

**Wilmington Planning Board**  
**June 1, 2015**

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

Public present: Randy Preston, Ralph Schissler, Steve & Susan Corvelli, Marcia McClellan, Judy Wilkins, Stephen & Wendy Hall, Mark Laske, Kathy Suozzo, Sue Ellen Gettens and Shirley Lawrence.

**CALL TO ORDER** at 7:02 p.m. by Bob Peters.

**APPROVAL OF MAY 4, 2015 MINUTES**

The following corrections were submitted by Judi Gould:

\*Page 4-Judi Gould felt the word "purged" should be changed to "organized" and stated that the old information will be kept and filed appropriately. Motion to approve minutes with **corrections** by Judi Gould, seconded by Tony Nickinello; carried unanimously.

**OLD BUSINESS:**

**1. 2 lot subdivision for Todd Ottenstein on Hardy Road**

\*Bob Peters recused himself from discussion and voting because he neighbors the property. Bert Yost will be Acting Chairman for this discussion.

\*Ray Curran updated the board on his meeting with Susan Parker of the APA. The following items were noticed:

\*\*The wetness of the land.

\*\*They looked at the area where the test holes were dug.

\*\*There was water around the foundation of the house that is being built.

\*\*The filter fabric is very effective.

\*\*The edge of the wetlands seemed to be a mystery. He felt there were areas that were wetter.

\*\*Soil is saturated on the surface in several areas and have been marked. There is quite a distance between these areas and where the wetlands are. Site conditions are questionable in these areas.

\*\*Soils in the area of the test pits seem to be consistent with having 2 feet of good soil.

\*\*Todd had told Sue Parker that they would have new plans soon.

\*\*Should keep in contact with the APA process.

\*\*There is a letter in the file from the Town regarding the shared driveway. The town is satisfied.

\*\*Ralph Schissler has updated plans and drawings.

\*\*He stated that they are not under site plan review. This is only a 2 lot subdivision. The review of the site is not under the jurisdiction of the Planning Board.

\*\*An email from the Town Attorney with his recommendations was discussed.

\*\*Judy Gould stated that this was being deemed as a single family residence but is being advertised as a vacation home. Code states that it is the boards responsibility to consider the neighborhood. This area of the code was reviewed.

\*\*Ralph stated that there is nothing in the code that addresses vacation rentals and would need a legal opinion. He would like to see the town attorney at a meeting to try and resolve the legal questions.

\*\*Ralph stated that the wetlands and septic are under the review of the APA and not the town.

\*\*Ralph submitted new updated plans and an amended application and discussed them with the board.

\*\*Bert Yost questioned if the new plans were for a vacation home. Ralph stated that it didn't matter and would need a legal opinion. He would be happy to have his attorney attend the next meeting also.

\*\*One 3 bedroom house for the owner and one 6 bedroom house for vacation rental.

\*\*Ralph reviewed the steps taken to date. He questioned who he should deal with now that Bob Guynup is gone. Randy Preston told him to call Tom Worthington and make arrangements.

\*\*The board is still waiting for input from the APA which should be available by the next meeting. The APA is the lead agency.

\*\*Ralph stated that, according to Todd's attorney, it would be courtesy to get permission before visiting the site.

\*\*Ralph would like to be on the agenda for the next meeting along with both attorneys present.

\*\*Randy Preston stated that Ralph had no right to represent the town and relay information given by the town attorney and the interpretation of such. Randy requested that the letter be made a part of the minutes and official record.

From: Dean Schneller [Dean@schnellerlaw.com]

> Sent: Thursday, May 21, 2015 3:22 PM

> To: 'Janet Bliss'

> Cc: Randy Preston

> Subject: RE: Ottenstein Matter

>

> Janet,

>

> Thank you for providing the below information. As I understand your position, your client has recently modified his plans so that the single family residence will be located more than 150 feet from the centerline of Hardy Road. Based on this relocation of the footprint of the building, you questioned whether Site Plan Review is triggered under the Scenic Road Corridor.

>

> Upon review of the Zoning Code's Scenic Road Corridor requirements, I generally agree that the relocation of the intended footprint of the house beyond the 150 foot setback suggests that subsection B of this section(i.e. site plan review) is not triggered. However, since I have only seen the recent plans, and have not reviewed the other components of the application, I cannot say with certainty that site plan review is not triggered by some other component of the application. To that end, I will defer to the Code Enforcement Officer, the Planning Board, or other Town officials who have reviewed the entire application, as to whether site plan review is triggered by some component of the application—other than the prior location of the building footprint.

>

> In addition, while I agree that any minor subdivision will require its own review, I note that per Resolution 224-07 and Local Law #2-2007—which are conspicuously referenced on the Town's subdivision application checklist—any subdivision, at any time, may require outside expert review at the applicant's expense. In other words, this additional survey/engineering may be required during the subdivision review, assuming the site plan review is not required.

>

> If you have any questions, please do not hesitate to contact me.

>

> Thanks,

>

>

> Dean C. Schneller, Esq.

> Law Offices of Dean C. Schneller

> [www.schnellerlaw.com](http://www.schnellerlaw.com)<<http://www.schnellerlaw.com/>>

\*\*Money has not been put in escrow yet for our consultant review. Ralph felt there was nothing to review yet.

\*\*It was felt the conversation should cease since both parties are represented by attorneys.

\*\*There has been a formal request for information under FOIL.

NEW BUSINESS-Don DeMacy

\*Inquiring about subdivision of land.

- \*Divide 3 lots divided among the nine kids.
- \*Is possibly exempt because it is within the family.
- \*It would still need a plot plan to make it acceptable.

2. Kathy Suozzo, PE representing Steve and Wendy Hall.

- \*Informational meeting to give an update on plans for the Adirondack Wildlife Rehab Center.
- \*There would be educational programs at the site.
- \*Would have municipal water and power to the site.
- \*She presented a tentative informational site plan and proposed future plan.
- \*A septic area has been identified by the APA and the permit process has been started.
- \*They will be starting the permit process with the town when they have funds to begin the project.
- \*They have met with Essex County and they suggested they start the permit process.
- \*Randy Preston voiced the support of Town of Wilmington Town Board.

**CORRESPONDENCE:**

1. Essex County Clerk-New filings for April 2015-Patrick McIntyre & James C. Winch.

**DISCUSSION:**

Ray Curran attended Local Govt Day....session by Mark Shackner...session on how to deal with hostile applicants. There was lots of good advice on how to deal with this.

Discussion on Ottenstein project:

- \*There was discussion on the necessity to get permission before visiting the site.
- \*It was felt this will be a lawyer to lawyer discussion.
- \*If the subdivision goes through, there can be restrictions.
- \*Board should be talking to the owners
- \*The board needs to contact the attorney to attend the next meeting. Bert Yost will contact the attorney.

Planning Board to meet with the ZBA on June 17th to discuss updates to the code book.

Meeting adjourned at 8:32 p.m. upon a motion by Tony Nickinello.