

TOWN OF GROTON

Groton Board of Health
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MEETING MINUTES

March 7, 2005

Town Hall, Groton, Massachusetts

Board of Health Members Present:

Dr. Susan Horowitz, Chairman; Matthew Waterman; Robert Hanninen

Others Present:

Debra Butcher; Ben Cutone, R.S.

Meeting Called to Order:

Chairman Horowitz called the meeting to order at 7:30pm.

Minutes:

Regular Session minutes of January 3, 2005 were approved as amended.

Permits Approved/Signed:

*None

Bills Approved/Signed:

- *Advance Security Systems-\$18.33
- *Airgas-\$22.12
- *Ayer Auto Parts-\$221.95
- *Belmont Springs-\$27.33
- *Dunn Battery-\$139.90
- *Groton Electric Light-\$201.90
- *Groton Electric Light-\$71.24
- *Groton Electric Light-\$6.86
- *Mobile Consultants-\$10.08
- *Shattuck Oil-\$120.12
- *Shattuck Oil-\$206.34
- *Sully's Auto Repair (Inv. # 276)-\$29.00
- *Sully's Auto Repair (Inv. # 280)-\$29.00
- *Container Recycling-\$521.25
- *Covanta-\$2734.03
- *Rick Lamarre & Son-\$2208.69
- *Belledue & Co.-\$220.16
- *RV Leonard-\$790.00
- *Levine Fricke (landfill monitoring)-\$1023.50

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PUBLIC HEARING – Testing Requirements for Non-Subdivision lots, Approval Not Required lots, Commercial Properties

Present: See attached sign-in sheet

Member Robert Hanninen read the Public Hearing notice into the record. Chairman Horowitz provided an explanation for the reasons the Board was proposing the regulation. She stated that it precipitated last October by another applicant's project currently before the Town and is now at the Department of Environmental Protection for its review. She said that the applicant felt that they were being treated "unfairly" and requested that the Board examine the 10% housing stock, or approximately 350 homes, where those homes were at risk for contamination because of what the previous land use was. She stated that the Board is only looking at the proposal and may not adopt any language.

She said that at the suggestion of Town Counsel, the Board responded to the request for this Board to look at the situation where orchards were involved. Chairman Horowitz stated that there are developments being proposed in town on marginal lands. She stated that, for the record, the newspaper erroneously published a letter that stated that the Board had adopted a regulation. She corrected this by stating that the Board only "voted" to conduct a public hearing.

Chairman Horowitz requested comments from her fellow Board members. Member Waterman began by stating that he was against adopting any regulation because he didn't believe it was the responsibility of the Board to police arsenic to every and all projects.

Member Hanninen felt that the proposed language was intended for the protection of everyone in town. He said it didn't speak to any one contaminant, although arsenic was an issue. He said he was anxious to hear how the public felt about the adoption of a regulation.

Chairman Horowitz felt that this wasn't just an arsenic issue. She felt it was a pollutant one. She used a Conductor Lab as an example of what could potentially occur if land began contaminated and was widespread. She said she believed that people should be aware that contaminants could exist on their properties. She stated that subdivisions are reviewed by the Planning Board process, however, Approval Not Required lots are not controlled by the town. She opened up discussion to the public.

Resident Michelle Collette agreed that Conductor Lab was an excellent example where contamination migrated beyond the property lines. She cited Groton Screw Machine on Gilson Road as another example of volatile contamination that migrated. She asked how a proposed regulation would interact with Chapter 21E.

Chairman Horowitz responded by stating that Chapter 21E would take precedent over the local Board of Health. She stated that she wanted people aware that their properties could have problems. Member Hanninen felt that Chapter 21E would work "hand-in-glove" with a local regulation.

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Resident Arthur Blackman requested clarification concerning the presence of arsenic in soils with regards to depth. He stated that he understood that arsenic was naturally occurring in parts of New England and asked if this was a concern for everybody. He questioned whether a risk was involved when there's contact in the top surface of the dirt. Chairman Horowitz felt that answers to those concerns would be answered when the Town heard back from the D.E.P. She said that the Town's consultants were finding that the naturally occurring arsenic in Town is less than the health-based risk standard that the State puts out. She said that the risk of arsenic was a "lifetime" risk.

Member Hanninen stated that there is a band of naturally occurring arsenic-rich soils in bedrock that runs from Maine to Connecticut and Groton is in the middle of that area.

Resident Dr. Jack Bruner, an anesthesiologist, stated that he used volatile organic compounds in his

daily work. He said that he administered "near-lethal" doses of these organic compounds to humans. He questioned where public health was being protected. He said that to his knowledge there was no account in medical literature of any child or adult injured through exposure to agents in the soil of a former apple orchard.

Member Hanninen responded by stating that he has Ph.D. in chemistry. He stated that arsenic is a human carcinogen and will lead to problems if it gets into our drinking water or if inhaled.

Resident Michael Dermody asked how many neighboring towns require this type of procedure and what was motivating the Board of Health to get involved with ANR lots. Chairman Horowitz stated that the motivation was from another applicant before them. Mr. Dermody felt that the actually disturbing the soils is worse than letting it be and have nature take care of its own remediation. Chairman Horowitz said that problems would occur if you start disturbing the soils.

Resident Melissa Rekos felt that this proposed regulation was not about public health but only growth control and felt that the Board of Health was attempting to regulate who builds and where.

Resident Jay Prager stated that in order for the soils to be harmful to humans, they needed to be exposed to them. Chairman Horowitz stated that harmful conditions was from inhalation from years of exposure.

