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Builder threatens appeal of Southampton planners' ruling

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SOUTHAMPTON - The builder of a 50-acre development project on Gilbert Road has informed the Planning Board of his intent to appeal the board's order that he halt work on the project.

The Planning Board has not heard from builder Edward Gwinner Jr. since he wrote his intent to appeal the violation earlier this month. The board issued him the stop-work order for the development - one of the largest in town - last month.

"It's Mr. Gwinner's decision as to where to proceed next," Chairman Mark Girard said Monday. "He needs to do things in the right steps in the right order."

Girard declined to more about the long-simmering dispute, saying it is under litigation.

"It's in the hands of his attorney and the town attorney," Girard said.

One of the 12 homes in the project, 71 Gilbert Road, was sold this summer; a second home is up for sale; and a third home is under construction, according to Mark Reed of Heritage Surveys Inc., a company that has worked on the project. Reed said Monday that Gwinner has not informed him of the intent to appeal the violation.

The Planning Board issued the stop-work order in a notice of violation of regulations governing erosion and sediment control addressed to Gwinner on Aug. 18; Gwinner replied with his intention to appeal the violation in a Sept. 8 letter to the board, but he hasn't scheduled an appeals hearing, according to town officials.

The Planning Board contends the project is in violation of a bylaw effective August 2007 that requires a stormwater management permit for projects larger than 40,000 square feet. Gwinner has not yet obtained the permit from the board. Specifically, the project is in violation of the "Common Access Drive and Utility Corridor" section of the bylaw, according to the board's letter, which was signed by Girard.

The project was proposed to the Planning Board in 2005 and has been under way since a common driveway bylaw and stormwater management bylaw were passed at the 2007 annual Town Meeting.

A 1,300-foot common driveway has already been completed to serve 10 of the project's proposed homes. The Zoning Board of Appeals granted a zoning variance for the driveway with nine listed conditions on July 16, 2007. One of those conditions includes interaction with the advisory Barnes Aquifer Protection Committee to maintain appropriate safeguards, as the Barnes Aquifer is close to the project.

The Barnes Aquifer Protection Committee recommended the builder obtain a permit from the Environmental Protection Agency to come up with a plan to capture runoff from the road, remove contaminants and infiltrate clean recharge to the ground.

To obtain a stormwater management permit and continue construction, Gwinner must submit a stormwater management plan, an erosion control plan and a maintenance plan, according to the



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