Howes heirs seek relief from conservation rule

By Dawn Handschuh

Debate continued Tuesday night as Dennis selectmen mulled over the Esther W. Howes conservation restriction. The board is considering what might turn out to be a precedent. For the first time since the establishment of the conservation restriction in 1975 (Dennis was among the first towns on Cape Cod to adopt such a policy) a landowner is petitioning for a release of the restriction.

While the restriction lowers property taxes for the landowner who is willing to place a moratorium on building or developing his land, the restriction also benefits the town by slowing growth and by preserving open space wildlife. Restrictions may be given for periods of 10, 15 or 25 years, or in perpetuity.

Attorney William Crowell, representing the Howes estate, petitioned the board to release a ten-year conservation restriction place about five years ago on a five-acre tract of land located at Seaside Avenue. Surviving relatives of the late Esther Howes wished to see the two parcels of land sold to pay federal and state inheritance taxes.

The penalties for late tax payment, Attorney Crowell said, are so severe that the estate could not afford to wait five years for the estate to expire. He added that if the taxes weren't paid in nine months, "penalties would make the estate bankrupt."

Upon questioning by selectmen, Attorney Crowell explained that Mrs. Howes had left a one-acre lot on Scargo Lake to her son, Warren, and two houses on Corportion Road to her sons, Richard and David.

The land on Seaside Avenue "is the major asset in her estate." According to Attorney Crowell, the two houses were given to Mrs. Howes' heirs in a probated will which was approved by the court. Thus these two parcels are not really assets of the estate.

The Scargo Lake land also has a conservation restriction placed on it. Thus the Seaside Avenue property, which was willed to all three heirs, seemed the likely choice for liquidation to settle the estate.

Board member William Shanahan later commented that "I'm not sure what sort of Pandora's Box this would open."

But the board can't be afraid of that." Not lifting the restriction, he added, might "discourage people from getting involved in this conservation program."

Board member George Fallon commented that he wasn't sure the "niceness" of the land (under a restriction) was an interest "worth the harm that will result to Esther Howes, a benefactor for many years, and her family."

Board member Matthew McNamara countered that the conservation restriction had been maintained to the fullest extent and that it was only "the untimely death of Esther Howes that caused the hardship."

Chairman Joel Crowell read a memo from the Conservation Committee. It stated, "All restrictions should be observed to the fullest possible extent as a matter of policy."

Approval must also be granted by the office of Environmental Affairs.

After much discussion, board member Richard Shinkowitz asked Attorney Crowell if liquid assets were available to use as payment of the taxes. Attorney Crowell did not have an accurate assessment of liquid assets. Board members agreed it would be helpful in evaluating the assets and liabilities of the estate.

Selectmen also concurred that they must be careful in establishing a precedent. The issue will be continued at a future meeting when appropriate documentation is provided the Board.
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