Resident Karen Earnest referenced the proposed language and said that there was no mention of arsenic in the regulation. She asked why arsenic wasn't mentioned in the regulation if it was such a public health concern to the Board. She stated that if the regulation was adopted, did the Board consider the consequences for this town by doing this to stop growth. She felt that the Board of Health was trying to "handcuff" the town.

Resident Leann Gunderson felt that the Town was establishing a double standard. She said that the Board was only going after certain areas of Town and should be

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concentrating on the entire Town and not isolated to one area. Member Hanninen agreed.

Attorney Donald Cooper, representing Newbury Street Development for Surrenden Farms, felt that the referral to his client as the reason for naming the 10% housing stock built on orchard land as driving this regulation was a misstatement and a "gross mischaracterization" of the intent of his letter to the Board. He asked that he not be blamed for the Board's initiative to impose a new standard in Town.

A woman in the audience asked why there was such an urgency to adopt a regulation if the Board was awaiting comments from the DEP. Chairman Horowitz stated that Town Counsel advised the Board to conduct the public hearing because of "Mr. Cooper".

Resident Michelle Collette commended the Board for trying to adopt a regulation that could be applied equitably and fairly to new construction.

Resident Melissa Rekos asked how a Board of three people could end up with so much power to control what someone can or cannot do with their property that they own.

Resident Jeff Gordon asked if the Board was aware of what implications would occur with regards to property taxes and market values if such a regulation were adopted. Chairman Horowitz stated that the Board had already met with the Board of Assessors and are aware of it.

Resident Jack Risdon asked if Town Counsel could be present at future hearings concerning this. Chairman Horowitz stated that Town Counsel was asked to be present but the Selectmen refused to allow the request. She said she would make another request for his presence at the next hearing.

Resident Camilla Blackman stated that the proposed language was vague and seemed to be aimed to prevent one situation. She asked that the language be more tightly written.

Resident Josh Degen spoke about the requirements under the State's subdivision control law, specifically under Section 81U, which doesn't allow a Planning Board to approve a subdivision unless it had a positive recommendation from the Board of Health. He stated that the subdivision in question did receive an approval from the Planning Board.

Resident Carol Molloy asked if the Board was going to require language on the deed of a home if arsenic existed. Chairman Horowitz stated that the Board hasn't gotten that far in the process yet.

Member Waterman stated that as the way the regulation was written, he was against it. He thought Dr. Bruner's point was well taken concerning the medical evidence and the direct public health threat. He didn't think the Board should react "just to react".

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Member Hanninen said he didn't think the Board was just reacting. He felt that the Board was being fair in its attempt to investigate potential risks. He said that this was more than a legal issue; it was an ethical one.

Chairman concluded the hearing by stating that the Board would contact Town Counsel and the meeting would be reconvened at a later date.

47 Peabody Street: Present: Dan Wolfe, P.E.; Ross Associates

Mr. Wolfe stated that the septic system for the 5-bedroom dwelling was in failure. He requested the following variances for an upgrade:

310 CMR 15.000 – Title 5

15.105 - Allow a percolation rate to be established via textural analysis by the University of Massachusetts soil testing laboratory.

Town of Groton's Local Regulations

Section I.A.5 - Minimum of five (5) feet of pervious material between the bottom of the leaching facility and the ground water elevation and/or any impervious layer. The offset above ground water may be increased depending upon climatic and/or site conditions encountered.
Ground water offset of four (4) feet provided.

Mr. Wolfe stated that the ground water was too high to perform the percolation tests, however, soil samples were dug. Member Waterman asked about the size of the trenches. Mr. Wolfe said that there (4) 2'x60' trenches proposed.

Member Hanninen asked if a 6-bedroom design was considered. Member Waterman recommended that the Board approve the upgrade for a 5-bedroom home with conditions on the permit restricting it to only 5 bedrooms. He made a motion to grant the variances with the following condition:

The dwelling is restricted to five (5) bedrooms until such time that a permit is obtained from the Groton Board of Health to increase the design flow.

The motion was seconded and approved unanimously.

23 Whitewood Road: Present: Attorney Peter Sheldon; Abutters Beth Montgomery, Kathy Ranville & Patrick Blouin

Attorney Sheldon stated that he represented the estate of Ralph Barrett. He said that Mr. Barrett's will directs his home to be sold and that the septic system inspection report shows that the system is working properly. However, the report indicated that the water test showed a high nitrate level. The onsite well is 90 feet from the septic system. Atty. Sheldon requested that the Board accept the inspection report provided

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that the well is abandoned and the property be connected to town water. He said that the property could then be sold.

Chairman Horowitz asked about the size of the property. Attorney Sheldon said that the property was 100x100 square feet. She said that if the Board accepted the request, that the property remain a two bedroom home.

The abutters to the property supported the request that the property be connected to town water because it was a better solution.

Member Waterman made a motion to accept the October 11, 2004 Title 5 report, performed by Ernest Sweet, as a "pass" provided that the well is abandoned pursuant to the Town of Groton's Well regulations and that the property be connected to town water by March 7, 2006. Additionally, the Board requires that the applicant provide confirmation to the Board of Health from the Water Department once the connection to town water was completed.

The motion was seconded and approved unanimously.

Groton Garden Club

The Garden Club requested that the Board support and be a co-sponsor of an upcoming lecture on lawn pesticides/herbicides to be held on April 10, 2005 at Lawrence Academy. The Board voted unanimously to be a co-sponsor of this event.

Lyme Disease

Chairman Horowitz stated that Lyme disease was on the rise again. She requested that the local newspapers do an article for ways to prevent the disease in both animals and humans.

The meeting adjourned at 9:35pm.

GROTON BOARD OF HEALTH

Dr. Susan Horowitz, Chairman

Matthew Waterman

Robert Hanninen

Respectfully submitted,
Debra A. Butcher