

Wilmington Planning Board
October 5, 2015

Board members present: Bob Peters, Judi Gould, Ray Curran, Bert Yost, Marilyn Moncsko and Tony Nickinello.

Public present: Steve & Susan Corvelli, Randy Preston, Derrick Martineau, Marcia McClelland, Renate Schneider, Judy Wilkins, Ralph Schissler, Justin Grassi, Michael Hill, Gary Duprey and Shirley Lawrence.

REGULAR MEETING CALLED TO ORDER at 7:00 p.m. by Bob Peters.

APPROVAL OF MINUTES

*A motion to approve the September 14, 2015 minutes was presented by Judi Gould, seconded by Bert Yost; A correction was added in Old Business stating that Bob Peters made no comments or voted upon the Adk Vacation Subdivision of 2015; motion with correction was carried unanimously.
. Bob Peters turned the meeting over to Bert Yost to be the acting chairman..

OLD BUSINESS:

1. 2 lot subdivision for Todd Ottenstein on Hardy Road The public hearing had to be cancelled because of a mix up. The public hearing has been rescheduled to October 14th at 7 p.m.

*The new map has been reviewed and the site has been visited by the Planning Board on September 28th. The following summary was read by Ray Curran

Summary of Wilmington Planning Board Field Trip of September 28, 2015 to Ottenstein sub-division site.

Planning Board Present: Tony Nickinello, Virginia Crispell, Marilyn Moncsko, Judi Gould, Ray Curran

Others Present: Cliff Holzer, Ralph Schissler, Tom Bombard

Notes:

No decisions were made.

Concerns from PB:

1. PB-Concerned with close proximity of a building to the edge of the wetland and the slight relief in the area with commensurate shallow depth to ground water. On Lot 1 (the lot without the house under construction). the foundation drains will be down slope of the septic drainage field and draining into close proximity of the wetland.
2. PB-What are the implications of having the building envelope upslope of the 150 foot scenic corridor setback line - closer to Hardy Road?
3. Tom LaBombard said they would not have to pump sewage upslope. Also agreed foundation drains would not be impacting ground water as much.
4. PB - Concern with close proximity of sewage effluent fields on Lot 1 and 2 to wetland edge. Can the alternate reserve area which is upslope of the primary area be used first?
5. PB - Concern with vegetation clearing and discussion of the area to be cleared. Are there cutting restrictions in the wetlands?
6. We are not sure but the answer given by Ralph was up to 25 acres of wooded wetland could be cut without breaking APA rules

7. PB- Concern with visibility from Hardy Road and visibility from nearby lots.
(Renate Schneider for example)
8. Ralph Schissler concern with whether PB would use 100' restriction from the wetland edge delineated by Spada to restricted placement of septic system.
this would be a real big design problem.
9. Answer: We believe this is an APA rule and pending further advise from legal it is not something the Wilmington PB will have to enforce nor are we required to use it as an obligatory setback.

Note: No decisions were made.

*Bert stated there were questions on the map about the septic location for lot 2. Dan Spada raised the issue of the septic and the recovery field being very close together.

*Ralph pointed the area out on the map and explained it to the board.

*Ralph Schissler would like approval tonight for the septic on lot 2. A verbal agreement had been made with the board during the site review to adjust the height and location of the septic.

*Judi Gould felt the board should move forward.

*Tony Nickinello noted that the height is ok on the existing lot and that it would have moved up higher on lot 1.

*Michael Hill, Attorney for 8 of the neighboring property owners stated that there are serious concerns with the proposed subdivision and the proposed septic system. Dan Spada's report shows that the 100' setback runs through both of the septic fields on lot 2 and the primary field on proposed lot 1. The map was reviewed with the board. He questioned why the board would ignore their own consultant.

Tony felt the septic for lot 1 is acceptable but not Lot 2.

On behalf of the adjoining property owners Mr. Hill requested that the board not ignore their own consultant's report over the APA report.

He stated that there is only one suitable septic field location on the entire property which would make it inappropriate for a 2 lot subdivision. Neither of the proposed septic fields on lot 2 meet the requirements of being outside of the 100' buffer.

*Ray suggested the board might get a legal opinion from the town lawyer. It is his understanding that the 100' distance from the wetlands is not a requirement that we are required to enforce and its a jurisdictional parameter for the Park Agency. A septic system within that 100' requires a permit from them. This is not a legal requirement. The APA has made a determination that the proposed septic systems are adequate.

*Judy Gould would feel more comfortable if the board had a legal opinion from the town attorney.

*Mr. Hill stated that all the town regulations require certain septic designs in order to meet the town's requirements in addition to state requirements. These proposed septic systems do not meet the requirements of the town regulations. They fail on all counts. There is only one location for a septic field and would ask that that location be used for lot under construction. There is not enough area for 2 systems and not enough enough replacement for the house being built. It also does not meet State requirements.

*Bert Yost noted that APA has given approval.

*Mr. Hill stated that Dan Spada's delineations does not make it approvable by the town. He doesn't understand why the board would not approve his delineation after hiring him to make a determination.

*Judi Gould questioned what the next step is for the board.

*Ralph stated that they have an APA permit and they are not recognizing Mir. Spada's delineation and neither is the APA

*Mr. Hill again asked why they would not recognize Mr. Spada's delineations.

*Ray Curran felt they should ask the town attorney how important that 100' setback delineation is to the board legally.

Bert Yost suggested tabling the issue until they have spoken with the attorney.

*Ralph questioned the moving of the building from the 150' to 105'.

*This would be addressed after the subdivision.

*The public hearing is for the subdivision.

*Mr. Hill noted the public hearing is being held based on what is submitted and if there is a change that is not appropriate procedure and the public hearing would have to be reschedule with a new application.

*Bert Yost noted that the public hearing is for the 2 lot subdivision.

*Mr. Hill thought the moving of the location was for the extra space for the septic fields.

*Ralph stated that there is no problem with moving ahead with the application as it is.

*Ray Curran noted that it could be approved with conditions.

*Judy Gould felt they should ask the APA to come to the public hearing.

*Bert stated that they refused when they were asked. They have given their opinion already.

*Mr. Hill pointed out that the jurisdiction of this board is separate from the APA. Its authority is of equal level with the APA. A permit from the APA is necessary for getting an approval. The town does not have to adopt the APA's approval. He would ask that the board utilize their consultants' determination.

*Ralph noted that the town does not have regulations that supersede the APA.

*Mr. Hill...the town regulations give the board jurisdiction regarding septic.

*Mr. Hill....what map will be the subject of the public hearing. Is there one with the proposed house location on the second lot.

*Ralph stated the placement of the house is not subject to review as part of the proposed subdivision application.

*The potential developable area is so tight it is critical to know where the proposed house will be so that it will be compliant with state regulations.

*Ralph...the APA has addressed that.

*Mr. Hill...disagrees and encourages the board to accept Mr. Spada's wetland delineations.

*Judy Gould wishes to have an opinion from the town attorney before more discussion

NEW BUSINESS-NONE

CORRESPONDENCE

1. Essex County Clerk-None

DISCUSSION

1.*Gary Duprey felt that it is proper to look at the application as a whole.

2. Vacation rental tax being considered by Essex County on September 28th.

ADJOURNMENT: Motion to adjourn at 7:45 by Marilyn Moncsko; carried unanimously.