

MEETING MINUTES
Approved
September 17, 2007
Groton, Massachusetts 01450

Board of Health Members Present:

Jason Weber, Chairman; Dr. Susan Horowitz; Robert Hanninen

Others Present:

Ira Grossman, R.S.; Debra Butcher

Meeting Called to Order:

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

Minutes:

The minutes of August 6, 2007 & August 20, 2007 were approved.

Septic System Permits Signed/Approved:

*Hidden Valley Road; Lot A5; TASI Corp.

*Hidden Valley Road; Lot A6; TASI Corp.

Septic System Permits Tabled:

*993 Boston Road; MATTBOB, Inc.

*Townsend Road; Keith Hooper

*Wyman Road; Lot 11A; James Kirk

*Cherry Tree Lane; Lot 55; Landwest, Inc.

*245 Reedy Meadow Road; Stephen Collins

Bills Signed/Approved:

*Advance Security Systems-\$18.33

*Airgas-\$26.98

*Airgas-\$130.97

*E&R Cleaners (3 invoices @ \$23.75 each)-\$71.25

*Global Montello Group-\$161.06

*Groton Electric Light Dept.-\$25.58

*Groton Electric Light Dept.-\$109.91

*Michael Moore (Class A License renewal)-\$60.00

*Moison Ace Hardware-\$26.52

*Pete's Tire Barn-\$467.00

*Verizon (SW)-\$19.63

*Verizon (cell phone-SW)-\$38.43

*Covanta Haverhill-\$6796.49

*E.L. Harvey & Sons-\$6617.16

*Routhier & Sons-\$314.00

*Verizon (BOH)-\$42.51

*U.S. Postal Service (grant reimbursement for MRC letters)-\$167.69

*UMass Community Healthlink-\$1625.00

23 Indian Road Present: Russ Wilson, P.E.; Wilson & Associates; Attorney Robert Collins, owner

Attorney Robert Collins disclosed for the record that Dr. Susan Horowitz is currently and has been his veterinarian for over 30 years.

The abutter notification mail receipts were not available to submit into the record and would be provided at a later date.

Attorney Collins stated that his family purchased this (3) bedroom home utilizing a cesspool almost 30 years ago when it consisted of (3) lots. He stated that (4) extra lots were bought recently and the deeds recorded. Attorney Collins reported that there was a significant drop in the yard which prevented them to easily design a system but felt that the design was a vast improvement to the site. He reported that town water would be brought to the site.

Attorney Collins requested the following local regulations:

Section I.E.6 - Minimum of thirty-five (35) feet must be available between the edge of any street, passageway or road line and the entire exterior perimeter of any proposed leach areas. *Thirty-five feet required; 33 feet provided.*

Section I.E.7 - Minimum of twenty (20) feet must be available between any property line and the entire exterior perimeter of any proposed leach area. *Twenty feet required; 12 feet provided.*

Section I.E.9 - Minimum of fifteen (15) feet must be available between the edge of a soil absorption system and an adjacent side slope, measured from the top of the pea stone elevation in the soil absorption system. The finished side slope is not to be steeper than 3:1 (horizontal-vertical). Walls and impervious barriers are not allowed to adjust the side slope requirement and offset. *Fifteen feet required; the Cultec system, per Modified Certification for General Use, revised date July 24, 2006 Section 11-12, "when the system is installed as specified in 310 CMR: construction in fill, the finished 15 foot horizontal separation distance, item (1) shall be measured from the bottom outside edge of chamber" is provided.*

Chairman Weber requested comments from Health Agent Ira Grossman. Mr. Grossman stated that the design was missing test hole data as required by the Board's local regulations. He stated that the current proposal had greater than three feet of fill over the distribution box and would not be recommended as a variance approval by him. He reported that the applicant has not submitted and recorded an Approval Not Required plan so there was no confirmation of where the "legal lot lines" were.

Russ Wilson questioned whether the Board would allow him to do the test holes when the system was being installed and show the testing data on the as-built. Mr. Grossman stated that additional test holes were required and needed to be witnessed by him prior to the issuance of a Certificate of Compliance.

Mr. Grossman stated that the following additional variance to Section I.A.1 was necessary and not requested in Mr. Wilson's variance request letter:

Section I.A.1 - Two (2) ground water observation holes and two (2) percolation tests must be performed on each lot to prove a suitable primary and expansion area for each lot.

Member Hanninen made a motion to approve the variances to Section I.E.6, I.E.7 & I.E.9 and require the following:

1. (1) soil test hole to be witnessed at time of system installation and recorded on the as-built.
2. Town Water to be installed at time of system installation.
3. Existing dwelling shall not increase in size, square footage, footprint, bedrooms or sewage flow. These conditions must be recorded on the deed.
4. Revise the plan showing that the distribution box is in full compliance.
5. Existing well to be abandoned according to the Town of Groton's Well Regulations.

VOTE: Member Horowitz-Aye; Chairman Weber-Aye; Member Hanninen-Aye.

The motion carried unanimously.

25 Indian Road Present: Russ Wilson, P.E.; Wilson & Associates; Attorney Robert Collins, owner

Attorney Robert Collins disclosed for the record that Dr. Susan Horowitz is currently and has been his veterinarian for over 30 years.

The abutter notification mail receipts were not available to submit into the record and would be provided at a later date.

Attorney Collins stated that this (2) bedroom home utilizing a cesspool was bought by his family in the 1920's and required a septic system upgrade. He requested the following local variances:
 Section I.E.6 - Minimum of thirty-five (35) feet must be available between the edge of any street, passageway or road line and the entire exterior perimeter of any proposed leach areas. *Thirty-five feet required; 12 feet provided.*

Section I.E.7 - Minimum of twenty (20) feet must be available between any property line and the entire exterior perimeter of any proposed leach area. *Twenty feet required; 12 feet provided.*

Section I.E.9 - Minimum of fifteen (15) feet must be available between the edge of a soil absorption system and an adjacent side slope, measured from the top of the pea stone elevation in the soil absorption system. The finished side slope is not to be steeper than 3:1 (horizontal-vertical). Walls and impervious barriers are not allowed to adjust the side slope requirement and offset. *Fifteen feet required; the Cultec system, per Modified Certification for General Use, revised date July 24, 2006 Section 11-12, "when the system is installed as specified in 310 CMR: construction in fill, the finished 15 foot horizontal separation distance, item (1) shall be measured from the bottom outside edge of chamber" is provided.*

Chairman Weber requested comments from Health Agent Ira Grossman. Mr. Grossman stated that this property, like the previous one at 23 Indian Road, required additional test holes and that the applicant had not submitted and recorded an Approval Not Required plan so there was no confirmation of where the "legal lot lines" were. He also stated that the dwelling was only (2) bedrooms and a deed restriction needed to be recorded.

Mr. Grossman stated that the following additional variance to Section I.A.1 was necessary and not requested in Mr. Wilson's variance request letter:

Section I.A.1 - Two (2) ground water observation holes and two (2) percolation tests must be performed on each lot to prove a suitable primary and expansion area for each lot.

Member Hanninen made a motion to approve the variances to Section I.E.6, I.E.7 & I.E.9 and require the following:

1. (1) soil test hole to be conducted at time of system installation and recorded on the as-built.
2. Town Water to be installed at time of system installation.
3. Existing dwelling shall not increase in size, square footage, footprint, bedrooms or sewage flow. These conditions must be recorded on the deed.
4. Existing well to be abandoned according to the Town of Groton's Well Regulations.

VOTE: Member Horowitz-Aye; Chairman Weber-Aye; Member Hanninen-Aye.

The motion carried unanimously.

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37 Boathouse Road: Present: Thomas Pickol (& spouse); Attorney Jerome Benson; Russ Wilson, P.E.

Chairman Weber requested a brief overview of the issue with this property from Health Agent Ira Grossman. Mr. Grossman stated that the Board recently received complaints from neighbors concerning the working condition of the septic system. He stated that the Board requested that the homeowner provide documentation supporting the condition of his on-site sewage disposal system.

Attorney Benson stated that he represents Mr. Pickol and reported that his client has hired an engineer to design a new system. He stated that his client has submitted an application for soil testing with the Nashoba Associated Boards of Health and assured the Board that the process has begun to replace his system and that they would also file the necessary paperwork with the Conservation Commission for an Order of Conditions.

Member Hanninen questioned what the status was of the existing system in order to protect public health. Mr. Wilson stated that there was currently no sewer runoff and only complaints of odor.

Health Agent Ira Grossman confirmed that soil testing has been applied for in his office.

The Board took no further action. They thanked Mr. Pickol for his efforts in correcting the situation.

Lot 54 Academy Hill (a.k.a. 42 Cherry Tree Lane) Present: Lawrence Beals & Cynthia Theriault; Beals Associates; Matt Goodfriend, Habitech

Chairman Weber requested comments from Health Agent Ira Grossman. Mr. Grossman stated that he reviewed the building permit application for Lot 54 Academy Hill and found that the "site plan" submitted for the dwelling differed from the approved septic permit in relation to the tank and building sewer placement. He said that the site plan showed a line that was not constant with the approved septic design. He also reported that the site plan (as opposed to the septic design plan) included a "study" that met all the technical requirements of Title 5 to be a bedroom which resulted in the dwelling being a (5) bedroom house and not the approved septic system design for (4) bedrooms. Therefore, Mr. Grossman concluded that he could not endorse the

building application and denied the application.

Chairman Weber stated that the Board's obligation to define a bedroom was according to Title 5 standards. Mr. Grossman listed the criteria under Title 5 laws that define a bedroom and felt that the "study" met the criteria. He stated that there remains a question on what the "intent" of the study was being used for in its proposed configuration.

Mr. Grossman also reported that the house is fully framed with all exterior walls in place and the contractors were completing the roof - all without a valid building permit.

Mr. Beals stated that the developer would be using "studies" in other houses to be built because the market calls for them. He said that more homes will look like Lot 54 and questioned whether the Board would require them to attend a meeting each time a home similar to this one is sold.

Member Horowitz questioned why the house was being built without a valid building permit. Mr. Beals stated that the builder proceeded at his own risk and that the Building Department assessed another full building permit fee as a fine but didn't order them to stop work.

Mr. Grossman stated that he will continually follow Title 5 guidelines and reject every similar application if he determines that the home exceeds the number of "approved" bedrooms on the sewage disposal permit and will make the applicant seek a Board of Health determination.

Mr. Grossman stated that the Board could consider a "deed" restriction for this dwelling in keeping it a (4) bedroom. Mr. Beals felt that was not a viable solution for this dwelling and any future applications. Member Hanninen questioned whether the developer could do some architectural reconstruction with the door opening so it didn't meet the definition of a bedroom which would prevent this from being considered a (5) bedroom home.

Mr. Beals provided the floor plan and counted (8) total rooms. He felt that ambiguity existed because the floor plan was "straight forward" with (8) total rooms and (4) bedrooms, all within the approved septic capacity.

Mr. Goodfriend introduced himself and stated that he was the "Project Manager" for the project. He questioned why the Board would require a deed restriction on a house that was already (4) bedrooms. Mr. Grossman stated that the "study" provided privacy and met the definition of a bedroom. He said that the intent of this room was what the Board was actually considering.

Chairman Weber questioned what was unappealing about a deed restriction. Mr. Beals stated that it was "inappropriate" in this situation. Chairman Weber questioned whether there was any economic impact to a deed restriction. Mr. Goodfriend stated that there was no need for one because he already permitted the house to be a (4) bedroom home.

Member Hanninen made a motion that if a room meets all the definitions of a bedroom under Title 5 definition, the application will be treated as such for the sewage disposal system regardless of how it is labeled on the plan. The motion was seconded by Member Horowitz.

VOTE: Chairman Weber-No; Member Horowitz-No; Member Hanninen-Aye.

The motion failed by majority vote.

Mr. Beals questioned whether the developer could change the plan and remove the privacy of the

study by opening up the door casing. He stated that if the opening got modified, there would be no presumption of privacy. He said he could live with either a modified plan or a deed restriction but would need to review those options with his client and attorneys.

Member Horowitz made a motion that the plan for Lot 54 Academy Hill be architecturally reconstructed to eliminate privacy of the study or that a (4) bedroom deed restriction be recorded at the Registry of Deeds. The motion was seconded by Member Hanninen.

VOTE: Member Hanninen-Aye; Member Horowitz-Aye; Chairman Weber-No.

The motion passed by a majority of the Board.

Underground Storage Tank Regulations Present: Mike O'Brien, Osterman Propane; Brian Lagasse; George MacGregor; Fire Chief Joseph Bosselait

Mr. O'Brien requested permission to speak with the Board about the applicability of the current regulations as it applies to the underground storage of propane. He stated that he was surprised that this requirement was under the jurisdiction of the Board of Health. He said that propane tanks were not considered a pollutant and not hazardous to the water table. He said that the regulations should not apply to propane tanks.

Member Hanninen questioned whether Mr. O'Brien was objecting to the regulations. Mr. O'Brien stated that the regulations require an extra step to achieve Board of Health approval. He stated that the Fire Department does the inspections and should have jurisdiction over the permitting of them.

Member Hanninen questioned whether Mr. O'Brien was aware of a recent issue involving gas tanks at Stonehill College recently and the risk to public health it caused.

Fire Chief Joseph Bosselait stated that he attended most of the hearings the Board held and recalled that the Board wanted to review all applications for tank location to protect public health concerns. He said the Conservation Commission was also involved to make sure the wetlands were protected. He reported that he has created a routing slip for signatures and he would issue a permit once the other Boards approved the application under their jurisdiction.

Chief Bosselait stated that he has always maintained that propane tanks were not a pollutant as compared to a gas or fuel tank. He recommended that the Board reference the Board's minutes. Chief Bosselait felt that the Board's Health Agent didn't need to go out and actually inspect the tanks because that was action that he would take. He only suggested that the Board's Health Agent review the application for tank location so there was no impact to public health.

Member Hanninen stated that he still maintains that there was potential for problems concerning propane tanks to public health. Mr. O'Brien disagreed with Member Hanninen. He said that it was his opinion that the Board should only be concerned with safety concerns.

Resident George MacGregor stated that he had concerns about the permitting process and the length of time it took to have the review. He referenced the first application took some time to move through the process. Debra Butcher stated that there were reasons for the delay. She stated that there was a change in Health Agents when Ben Cutone left and Ira Grossman came on board, the application was incomplete as per the requirements in the regulations and the address was incorrect so the application was returned.

Member Horowitz requested copies of the minutes and recommended that we have a full discussion on whether to amend the regulations concerning propane tanks at our next meeting on October 1, 2007. Debra Butcher scheduled discussion for 8pm.

Chapter 43D – Expedited Local Permitting

The meeting was postponed by Michelle Collette to a later date.

OTHER BUSINESS

FY08 Goals & Objectives

The Board agreed to discuss these at their meeting on October 15, 2007.

Conditions of Approval Spreadsheet

The Board supported the spreadsheet as drafted by Ms. Butcher.

The meeting adjourned at 9:50pm.

GROTON BOARD OF HEALTH

_____ Jason Weber, Chairman	_____ Dr. Susan Horowitz	_____ Robert Hanninen
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Respectfully Submitted,
Debra A. Butcher