



TOWN OF EAST HAMPTON

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TO: Planning Board

FROM: Eric Schantz
Planner

RE: Laupot Subwaiver Modification
SCTM# 300-77-6-8.1 & 8.2

Last Review Date: October 28, 2009, Public Hearing held on December 9, 2009

Items and Date Received: N/A

Background Information: The subject parcels are situated in Springs with access off of Three Mile Harbor/Hog Creek Highway. They are not within any Town overlay zones and are wholly within flood zone X.

Minor subdivision approval was granted by the Planning Board on March 24, 2004 in order to allow the creation of two lots: Lot 8.1 at 52,965 sq ft. and Lot 8.2 at 43,782 sq ft. (excluding area of flagstrip under access easement) whereas the minimum lot size in the A: Residence zoning district is 40,000 sq ft. Both lots take access via a common driveway easement over the flagstrip portion of Lot 8.2 as per condition #14 of the Resolution of Approval.

A modification request was submitted to the Board in April of 2006. The subject of this application was condition of approval #13 which pertained to the required improvements of the common driveway. In particular: the type and thickness of substrate to be used as requested by the Town Engineer. The Planning Board denied this modification request, thereby requiring the applicant to improve the common driveway as per the approved plans. The Board did allow the applicant to undertake a bond to ensure the completion of the driveway within a six month time span. The improvements have since been completed and C.O.s were subsequently issued for both lots.

At this time, the applicant and owner of Lot 8.2 is making a second modification request to modify the access easement in order to reduce the length of the common driveway to "30' from the edge of pavement" on Three Mile Harbor/Hog Creek Highway.

Public Hearing

The Board elected to hold a public hearing for this modification request. The public hearing was held on December 9, 2009. At this hearing, three members of the public spoke; including the applicant as well as an attorney representing the owner of the other lot affected by the common driveway easement. A legal issue was presented as to the Board’s ability to modify the common driveway. The Board should consult with council in regard to this issue.

Written comments from the public have also been submitted to the file and the Board should consider these concerns as well.

Provided that the Board can and will modify the common driveway, the nature of this change should be discussed (e.g. limit to one access point, limit to within 50’ of Three Mile Harbor Road, etc.). The Planning Department does not foresee any significant adverse impacts associated with modifying the access points and/or length of access (in the manner already discussed at the Planning Board meeting) for each lot provided that a common driveway is still utilized.

It is the understanding of the Planning Department that the wording in both the resolution of approval and the common driveway easement is such that a “change of circumstances” is not necessary for the Board to “...extinguish, modify or amend” the access easement. However, the Board may wish to confirm this issue with council at this time.

Conclusion

In conclusion, the Board should discuss with council whether or not the modification request can be granted. If it can, then the Board should discuss why and how the common driveway will be modified, should the Board be willing to do so. Also, an appropriately modified minor subdivision map still needs to be submitted.

ES

Planning Board Consensus

Will the common driveway be modified? If yes, then in what way?

Additional comments: _____

