

Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, June 21st, 2022

1851
ORLEANS TOWN CLERK
E.C. S.S.S.
2022 JUL 7 9:55AM

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

ABSENT: Member Walter North, Associate Member Alan Carrier

8:30 a.m. Call to Order

Notices of Intent

Jeffrey Schwaber & Elizabeth Schroyer 134 Namequoit Rd
By Ryder & Wilcox, Inc. Map 70, Parcel 13-2. The proposed construction of a deck and patio, restoration plantings, and invasive plant management. Work will occur within the 100' buffer zone to a Coastal Bank, on a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, was present and reviewed the application. Theresa Sprague, Blue Flax Design (BFD), was present via Zoom and reviewed the land management plan.

Ms. Farber asked about the location of the patio. Mr. Mgrdichian thought the additional patio might be overkill in that area. Mr. Lyttle and Ms. Sprague clarified some of the issues revolving around the patio.

Ms. Henson was concerned about stormwater runoff. Mr. Lyttle argued why he didn't see an issue with stormwater runoff. Ms. Bruce appreciated that everything was kept outside of the ACEC, and she thought the planting plan more than mitigated what they want to do. Ms. Farber asked for clarification of what's proposed in the reseeded area. Ms. Sprague detailed the proposed seed mix. Ms. Henson said the limit of work seems far away from the proposed work. Mr. Lyttle stated he would try to get more information on the patio before the next hearing.

No public comment was heard.

Mr. Lyttle requested a continuance to 7/5/22.

MOTION: A motion to continue the public hearing to 7/5/22 was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous
MB, GF, DH, JW, RM, BR, MW

Eastward Companies 10 Howard Wy
By Eastward Companies. Map 29, Parcel 83-2. The proposed regrading of site, removal of invasives, installation of 100 sq. ft. of gravel parking area and lawn, and restoration plantings. Work will occur within the 100' buffer zone to an Isolated Vegetated Wetland.

Susan Ladue, Eastward Companies, was present and reviewed the application. Theresa Sprague, BFD, was present via Zoom, and reviewed the land management plan and planting plan.

Ms. Farber thought that most of the regrading is driven by the large pool fence and lawn. Ms. Ladue said it is mostly driven by the lawn and described why the homeowners wanted a fenced in lawn area. Ms. Sprague pointed out that the proposed regrading is also for safe backing out of the garage.

Mr. Wander said he'd prefer to have more than just two trees on the planting plan.

Mr. Brink said they should show a backwash pit on the site plan. There should be a plan note indicating that if the pool needs to be drawn down it needs to be taken off site.

Ms. Henson requested a 1:1 replacement of native trees. Ms. Henson was concerned about wildlife access and corridor because of the property line to property line hardscaping. Mr. Rothberg agreed he'd like to see more trees.

Ms. Bruce noted that they kept most everything out of the 100' BZ and that is much appreciated. She agreed that there should be at least a 1:1 replacement of natives.

Ms. Farber reviewed the Commissioner comments. She said the tree replacement seems inadequate. Ms. Sprague pointed out that they are proposing to plant 57 shrubs where there is absolutely no native vegetation at all. Even without the regrading, the trees proposed for removal would not be salvageable. Ms. Henson said that clump of trees, although degraded, provides the only canopy. Ms. Farber asked Ms. Sprague if they could provide 1 deciduous tree. Ms. Sprague said, yes.

No public comment was heard.

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

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at 10 Howard Way attaching the Conservation Commission findings and standard conditions and subject to the receipt of a revised plan showing a backwash pit outside of jurisdiction and one oak in the buffer zone was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Amended Order of Conditions

Kirk & Jennifer Schell

77 Keziah's Ln

By Ryder & Wilcox, Inc. Map 49, Parcel 63. The proposed expansion of parking and installation of stone steppers, utilities, and a rinse station. 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 and reviewed the request. He described the reason for the requested changes and additions. Everything proposed is within the original limit of work except for the AC pads and rinse station. They always intended to come in with a land management plan for this project, Ms. Sprague, BFD, was present via Zoom to review it. She described an area directly abutting the Top of Bank that is to be naturalized with meadow grasses. The lawn will be removed and seeded with native grass and wildflower mix along with native perennials. They are proposing a low split rail to prevent accidental intrusion into this area. All the proposed vegetation, except for 5 hydrangeas will be native.

Ms. Farber asked Mr. Lyttle to add the firepit to the site plan. Ms. Farber asked Ms. Sprague what the lawn is proposed to be seeded with because it is all in the ACEC. We usually like the 50' buffer zone to be a no disturb zone. Ms. Sprague reported it would be something to match the existing Cape Cod lawn.

Mr. Mgrdichian had questions about the rinse station. Mr. Lyttle said it will be over a gravel base. Ms. Sprague stated that they tried to get the rinse station as far away from the resource area as possible, it is outside of the 75' BZ.

Mr. Brink said this was appropriate for an Amended Order and had no further questions.

Ms. Henson thought the request was appropriate for an amendment. She asked if they could put a silt fence coming off the gravel driveway during construction because there is some erosion coming off it. Mr. Jannell said they could act and condition the project to put a row of silt fence around elevation 12 in the parking area, a 15' section would probably alleviate the problem.

Ms. Farber pointed out that on-site they saw steel beams outside of the LOW and asked they be relocated

No public comment was heard.

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

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

Mr. Jannell suggested the Commission get rid of the original special condition #1 that requires 12 shrubs, and vote to accept the amendment with the land management plan.

MOTION: A motion to approve the Amended Order attaching the Conservation Commission findings and standard conditions and with the special conditions that a silt fence be installed along the driveway on the north side; to remove special condition #1 of the original Order of Conditions and subject to receipt of a revised plan with the firepit shown at 77 Keziah's Ln was made by Mike Brink and seconded by Drusy Henson.

Mr. Lyttle requested amending the motion to reflect that a straw wattle be installed, as its more appropriate than a silt fence.

Mr. Brink amended the motion.

VOTE: 7-0-0 Unanimous

Continuations

Orleans Conservation Trust
By Coastal Engineering Co., Inc. Map 49, Parcel 50. The proposed vegetation management. Work will occur within the 100' buffer zone to the Edge of Wetland and a Coastal Bank, on a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Mr. Jannell reported that they were in receipt of a continuance request to 7/5/22 from the applicant.

No public comment was heard.

MOTION: A motion to continue the public hearing was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Matthew & Kathleen Cole 12 Prides Path
By Matthew Cole. Map 12, Parcel 20. The proposed construction of a swimming pool. Work will occur within the 100' buffer zone to the top of a Coastal Bank and within Land Subject to Coastal Storm Flowage.

Matthew Cole, applicant, and property owner was present and reviewed what they've updated since the last hearing. They added mitigation plantings to the plan and removed the outer fence. The Commission requested a couple points of clarity but appreciated the applicant following up on their previous concerns.

No public comment was heard.

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

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at 12 Prides Path attaching the Conservation Commission findings and standard conditions was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MB, GF, DH, RM, BR, JW, MW

The SC Cape Cod Real Estate Trust 17 Marsh Ln
By Ryder & Wilcox, Inc. Map 38, Parcel 12. The proposed upgrade to an existing septic system. Work will occur within the 100' buffer zone to the top of a Coastal Bank and within the Pleasant Bay ACEC.

Stephanie Sequin, Ryder & Wilcox, was present and reviewed the application. She reviewed that at the previous hearing there was some concern about the number of trees proposed for removal as a result of the septic installation. There was also a suggestion made at the previous hearing to look into a layer cake septic system. Ms. Sequin described the details of her research of this option. She determined that rather than exploring an alternative system they should shift the proposed leaching trenches and put them entirely in the existing lawn area. At worst there are two holly trees that may need to come down. If necessary, they can replace any potential removals at a 1:1 ratio. Since the previous hearing the plan has been approved by the Board of Health.

No public comment was heard.

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

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at 17 Marsh Ln attaching the Conservation Commission findings and standard conditions and the special condition to replace any removed or damaged trees at a 1:1 ratio was made by Mike Brink and seconded by Drusy Henson.

References: Ryder & Wilcox Project Narrative dated 5/19/22; Ryder & Wilcox Septic plan dated 6/16/22.

VOTE: 7-0-0 Unanimous

Phil Tinmouth & Brit Dewey 36 Old Field Rd
By Ryder & Wilcox, Inc. Map 64, Parcel 1. The proposed renovations to and existing dwelling, swimming pool replacement, landscaping, and site restoration. Work will occur on a Coastal Bank, within Land Subject to Coastal Storm Flowage, within the Pleasant Bay ACEC, and in the 100' buffer to the top of Bank.

Mr. Jannell reported that the office is in receipt of a letter requesting a continuance to 7/5/22.

No public comment was heard.

MOTION: A motion to continue the public hearing was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MB, DH, GF, JW, RM, BR, MW

Eastward MBT LLC Trustee 76 Rock Harbor Rd
By Blue Flax Design. Map 16, Parcel 92. The proposed land management plan including invasive plant management and installation of native vegetation. Work will occur within the 100' buffer zone to a Bordering Vegetated Wetland.

Susan Ladue, Eastward Companies, was present. Theresa Sprague, BFD, was present and reviewed the native tree document they submitted. She reviewed the native trees that will remain, there are 11 total.

Public comment: James Richardson, abutting neighbor, said he was at the previous hearing because he had concerns about such a large structure is being proposed on such a small lot. He is also very concerned about the proposal to remove vegetation. He continued by saying, we have a pond that is very alive and vibrant, and the removal techniques have not been disclosed to him. He is very concerned the efforts for removal could impact the fish and turtles in the pond and the pond itself.

Ms. Sprague responded to his concerns and promised to get him the information he requested. The Commission also responded to Mr. Richardson's concern about the use of herbicide in this area.

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

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the Amended OOC for 76 Rock Harbor Rd was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Certificates of Compliance

Elizabeth Cryer

52 Willie Atwood Rd

DEP # SE 54-2037: The construction of an addition to an existing garage. Work occurred within 100' of Vegetated Wetlands & the Top of a Coastal Bank.

Mr. Jannell reported that this Certificate of Compliance comes in response to cleaning up the record for 52 Willie Atwood Rd. The work for this Order can be found in compliance.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 52 Willie Atwood Rd was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Elizabeth Cryer

52 Willie Atwood Rd

DEP # SE 54-2256: The proposed abandonment of the current septic system & installation of a new septic system. Work proposed within 100' of Vegetated Wetlands & the Top of a Coastal Bank.

Mr. Jannell reported that this Certificate of Compliance comes in response to cleaning up the record for 52 Willie Atwood Rd. The work for this Order was never undertaken.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 52 Willie Atwood was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Administrative Review

Olive Darragh

46 Captain Linnell Rd

The proposed second floor deck.

Mr. Jannell described the proposed deck. He passed around the photos. He said, given where the deck is proposed, he thought the Commission could allow this without further filing.

MOTION: A motion to approve the project at 46 Captain Linnell Rd was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

David Carvalho

158 Namequoit Rd

The proposed removal of existing dilapidated railroad tie retaining wall and replacement with landscape block retaining wall.

Mr. Jannell reviewed the application and reported that the replacement wall would be in the same footprint as the existing. The Commission had no questions.

MOTION: A motion to approve the project at 158 Namequoit Rd was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Annual Re-Organization

Nomination and Election of officers:

- Commission Chair
- Commission Vice Chair
- Commission Clerk

Ms. Farber reported that she and Mr. North were both nominated for another term.

Mr. Brink nominated Ms. Farber for Chair; this nomination was seconded by Ms. Bruce.

MOTION: A motion to close nominations for Chair was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MOTION: A motion to accept the nomination for Ginny Farber to serve as Chair was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Mr. Brink nominated Drusy Henson as Vice Chair.

MOTION: A motion to close nominations for Vice Chair was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MOTION: A motion to accept the nomination of Drusy Henson as Vice Chair was made by Mike Brink and seconded by Bob Rothberg.

VOTE: 7-0-0 Unanimous

Mr. Brink nominated Jerry Wander as Clerk; this nomination was seconded by Ms. Henson.

MOTION: A motion to close nominations for Clerk was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MOTION: A motion to accept the nomination of Jerry Wander as Clerk was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Appointment of Community Preservation Committee representative
Nominate and Vote

Ms. Farber requested they postpone this for 7/5/22.

Discussion

Wastewater Management Advisory Committee Charge

Ms. Farber reported that the Conservation Commission will have a seat at the planning table for this. Please let me know if you are interested in being the Commission's representative for this and we will vote on that at the 7/5/22 hearing.

Mr. Jannell said that he will report on 251 Route 6A at the 7/5/22 meeting.

Chairman's Business

Meeting minutes of 6/7/2022

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

VOTE: 7-0-0 Unanimous

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 10:03 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation