

TOWN OF GROTON
Groton Board of Health
173 Main Street
Groton, MA 01450
Office Hours: Monday – Friday 7am- 3pm
e- mail: dbutcher@ci.groton.ma.us

MEETING MINUTES
October 3, 2005
Town Hall, Groton, Massachusetts

Board of Health Members Present:

Robert Hanninen, Chairman; Dr. Susan Horowitz; Jason Weber (arrived at 7:30pm)

Others Present:

Debra Butcher; Ben Cutone (arrived at 7:30pm)

Meeting Called to Order:

Chairman Hanninen called the meeting to order at 7:05pm.

Minutes:

Regular Session minutes of July 18, 2005 were approved as amended.
Regular Session minutes of August 1, 2005 were approved as written.
Regular Session minutes of August 15, 2005 were approved as amended.
Regular Session minutes of September 6, 2005 were approved as written.

Septic Permits Signed/Approved:

*7 Brownloaf Road (Lot 6); Parrella Construction
*7 Hemlock Road; Steven Deyoreo
*16 West Main Street; George Wheatly
*58 Worthen Drive; Lot 5; Donald P. Higgins, Jr.

Bills Signed/Approved:

*Advance Security Systems-\$18.33
*Airgas-\$47.50
*Belmont Springs-\$27.00
*Fleet Pride-\$45.36
*Granite State Concrete-\$400.00
*Groton Electric Light Dept.-\$15.53
*Groton Electric Light Dept.-\$18.41
*Groton Electric Light Dept.-\$11.97
*JC Madigan-\$75.24
*McKittrick Industrial Supply-\$46.59
*McKittrick Industrial Supply-\$73.29
*Mobile Sales and Service-\$222.05
*WB Mason-\$87.32
*Nashoba Associated Boards of Health (2nd quarter)-\$5738.75
*GeoInsight-\$1201.20 (Surrenden Farm revolving fund)

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*Dr. Susan Sundstrom-\$6300.00 (Surrenden Farm revolving fund)

General Business

Lawrence Academy Tennis Courts – Site Plan Review - The Board voted unanimously to send the following comments:

- *This facility is served by town water and sewer,
- *There is poor drainage in the area. The Board of Health is requesting that the Highway Surveyor correct these ongoing problems.
- *In writing, the historical use of the property.

Mosquito Control – The Board requested that a statement be made in the newspaper indicating that the Board is attempting to address mosquito pools. The Board asked that Mr. Cutone follow-up with Jim Garreffi concerning entomology laboratories.

Underground Storage Tanks – Chairman Hanninen stated that he reviewed the current language with Health Agent Ben Cutone. He recommended that the Board continue discussions on this through working sessions.

Nashoba Boards of Health Executive Meeting – Chairman Hanninen attended the meeting and stated that Nashoba Nursing would be moving their headquarters in mid-October to Shirley, MA. He stated that that the agency was financially stable.

Member Jason Weber and Health Agent Ben Cutone arrived at 7:30pm.

245 Lowell Road – Earth Removal Exemption – *Member Horowitz recused herself from discussion so the Board waited to discuss this until Member Weber could be present.* The Board voted (members Hanninen & Weber) to send the following comments:

- *This property recently had a new sewage disposal system installed.
- *Dust control measures must be employed during the removal process.

211 Whiley Road Present: Robbin Lawrence, owner; Sylvia Sangiolo; Lauren Sellars

Chairman Hanninen requested comments from Health Agent Ben Cutone. Mr. Cutone stated that it was his understanding that there is a belief that the sewage disposal system was in failure. He stated that Title 5 allows the Board of Health to order a Title 5 inspection and to take reasonable action when there is suspicion that the system is in failure. He stated that his office had no records of the current system.

Mr. Lawrence stated that the property consisted of an 800 gallon septic tank and leach pit. He said that he purchased the property over 10 years ago. Chairman Hanninen asked Mr. Lawrence if the system was in failure. Mr. Lawrence replied “no”.

Abutter Sylvia Sangiolo stated that the property changed ownership without a Title 5 inspection. She also stated that there was a change in use where the property went from a seasonal dwelling to a year-round dwelling. Ms. Sangiolo stated that the area

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is an “environmentally sensitive one like Knopps Pond” with shallow wells on abutting lots. She was very concerned about her well being contaminated.

Mr. Cutone stated that prior to the transfer of the property, a Title 5 inspection should have taken place. Ms. Butcher provided a copy of the recorded deed which stated that the property was purchased in 2004. Mr. Cutone stated that the property was “technically” in violation of Title 5 and

that an inspection should be conducted by a State licensed Title 5 inspector.

The Board requested that Mr. Lawrence have a Title 5 inspection conducted on the property and come back before the Board on November 7, 2005 at 7:30pm with the report. The Board took no further action.

1 Old Lantern Lane: Present: Nina Vo, owner; Fran & Laura LaMalva, abutters

Ms. Vo stated that she wished to construct a new well because the existing one did not produce enough water. She requested the following variances:

Town of Groton's Well Regulations

Section VI: Well Location and Use Requirements

Property Line; 50 feet required; less than 50 feet provided to two property lines.

Public or Private Way; 75 feet required; less than 75 feet provided.

Chairman Hanninen requested comments from Health Agent Ben Cutone. Mr. Cutone stated that due to the location of the sewage disposal system, there were no alternatives to place the well resulting in the requested variances. He stated that the location was proposed to maintain the 100' arc from the sewage disposal system. He concurred with Ms. Vo that water quantity was poor.

He recommended that the Board consider requiring that the well be constructed with additional casing and a heavy duty seal in order to protect the well from potential road salt contamination.

Abutters Fran & Laura LaMalva of 573 Boston Road questioned how this would affect them as they are selling their home. Mr. Cutone showed them a sketch location of the proposed well and stated that any approval from the Board would require Ms. Vo to construct a deep well which would provide protection to their well.

Member Horowitz required that the property be connected to town water if it became available. She made a motion to accept the variances as requested with the following condition:

The Board of Health requires that the existing well is abandoned according to the requirements of the Town of Groton's Well Regulations, the new well is constructed with a heavy duty casing and seal and that the property be connected to town water when it became available.

The motion was approved unanimously.

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27 Windmill Hill Road Present: Michael Crounse, Goldsmith, Prest & Ringwall; Karen Tuomi

The hearing was continued from September 19, 2005.

Mr. Crounse stated that a site walk was conducted on September 27, 2005 with Ben Cutone, Dr. Susan Horowitz and abutter Janet Blair to look at the existing conditions and layout of the system. He stated that it was agreed that a more defined swale would be sufficient to direct runoff created by the new system and provide a better path for any existing runoff that is intercepted.

Mr. Crounse stated that Ms. Blair agreed to allow their client to provide a swale partially on her property which would be shown on revised plans to Mr. Cutone. He said that runoff will be redirected towards the front of the property away from Ms. Blair's gardens where it will flow down the hill. Mr. Crounse felt that the amount of runoff from the system would not affect the current runoff amounts and believed that the swale would be sufficient to handle any increase.

Discussion continued regarding easement language and permitting conditions. She requested that the footprint and bedrooms remain the same. Member Horowitz recommended that the abutters seek legal counsel and made a motion to accept the following variances with conditions:

Town of Groton's Local Septic Regulations

Section I.A.1 - Two groundwater observation holes and two percolation tests must be performed on each lot. *One groundwater observation hole and no percolation tests were conducted.*

Section I.A.2 - Deep observation holes performed during the months of March and April. Holes performed in months other March and April will be limited to Class II and Class III soils. *Deep observation holes performed in June with Class I soils.*

Section I.A.5 - Minimum of five feet of pervious material between bottom of leaching facility and the groundwater elevation. *Four feet provided.*

Section I.C.5 - The area between trenches shall be used for future expansion of the system. *Expansion trench located between primary trenches.*

Section I.E.3 - Minimum of ten feet must be available between the primary and expansion leaching facilities. *Expansion trenches located between primary trenches.*

Title 5
310CMR15.104(4) - Two percolation tests shall be performed at the proposed disposal area. *Percolation rate determined by Title 5 alternative to percolation testing policy for system upgrades.*

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Condition of Approval: The Board of Health requests the following conditions be placed on the permit:

- 1. The house must remain as a three bedroom dwelling.*
- 2. Footprint of the house must remain the same.*
- 3. Language recorded on permit concerning the drainage swale.*

The motion was approved unanimously.

205 Nashua Road Present: Kevin Hickey, owner; Ms. Chalmers, 219 Nashua Road

Mr. Hickey stated that his current well was over 30 years old and time has caused cracking at the cover. He stated that in August he had his well water tested because there was a change in taste to the water. He said that the testing showed elevated levels of coliform. Mr. Hickey requested the following well variances to construct a new well:

Town of Groton's Well Regulations

Section VI: Well Location and Use Requirements

Property line; 50 feet required; 20 feet provided.

Chairman Hanninen requested comments from Health Agent Ben Cutone. Mr. Cutone stated that the placement of the proposed well was the only option for this property so it would be located at least 100' from the existing sewage disposal system.

The Board asked where town water was. Mr. Cutone stated that it was at least 1 to 2 miles away from the property as certified by Tom Orcutt.

Member Horowitz stated that she did not conduct a "drive-by" of the property but would like to have any approval conditioned that the new well be constructed with a heavy duty seal for protection to nearby wells.

Chairman Hanninen made a motion to accept the variance with the following condition:

The Board of Health requires that the existing well be abandoned according to the requirements of the Town of Groton's Well Regulations and that the new well be constructed with a heavy duty seal.

The motion was approved unanimously.

366 Lost Lake Drive Present: Lawrence Johnson, owner; Attorney David Doneski; Jeff Huslander, 365 Lost Lake Drive; Scott Kesloff, 11 Pine Trail

Mr. Johnson stated that he requested to speak to the Board about the progress the Board felt he was making on his property. He said he realized that he didn't make his "self-imposed" deadline but said he had every intention of reaching full compliance.

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Chairman Hanninen stated that he conducted a "drive-by" on September 30, 2005 and was dismayed at the amount of material in front of the garage. He said there was a lot more than what was present in the spring.

Mr. Johnson disagreed that there was more material present. He said that he was present to request an extension of time to clean up the remaining material. He said that he had already made progress on approximately 100' x 20' area. He provided receipts on the 30+ truckloads of refuse removed already.

Mr. Cutone reminded Mr. Johnson that this process has gone on since December of 2004 which at that time the Board allowed him 30 days to remove all refuse. He further reminded Mr. Johnson that he himself agreed to have the material removed by September 21, 2005 and if not, a commercial contractor would complete the clean up.

Mr. Cutone stated that he inspected the property today (10/3/05) and the materials (cars, etc.) that had been removed were present again by the garage and barn.

Member Weber questioned how many more truckloads would be necessary to complete the job. Mr. Johnson stated that six cars have already been removed out to the curb area. He said it would hard to guess how many more truckloads were needed to remove the wood and refuse.

Abutter Jeff Huslander stated that the property "was still a mess". He said that he has had conversations with other neighbors who have commented that Mr. Johnson was making some progress but Mr. Huslander was not completely satisfied with the overall progress.

Abutter Scott Kesloff stated that he was very unhappy with the progress. He called Mr. Johnson's property a "junk yard" with a little less junk on it today. Mr. Kesloff stated that he took pictures of the property on 10/2/05 and submitted them to the Board. He was concerned that the clean up would take years at the pace Mr. Johnson had set for himself. Mr. Kesloff stated there were currently 5 unregistered vehicles on the property. He said he realized that the process moved slowly but felt that if the Board granted more time to Mr. Johnson, they would be having the same conversation down the road. Mr. Kesloff said there were many neighbors who are concerned about the property but were hesitant to get involved.

Member Horowitz stated that the Board has "bent over backwards" for Mr. Johnson and it was time

for the Board to take other actions that would involved fines and/or court action if a dumpster is not used to remove the refuse. She said that there were laws that would allow the Board to fine Mr. Johnson "up to \$500 per day" if he didn't comply.

Chairman Hanninen agreed that the Board has tried to work with Mr. Johnson to no avail. He said that he would be willing to extend the timeline to November 1, 2005 to get a dumpster in place or some machinery in there to clean out the property.

Mr. Johnson assured the Board that he would make significant progress prior to that date. Chairman Hanninen stated by a dumpster needed to be in place by

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November 1, 2005 or the Board would take further action at their next meeting on November 7, 2005.

Attorney David Doneski advised that the Board should vote on actions to be taken. Member Horowitz made a motion that Mr. Johnson's property must be cleaned up by November 1, 2005 using a dumpster and having all unregistered cars removed or court proceedings and a daily fine will be determined at the Board's November 7, 2005 meeting. The motion was approved unanimously.

Surrenden Farm Present: See attached.

Chairman Hanninen opened the meeting by stated that it was his belief that the attorneys for both sides had been working on an agreement to be presented to the Board.

Attorney Doneski provided copies of the draft that reflected the outlines of the remediation plan that was placed on the record on September 26, 2005. He stated that Paragraph 21 had one concept that was not made part of the Board's action and that is there were certain lots that the applicant felt already met a performance standard of 20ppm and he asked that the Board determine whether they would need to be considered to satisfy the performance standard. He asked Attorney Cooper to identify the lots that shouldn't be included as not requiring further remediation.

Attorney Cooper stated that there were a number of lots that tested below 20ppm to a depth of 3 feet. He said those lots were not the subject of the conversation but wanted to know how the Board wanted them to handle the situation. He suggested just listing them to Attorney Doneski so he provided the numbers to him.

Chairman Hanninen questioned whether the clean lots would receive one final check for analysis because that was his intention. Attorney Cooper said "no" because it would not make sense. He stated that Mr. Falzone has spent over \$120K on testing and it wouldn't make sense to go through a testing round on clean lots, like the Age Restricted Units.

Member Horowitz suggested that the applicant take the sampling plan and implement it at the end before any building is done. She said that way, the consultants would know for sure what existed and the samples taken would be discrete samples and not composite samples. She said that when you do composite samples, you're averaging an average and not getting the information that is needed.

Chairman Hanninen recognized Dr. T.J. Stevenson. Dr. Stevenson stated the sampling plan approved two weeks ago did not include the single family condominium units or the age-restricted units because they were done under an approved plan. He said that the recently approved plan included all other areas. He said that the single family condominium lots had intensive sampling and had a good data set. Dr. Horowitz didn't think a representative sample would exist when you put the soil back down on the ground. She felt the sampling called for at least three or four samples. Dr. Stevenson said that all the sampling done was scrutinized by the Board's

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consultants. He said those lots that didn't pass, when they are remediated, will receive the same type of scrutiny.

Discussion continued regarding remediation of stockpiled soil. Mr. Falzone stated that the laboratories would sample all material imported to the site. He stated that he wouldn't spend money on material put down unless he was assured it would pass.

Member Horowitz questioned what material presented needed to be acted upon. Attorney Doneski stated that the documents reflected the outline that was put on the record on September 26, 2005 that contained some minor revisions. He said he circulated he outline to Attorneys Orsi and Cooper and they made revisions. He said that the document before the Board tonight was what all counsels agreed upon.

Discussion continued regarding deed notifications on the property. Member Horowitz made a motion that deed notifications are placed on lots that are sold on this development saying that this was a site of an old apple orchard. Chairman Hanninen seconded the motion and recognized Attorney Doneski.

Attorney Doneski stated that a requirement of notification regarding history is within the Board's purview to implement. He said that the plan was agreed upon by all parties and if the Board adds new language, both parties would be out of agreement.

Attorney Cooper stated that they were not in agreement about deed notifications.

VOTE: Member Weber-No; Chairman Hanninen-No; Member Horowitz-Aye. The motion failed by 2 to 1.

Chairman Hanninen made a motion that the Surrenden Farm soil remediation plan as worked out among the attorneys be adopted by this Board of Health. The motion was seconded by Member Weber.

VOTE: Member Weber-Aye; Chairman Hanninen-Aye; Member Horowitz-No. The motion was approved 2 to 1.

The Surrenden Farm meeting adjourned at 10:30pm.

The Board of Health meeting adjourned at 10:30pm.

GROTON BOARD OF HEALTH

Robert Hanninen
Chairman

Dr. Susan Horowitz

Jason Weber

Respectfully Submitted,
Debra A. Butcher

