

New rule for septic permits revoked

By JASON KOLNOS
STAFF WRITER

ORLEANS - Bowing to pressure from residents, real estate agents and mortgage lenders, the board of health yesterday reversed a plan to lock homeowners into potentially costly septic upgrades.

The board rescinded a regulation enacted last month that would require residents applying for septic system permits to assure their systems would meet the town's future wastewater treatment plans.

The covenant, effectively a lien on the property, would require homeowners to pay for upgrades if the septic system did not meet new specifications. Since the plan has not been crafted, the cost for the improvements was unknown.

When the board held a public meeting to discuss the new requirement, it heard from homeowners who said the binding agreement was unfair, unilateral and potentially costly. Real estate agents, meanwhile, said the regulation could have a chilling effect on business.

Town Counsel Michael Ford and health agent Robert Canning said homeowners expressed concerns about the possibility of paying thousands of dollars for a Title V septic system, if the town will have strict, new requirements in a few years. Bank officers and mortgage lenders also worry about being liable for the cost, should they foreclose on the property.

Notice provision urged

Ford recommended the health board drop the binding covenant and substitute a "Notice of Future Requirements" provision, which would be contained in any permit for an upgrade or installation of a new system.

Property owners would be obligated to record the condition with the Registry of Deeds,

though it wouldn't be legally binding. That process would cost the homeowner \$75.

"This would basically say that upon completion of a wastewater plan, the owner of the property, together with owners of all other similarly situated property, may be required to bring the septic system into full compliance," Ford said.

He said this would be a pro-bono effort to notify residents that changes are coming and their participation is necessary, considering the board of health is allowed to enact any regulation that affects public health without any notice.

Board members have said excess nitrogen from septic system run-off is ruining the town's delicate estuaries and public awareness of the problem is a necessary first-step toward mitigation. Having those requesting septic upgrade or new construction permits sign a binding agreement, board members had said, would guarantee homeowners will pay whatever it takes to adhere to the town's treatment plan, which is still being discussed.

The town's wastewater plan

is a few years away, said board member Gussie McKusick, who is also chairman of the wastewater committee studying treatment options. Members have been discussing many options, including townwide sewage systems, district treatment facilities and on-site nitrogen removal systems.

Unique regulation

Orleans is believed to be the only town to have enacted such sweeping regulations in February, which affected anyone in town seeking a permit. Chatham only requires residents to sign a covenant if they seek septic variances - for example, if they are unable to bring their systems up to code.

Most residents have lauded the board's goal of bettering the environment, but many had problems with the process. Residents had expressed outrage that they were not included in these critical decisions, even though board members have held at least two meetings and advertised in the local paper.

Ford said the board could also choose not to require the condition be recorded in the registry, instead just be kept in town records. He also suggested that the board consider adding the condition to any property transfer application, to insure future homeowners will be prepared.

Board members Susan and Jan Schneider endorsed Ford's recommendation to suspend the covenant.

"This is the best way to go," Christie said. "I am concerned we will be getting people who'll say, 'Gee, I never signed a covenant, I'm not responsible for this.'"

"I'm for revoking this thing that has caused so much grief," added Schneider.

Board members said they will discuss Ford's recommendation and will hold a public meeting in June. Anybody needing a permit until then will be told that new regulations will be coming.

Selectman Margie Fulcher said the reaction is a lesson that officials must always engage the public on issues that are so important.