

Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, April 4, 2023

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

ABSENT: Member Bob Rothberg, Member Ron Mgrdichian, Associate Member Ken Johnson

8:30 a.m. Call to Order

Notices of Intent

Robert & Marjorie Sparrow 8 Songbird Circle
By Ryder & Wilcox, Inc. Map 32, Parcel 98-2. The proposed renovations and additions to an existing single-family dwelling. Work will occur within the 100' buffer zone to the Top of a Coastal Bank.

Russell Holden, Ryder & Wilcox, was present and reviewed the application. He stated that there is an increase in coverage, but it will provide better access and control foot traffic. There will be no impact to wildlife habitat and the wildlife's ability to move between the property and the resource area.

Ms. Henson asked about a hand dug ditch that goes downhill. She asked, is there a way to contain the runoff so that it doesn't continue down into the marsh. Mr. Holden said during construction this will be addressed, the ditch is a temporary fix to deal with the water issue but will be handled with the drywells.

Mr. Wander observed that inside the 50' buffer zone you're proposing bushes in the southwest area of the property he said he could not see where this enhances anything.

Ms. Bruce responded that whether this project needs mitigation or not, she believes the additional plantings are a good idea because it provides pollinator species.

Mr. Brink asked about the existing rosa rugosa, does it make sense to take those out and put more pollinators in? The Commission and applicant agreed it did.
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 8 Songbird Circle attaching the conservation commission findings and standard conditions and with the special condition to remove the rosa rugosa bed and replace it with native pollinators was made by Drusy Henson and seconded by Jerry Wander.

References: Ryder & Wilcox project narrative 3/16/23; Ryder & Wilcox existing and proposed site plan 3/16/23.

VOTE: 7-0-0 Unanimous

MB, DH, WN, JW, JB, MW, GF

Brenda Foley

54 Gibson Rd

By BlueFlax Design LLC. Map 19, Parcel 28. The proposed addition to an existing single-family dwelling, reconstruction of parking, invasive plant management, restoration plantings, and landscape improvements including minor regrading and access improvements. Work will occur within the 100' buffer zone to the Top of a Coastal Bank, on a Coastal Bank, and within Land Subject to Coastal Storm Flowage.

Theresa Sprague, Blueflax Design, was present and reviewed the application. Brenda Foley, applicant, was present in the audience. Tom Stello, engineer, was present via Zoom. Ms. Sprague described the existing conditions and then the proposal.

Mr. Brink was concerned that the sunroom didn't have any proposed stormwater management, like gutters to downspouts.

Ms. Bruce asked about the proposed fence and whether it will run along the entire property. Ms. Sprague described the location of the fence.

Ms. Henson asked about the trees coming down, are there any native trees that are staying? Ms. Sprague reviewed the trees that are remaining. She stated, the only trees proposed for removal are invasive and new trees are going in along the northern and eastern property line. Ms. Henson was concerned at the loss of canopy trees and about the fence along the entire property line. We are eliminating a habitat corridor and she hoped they could shift the location of the fence so that the new and existing trees provide some cover for wildlife to travel.

Ms. Farber asked for specs on the fence. Ms. Sprague responded, it will be a privacy style fence which would likely be stockade. The goal is to provide protection for the dog and privacy. Ms. Farber asked for details on material and spacing for the deck.

Mr. Wander was hesitant about the fence being from lot line to lot line as well.

Mr. North stated it looked like a highly vulnerable site for flooding and a lot of activity is proposed within the 50' buffer zone. He asked for clarification on the delineations.

Tom Stello, engineer, was present via Zoom. Mr. Stello, said the project is not located in the ACEC. The slopes depicted on the plan are based on the DEP Policy 92-1.

Ms. Ward was concerned about the fence being the entire border of the property line and the number of trees being taken out versus planted.

Brenda Foley, applicant, came to the table. She clarified that the fence isn't fully property line to property line. We could certainly make the adjustment to bring the fence in a few feet on the northern side.

Ms. Bruce asked what will be under the deck? Ms. Sprague responded, gravel and that she will provide the specs and drawing on the deck spacing, it would be ¼ inch spacing.

In summary, the applicant's representative will revise the plan to pull in the fence on the north side, include construction notes, downspout notes, and specifications for the deck.

Mr. Jannell suggested showing a limit of work and stated they probably need some erosion control measures.

No public comment was heard.

Ms. Sprague requested a continuance to 4/18/23.

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

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

Extension Request

Timothy & Jennifer Crowley 12 Ewing Dr
DEP # SE 54-2462. Map 93, Parcel 16. The proposed construction of a single-family dwelling and swimming pool. Work will occur within 100' to the Top of a Coastal Bank, a Salt Marsh, Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Mr. Jannell stated there were some Covid delays, and the request is for a 1 year extension. He reported on the status of the project and suggested they grant the extension.

MOTION: A motion to approve the 1-year extension was made by Drusy Henson and seconded by Jerry Wander.

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

Certificates of Compliance

John Smith & Susan Meisinger 10 Crystal Lake Dr
DEP # SE 54-2454. Map 48, Parcel 28 & 31. The removal of existing dwelling and detached garage, and construction of a new dwelling with septic system. Work occurred within the 100' buffer zone to a Bordering Vegetated Wetland.

Mr. Jannell completed an inspection, and it is in substantial compliance with the approved plans. He reported that there was a field adjustment for the top of the dug-in stair that was less intrusive. I don't have an as-built but I photographed it so the file has good record of it.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 10 Crystal Lake Drive was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

William Rizzuto 193 Quanset Rd
DEP # SE 54-2490: Map 93, Parcel 10. The after-the-fact replacement of patio and steps, and the proposed installation of generator, propane, propane tank, and gas line. Work occurred within the 100' buffer zone to the Top of a Coastal Bank and Salt Marsh, in Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Mr. Jannell completed an inspection, and it is in substantial compliance with the approved plans.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 193 Quanset Rd was made by Drusy Henson and seconded by Jerry Wander.

VOTE: 7-0-0 Unanimous

Ramani & Louise Ayer, DEP # 54-2277
Drew & Paula Madsen, DEP # 54-2079
Pleasant Bay Narrows Trust, DEP # 54-2198

22 Horseshoe Ln
26 Horseshoe Ln
30 Horseshoe Ln

Review and discuss ongoing beach nourishment at 22, 26, and 30 Horseshoe Lane and sediment transport in the vicinity including the Horseshoe and Crowes Lane

- Meet with Greg Berman and discuss the Updated Sediment Transport Analysis for the Horseshoe report.
- Review and act on request from Wilkinson Ecological Design and determine if the ongoing conditions are appropriate to continue.

Mr. Jannell reviewed the history of these 3 Orders for the subject properties. There is a request from Wilkinson Ecological Design (WED) to continue nourishing these 3 properties. They provided a 5-year report per the continuing conditions in the Certificates of Compliance (COC) for all three of these properties. All have fiber roll toe protection that were all installed at different times. Greg Berman, Cape Cod Cooperative Extension, was consulted in the ongoing conditions to make sure we had an appropriate volume for placement. He was present at the meeting to share his report.

Greg Berman, Cape Cod Cooperative Extension, presented his report on the movement and placement of sand in the area. He asked for questions and suggestions to finalize the report.

Mr. North asked for the Safe Harbor nourishment data. Mr. Berman said he's still waiting for Safe Harbor and Wilkinson data. Mr. Jannell said we didn't get all the volumes together for the report, but we can continue to fill in the blanks. Mr. Jannell said we've done an excellent job in the last 5 years monitoring and knowing nourishment data points. The Order for the Safe Harbor project allowed for a volume that went on the beach, if it helps the Commission understand this initial shot, Mr. Jannell will work with Greg to finalize that amount. We controlled the frequency and volume 5 years ago and it appears the report shows those performed. Mr. Jannell read in the ongoing condition being discussed.

Seth Wilkinson, Wilkinson Ecological Design, was present. He provided additional information on the original projects and also the ongoing conditions associated with the COCs.

Ms. Farber said the report has to go from draft to final and it would be helpful to get out on site. Mr. Jannell responded, these are not reasons to hold this up if you want to act. We should talk about how to move forward. There are conditions that allow the nourishment to continue and have a check in on 5-year intervals and if there are red flags, you would capture it on the 5-year interval.

Mr. Wilkinson said if no fiber rolls are exposed we wouldn't have to nourish.

Ms. Farber suggested a motion to approve ongoing nourishment not to exceed the limits in place with encouragement to not put down the maximum amount if you don't need it and continue to plant beach grass along that area and report in once per year. At the same time we should get Greg's draft report in final form.

MOTION: A motion to allow continuing the maintenance nourishment program for 22, 26 and 30 Horseshoe Ln for the next 5-year period contingent on receiving annual report including performance and volume numbers, getting a finalized report from Greg Berman, and with the special conditions to encourage the continued or new planting of beach grass on the new nourishment, an allowance to nourish up to the maximum nourishment amount but encouraging not putting maximum if it's not needed in a particular year, and if the fiber roll is not exposed nourishment will not occur was made by Drusy Henson and Jerry Wander.

VOTE: 7-0-0 Unanimous

MB, GF, DH, WN, JW, JB, MW

Administrator's Business

Continue discussion of potential workday at Kent's Point Conservation Area

Fritz Luft, Friend of Lonnie's Pond (FOLP), was present. Mr. Jannell said the plan is a 1-day workday where we would close the area and accomplish some of the tasks that FOLP wants us to do, along with stuff I need to do. We have solicited support from the DPW and an AmeriCorps group. The plan would be to polish up the details and provide that in a revised document and get that to the Commission in an Administrative Review (AR). If you do support it in concept, we will work on the AR. Mr. Brink said we will set priorities, and then focus on specific issues. The south trail and the vistas are the key goals. There was consensus to move forward.

Discussion

Review and discuss letter regarding 54 Tonset Rd

Mr. Jannell reviewed the last couple years of history of approved and unapproved work on the property. As detailed in a letter from the property owner, Sally Mills, she is prepping a Notice of Intent for a limited ecological restoration project. She is seeking a waiver from the engineered site plan requirement.

Sally Mills, 54 Tonset Rd, was present in the meeting room. She described her family history on the property, the history of the resource area and the invasion of phragmites. been in property for 4 generations. She reviewed her request and the reasons she was making it.

Ms. Farber responded that one reason they require you get an engineered site plan it to delineate the proper resource areas. Phragmites is in the definition of the marsh and a site plan is essential.

There was some discussion between the Commission and Ms. Mills regarding the type of resource areas on her property and the need for the engineered site plan.

MOTION: A motion to disallow waiving the requirement of an engineered site plan for 54 Tonset Rd was made by Drusy Henson and seconded by Jerry Wander

VOTE: 5-0-2

Mr. North and Ms. Ward abstained.

Chairman's Business

Wastewater Management Advisory Committee update on Town Meeting Warrant Article

Ms. Farber reviewed a powerpoint presentation on the subject.

Ms. Farber and the Commission had some discussion about future needs and the status of Rock Harbor and some of the lakes in town.

Discuss Local Wetlands Bylaw Ch. 196A

Ms. Farber asked the Commission if they could table the discussion until the next meeting. Mr. North agreed with tabling but recommended this becomes the first item on the agenda.

Meeting minutes of 3/21/23

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 11:55 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation