

Wastewater plan lands in court

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NORTH FALMOUTH - The town's wastewater system proposal for the New Silver Beach neighborhood was in court yesterday, with a judge hearing motions on a state environmental ruling that favors the town's plans.

Neighborhood residents filed a lawsuit in February challenging a permitting decision of the state Department of Environmental Protection. The DEP ruled a vernal pool, located where the wastewater treatment plant is planned is not large enough to warrant protection under state wetland regulations, according to the residents' attorney, Alexander Joyce.

The residents want the DEP to protect the vernal pool and the environmental benefits that stem from the pool's existence, Joyce said.

The root cause of the residents' opposition to the plant's location is their belief that effluent would degrade and likely destroy their drinking water, which comes from private wells, Joyce said.

In response to the February lawsuit, the town filed a motion to dismiss the case.

The town asserted the residents' position was "baseless" on the grounds that they had litigated the same issue and lost in a 2005 case before the state Appeals Court, according to Town Attorney Frank K. Duffy Jr.

The residents responded by filing a motion asserting the town was attempting to stop citizens from legitimately petitioning government and seeking judicial review of permits, Joyce said.

In the town's wastewater proposal for New Silver Beach, 210 houses and cottages would be on the wastewater system.

The cost of the system has doubled since first proposed in 1997, and the plant will now cost around \$10 million, according to the Times archives.

The town board of health declared a public health crisis in the area several years ago, according to the Times archives.

The vernal pool case was heard in Suffolk Superior Court in Boston yesterday because that is the court with jurisdiction over DEP matters, Joyce said.

Judge Geraldine S. Hines will take the arguments under advisement, attorneys for the town and the New Silver Beach residents said.

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