

Scituate Board of Health Meeting
Wednesday, August 2, 2017
Scituate Town Library
The Community Room (lower level)
6:00 P.M.

MEMBERS PRESENT: Mr. Doug Whyte, Chairman
Mr. Steve Pansey, Board of Health Member

OTHERS PRESENT: Ms. Jennifer Keefe, Director, Public Health,
Ms. Joan Schmid, Administrative Assistant

Mr. Pansey called the meeting to order at 6:05 p.m.

Acceptance of the Agenda- A motion was made and seconded with all in favor of accepting the agenda.

Scheduled Items:

6:00 MEETING CALLED TO ORDER/ACCEPTANCE OF AGENDA

SCHEDULED ITEMS

Discuss/Vote: Sub Division Plan- 90 Ann Vinal Road (Curtis Estates) - Paul Mirabito, Ross Engineering

Mr. Mirabito from Ross Engineering attended the meeting to present the sub-division plan for 90 Ann Vinal Road (Curtis Estates). Mr. Mirabito indicated he is attending the meeting because he has submitted plans to the Planning Board and Zoning Board. Per State regulations, the Board of Health needs to review the plans and give comments to the Planning Board within 45 days of receipt. This design is for sixteen lots that will have a shared septic system. Mr. Mirabito indicated that each house will have a septic tank, which will go into a sewer line on the street and down to a pump chamber where it will be pressure dosed to the leaching field. There will be a reserve area built at the same time and they will need to come up with a financial arrangement with the owners there will be money to replace the system in the future, and the owners will not have to come up with the money at that time for replacement. There will be an operation and maintenance agreement in place for the system. Each homeowner will be responsible for the care and maintenance of their individual tank. The Board asked if the homes will all have the same number of bedrooms and Mr. Mirabito indicated that they would have four bedrooms and the system will be built for four bedrooms per home.

Mr. Mirabito noted that this is a better solution so they do not have to take down a number of trees for individual septic systems. He stated that they did perc tests within the state requirements but after they were done, they realized that a shared system would be a much better solution. He further indicated that some of the perc rates were pretty high in some areas.

The Board asked for the elevation grade from the start of the road to the leaching filed area on the map. Mr. Mirabito noted that the spread elevation grade is from 36 at the start of the road to 27 near the leaching field area. Mr. Mirabito showed the Board the lots and open space on the plan. The Board noted that many of the lots are a third of an acre and a couple of them are smaller. Mr. Mirabito noted that the lots have to be at least 20,000 square feet.

The Board noted that Ms. Keefe had a concern about sixteen lots and she thought fifteen lots would be better. Ms. Keefe indicated that she reviewed each of the plans and identified several items leading to recommendations for conditions for the Board to consider.

After review of the existing conditions plan, Ms. Keefe noted that if any of the existing structures are to be demolished as part of the proposed project, asbestos and pest inspection reports will be required for a Board of Health sign off for a building permit.

Mr. Mirabito noted that he has gone to the Historic Commission and they have proposed that they move the existing home. The existing kitchen sits on the ground and that will come off and the home will move forty feet to a lot he pointed out on the plan. It is currently on the middle of the proposed road. The Historic Commission told Mr. Mirabito that the existing structure could be moved to a new location but it could not be demolished. Ms. Keefe noted that there is another structure there and she wanted to ensure that any of the structures are demolished, the Board of Health needs to get pest and asbestos inspection reports just like any other demolition project in order to sign off on the permit.

She also noted that she is recommending that the existing cesspools and system components need to be abandoned in accordance with Title 5. The existing private well, if it will not be used by any of the lots, will need to be abandoned in accordance with the Town of Scituate Private Well Regulations. According to the Scituate Water Division and Board of Health records, it was previously an unregistered well.

Ms. Keefe noted that the objective of the sub-division plan is to review if homes could be built under the conventional layout. Ms. Keefe reviewed the plan under the conventional layout by looking at the Conventional Density Sketch Plan that was provided and in conjunction with a copy of the Test Pit Location Plan/Proposed Subdivision Plan also provided and submitted to the Board of Health. She reviewed the test hole locations and perc test results to determine if it met both the State and local requirements for each proposed lot. The requirements include four test holes and three perc test rates per lot and the perc tests need to be 60 minutes an inch or less in order to pass for new construction. Ms. Keefe pointed out to the Board that on the plan provided conventional lot number sixteen had only two test holes and no perc tests conducted. Ms. Keefe noted that all of the other lots had four or more holes and three or more perc tests with rates of less than sixty minutes and inch. Ms. Keefe showed the Board the perc test logs for the lots, and the State regulations she used for review. Ms. Keefe added the perc rates and depth to water for each lot to the plan. Ms. Keefe again noted that there were only two test holes and no perc tests for lot sixteen. Therefore, she is suggesting that the Board could currently approve fifteen lots until holes and perc tests could be performed to meet the regulation and the engineer could provide that data for approval of the sixteenth lot.

The Board did not understand and asked if the plan is to have one system for the subdivision, why it would need to meet the regulation for each lot. Mr. Mirabito noted that this was the last lot they evaluated and realized that with the high perc rates and high groundwater they were going to have to have high mounds on each lot. They did not go any further and that was when they decided to design a shared septic system. Mr. Mirabito believed that with the Flexible Open Space Development Plan, the regulations for a subdivision indicate that one perc is needed for each lot and not one perc on each lot. Mr. Mirabito also noted if they are building a road for sixteen lots, the Town wants to know if the subdivision has suitable soils for an onsite septic system. He has noted that for this plan, there is one perc for each lot and the percs do not necessarily need to be on each lot with 45-50 perc tests total. Mr. Mirabito indicated the subdivision has more perc tests than what is required by Title 5. Ms. Keefe noted that the local town regulations for new construction require four test holes and three perc tests for each lot. Mr. Mirabito agreed but indicated under the subdivision rules and regulations they need to show one perc for each proposed lot and the plan gets reviewed for each lot being on a separate septic system because there is no Town sewer in that location.

Ms. Keefe provided Mr. Mirabito the Town of Scituate Board of Health Subdivision Rules and Regulations and asked Mr. Mirabito to point out the section that indicates one perc for each lot.

The Board asked Ms. Keefe if the setbacks are all okay. The Board asked how they are to vote on the number of lots if they do not know if the homes can be supported by the system and the leaching field. Ms. Keefe made note that the Board is not approving a septic design.

Ms. Keefe read from the Board the Massachusetts General Law as well as Subdivision Rules and Regulations, which make it clear that approval for a subdivision plan shall not be treated as an application to construct a sewage disposal system on any lot.

The Board asked Ms. Keefe, what additional perc tests on the last lot do for this subdivision. Ms. Keefe noted that under the conventional layout the Board decides if each lot can support a septic system. Ms. Keefe noted that on the plan, there were some percs that failed but they had enough test holes and perc tests completed, within the allowable rate of 60 minutes an inch or less on all but one lot.

Ms. Keefe made note again that the local Board of Health Town of Scituate regulations for septic requires four test holes and three perc tests per lot. This is Ms. Keefe's interpretation of the regulations. It is for the Board to decide, under the conventional layout, if this lot does not need to meet the requirements.

Mr. Mirabito pointed out, that in the subdivision laws, a building needs to be put on a lot without injury to public health. Mr. Mirabito noted that assuming they had no perc tests and they wanted to build on the lot, they still could build as long as there was a septic system. He noted that they could develop this lot as a condominium, similar to Doctors Hill with a common leaching area. Under State regulations, a condominium association can have a common leaching area. Mr. Mirabito inferred therefore they did not need to perc the lot if they would make condominiums and the septic system could be in a common leaching area. He noted that the reason they did not complete perc tests in that area was because it did not make sense after they did the grading for the road way and the ground water was coming up. Mr. Mirabito identified the advantages of the shared septic system. He noted that the system needs to be inspected every year and when the owners sell the home they will not have to expend thousands of dollars into a new septic system.

The Board noted that they need to approve, disapprove, and make conditions or recommendations to the Planning Board by Friday. The Board also noted that perc tests were done on fifteen lots and they got to lot sixteen and did not complete any.

Mr. Mirabito noted that the reason they stopped was obvious. He was working with someone in his office and they were concerned about groundwater coming up and sizing the system for four bedroom homes. They were going to need to design with retaining walls and five and six foot mounds. He indicated that the road was going to have to come up and it was not going to look good. They could do it physically but it did not make sense. He noted that was why they stopped at lot sixteen. He stated that every lot needs to be serviced by a septic system and further stated that the soil logs showed they had passed.

The Board asked when the perc tests were done. Ms. Keefe noted that they were done in July and September 2016 and lot sixteen was evaluated in October 2016. The Board asked if the decision needs to be made at tonight's meeting. Ms. Keefe noted that it does need to be at this meeting.

Ms. Keefe noted that regardless of their decision to vote on fifteen or sixteen lots, she has recommended that the Board attach several conditions to any approval. Ms. Keefe noted the following recommended conditions:

- 1) The installation of a septic system serving the dwellings in the subdivision must meet all requirements of 310 CMR 15,000, the State Environmental Code, Title 5, including but not limited to 310.290 through 15.292, and the Town of Scituate Board of Health Supplementary Rules and Regulations for Disposal of Sanitary Sewage.

The Board asked why this would not be a condition at the time the septic system design plan was submitted. Ms. Keefe noted that in past subdivision reviews that has been a standard condition.

The Board thought it would be a given and Ms. Keefe indicated that it is not a given. Ms. Keefe noted that the Board approves the subdivision based on the assumption that a septic system can go in. Ms. Keefe let the Board know that there is no system design submitted to date and there should be a condition based on the regulations. Mr. Mirabito noted it is subject to approval.

- 2) The system(s) must have an audio and visual alarm that must be in close proximity to and visible from the street so any of the residents can hear.

Ms. Keefe gave the Board the list to review which included the remaining recommendations:

- 3) If a shared system is to be installed as proposed, then each dwelling will need a separate septic tank on its parcel leading to the proposed shared leaching field.
- 4) An operations and maintenance plan will be required.
- 5) Each dwelling will need to have a deed restriction recorded with the Plymouth County Registry of Deeds identifying and limiting the number of bedrooms. This number should be consistent among the dwellings and the definition of bedroom to determine the number of “bedrooms” is to be the definition provided in 310.002.
- 6) A written mosquito control plan is required for the basins. This should be filed with the Board of Health and must include provisions for permanent access to the basins for maintenance.

Mr. Mirabito noted that the plan will have storm water basins, which will also have an operation and maintenance plan. Ms. Keefe noted that she did see an easement plan but field and life conditions can change things. So these are general conditions like the alarm that it isn't put in one home so others cannot hear it.

- 7) No structure or plantings may be installed on the leaching field parcel other than those required for the proposed septic system.

The Board asked if they approved the fifteen lots then they would approve the last lot when it comes back and if it percs. Ms. Keefe agreed that they could then approve the sixteenth lot. She noted that the Board has the option of approving the sixteen lots based on the information. The Board has the option of approving a fifteen lot subdivision and requesting additional information. When the additional information comes in they would review it to make a decision.

The Board noted that even if they approve or disapprove, all the conditions would be with the plan. Ms. Keefe noted that this was her recommendation to the Board. The Board shared the written conditions with Mr. Mirabito.

Mr. Mirabito noted that he laid everything out on the final plans for the sixteen lots and noted they could go out and perc again but the soil logs they have indicate that the soils are very consistent. He does not think there is a need to go back and perc because the test pits show that the test pits are consistent. He noted that if they did perc again and lot sixteen did not perc he could come back and show a plan for two lots to sell as condominiums and they have done that before. Ms. Keefe noted that in terms of consistency, or lack thereof, she pointed to one corner of the plan, which shows a perc rate of 9 minutes an inch up to greater than sixty minutes an inch. She would not consider it consistent based on that information.

The Board noted that they are confused since whether or not the sixteenth lot passes, the entire plan is going into a master leaching field where the soil seems to be okay. Ms. Keefe agreed but it is variable.

The Board asked Ms. Keefe what they would gain by having them perc lot sixteen. Ms. Keefe noted it was the decision the Board needed to make. The Board was looking for the pros and cons. Ms. Keefe noted that to meet the local regulation for new construction the last lot should have perc tests. The Board indicated that this is in a preliminary phase. Ms. Keefe noted that she heard that Mr. Mirabito is ready to submit the septic system design the next day and therefore does not believe it is in a preliminary phase. Mr. Mirabito agreed.

Mr. Mirabito pointed out that some comments are coming back on subdivisions. He noted that each lot has to have its own separate septic system or it's not a buildable lot. In the proposed plan there is a shared system which in his opinion is the best option. The Board asked Ms. Keefe how many shared systems there are in Scituate. Ms. Keefe noted she has been involved in three or four.

Mr. Mirabito noted that they designed the first Massachusetts shared system in Norwell and Scituate. Ms. Keefe noted there are probably six and she has been involved with problems on three or four. The Board asked what type of problems.

Ms. Keefe spoke of her initial conversation with Mr. Mirabito about a shared system and the option of each home having its own septic tank verses one septic tank for all homes with one leaching field. Ms. Keefe's preference is for there to be one tank per home, which is what appears to be proposed for this subdivision, with the septic plan to be submitted tomorrow. Ms. Keefe prefers one tank per home since there may be one or two homeowners who do not understand how to treat a system. If there is a problem, it can be isolated with everyone having their own tank, instead of trying to determine where the problem is coming from with a single tank.

Mr. Mirabito noted that they put a filter on the inlet and the outlet of the tanks. If the first one does not pick something up then the second one will. They need to be cleaned once a year. If there is a problem with an individual tank, the homeowner will have to take care of it. He also noted that some homeowners are very careful about what they put down the septic system and some are not so careful.

Mr. Mirabito noted that Ross Engineering has been designing these types of septic systems for forty-five years and they have never had their design fail. He also noted that Ross Engineering designs are very conservative. The Board noted that they are not at this meeting to review the design of the system. They are to review and vote on the subdivision with any recommendations to the Planning Board.

Ms. Keefe again noted that options would be to approve the sixteen lot subdivision and attach or not attach recommended conditions or approve the fifteen lots with conditions and request further information for the sixteenth lot.

Ms. Keefe noted another aspect of the review is the drainage basins. Historically, the Board of Health has reviewed these for a subdivision. Ms. Keefe noted that there is usually a homeowners association and written documentation and easements providing access to the basins for maintenance.

Mr. Mirabito noted that there are five basins that are either in an open area or are proposed to have an easement for access. Mr. Mirabito noted that some are wooded to keep the trees. Ms. Keefe stated that without an easement it would be difficult to get through someone's yard so an easement would be required for long term access.

The Board asked Ms. Keefe if any of the conditions are standard requirements. Ms. Keefe noted that they are not except for the Title 5 requirements; operation/maintenance plans for some systems and the deed restrictions limited the number of bedrooms.

The Board made a motion to disapprove the proposed 16 lot subdivision as provided but approve a 15 lot subdivision based on the current data provided.

Additional data could be collected at Lot 16 of the Conventional Density Sketch Plan to meet the requirements of 310 CMR 15.000, The State Environmental Code, Title 5 and the Town of Scituate Board of Health Supplementary Rules and Regulations for Disposal of Sanitary Sewage. The Board of Health, upon receipt of the additional required data, could then re-evaluate approval of that additional lot.

Either way, approving or disapproving, the following conditions were added to the motion:

- 1) The installation of a septic system serving the dwellings in the subdivision must meet all requirements of 310 CMR 15,000, the State Environmental Code, Title 5, including but not limited to 310.290 through 15.292, and the Town of Scituate Board of Health Supplementary Rules and Regulations for Disposal of Sanitary Sewage.
- 2) The system(s) must have an audio and visual alarm that must be in close proximity to and visible from the street so any of the residents can hear.
- 3) If a shared system is to be installed as proposed, then each dwelling will need a separate septic tank on its parcel leading to the proposed shared leaching field.
- 4) An operations and maintenance plan will be required.
- 5) Each dwelling will need to have a deed restriction recorded with the Plymouth County Registry of Deeds identifying and limiting the number of bedrooms. This number should be consistent among the dwellings and the definition of bedroom to determine the number of “bedrooms” is to be the definition provided in 310.002.
- 6) A written mosquito control plan is required for the basins. This should be filed with the Board of Health and must include provisions for permanent access to the basins for maintenance.
- 7) No structure or plantings may be installed on the leaching field parcel other than those required for the proposed septic system.

One Board member approved and one disapproved the motion. The motion failed.

Mr. Mirabito made note that most of the conditions will already be included, such as the audio alarms, since they have to be included with the shared systems. The Board assumes that they will do most of these conditions and made note that the alarm needs to be visible and be heard by neighbors. Mr. Mirabito did not have a problem with the conditions of the shared system.

Ms. Keefe noted that the Board could make another motion.

The Board made a motion to approve the sixteen lot subdivision as provided with the seven conditions stated in the first motion. The motion was seconded with all in favor of accepting.

Ms. Keefe noted that she will send a letter to the Planning Board, Welby Builders and Ross Engineering with the Board of Health’s decision to approve the sixteen lot subdivision with the Board of Health’s seven conditions.

NEW BUSINESS

None

OLD BUSINESS

None

OTHER BUSINESS

The Board reviewed and signed the administrative invoices for approval.

ADJOURNMENT:

A motion was made and seconded with all in favor at 6:52pm.