

Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, September 19, 2023

'23 OCT 3 3:52PM



JERRY WANDER
ORLEANS TOWN CLERK

PRESENT: Chair Drusilla Henson, Vice Chair Jerry Wander, Clerk Ginny Farber, Member Maureen White, Member North, Member Mike Brink, Associate Member Judith Bruce, Associate Member Maia Ward, Associate Member Ken Johnson & Conservation Agent John Jannell

ABSENT: Member Bob Rothberg (joined meeting at 8:36 a.m.)

8:30 a.m. Call to Order

Notice of Intent

Kathi U. Whitaker, Trustee

176 Quanset Rd

By Cape Cod Engineering, Inc. Map 94, Parcel 4. The proposed replacement of existing timber marine bulkhead with a stone revetment. Work will occur on a Coastal Beach, on a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Bob Perry, Cape Cod Engineering, was present to review the application. He provided a history of the coastal armoring on the property and the wall's existing condition. The property has a pre-1978 dwelling on site so it qualifies for coastal engineered structure. They are trying to keep the structure as landward as possible, but the toe stones will be seaward of the mean high tide line. He reported that they filed with the Commission prior to filing an Environmental Notification Form (ENF) in order to let the project come into local review to get Commission thoughts and to take away recommendations before going through the MEPA process.

Bob Rothberg joined the meeting at 8:36 a.m.

Mr. Perry continued, there are ten groins seaward of the revetment. Right now, the groins are not in the application for any reworking but the numbers could be reduced, that may be developed through the MEPA process.

Ms. Bruce questioned whether this is considered a pre-1978 building, since it was previously rebuilt. Mr. Jannell responded that it was lawfully replaced with an Order and retreated, and the Order was found in compliance. It did not lose its eligibility during the reconstruction process. Mr. North requested clarification on that from DEP. He stated it is not good public policy to permit new structures when they're three times as big as they were before. Reconstruction is on the same footprint, and this is a good example of why that is flawed logic.

Ms. Bruce asked if the timber wall holds a license. Mr. Jannell and Mr. Perry said they have found no evidence of it but the dock plan shows evidence of the groin. Mr. Perry thought the wall was built when there was more land there, but the wall is no longer appropriate as a design for the new condition of the water level. Ms. Bruce said she was not ok with toe stones seaward of Mean High Water. Mr. Perry said in order to preserve the upper reaches of the coastal bank there is a limited area to work in.

Mr. Wander asked why the revetment goes as far as the boathouse. Mr. Wander asked if they were willing to agree to replenishment all the way along the 400' of revetment. Mr. Perry responded that the revetment length was carried along where there is potential for erosion.

Ms. Henson asked when the boathouse was constructed and how big it is. The proposed length had her concerned about the marshes on either end. She said on both ends the proposal is going too far and that will create scour and fill in the marsh, we would be better served to shorten the length of the proposed structure. Mr. Perry provided the rationale for the length of the proposed revetment. Ms. Henson said this proposal is certainly better than the existing vertical wall. She requested Greg Berman discuss the groins.

Ms. Farber requested that Greg Berman look at the whole system. Her thoughts on the groins were there should be some look at whether they provide habitat and are there negative impacts to taking them out.

Mr. Brink was concerned about the groins, they are clearly affecting the transportation of sediment. He asked about leaving the existing bulkhead by the marsh.

Ms. Henson said the Commission will need a planting plan. Mr. Perry responded that they propose those pockets of disturbance will be beach grass but they will do a detailed planting plan.

Mr. Jannell said he will get Greg Berman involved. He suggested the applicant provide information on the alternative of keeping the toe stones landward of MHW and what the cut of the bank would be.

Mr. Jannell reviewed the questions posed by the Commission: Alternatives to toe stones below MHW; whether the CES toe is located appropriately; opinions on groin function and whether to remove or keep them; sediment types and compatibility and targeted beach elevation with the completion of the CES; whether the excavated sediment will be compatible; sediment nourishment volume and its delivery; should the bulkhead remain or be removed; what type of monitoring should be required; a review of the overall length of the bulkhead.

Ms. Bruce requested the site plan show the distance of the revetment to the actual house, not the patio. Mr. Jannell asked about construction access, he requested no construction access in the driveway along the marsh. Maybe some wording on access would be helpful including a restoration protocol for the access.

No public comment was heard.

Mr. Perry requested a continuance to the first meeting in December.

MOTION: A motion to continue the public hearing to 12/5/23 was made by Jerry Wander and seconded by Ginny Farber.

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

Continuation

Towhee Lane, LLC

71 Towhee Ln

By WRS Engineering, LLC. Map 92, Parcel 60. The proposed reconstruction of an existing licensed boathouse and deck in kind, increase in deck elevation of 1 foot, removal of existing walkway and replacement with elevated walkway, installation of aluminum walkway, installation of pile supported boat lifts, restoration of Coastal Bank, and increase in elevation of

existing revetment. Work will occur on a Coastal Bank, in Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Roy Okurowski, WRS Engineering, was present to review the application. Theresa Sprague, Blue Flax Design (BFD), was present via Zoom. Mr. Okurowski reviewed the changes made to the application since the last meeting. He said they intend to leave the revetment where it is with minor repairs to a few stones and above it will be minimally graded and restored. He reviewed Greg Berman's comments on the proposal. He reviewed the boathouse and the existing versus proposed changes in the structure. They propose to keep the existing framework but lift 1 side up. The increase in structure will be under 50% so we don't trigger the FEMA requirement to elevate.

Ms. Henson asked about minor repairs to the existing CES. Mr. Okurowski said at this point in time, we are only licensing the existing structure. Mr. Jannell asked about repairs shown on the cross section. The Commission requested detail on all of the repairs being proposed.

Ms. Henson stated that the increased volume in the ACEC is an issue. The increased volume is in a resource area and subject to Chapter 14. Mr. Wander was concerned by the number of lights on the walkway. Mr. Okurowski said they could reduce the number of lights and specify wattage.

Ms. Bruce referenced their aesthetics criteria and said it should blend. Many Commissioners preferred wood stairs instead of aluminum. Mr. Brink suggested motion sensing lights. Mr. Johnson asked for clarification on the pilings. Mr. Okurowski said the only new pilings are on the walkway.

Theresa Sprague reviewed the BFD plan. Ms. Henson asked for clarification on the regrading. Ms. Sprague said all work on the bank will be done by BFD by hand.

Mr. Jannell asked if they are going to commit to the handwork on your plan. Ms. Sprague responded, there is no major regrading of the bank and they will commit to that on their plan. Mr. Jannell requested detail on how the accessway will be restored when the trenching of the 3 utilities is done. Ms. Farber clarified the herbicide use would be cut and wipe and the goal is to narrow the footpath to the boathouse to 4' wide.

No public comment was heard.

Mr. Okurowski requested a continuance to October 17th.

MOTION: A motion to continue the public hearing to 10/17/23 was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Revised Plan Request

Robert Doiron

18 Uncle Vicks Wy

DEP # SE 54-2610: The proposed expansion of the approved deck 6' in a westerly direction.

David Lyttle, Ryder & Wilcox, was present to review the application. He reported that no work has started on this project. The deck area is the only place they can recreate on their

property. With the revision they will end up with an outdoor area that will be 15x12 ft with no additional groundwork required and the limit of work will remain the same.

MOTION: A motion to approve the project at 18 Uncle Vicks Wy was made by Jerry Wander and seconded by Ginny Farber.

Revised Plan: Ryder & Wilcox Site plan dated 8/30/23

VOTE: 7-0-0 Unanimous

Sipson Island Trust, Inc. 20, 30, 36, 40, & 50 Sipson Island
DEP # SE 54-2589: The proposed revisions to the plan include the locations of the mapped eel grass beds, the equipment of the demolition contractor, and the change in restoration specialist.

Mr. Brink recused.

Richard Polmroy, Polmroy Associates, Mon Cochran, president Sipson Island Trust (SIT), Mathew Lautenberger, Wilkinson Ecological Design (WED), Betsy Furtney, Sipson Island Trust, John O'Reilly, J.M. O'Reilly & Associates, and Caitlin, from Robert B. Our, were present. They reported that the new restoration contractor is WED. They have engineered their approach plan so they can move forward with this on Nov. 1. The applicant reviewed their approach plan. Mr. Jannell reported that they performed an extensive eelgrass survey that went far beyond what we required in the OOC.

MOTION: A motion to approve the project at 20, 30, 36, 40, & 50 Sipson Island was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Mr. Brink returned to the meeting.

Certificates of Compliance

John & Nancy Wilbur 41 Chestnut Dr
DEP # SE 54-2422: The demolition of an existing single-family dwelling, construction of a new single-family dwelling, and installation of dug-in timber steps. Work occurred on a Coastal Bank, within the 50'-100' buffer to the Top of a Coastal Bank, and within the Pleasant Bay ACEC.

Mr. Jannell reported that the plant material is on-site and in your jurisdiction. There was an area on the left where the groundcover was a unique seed mix not to be mowed more than two times per year. You can find the OOC in compliance but have a continuing condition that the mixed native grasses and forbes area shown on the planting plan dated April 19 not be mowed more than twice per year.

MOTION: A motion to approve the issuance of a Certificate of Compliance for 41 Chestnut Drive with a continuing condition that the area shown on Exhibit A is not mowed more than twice per year was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Archer-Gosnold LLC

16 Archer Ln

DEP # SE 54-2526: The construction of a screened porch. Work occurred within the 100' buffer zone to the Top of a Coastal Bank.

Mr. Jannell reported that the project is in full compliance with the plans.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 16 Archer Ln was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Paul & Marjorie Stanzler

29 Hayward Ln

DEP # SE 54-2416: The construction of a screened porch in the footprint of an existing deck.

Work took place in the 50' to 100' buffers to a Coastal Bank and within the Pleasant Bay ACEC.

Mr. Jannell reported that no work was ever done under this Order, and they will strike it invalid on the form.

MOTION: A motion to approve the issuance of a Certificate of Compliance, striking it invalid, at 29 Hayward Ln was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Administrative Reviews

Susan Lynch

47 Loomis Ln

The proposed removal of decaying trees at risk to the dwelling and the pruning of bushes with invasive plants.

Susan Lynch, property owner, was present at the hearing. She provided the Commission with updated photos of the property. Ms. Lynch reviewed an aerial image of the property and the additional photos. She and the Commission went through each of her proposed vegetation alterations. The first photo shows the two trees that are on the berm looking onto Meetinghouse Pond, what we'd like to do is remove the bittersweet and poison ivy. Cutting the vines and then pulling them off. She wants to preserve the trees so there will be no disruption of the bank. She wants to lower some bushes and leave the vines. Per the regs, the Commission said lower to a height of 4-5 feet.

The Commission said no to the removal of the pine tree on page 3 and no to the removal of the tree shown on Page 4. Mr. Jannell suggested coming back when that tree is dead or near dead. They discussed the trees on Page 5 and 5a. Mr. Jannell suggested a professional arborist prune the tree as opposed to just taking it down.

MOTION: A motion to approve the trimming of bushes to a 4-5' height as well as cut invasive vines out of trees at 47 Loomis Lane was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Evan & Erin Lagasse

34 Winslow Dr

The proposed plantings of native shrubs to replace removed vegetation.

Mr. Jannell reviewed a site plan that goes over planting of three areas in what they thought was the most appropriate area for replanting.

MOTION: A motion to approve the project at 34 Winslow Drive was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Town of Orleans 101, 103, & 105 Finlay Rd
The proposed tree clearing for exploratory borings for the proposed new pump station.

Mr. Jannell reviewed the application. The site is at the low point of the road where the Commission has jurisdiction. We chose this area as the least invasive location for a facility of this site. Tim Harrison, AECOM, was present to review the application. Based on our best assessment so far, 10-15 trees will need to be removed. Mr. Jannell said it was colonized with low diameter black locust. Ms. Henson asked if this site isn't viable, will there be a restoration plan for the trees removed? Ms. Harris responded they will loam and seed and retreat.

MOTION: A motion to approve the Administrative Review at 101, 103, and 105 Finlay Rd with notes that we will require erosion control measures to take place for the duration was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Wendy Harrington 67 River Rd
The proposed pool fence, stone wall, and wire fence around boathouse.

Mr. Jannell reviewed the application. The fence is not in the ACEC and is not in the 75' BZ, he recommended approving the fence. The wall is partially in the ACEC, she is attempting to keep the public off her private property.

Ms. Henson suggested not acting on this AR today so the Commission can drive by the property. It will be put on the next agenda.

Monitoring Report

Jeffrey Schwaber & Elizabeth Schroyer 134 Namequoit Rd
DEP # SE 54-2585

Administrator's Business

Conservation Commission Properties Work List for 2023/2024

Ms. Henson said there are still open properties needing a liaison. Mr. Rothberg volunteered to be the liaison for Bakers Pond. Mr. Jannell said we intend to spend out of the department line item to get more kiosks this year. We don't have enough of a balance to do every sign that will make your list today. Mr. Brink volunteered to be a liaison for Fisherman's Landing. The Commission agreed Fisherman's did not need a kiosk.

Ms. Bruce brought up the Lonnie's Pond trail spurs at Kents Point. She thought we should proactively fence and sign the trail spur.

Mr. Johnson asked about foot traffic on the Paw Wah Pond marsh. He didn't see it as being any less than the foot traffic at Kents Point.

Mr. Brink suggested special work at the berm at Pilgrim Lake to avoid stormwater runoff into the Lake.

Hear a request from Steve Bornemeier for a little free library at Crystal Lake.

MOTION: Ms. Henson made a motion to request we authorize John to work with Steve to place a little free library at Crystal Lake.

VOTE: 7-0-0

Putnam Farm Planning Sessions

Ms. Henson discussed the planning group. She said she should be involved because she is the liaison and Ms. Bruce wanted to be involved from the beginning. Mr. Johnson said he is happy to be involved but he cannot make the second meeting.

Chairman's Business

Vote to approve the spending out of the Wetlands Protection Fund for MACC Conference

MOTION: A motion to spend up to \$1,000.00 out of the Wetland Protection Fund for the MACC Conference was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Ms. Farber said a Wastewater management update should be put on the next agenda.

Meeting minutes of 9/5/23

MOTION: A motion to approve the minutes was made by Walter North and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

MOTION: A motion to adjourn the public hearing was made by Walter North and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

The meeting adjourned at 12:01 p.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation

