

RECEIVED

By Marilyn Van Millon at 9:30 am, Mar 03, 2025

Memorandum

To: Town of Dover Planning Board
From: AKRF, Inc.
Date: February 28, 2025
Re: 198 Dog Tail Corners Road – Special Permit for Accessory Dwelling
John Watson, P.E. (Applicant’s Engineer)
cc: Kaitlyn Karcheski (Applicant’s Representative)
Victoria Polidoro, Esq. (Planning Board Attorney)
Joseph Berger, P.E. (Planning Board Engineer)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Cover Letter prepared by Insite Engineering dated February 12, 2025
- Land Use Application dated January 28, 2025
- Applicant’s Letter of Intent dated February 12, 2025
- Letter of Agent dated January 28, 2025
- Agricultural Data Statement dated January 28, 2025
- Agricultural Data Statement Map with 500’ Buffer dated February 12, 2025
- Site Plan Drawing Set (3 sheets) prepared by Insite Engineering dated February 12, 2025
- Architectural Cabin Plans (3 sheets) prepared by Leckie Studio Architecture and Design dated January 10, 2025
- Short Environmental Assessment Form dated February 12, 2025

DESCRIPTION

The Applicant and subject property owner, Gentle Place LLC, is applying for special permit and erosion and sediment control permit approval from the Planning Board for the placement of an approximately 416-square-foot, 1-bedroom prefabricated cabin structure that will be accessory to the principal 4-bedroom residence at 198 Dog Tail Corners Road (132600-7160-00-927735). The subject property is approximately 4.3 acres in size and is zoned RU and within the Stream Corridor, Floodplain, and Principal Aquifer overlays. The cabin is proposed south of the existing primary residence and garage. Utility connections to existing water and electrical infrastructure are also proposed, along with a new 1,000-gallon septic holding tank not connected to a disposal system.

COMMENTS

CODE COMPLIANCE

1. An accessory apartment is defined in the Town Code as follows:

"A dwelling unit occupying the lesser of 1,000 square feet or 30 percent of the floor space of an owner occupied structure containing a principal use that is single-family residential or nonresidential, or a dwelling unit no larger than 1,000 sf located in an accessory structure on an owner occupied property."

The proposed cabin is an accessory structure on an owner-occupied property, with a floor area less than 1,000 sf (approximately 416 sf).

While the accessory cabin appears to meet the floor area thresholds from the accessory apartment definition, Section 145-11(C) of the Zoning Code states that *"the minimum floor area of a dwelling unit shall be 800 sf, and the minimum for an accessory apartment shall be 500 sf.*"

The cabin does not fully meet the Town's definition of a "dwelling unit," since a full kitchen is not proposed (a kitchenette is shown). Therefore, it is unclear if the cabin can be treated as an accessory apartment under the Code. The proposed use of the cabin appears to be more of a lodging / extra bedroom use for guests of the property owner. From Town Code §145-74 a dwelling unit is defined as *"a building or portion thereof providing complete housekeeping facilities for one family."*

If the application proceeds as an accessory apartment and the Applicant later decides to rent out the cabin to a tenant, they would have gone through the proper review process with the Planning Board. However, the Applicant may be required by the Town Building Department at a later date to bring the unit up to code as a "dwelling unit" (install a stove, etc.).

In consideration of the above, the board can seek input from the Code Enforcement Officer on the applicability of a special permit for this application. If the CEO interprets the cabin as an accessory apartment under the Code, granting of an area variance through the ZBA appears necessary due to the floor area being below the minimum 500 sf.

The remaining comments in this memorandum assume the cabin can be treated as an accessory apartment subject to a special permit approval from the Planning Board.

2. Pursuant to Zoning Code §145-12C, one accessory apartment per single-family dwelling may be located in an accessory structure, and the lot containing the accessory apartment must contain the minimum acreage required by the Dimensional Table (§145-11B) (2 acres for the RU district). The subject property is approximately 4.3-acres, which is above the minimum 2 acres.
3. As shown in the Bulk Regulations table on the Site Plan drawing, the primary residence and the proposed accessory cabin appear to meet all yard setback requirements for the RU district.
4. Since the subject property is within the Stream Corridor Overlay, a note should be added to the Site Plan that indicates any future development is subject to provisions/restrictions found at Section 145-14 of the Town of Dover Zoning Code. Additional comments related to the overlay are found below.
5. Since the subject property is within the Town's Aquifer Overlay District, specifically the Principal Aquifer Zone (PAZ). A note should be added to the Site Plan that indicates any future development is subject to provisions/restrictions found at Section 145-15 of the Town of Dover Zoning Code.
6. The approximate boundary of the 100-year floodplain is shown on the Site Plan and the proposed cabin is located outside of the floodplain. A floodplain development permit should not be required.
7. The subject property requires 4 total parking spaces pursuant to §145-38A(2) of the Zoning Code. The existing and proposed condition depicted in the Site Plan set shows adequate space exists for these parking spaces.
8. The Applicant has applied for the erosion and sediment control permit in connection with the special permit request. AKRF defers to the Town Engineer for review of the Erosion and Sediment Control permit requirements of Town Code Chapter 65. The cabin's location within the Stream Corridor Overlay requires ESC permit approval if the total disturbance exceeds 10,000 square feet.

WETLANDS / WATERCOURSES

9. The Tenmile River abuts the subject property to the east and the southern extent of the property contains an unnamed stream that flows into the river, making the property subject to the Stream Corridor Overlay District requirements (Code Section 145-14). The Stream Corridor overlay extends 150 feet from the boundary of the river and the stream. These boundaries appear to be depicted correctly on the Site Plan drawing. Within the 150-foot boundary of the overlay, the Zoning Code requires a 100-foot setback for structures, which is also depicted on the plans. The proposed cabin and associated limits of disturbance are located beyond the 100-foot structural setback and therefore appear to be in compliance with the overlay.

However, because the cabin itself is within the 150-foot boundary of the overlay, it requires an erosion and sediment control permit if the area of disturbance exceeds 10,000 square feet (145-14F). The Applicant has applied for the erosion and sediment control permit in connection with the special permit request.

10. Wetlands: Based on aerial photography and the NYSDEC Environmental Resource Mapper, the western extent of the subject property appears to contain freshwater wetlands. There is also an unnamed stream along the southern boundary of the lot that feeds into the Tenmile River. The wetland area (and stream) has not been formally delineated by the Applicant. Rather, the Applicant has approximated the extent of the wetland area based on the available 2-foot contour topographic data from Dutchess County Parcel Access GIS, which shows that there is an approximate 10-foot grade change between the approximate area of the wetland and the remainder of the property's lawn area.

Recent changes to NYSDEC's wetland regulations require a Parcel Jurisdictional Determination (Parcel JD) be submitted through NYSDEC's online request form, available here: <https://survey123.arcgis.com/share/be5c071ff72d4876986b18488721e55f>. A Parcel JD is an assessment made by NYSDEC as to whether a property includes regulated freshwater wetlands or regulated adjacent areas within the area boundaries. The Parcel JD does not state the extent of the wetlands on the property, only if there are jurisdictional wetlands present. To obtain information on the extent of a wetland, a wetland delineation needs to be done to confirm wetland boundaries.

Within 90 days, DEC will provide a JD letter indicating the status of jurisdictional wetlands (i.e., positive or negative) within the requested area. A negative parcel jurisdictional determination means there are no protected wetlands within the area indicated in the request and no wetland permit will be needed for any activities within the defined parcels.

A positive parcel jurisdictional determination means there are protected wetlands within the area indicated in the request, and coordination with regional DEC staff is necessary to determine if a wetland permit may be needed.

There is also a "Consultant Option" for Parcel JD requests where the project has hired a consultant, information on this option is available here: <https://dec.ny.gov/sites/default/files/2025-02/parceljdconsultant.pdf>. Under this option, which requires a delineation by a professional consultant, NYSDEC's Bureau of Ecosystem Health will review and schedule a boundary validation.

AKRF recommends the Applicant review the new regulations and submit the Parcel JD request under either option. As the response time from NYSDEC can vary, the Planning Board may wish to observe the wetland conditions on the property through a site visit in the interim.

PROCEDURAL

11. Pursuant to Zoning Code Section 145-10, "accessory apartments" are permitted as special permit uses in the RU district. The submitted application meets the code's definition of a minor project, and a public hearing will be required.
12. Pursuant to Section 37-5 of the Town Code, architectural review of the proposed cabin by the Planning Board (acting as the Architectural Review Board) appears to be required due to the use being subject to a special permit. Architectural plans have been provided by the Applicant.

13. Since the subject property falls within 500 feet of Dog Tail Corners Road (a County Road) and within 500 feet of a farm operation within an agricultural district, the application is subject to referral to the Dutchess County Department of Planning pursuant to General Municipal Law 239-m. The County is required to respond within 30-days of receipt of the referral.
14. Dutchess County Department of Behavioral and Community Health approval will be required for the proposed septic system upgrades on the property. According to the plans, the Applicant proposes to install a new 1,000 gallon septic holding tank that will not be connected to the existing disposal system. It is assumed the holding tank will require periodic pumping by a private disposal company. AKRF defers to the Town Engineer for any comments on the proposed design, including County Health Department procedures/policy related to the use of a holding tank with no disposal system.
15. The subject property appears to share a driveway with the property to the north (202 Dog Tail Corners Road). If documentation related to the shared driveway condition is available, it should be shared with the Planning Board Attorney.

SEQRA

16. Since this application would technically result in a "two-family residence" on an approved lot, the application can be considered a Type II Action under the State Environmental Quality Review Act (SEQRA), which requires no environmental review. The applicable Type II citation is as follows:
"6 CRR-NY 617.5(c)(11) - Construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of a drinking water well or a septic system or both, and conveyances of land in connection therewith."

RECOMMENDATIONS

At the March 3, 2025 meeting, AKRF recommends that the Planning Board discuss the application and consultant comments (including recommended interpretation by the Code Enforcement Officer and the wetland JD), consider classifying the application as a Type II action under SEQRA, consider setting a site walk, and request an increase to the escrow by \$3,500 to \$5,000.