

Orleans Conservation Commission  
Nauset Room or Via Zoom  
Hearing, Tuesday, October 3<sup>rd</sup>, 2023

'23 NOV 8 10:02AM  
*Jerry Wander*  
ORLEANS TOWN CLERK

**PRESENT:** Chair Drusilla Henson, Vice Chair Jerry Wander, Clerk Ginny Farber, 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

8:30 a.m. Call to Order

**Notices of Intent**

Paul E. Stanzler, Trustee 29 Hayward Ln  
By Ryder & Wilcox, Inc. Map 50, Parcel 11. The proposed construction of an attached garage. Work will take place within the 100' buffer zone to the Top of a Coastal Bank and within the Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, Inc., was present and reviewed the application. The addition is proposed on the landward side of the house outside of the 50' buffer zone. Many Commissioners were concerned about an oak tree near the proposed work. Mr. Lyttle responded that they can certainly work with the contractor to minimize disturbance. Mr. Jannell said we could condition the project to further protect the tree. The Commission requested that an arborist be retained to help ensure the survival of the tree. Mr. Lyttle said he could revise the limit of work to be 4' off the edge of the garage to protect the tree further.

Mr. North asked about a chain link fence. Mr. Jannell responded he believed the fence was on the abutter's property.

Mr. Jannell said based on commission comments you could go a couple of ways: you could close and condition the project and subject it to a revised plan that shows a tighter work limit or continue to get a revised plan and arborist opinion on the tree care.

No public comment was heard.

David Lyttle requested a continuance to 10/17/23.

**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

Archer-Gosnold LLC 16 Archer Ln  
By Ryder & Wilcox, Inc. Map 52, Parcel 4. The proposed construction of a swimming pool and landscaping. 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., was present and reviewed the application. Lauren Cronin of Gregory Lombardi Design was also present. Mr. Lyttle reported that except for a small

patio, all work is outside of the ACEC and outside of the 75' buffer zone. The patio is approx. 94 sq ft and it will be dry laid.

Ms. Cronin reviewed the plantings and said the client is interested in maintaining the naturalized meadow but also keeping all the native species on site. They are proposing to remove the invasives and ornamentals in the 75-100' buffer zone and replace them with meadow. There is a proposal to vista prune and to have temporary irrigation for the first three growing seasons.

Ms. Bruce preferred the shrub layer proposed for removal be replaced with native shrubs. Ms. Henson agreed with having a shrub layer.

The Commission wanted delineators for the space between the proposed fescue path and the meadow. Ms. Henson was concerned about the expansion from plot line to plot line on this property. Mr. Lyttle argued that they have an abutting property that can't be developed.

Ms. Farber asked about grading on the waterside of the pool. Mr. Lyttle responded that the grade remains the same on the westerly side and higher on the easterly side. Ms. Farber said there is some runoff coming down from the house. Mr. Lyttle said he proposed a large backwash pit which will also accommodate stormwater runoff in that area. Ms. Farber suggested some of the loam should be compost that is proposed with the fescue. She asked for clarification on the replanting in the view corridor. She wanted to make sure that there is shrub, canopy, and groundcover. Mr. Cronin agreed to adding woody shrubs to the plan.

Mr. North asked if concrete would be visible from the view shed. Mr. Lyttle responded no. Mr. North said in terms of regulatory perspective we can't consider that abutting undeveloped property because it is not part of this application.

Mr. Jannell asked how they will remove invasives. He asked for rationale on why they are going in to remove the invasives. He asked how high is the wall of the pool fence? Mr. Lyttle said he will provide a cross section.

Public comment:

Mr. Jannell read in correspondence from Katy Hax Holmes received by the office on 10/2/23.

Mr. Brink asked the homeowner to come up to the podium. Eric Mayer, property owner, was present and came up to the podium. He said he loved the fact that it was natural property, and they want it to remain that way.

Mr. Lyttle requested a continuance to 10/17/23.

**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

Eastward Companies

64 Pershing Ln

By Ryder & Wilcox, Inc. Map 56, Parcel 6. The proposed removal of an existing dwelling and detached garage and construction of new dwelling, swimming pool, the replacement of a timber stairway, landscaping, and site restoration. Work will occur within the 100' buffer zone

to the Top of a Coastal Bank, on a Coastal Beach, on a Coastal Bank, in Land Subject to Coastal Storm Flowage and within the Pleasant Bay ACEC.

David Lyttle, Ryder & Wilcox, Inc., Theresa Sprague, Blue Flax Design (BFD), and Andrew Garalay, Yarmouthport Design Group, were present to review the application. Mr. Lyttle reviewed the photographs he provided to the Commission. He reviewed the resource areas that impact the site. He said the structure is proposed to move back and will be a significant reduction on the public view shed.

Ms. Sprague reviewed the BFD land management plan. She reviewed the existing conditions of the vegetation and the proposed management and plantings. Mr. Garalay reviewed his landscape plans.

Ms. Farber was concerned about the wildlife movement on the north side of the house, the wall-to-wall fencing wouldn't allow for movement. Ms. Farber requested a plan that addresses succession planting instead of denuding the bank.

Ms. Henson thought there was space for a narrow wildlife corridor, the fence doesn't need to go all the way to the property line. Ms. Henson requested the trees be flagged on site. Ms. Sprague explained her reasons for the proposed removals.

Ms. Bruce was concerned there was no canopy species being proposed because of screening from the public view shed.

The Commission wanted to go back to the site once trees were flagged so they could understand which trees were and were not coming down. Ms. Bruce requested they pull back to get the pool outside of the ACEC. Mr. Brink brought up the two seating areas at the top of the Coastal Bank.

Ms. Sprague spoke to the canopy, she said they are proposing a white oak and that they don't want to hinder abutter views.

Ms. Ward asked about the planting plan and whether it could be done in phases.

Ms. Sprague described the reasoning for removing invasives all at once. If you try to manage invasives in phases, they continue to reinfest the areas you've already managed. To complete the removals all at once time minimizes the amount of disturbance because you just do minor follow-up later. Within the first growing season the site is completely stabilized.

Mr. Jannell reminded the Commission that the area that is naturalized is outside of their jurisdiction. He cautioned them against giving the applicant credit for an area that would not require approval from them to do any future work.

Mr. Jannell encouraged Mr. Sprague to keep the pitch pine. He asked, are you doing any bank grading? Mr. Lyttle said only by hand and there will be no bank stabilization other than seeding.

Mr. Jannell supported Mr. Brink's comments about the seating area at the top of the bank. He pointed out that the regulations protect the first 25' as a buffer.

Mr. Lyttle requested a continuance to 10/17/23.

#### Public comment:

Neil Satran, 60 Pershing Ln, stated he had been there since 1985. Over the last 14 years the subject property has been abandoned. He said he is in favor of the application and thinks it will improve the property. He discussed animal activity on the site.

**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

### **Extension Request**

Bob & Sally Roda

187 Namequoit Rd

The request to extend the Order of Conditions for DEP # SE 54-2511 for the ongoing maintenance of existing shorefront protection.

Mr. Jannell reviewed the request. It was his recommendation that they continue along this maintenance path and grant the extension.

**MOTION:** A motion to extend the Order for 3 years was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 7-0-0 Unanimous

### **Certificates of Compliance**

Eastward Companies

22 Jack Knife Point Rd

DEP # 54-2504: The construction of a new dwelling & barn, removal of the office, replacement or brick paths with gravel paths and steps, new pervious patio, landward extension of the pier and landscaping.

Mr. Jannell reported that the project could be found in compliance.

**MOTION:** A motion to approve the issuance of a Certificate of Compliance at 22 Jack Knife Point was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 7-0-0 Unanimous

Shayne Watson & John Sibley

5 Grandview Dr

The installation of a septic system, grading and landscaping in the buffer zone to an isolated wetland and the construction of a dwelling outside of jurisdiction. Work occurred within the 100' buffer zone to an isolated vegetated wetland.

Mr. Jannell reported that the project could be found in compliance. He said when the Commission issued the Order of Conditions the applicants were allowed a grass path that would be allowed to be mowed up to 4 times per year. He suggested a continuing condition that would allow for this continued condition.

**MOTION:** A motion to approve the issuance of a Certificate of Compliance with the ongoing condition that mowing shall be allowed 4 times per year as proposed in the original OOC at 5 Grandview Dr was made by Jerry Wander and seconded by Drusy Henson.

**VOTE:** 7-0-0 Unanimous

### **Administrative Reviews**

Wendy Harrington

67 River Rd

The proposed pool fence, stone wall, and wire fence around boathouse.

Mr. Jannell said we took no action at the last meeting so you could visit the site. There are photos in the packet that show the area. Mr. Jannell followed up with the homeowner regarding the example photo she provided of the boulder wall and confirmed she is not retaining grade. It would have the appearance of dry laid, but it would be mortared on the private property side of the wall.

Ms. Bruce said requested the wall be dry laid. Some of the Commissioners were concerned about how the wire fence would look and requested a photo be provided. Mr. Jannell said he can require the fence be 6" off the ground.

The Commission decided to take no action again and requested a photo of the wire fence before approval. This will be on the agenda on 10/17.

Cheryl Schley & Phil Kuhlmann

40 Gesner Rd

The proposed screened porch over an existing brick patio.

Phil Kuhlman and Cheryl Schley, property owners, were present to review the application and get guidance from the Commission on how to permit their proposal. They are proposing a single season porch, they could remove the brick if that's helpful, and they are not proposing to extend beyond the existing patio footprint. The Commission and the property owners discussed the proposal.

There was a consensus among the Commission that this would be a difficult project to gain approval for even if the applicant submitted a Notice of Intent.

**MOTION:** A motion to deny the project at 40 Gesner Rd was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 5-0-2 Unanimous

Mr. North and Mr. Rothberg abstained.

Lois Cox

185 Rock Harbor Rd

The proposed second story to an existing garage and removal and replacement of existing deck.

Welsey Price, general contractor for the project, was present to review the application. The proposed project is going above the existing garage and redecking with some possible reframing depending on the structure of it. They are not expanding the footprint in any way. No additional concrete is proposed, they will support it with helical piles. The proposal is entirely outside of the 50' buffer zone and is at the edge of the 75'. He said he was happy to put in a limit of work (LOW) based on where the previous LOW was in.

**MOTION:** A motion to approve the Administrative Review for 185 Rock Harbor Rd subject to a receipt of a revised plan showing a straw wattle limit of work was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 7-0-0 unanimous

William Ladutko

43 Route 6A

The proposed construction of a detached two car garage with a studio apartment.

Mr. Jannell briefly reviewed the application. The Commission thought this was too much work for an Administrative Review, so they directed the applicant to file a notice of intent.

**MOTION:** A motion to deny the project at 43 Route 6A was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 7-0-0 Unanimous

Mark A. Der Hagopian

25 High Tide Ln

The proposed continued work under DEP # SE 54-2498.

Mr. Jannell reviewed the letter from the builder that includes mention of covid related delays.

**MOTION:** A motion to approve the project at 25 High Tide Lane was made by Jerry Wander and seconded by Ginny Farber.

**VOTE:** 7-0-0 Unanimous

### **Enforcement Update**

Dawson Farber

53 Kenneth Ln

Ms. Farber recused.

Mr. Jannell said he receives reporting and makes occasional site visits to this property. The property owner has completed all of his planting work and reporting milestones and this is the best Mr. Jannell has seen the seed mix and herbaceous area. However, he reported that he can't find the property owner in compliance because of the use of the accessway for maintenance of the revetment that was supposed to be abandoned except for annual maintenance. The shells are gone, and it was initially seeded but during the inspection the seed mix wasn't up because there were people using it. Ms. Henson asked if there is any indication that the homeowner will stop using it for access? Mr. Jannell said he will write a letter stating that per the approved plan it can only be mowed once annually. This will likely prompt another site visit.

### **Chairman's Business**

#### **Wastewater Management Advisory Committee Update**

Ms. Farber reported on their meeting with DEP to present their draft outline for an amended wastewater management plan. There are two wastewater articles on the town meeting warrant that require no additional money.

Meeting minutes 9/19/23

**MOTION:** A motion to approve the minutes was made by Jerry Wander and seconded by Ginny Farber.

**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 was adjourned at 11:29 a.m.

Submitted by: Kristyna Smith, Principal Clerk, Orleans Conservation