

Nute Road, Lot 2:19.B Request for Clarification on Buffers and Setbacks

This is a complicated property. It is a lot of record without a formal subdivision plan. It is a wet lot with limited upland area for building a house. The applicant intends to build on / show how the lot can be built on and is requesting four (4) variances from the Zoning Board (ZBA).

The Planning Board can make no decisions on the granting of such variances and should not discuss the actual variance requests. However, the Planning Board (PB), as the main interpreter and implementer of the Zoning Ordinances, has been asked to comment on whether or not the correct and or all needed variances are being requested.

Possible issues that the PB needs to consider follow.

The first variance request appears to actually be referencing Building Regulations, Article, VI, Section 1.C.1 and not the Zoning Ordinances. The ZBA is empowered to grant variances to Zoning Ordinances and hear appeals to decisions on regulations. The ZBA Chair is aware that the first request is not really a variance request and will coordinate with the Building Inspector and applicant.

The second variance request appears to cite the correct Zoning Ordinances.

The third variance request is made for Article IX, Section 5, Paragraph B.6 and references poorly drained soils. The provided plan lists the associated area as being "Poorly Drained Jurisdictional Wetlands (TYP)" and the applicant's narrative says, "...the wetland boundary matches the poorly drained soils boundary." The variance request is only for the 50 foot setback for poorly drained soils. As such, we must determine if the variance request should actually be or for the more restrictive 75 foot setback for wet areas as set out in Paragraph B.4, or for both wet areas and poorly drained soils, or just for poorly drained soils? **This is the primary question referred to the PB.**

The fourth variance request appears to cite the correct Zoning Ordinances.

An additional possible setback needs to be verified. A portion of the NW corner of the lot may be in the Shoreland Protection Overlay District. This is per our map in the back of the Land Use Book and per Zoning Ordinance, Article X, Section 2, Paragraph C. In reference to paragraph C, U.S.G.S. topo maps show a stream that may run through the wet areas to the eastern side of the proposed building area. The applicant's wetland scientist and engineer should verify that all such streams have been mapped on the submitted plan. If not, such streams and applicable Shoreland setbacks need to be included on the plan. Based on the result of the above verification and mapping, variances for Shoreland Protection District may also be required.

A final question involves the proposed well's sanitary protective radius extending onto adjoining property. Since this appears to be a lot of record created before Aug 20, 1989; this is probably okay. However, should the applicant try and find a way to keep the radius on their property or obtain an easement from the adjacent lot owners? Note: this a separate potential issue from the variance requests.

Again, our purpose is to determine the correct setbacks and buffers. Then the applicant can request the appropriate variances.