

TOWN CLERK
01 MAY 25 AM 10:01
DUXBURY, MASS.

Mr. Donahue said that it is sometimes necessary for sanitary sewers to cross over water mains. There are building codes designed to deal with these instances. Mr. Donahue said that Mr. Hillstrom's comments about sanitary sewers and vertical separation should be addressed in the Planning Board's recommendation.

Mr. Bliss and Mr. Tuffy, representing Welch Healthcare, were present. Mr. Bliss said that the applicant had done some "homework" regarding the water issue. The applicant has hired a water consultant, who accompanied Mr. Bliss and Mr. Tuffy to the meeting. Mr. Bliss asked for the opportunity to present their ideas on the water issue. Mr. Donahue said that at this point, the Board needed to work with the material which has already been presented. The task for this meeting, said Mr. Donahue, is to hammer out the language of the Planning Board's recommendation.

Mr. Broadrick presented the Board with a draft of the recommendation. The Board made comments on the content of the recommendation. It was suggested that Mr. Broadrick incorporate the changes and fax them to Mr. Donahue on Tuesday (May 15) morning for a final reading.

Ms. MacNab made the motion that the Planning Board forward the recommendation, as prepared by Mr. Broadrick and reviewed by Mr. Donahue, to the Zoning Board of Appeals. Mr. Wilson provided a second for the motion, which passed by a vote of 6-0.

SPECIAL PERMIT RECOMMENDATION: Cheryl A. White/Pilgrim By-Way

Mr. Broadrick was asked to give a history of the situation. Mr. Broadrick reported the following:

The application is an appeal of a determination by the Director of Inspectional Services that this lot is unbuildable. In fact, one cannot appeal a "determination", one must apply for a building permit and be denied in order to appeal or to seek a variance or special permit.

Prior to the advent of subdivision control laws in Duxbury, two homes existed on one parcel (190-037-001). This allowed the owner to split the parcel into two lots sometime after 1979. However, the lots were nonconforming, with only approximately 100 feet of frontage each on Chestnut Street. One of the lots extends all the way back to Pilgrim By-Way, where it also has approximately 100 feet of frontage. At some point, one of the lots had a brand new house built upon it, in place of the old one.

Also at some point, the owner of lot 190-037-014 (Mrs. White et. al) purchased land from the owner of lot 190-035-002 (on Pilgrim By-Way). This gave 202.2 feet of frontage to lot 190-037-014 on Pilgrim By-Way. However, this purchase was done without a plan being submitted to the Town. The land was conveyed by deed.

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(It was noted that Mrs. White et. al tried to subdivide lot 190-037-014 on two other occasions. The first attempt was through an ANR plan. Planning Staff convinced Mrs. White et. al to withdraw the plan because it did not meet requirements. It was suggested that they apply for a frontage waiver request for lot 190-037-014. They did, and it was denied.)

After this conveyance, Mr. Tom Delano purchased lot 190-035-002, the abutting lot on Pilgrim By-Way. His understanding was that no house would be built next to him, since there was already a house on that lot. Mr. Delano was present at tonight's Planning Board meeting.

Then, in 1999, a "Compiled Plan of Land", was drawn by Stenbeck & Taylor, Inc. (engineers). This plan added a line, subdividing lot 190-037-014 into two lots. This was never brought before the Planning Board. The effect of this subdivision is to render lot 190-037-014 more non-conforming. This is the infectious invalidity argument.

Mr. Donahue noted that since the "Compiled Plan of Land" has never been presented to our assessor's office, Mr. Delano has been paying taxes on a portion of land that has been conveyed by deed to Mrs. White et. al. Mr. Donahue recommended that Mr. Delano bring this to the attention of the assessor's office.

Mr. Donahue said that the Planning Board should make no recommendation on this Special Permit application since it is improperly before the Planning Board (determinations of buildability cannot be appealed). However, he suggested that Mr. Broadrick write a letter to the ZBA stating the following: In the review of this Special Permit application, it was noted that a lot was created outside of the subdivision process, being done in a manner designed to circumvent land-use boards. By consensus, the Planning Board agreed with Mr. Donahue's suggestion.

Ms. MacNab suggested that a letter also be written to Stenbeck & Taylor about the impropriety of creating a lot outside of the subdivision control process. By consensus, it was decided that Mr. Broadrick would draft such a letter, and forward it to Mr. Donahue for review. Mr. Donahue said that the letter should contain language to the effect that Stenbeck & Taylor's lack of diligence in creating this plan could undermine their credibility with the Planning Board. Mr. Wadsworth's suggestion that a letter be sent to the licensing board which has jurisdiction over the work of Stenbeck & Taylor was not carried forward.

Mr. Donahue asked Mr. Broadrick to research the method by which the "Compiled Plan of Land" can be "unrecorded" at the Registry of Deeds.

SPECIAL PERMIT RECOMMENDATION: Susan Nichols/34 Pine Point Road

According to Mr. Broadrick, the existing dwelling meets front and rear setback requirements, but intrudes on the sideyard setbacks. The proposed dwelling still meets