


Orleans Conservation Commission
Nauset Room or Via Zoom
Hearing, Tuesday, July 16th, 2024

ORLEANS TOWN CLERK

'24 AUG 6 1:45PM

PRESENT: Chair Drusilla Henson, Vice Chair Jerry Wander, Clerk Ginny Farber, Member Walter North, Member Bob Rothberg, Member Judith Bruce, Member Maia Ward, Associate Member Ken Johnson, Associate Member Tim Payson, Associate Member Dick Hilmer, & Conservation Agent John Jannell

8:30 a.m. Call to Order

Request for Determination

Edward J. & Susan J. Merritt 92 Brick Hill Rd
By Ryder & Wilcox, Inc. Map 28, Parcel 59. The proposed removal of an existing septic tank and replacement with a MicroFast tank in the same location. Work will occur within the 100' buffer zone to a Wetland.

Stephanie Sequin, Ryder & Wilcox, was present to review the application. She explained why the applicant is required to upgrade their septic system. Ms. Bruce suggested a layer cake system. Ms. Sequin said this would add significantly to the scope of this project. Ms. Farber requested that the plan note be revised to say revegetated with natives.

No public comment was heard.

MOTION: A motion to close the public hearing was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project with a negative determination at 92 Brick Hill Rd was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Notices of Intent

Rudy P. & Carol B. Stalzer 19 Megs Ln
By J.M. O'Reilly & Associates, Inc. Map 48, Parcel 58. The proposed removal of an existing dwelling and reconstruction of a new dwelling within the same footprint, including a new gravel driveway, and invasive species management. Work will occur within the 100' buffer zone to a Bordering Vegetated Wetland and within the Pleasant Bay ACEC.

Matthew Farrell, J.M. O'Reilly & Associates, was present and reviewed the application. Michael Thanis, Blue Flax Design (BFD), was present and reviewed the existing conditions of the vegetation on site and reviewed the proposed mitigation plan. There is proposed invasive plant removal throughout the entire property, much of the lawn will be converted to native plantings, and they will be replacing trees around the house with 5 additional trees.

The Commission and Mr. Farrell discussed the metrics for the existing versus proposed coverage calculations and increased size.

Mr. Payson requested the shed be on the opposite side of the driveway out of the 50' buffer zone.

Ms. Bruce said any increase in volume is an increase in use and this is in a resource area. There is no way she can make this fit within our regulations.

Ms. Henson said the increased use in the ACEC is the problem with this plan. The negative presumption can be overcome with more mitigation. She stated she was unhappy with the loss of the trees.

Ms. Bruce suggested perhaps the additional basement space could replace the shed.

Ms. Ward said the volume increase would need to come down.

Theresa Sprague, BFD, was present in the meeting room and came up to the podium. She said we can absolutely move the shed outside the 50' buffer zone. She asserted that the plan is an overall improvement to the protection of the resource areas.

The Commission requested a note that said no materials be stockpiled in the 50' buffer zone.

Mr. Jannell asked the staff of BFD about the layering of vegetation. Is there a sufficient amount of each cover type both to remain and proposed. Mr. Thanis reviewed the existing vegetation and the treatment that would occur. By removing the vines they would allow growth and regeneration of the shrub layer.

Mr. Jannell suggested that the representatives consult Chapter 14 of the local regulations and provide a detailed and succinct table that deals with the calculations that include the building.

Ms. Henson said if you're going to stick with the same volume increase, they will require no gravel driveway or shed and some newly mitigated areas down closer to the edge of wetland.

No public comment was heard.

Mr. Farrell asked for a continuation to 8/6/24.

MOTION: A motion to continue the public hearing to 8/6/24 was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Gerald T. & Caroline C. Mulligan, Ewing Drive Nominee Trust 16 Ewing Dr
By Cape Cod Engineering, Inc. Map 93, Parcel 17. The proposed extension of an existing stone revetment for Coastal Bank stabilization. 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 and reviewed the application. Gerald Mulligan, property owner, was also present. Mr. Perry reviewed the proposed extension to the existing revetment.

Mr. Jannell reviewed the property history including a similar fix on the other side of the revetment that had occurred.

Mr. Rothberg asked about the condition of the Division of Marine Fisheries (DMF) letter about working in an area abutting mapped shellfish areas. Mr. Jannell said perhaps we can get

more detail on what's actually happening below Mean High Water or request they tighten up the limit of work.

Mr. North thought we should engage with a coastal specialist and get a third-party review. He said the Commission's mantra is to avoid, minimize, mitigate and this proposed extension is extremely long. He asked, is there an alternative? Perhaps wrapping it around and making it shorter.

Ms. Farber stated that the Commission permits projects like this to protect buildings, but not land, so she requested evidence that the erosion rate from the edge of the proposed revetment to the house is threatening.

Ms. Henson said nature should reclaim some parts of this property. Ms. Henson said her vote was going to be to shorten the revetment proposal and let mother nature take some of the area. We need places for marshes to migrate to and this is a perfect spot for it. Ms. Henson said she would like a post-work planting plan for lost trees. Ms. Henson said she noticed mowing right down to the edge of the marsh and she asked them not to do so anymore.

The Commission had questions about the sand lifts. Mr. Perry discussed the function and design of the sand lifts and why they don't end up floating away like coir logs do.

Mr. Payson asked how long it will take for the construction of the revetment. Mr. Perry said about 2-3 weeks. Mr. Payson asked when they will start construction. Mr. Perry responded, always during the off season, likely between Nov. and Mar.

Mr. Perry said they are going to look at an alternate length and he will refer to the shellfish maps.

Mr. Jannell said he would send an email to Bryan McCormack, the coastal processes specialist at the Cape Cod Cooperative Extension, with the Commission's specific questions and comments. Questions and comments include: The appropriateness of the length, especially the part below the flood elevation; given our local regulations, can he look at a possible terminus and give his opinion on the length overall and best appropriate place to terminate the CES and transition to a soft solution; the efficacy of a soft solution in this area; what are the best management practices and materials for coir lifts; a consultation on sediment transport to get an idea of volumes; erosion rates; comments on the importance of maintaining the health of the marsh and the balance between protecting the structure and the salt marsh retreat; how much erosion is happening because of the existing revetment; Should it curl around to protect the house instead of the land; what would a proper return look like.

No public comment was heard.

Mr. Perry requested a continuation to 8/20/24

MOTION: A motion to continue the public hearing to 8/20/24 was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

By Riley & Norcross, LLC. Map 46, Parcel 3. The after-the-fact application for the placement of storage containers over the existing parking area and turf lawn. Work occurred within the 100' buffer zone to Wetland.

Jamie Norcross, the attorney representing the property owner, was present via Zoom. Mr. Norcross reviewed the history and timeline since the previous meeting. Bob Rego, River Hawk Environmental, was present via Zoom and reviewed the application and the site.

Mr. Payson said he saw the containers as a barrier for wildlife to get to the wetland. He asked that every third container be removed so wildlife can navigate to the wetlands.

Ms. Bruce concurred with Mr. Payson's proposal. It is a complete impediment to a wildlife corridor so it would need to be resolved.

Mr. Jannell pointed out to the Commission and the applicant's representative that the Commission was waiting for a stormwater report or an argument that it doesn't apply.

Mr. Rego said there are only four things that exempt you from filing a stormwater report but that he will provide a letter that there is zero impact. Mr. Jannell asked him to include how the stormwater system on site functions. Mr. Rego said we can certainly do that.

Mr. Wander said in his opinion there is no impact to the wetland interests. He didn't believe there was a barrier to wildlife travel.

Ms. Henson said one possible impact is the storage containers being on the grass. Ms. Farber asked what the volume and sq ft in coverage of the containers is. She called the containers a de facto expansion of the parking area because they aren't just in the parking area, they are in the grass. She questioned would the Commission have accepted an application to expand the parking area? She thought they may want stormwater mitigation. She said spacing between the trailers is important. There could be ongoing maintenance of the catch basin.

Mr. Rothberg said he agreed with Mr. Wander, he didn't think it was hindering wildlife. Ms. Ward said there are potentially 1 or 2 containers that could remain on the paved area only if they could be placed in a way that did not impede stormwater.

Mr. Rego said that they will move the containers 100% off of the grassed area. He said this was formerly a parking lot with cars parked on it. Cars would have more significant impact than containers.

Ms. Ward said there is always wildlife. Neglect or mismanagement is not an excuse for further development.

Ms. Henson said we need a stormwater report and a DEP number so we can't act today.

Mr. Rego said wildlife would have to walk 100' to get around it, there isn't a complete block for wildlife movement. Mr. Rego requested a continuation to 8/6/24.

Don Cameron, property owner, was present via Zoom. He said he is the new owner of the property and he apologized, he didn't know he required permission because the containers are widespread throughout the town. He stated that he cleaned up the property including fuels and debris. He discussed wildlife corridors and the fence that runs the entirety of the property line.

MOTION: A motion to continue the public hearing to 8/6/24 was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Certificates of Compliance

Nauset Marine Realty Trust LLC 3, 7, 11 Barley Neck Rd & 34, 36 High Tide Ln
DEP #54-2544: The construction of a building, partially in jurisdiction, and associated site and landscaping work. Work occurred within the 100' buffer zone to the Top of a Coastal Bank.

Mr. Jannell said he completed his site inspection, and this project can be found in substantial compliance.

MOTION: A motion to approve the issuance of a Certificate of Compliance at 3, 7, 11 Barley Neck Rd & 34, 36 High Tide Ln was made by Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

Monitoring Reports

John & Anna Sommers 7 South Little Bay Rd
DEP # 54-2568

Mark & Gorman Kritzman 6 Hammatt Rd
DEP # 54-2545

The Commission did not have any questions or concerns about the monitoring reports.

Chairman’s Business

Mr. North asked if the Commission could have a joint session with the Board of Health at some point. Ms. Henson asked Mr. North if he wanted to produce an agenda. Mr. North said they could brief us on regulations in relation to septic systems. Ms. Bruce agreed that a joint meeting would be helpful between the two boards.

Meeting minutes of 7/2/24

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 Jerry Wander and seconded by Ginny Farber.

VOTE: 7-0-0 Unanimous

The meeting adjourned at 10:48 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation

