLC

71 Towhee Ln

By Ryder & Wilcox Inc. Map 92, Parcel 60. The proposed reduction in the dwelling, and installation of a cabana and pool. Work will occur within the 100' buffer zone to the Top of a Coastal Bank, and within the Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, was present to review the application. David Garulay, Yarmouthport Design Group Landscape Architecture, was present. Mr. Lyttle reported that the property had been sold and a partially new team had been brought on and reductions to the original plan have been made. There is a significant reduction in impervious surface in the new plan. Ms. Bruce requested a continuing condition about the driveway. Ms. Henson pointed out that what was previously a pervious patio is now a pool and cabana. Ms. Henson would be more comfortable without a roof there.

Mr. Lyttle said the limit of work has not changed and the grading and stormwater runoff has improved. The size of the home has been reduced so much that even with the addition of the pool and cabana there is a reduction in coverage.

Mr. Wander appreciated the elimination of the patio on the east side. The only thing he would like to see more of is plantings over there.

Mr. Jannell asked for clarity on whether the landscape plan from Mr. Garulay is going to replace the previously approved plan.

Mr. Garulay reviewed his landscape plan.

Mr. North asked why the pool fence needs to extend out onto the grass. Mr. Garulay said he will pull the fence in. Ms. Henson said the Commission would prefer it be as tight to the pool as possible. The Commission and representatives discussed options for the fence.

Theresa Sprague, Blue Flax Design, was present via Zoom. She reported that there have been no changes to their land management plan. Ms. Henson clarified that the revised plans received by the office for the amendment are only revised with a couple of additional plan notes and with the new house and landscape design.

Mr. Jannell reviewed the history of this filing, and Order of Conditions (OOC) was issued. No work has begun. There were a number of facts, findings and special conditions. We will keep all the recitations of the facts and include the Amended OOC. We will amend the list of documents, there are 10 and he reviewed them. Mr. Jannell reviewed the findings to make everyone aware of them, he doesn't think these will change at all and will carry over to the AOOC. Mr. Jannell reviewed the special conditions. We could modify special conditions #1 to reflect that we have received architectural drawings. Condition #6 can be revised to remain unimproved ongoing, per Ms. Bruce's previous comments.

Mr. Rothberg had questions about irrigation. The Commission allowed for irrigation of foundation plantings.

No public comment was heard.

MOTION: A motion to allow this as an appropriate proposal for an amended Order of Conditions was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

MOTION: A motion to continue the public hearing to 5/16/23 was made by Jerry Wander and seconded by Mike Brink.

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

Administrative Review

Robert Mullin

68 Keziah's Ln

The proposed removal of nine trees to facilitate operation of 23-26 solar panels and also for protection of the home structure.

Bob Mullin, property owner, was present. The Commission went to an on-site to look at the trees. Ms. Bruce had no issues with the front yard trees, but she had some questions about the need for the others. Mr. Brink reviewed the trees he was comfortable with coming down. Mr. Mullin said the decisions of the Commission seem to be made on arbitrary but not metric based decisions which leaves homeowners to make difficult and expensive investments without any real understandings. Ms. Henson responded that the basis of our decisions is to protect the wetlands and not the function of your solar panel system. Mr. Mullin asked, have you considered the enhanced growth of the understory that will occur with the canopy removal?

Mr. Jannell provided an assessment of the proposed tree removals. He recommended you approve the AR for the removal of 3 total trees, dead pitch pine, leaning oak over driveway, and tree on front side of house.

MOTION: A motion to approve the 3 total removals and 1 for pruning as revised by the Agent was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

Chairman's Business

Review and discuss the Goals & Policies of the Orleans Comprehensive Plan.

Mr. North reviewed the agenda item, those that relate to the Conservation Commission are the natural resources and open space documents. The planning board is looking for feedback about what we're doing, are we succeeding, are there things we should be paying more attention to, etc.

Ms. Henson provided some feedback. She said there was a category for linking habitats and we should highlight that way more. Also, there is not nearly enough attention paid to the clear cutting of trees when new structures are built. Lastly, what's laid out in the plan doesn't pay enough attention to being resilient to climate change.

Mr. Jannell said this is our opportunity to address climate change in the update. Ms. Farber said we should continue this at our next meeting for further discussion.

The Commission reviewed some of the goals outlined in the documents and how and what the Commission can contribute.

Meeting minutes of 4/18/23

MOTION: A motion to approve the minutes was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

MOTION: A motion to adjourn the public hearing was made by Jerry Wander and seconded by Mike Brink.

VOTE: 7-0-0 Unanimous

The meeting adjourned at 11:50 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation