

Town Council Workshop Meeting

Minutes

July 22, 2013

Roll Call

Councilors Anderson, Pierce, Mahoney, Farber, Goldberg and King were present and answering roll call.

Councilor Orestis arrived late.

Item 1 Discussion about whether to accept the private sewer system serving portions of the Woodlands Villas condominium association as public sewer with conditions.

Councilor Anderson stated that, while he lives in the Woodlands, he did extensive research and determined that he does not have a conflict of interest. This item pertains to the Villas condo association, which is separate and distinct from the Woodlands association to which he belongs.

The Councilors expressed concern about the policy decision implied in this action and wanted to hear whether this action would be in the best interest of the town.

Town Manager Nathan Poore said the downside is they are taking the liability. On the upside, a public entity is better equipped to manage it more efficiently and effectively than a private entity. They are looking to minimize the liability by asking that the system be upgraded to meet Town standards.

Councilor Anderson said it shouldn't be a policy but a case-by-case basis. It comes back to the Town to ensure the health of residents and backups would create a health issue. He was concerned that proper monitoring and maintenance would not be done on a private system. Goldberg and Pierce agreed.

Councilor Orestis arrived at the meeting.

Councilor Farber wondered why they permit private sewer systems in the first place. Mr. Poore discussed the reasons for allowing private development of roads and utilities.

Councilor King pointed out that the Villas are picking the engineer to examine the system and wondered why the Town didn't choose the engineer.

Pete Clark, Wastewater Superintendent, said he didn't have any issue with the engineer; it would be difficult to mask any deficiencies.

Councilor Farber asked if there was a capacity issue, both utility and staffing, if this opened a floodgate of similar requests. Mr. Clark said all these systems are already connected; the question would be manpower. There is an incremental addition when they take on additional pump stations to check every week. He felt they were at the point where they should add manpower. He didn't see the list as being beyond that addition. He felt that every system should be on a case-by-case basis.

Councilor Goldberg wondered who would be responsible if there was a major disaster involving a private system. Mr. Clark said the owner would be responsible. The Town would have some responsibility to observe that cleanup was handled, but the cost would be handled by the owner. The Town doesn't get involved in anything that is outside the street.

Councilor Goldberg asked about if the break was bad enough that it extended past the boundary of the property. Mr. Clark said DEP and a number of agencies would be involved. The Town would likely have the authority to go in and clean up and then bill the owner.

Councilor Orestis wondered if the private associations carried insurance for these systems to cover those types of situations. Mr. Clark didn't know.

Item 2 Workshop discussion of a proposed amendment to the Zoning and Site Plan Review Ordinance Section 6, regarding Nonconforming Residential Structures on conforming or non-conforming lots.

Justin Brown gave a presentation on what would be allowed under the current ordinance section 6.2, compared to what would be allowed under the proposed ordinance. The proposed ordinance would allow an accessory structure that met setbacks to be constructed on a lot that includes a non-conforming single-family dwelling. He felt the effect of blocking the accessory structure in the current ordinance was likely an oversight. In section 6.9, the current language allows a non-conforming structure to be torn down and rebuilt 10 feet from the property line, instead of meeting typical setbacks. The proposed language would allow the new structure to be built no closer to the lot line than the existing structure, up to 10 feet from the property line. Under section 6.10, any detached accessory structure can be rebuilt in its existing footprint with Board of Zoning Appeals (BZA) approval. The proposed ordinance would require the structure to meet setbacks "to the greatest extent practical". This gives the BZA the discretion on where the structure could be located. The goal of these proposed changes is to bring equity to how properties are treated in section 6.

Item 3 Workshop discussion of a proposed amendment to Section 5.22.3 of the Zoning and Site Plan Review Ordinance regarding Accessory Cottages.

Chair Pierce explained that this amendment would remove the percentage limit on accessory cottages.

Community Development Director Amanda Stearns explained that the current ordinance allows one single family home on a lot. A duplex, which would be two equal sized dwelling units, requires double the density for the lot. The physical restraints of the size of the lot limit the amount of development that can take place on the lot. The goal of the original ordinance was to allow small accessory cottages on a lot, with the idea of helping struggling family members. The idea was for these cottages to be subordinate to the main dwelling unit. An apartment over a detached garage is considered a cottage under the ordinance; if it is attached it would have to meet the accessory apartment standards.

Councilor Farber wondered if the Town loses anything in property taxes by allowing for these accessory cottages, rather than mandating that a lot be split into two lots.

Ms. Stearns said that unless the owners could meet all the requirements to subdivide, they could not condo or sell the accessory cottage. It has to remain in the same ownership. The market would value a legitimate duplex higher than an accessory cottage.

Councilor Mahoney was concerned that a developer could use this ordinance to circumvent the fees and process of subdividing a lot, building the cottage and then splitting the lot and selling it later for example.

At Councilor King's question, Ms. Stearns said the cottage would not require its own utilities.

Councilor Goldberg asked how many of these accessories are requested each year; Ms. Stearns estimated 6 per year.

Councilor Farber wondered why they would allow this for both a new, detached structure as well as above an existing detached structure. Ms. Stearns said the ordinance treats the apartment over the garage the same way as a cottage.

Item 4 Discussion regarding use of Town property to place and access temporary/seasonal docks.

Mr. Poore stated that there are 7 parcels along the shore where a strip of public property separates the mean high water mark from the private property. Typically this would be an easement, but in this case the Town owns the land. There is a wastewater collection system that runs along there. This request is for one of the property owners to get an easement to cross the Town's property and install a dock to access the water. The Council could agree to allow this with either an easement or agreement, or to not allow it at all. There are complications that would make selling the property problematic. The policy question is whether the Council wants to allow the water access and what conditions they would want to lay on that. There are two docks that have been put in across the Town land already and how those are addressed will be dictated by the Council's decisions on this request.

Mr. Clark explained that beyond the southern point the sewer line is on an easement. The entire line was on an easement originally; the land was turned over to the Town in 1982.

Chair Pierce asked whether it was better to own it or have an easement. Mr. Clark said the easement had a lot of restrictions.

Councilor Anderson wondered about liability to the Town with the two docks and about action on those two. Ms. Stearns said that the Town needs to take action on those two docks, both as the property owner and as a violation of the Town's ordinances. Four of these shorefront properties have received Planning Board approval to do some shoreline stabilization and also received a temporary construction easement from the Town.

Councilor Goldberg thought there was no reason why the town needed to own this property; easements would work. He asked if there was a way to dispose of the property. Councilor Farber pointed out that a member of the public could legally walk along the shore from Brown Street down. She wondered if they wanted to give up public access along the shoreline.

Councilor King wondered about the environmental value of this strip of land as a buffer and about the impact of that many docks along this strip. She voiced concern about damage to the shore from removing them every year and wondered if a permanent dock would cause less damage.

Councilor Mahoney pointed out that people are only allowed in the intertidal zone for specific activities, like clamming. He wondered if they can allow public access to the shoreline and also allow the docks. The DEP would evaluate the environmental impact of a temporary dock through their permitting process.

Councilor Goldberg asked how the public would cross the docks; Mr. Poore said that could be negotiated with the licensing agreement.

Councilor Orestis wondered who would be liable if someone was injured crossing a dock.

The consensus of the Council was that it was acceptable to allow the installation of docks. The Town would retain ownership of the land.

M. Stearns said if they were going to increase the use of the property by allowing the docks, they have to be mindful of how they are protecting the stabilized slope.

Mr. Poore said that a consensus was enough guidance for staff to go back and negotiate the agreements with the property owners. He asked if the Council was interested in a fee and what that should look like. He suggested that the Town should at least recoup their costs.

Councilor Anderson said the properties should all be treated equally, including those with the unapproved docks.

Mr. Poore asked if they wanted an annual license fee. Councilor King pointed out that the property owners already have to maintain and care for the property. Councilor Mahoney suggested putting the initial legal fees on those that installed the docks illegally. The Council didn't think an annual fee was necessary.

Ms. Stearns asked about renewal of the license. Chair Pierce didn't want to see dilapidated docks. The Council didn't see a need to renew the license but there should be language that allows the Town to revoke it if the conditions of the license are violated.

Adjourn

The meeting adjourned at 6:55 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary