

Approved: August 27, 2014

New Castle Planning Board Meeting

Wednesday July 23, 2014

7:00 pm

Members Present: Darcy Horgan, Lorn Buxton, David McArdle, Dave Houston, Kate Murray, Ned Robinson,

Members Not Present: Eric Katz

Also Present: Susan Faretra, Mark Klein, Leslie Parker

Chair Horgan called the July 23, 2014 meeting of the New Castle Planning Board to order at 7:00 pm. She announced that the voting members for the evening would be Ned Robinson, David McArdle, Lorn Buxton, Kate Murray and the Chair. The Public Hearing was opened.

1. Public Hearing for applicant: Susan Faretra of Faretra Septic Design, LLC for Mark P. Klein 1998 trust and Leslie L. Parker 1998 trust, 11 Seabreeze Lane, map 13 lot 19. Conditional use permit to construct a leach field.

Susan Faretra explained that they are presenting to the Planning Board because the proposed construction of the leach field will be within the 100 foot tidal buffer and also the New Castle “no disturbance buffer”. She noted that the existing septic system is stressed and needs to be replaced so she was tasked with coming up with a design to replace the leach field. Ms. Faretra said the design will be incorporating an aerobic pre-treatment tank as well as the new leach field. She said they are proposing to replace the existing leach field constructed with fabric with another leach field constructed of stone and pipe. Ms. Faretra said the proposed leach field will be in the same location but will be a slightly smaller footprint. She said the smaller footprint is possible due to the pre-treatment tank. Ms. Faretra explained that the location was approved by the State and is the same distance from the highest observable tide line as the existing leach field. She said there will be some impact within the 100 foot buffer caused by the removal of the old leach field and the installing of the new leach field. Ms. Faretra said there will be no change in the contouring or grading and all the impact will be temporary. She noted that the temporary impact will be 550 square feet. Ms. Faretra said the distance from the proposed leach field to the water is 91 feet and meets State required setback. She said they have filed an application with the Wetlands Bureau and the New Castle Conservation Commission recommended approval to the State. Ms. Faretra said the Subsurface Bureau is reviewing their application and have said they are waiting for the Wetlands Bureau to make a decision. She told the members that the system is a Clean Solution Advanced Treatment system and that the existing septic tank will remain.

Ms. Faretra noted that the conditions of the Conditional Use Permit are met because:

- 1) The existing conditions of the lot are such that there is no room to place this completely out of the buffer that would not have an impact due to the removal of the old system;
- 2) The installation of the proposed leach field will be an upgrade and will deliver cleaner water;
- 3) The proposal maximizes the distance from the resource in the area that is available to work with;
- 4) The current condition is lawn and the area will be returned to lawn;
- 5) There will be a benefit to the health, safety and welfare of the current owners and future owners because the proposed system will deliver better quality waste water;
- 6) No impervious surface will be created;
- 7) No natural vegetation will be removed;
- 8) The buffer area will remain intact

Kate Murray asked how the equipment needed for this project will get to the area.

Ms. Faretra said there is a right of way for the lot on the landside of the property. She said it has been used for construction of the home and other needs that the property has had.

Darcy Horgan asked if the septic tank will be left as it is currently.

Ms. Faretra said the existing \$1500 septic tank is staying in place, is located under a stone patio and is in good condition; so there is no reason to replace it.

Ned Robinson asked if the system will require maintenance.

Ms. Faretra said it will require maintenance every two years and that the owners have signed a maintenance contract.

Ms. Murray asked how long it will take to complete the installation of the system.

Ms. Faretra said it should be three or four weeks.

Chair Horgan asked if the failed septic system is impacting the resource.

Ms. Faretra said it has not been impacting the resource because the owners having been pumping the system whenever it shows signs of distress.

Leslie Parker explained that the system has not failed but is failing and they are trying to be proactive by replacing it now.

Mark Klein said they have not been using it anymore than they need to.

Chair Horgan noted that the New Castle Conservation Commission in their recommendation required that the maintenance contract be placed on file with the Town.

Chair Horgan said the New Castle Conservation Commission applauds the Clean Solution System as being better than standard systems.

Ms. Faretra said that the Clean Solutions System has been around for 15 years and said there are a number of aerobic pre-treatment systems on the market. She said the Clean Solutions System is very simple and explained that the aerobic portion is a compressor that blows air into a chamber and circulates one of the compartments so it is always being aerated. Ms. Faretra said there are not a lot of

other mechanical parts and the system is very straight forward. She said the wastewater that comes from the system is very clean and has gone through a lot of treatment.

Chair Horgan asked if there were any other questions or comments from the public; there being none Chair Horgan closed the Public Hearing.

Kate Murray MOVED that the Conditional Use Permit Plan for 11 Seabreeze Lane, dated June 24, 2014 be accepted subject to approval by DES; this was SECONDED by Ned Robinson and APPROVED unanimously.

2. Review and approve minutes for June 25 2014

Ned Robinson MOVED to approve the minutes of June 25 2014 as amended; this was SECONDED by David McArdle and APPROVED unanimously.

3. Old Business

4. New Business

Ordinance Dealing with Roof Pitch:

Lorn Buxton said that the Planning Board needs to address the zoning ordinance having to do with roof pitch. He said there have been several projects in town where the question of whether or not they satisfy the statute has been raised. Mr. Buxton said in some of the newer construction in town the question comes up as to how roof pitch will be defined. He said the current ordinance is not clear if it means that there can be no flat roof whatsoever. Mr. Buxton said the Building Inspector has allowed some small flat roofs even though it does not strictly comply with the ordinance. He said it is not clear in the ordinance if the rest of the roof should be at a single pitch or if the average pitch for the rest of the roof needs to satisfy the criteria or if the majority of the rest of the roof needs to satisfy the criteria. Mr. Buxton said the Planning Board needs to revisit the ordinance and make it understandable and applicable.

Ned Robinson said that this issue has recently been discussed at the ZBA. He agreed that the ordinance is poorly worded and needs to be cleaned up so the Building Inspector and the Zoning Board know what is expected.

Kate Murray noted that this issue also was discussed by the Historic District Commission with regard to height requirements and limits. She said the HDC discussed if the height limits are inadvertently encouraging gambrel roofs as opposed to colonial roofs.

Mr. Buxton noted that some of the recent gambrels that have been built are not truly traditional gambrels.

Mr. Robinson said the buildings are designed to meet the height requirements.

Ms. Murray said the buildings are designed in a way to get more space on the second floor.

Mr. Buxton said the ordinance now is one short sentence and does not adequately define how it is to be applied. He said if you accept the literal wording it says that every inch of your roof needs to meet the criteria.

Mr. Robinson said there is an exception to that; the part of the main structure is to be in compliance with the code. He said the ordinance is vague if the other portions of the structure need to meet the code.

Chair Horgan asked if this has been an issue for the ZBA.

Mr. Robinson said it has not been, but noted that there was a case that was going to come before the ZBA until a discussion was held between the building inspector and the resident which resolved the dispute by saying that the zoning ordinance was vague and the building inspector accepted the interpretation stated by the resident.

David Houston said the ordinance should be precise, not vague.

Mr. Robinson agreed that it should be straightforward but that there is no reason not to have it be concise.

Mr. Houston suggested stating that some percentage of the roof needs to meet the requirements; so that there is some flexibility but is also precise.

Mr. Buxton said there are various ways that the ordinance can be structured.

Chair Horgan asked David Houston to look into this issue and discuss it with the Building Inspector.

The members discussed the issue of height requirements and its effect on building design.

Mr. Houston agreed to look at the ordinance and discuss it with Don Graves.

Chair Horgan said that looking at other towns wording may be helpful.

Mr. Buxton suggested speaking with the Historic District Commission also.

Ms. Murray said the ordinance dealing with height is precise; but has it resulted in unintended consequences of houses that fall within the rubric but are not what is desirable in the Historic District.

Discussion of 25 Piscataqua Street Situation:

Mr. Buxton informed the members that the Town is being sued over the driveway application denial at 25 Piscataqua Street. He said the Planning Board is mentioned in the suit. Mr. Buxton said the Town is in the process of retaining counsel and as soon as that is done he will provide the members with more information. He said the Town needs to respond in 30 days with documentation that refers to the Planning Board, the Select Board and others.

Chair Horgan asked Mr. Buxton to let her know what would be required of her as the Chair of the Planning Board.

Discussion of reported violation at 133 Little Harbor Road:

Mr. Buxton reported that the DES found no cause for action at 133 Little Harbor Road.

Chair Horgan said that DES sent a letter to the owners of 133 Little Harbor Road notifying them that a complaint had been filed and said that they needed to respond to the complaint. Chair Horgan noted

that the complaint said there had been landscaping done within the buffer and that sod was planted up to the high water mark.

Mr. Buxton said the complaint went to the Conservation Commission which is a sub of this board. He said that the Conservation Commission sent a letter to DES and DES looked at the area and said as a result of their inspection no violation has occurred within a jurisdictional area. Mr. Buxton said that there are photos which show sodding and construction underway, but DES seems reluctant to become involved in individual situations.

The members discussed if there was anything the Conservation Commission could do about the situation.

Chair Horgan said she does not believe that the Conservation Commission has any enforcement powers.

Mr. Robinson said the Conservation Commission should not have enforcement powers. He said the situation should be brought before the select board that could have enforcement powers.

Mr. Buxton said the Town of New Castle could have stricter regulations than DES.

Chair Horgan said there is some landscaping that can be done; but without knowing specifically what was done on this property and what the complaint consists of, she could not comment.

Mr. Buxton said it is clear that changes were made to the surface located within the buffer area.

Kate Murray said there are photos of them installing sod.

Mr. Buxton said that permission to install sod should have been requested.

Chair Horgan said she would have a conversation with Chair of the Conservation Commission about this and ask Lorn Buxton to be part of that conversation. She said it would be helpful to review the original complaint and the available photos.

Adjourn:

David McArdle MOVED to adjourn the July 23, 2014 New Castle Planning Board meeting at 7:42 pm; this was SECONDED by Lorn Buxton and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary to the New Castle Planning Board