

MEETING MINUTES
Approved
November 17, 2008
Town Hall, Groton, Massachusetts 01450

Board of Health Members Present:

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

Others Present:

Ira M. Grossman; Debra Butcher

Meeting Called to Order:

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

Minutes:

None.

Septic System Permits Signed/Approved:

*None submitted

Bills Signed/Approved:

- *Airgas-\$30.88
- *Ayer Auto Parts-\$29.28
- *Global Montello Group-\$323.82
- *Global Montello Group-\$645.36
- *Moison Ace Hardware-\$88.16
- *Pete's Tie Barns-\$1,715.00
- *Verizon Long Distance (SW)-\$.16
- *Covanta-\$7,227.99
- *E.L. Harvey-\$3,986.47
- *Schwaab, Inc.-\$63.98
- *Verizon Long Distance (BOH)-\$.22

21 Redskin Trail Present: Michael & Pam Mavilia; Dan Wolfe, Ross Associates

The meeting was continued from November 3, 2008 when the Board voted to allow the applicant two weeks to secure a contract with a civil engineer for the design of a sewage disposal system and to obtain the water analysis report on his well.

Mr. Wolfe confirmed that Mr. Mavilia has retained the services of Ross Associates to design the system. He stated that in order for the design to move forward, he needed direction from the Board on the number of bedrooms in the house. Mr. Mavilia stated that there are currently (5) bedrooms serving his home. He stated that there is at least 20 to 30 years of proof of use as a (5) bedroom home yet the record states that there are only (2) bedrooms. Mr. Wolfe stated that his client offered to remove some walls to reduce the number of bedrooms to (4). Mr. Wolfe asked the Board to reach that compromise.

Mr. Grossman stated that there is some confusion from the original permit dated 1978 on the number of bedrooms. He stated that an old inspection from 1994 showed an apartment but the approved capacity was for a (2) bedroom house.

Member Horowitz questioned the acreage of the property and whether Mr. Mavilia owned property in the rear of his home. Mr. Wolfe stated that there was a section that directly abuts his property on Pine Trail, however, it was one contiguous piece of land. He told the Board that he had land to work with but the Board must direct him on the number of bedrooms.

Mr. Wolfe asked the Board to accept the existing dwelling as a (4) bedroom, (2) family home. Mr. Grossman stated that while the existing permit was for a (2) bedroom home, there was enough history and information that showed the changes.

Member Horowitz made a motion to accept the property as a (2) family, (4) bedroom home as the design feature. The motion was seconded by Member Weber.

VOTE: Chairman Hanninen-Aye; Member Weber-Aye; Member Horowitz-Aye. The motion carried unanimously.

Member Horowitz requested that the dwelling not be increased in size. The Board voted unanimously to require a deed restriction. Mr. Wolfe stated that he would provide a copy once it's been recorded.

Prime Energy Present: Gary Shepard, Ross Associates; Nasser Abu-Eid; Attorney Howard Speicher; Mr. & Mrs. Ilsley, 611 Boston Road

Mr. Shepard stated that his client's intention was to build a new gasoline station and a convenience store located at 619 Boston Road. He stated that a septic system repair was needed to upgrade the system in order to be in full compliance with the requirements of Title 5. Mr. Shepard stated that it was his opinion that this was not a "change in use", therefore no variances were required for the approval. He argued that the project was a repair and not new construction as Health Agent Ira Grossman has determined.

Mr. Shepard provided the Board with a legal history of what has recently occurred at the property.

Mr. Grossman stated that Mr. Shepard has not provided records that the site was a convenience store with retail goods. He stated that the proposed change of the building from a gasoline station with discontinued service bays to that of a gasoline station with a convenience store was a change of use in accordance with Title 5.

Attorney Speicher referenced 310 CMR 15.204 under new construction criteria and stated that it didn't apply in this case under the proposed design flows.

Mr. Grossman questioned when the facility was used as a convenience store. Mr. Abu-Eid stated that it was "probably sometime in 2001".

Mr. Shepard introduced Mr. & Mrs. Ilsley, abutters to the property. Ms. Ilsley stated that she recalled that the property sold minor groceries in the early 1990's and expressed support for the new building because she felt it would improve the area.

Discussion followed concerning existing design flows. Mr. Grossman stated that there is no permit on file indicating whether there is a cesspool or a traditional leach field.

Mr. Speicher stated that it was his client's intention to keep it a gasoline station with a small retail component (i.e. packaged foods).

Member Horowitz questioned whether the owner was selling tobacco products. Mr. Abu-Eid stated that he holds a current license but presently does not sell tobacco products.

Mr. Grossman stated that (2) variances were required for the permit. He recommended that the Board vote to require a variance hearing.

Member Horowitz felt that abutters needed to be notified of what was happening there. She made a motion to require that the applicant follow the variance procedure in accordance with the Town of Groton's Local Regulations. The motion was seconded by Chairman Hanninen.

VOTE: Member Horowitz-Aye; Chairman Hanninen-Aye; Member Weber-No. The motion carried with (2) members in favor.

65 Rocky's Point Present: Ralph Romano, Global Engineering Consultants

Mr. Romano stated that property consisted of (4) buildings, 3 residences and 1 garage, and is surrounded by water on three sides. He stated each of the residences had its own well with a single leaching area servicing three dwellings.

Mr. Romano presented a new design plan utilizing the Presby-Enviro Septic system. He requested the following variances:

Town of Groton's Local Regulations

Section I.E.1 - Leaching facilities (including the proposed expansion area) must be located at least one hundred (100') feet from any wetland, water course, wetland vegetation, seasonal streams and drainage ditches. *100' required; 50 feet provided.*

Section I.C.7 - The proposed expansion area must be accessible by gravity flow or in the same manner that the primary area is designed and/or installed. *No reserve area provided.*

Section I.F.1 - Leach beds and pits will be sized at 150% of Title 5 requirements. Leaching areas based on percolation rates greater than 14 minutes/inch shall have a reserve area of 150% of the primary area. *Leach area is designed in accordance with DEP approval of Presby-pipe system. Leach area is 703 square feet which is 60% of Title 5 bed design.*

310 CMR 15.000 Title 5

310 CMR 15.211 - Leach areas required to be within 100 feet of a private well; *100 feet required; 58 feet and 78.5 feet provided.*

310 CMR 15.211 - Leach area required to be within 50 feet of Lost Lake as defined by edge of bank; *50 feet required; 42 feet provided.*

310 MR 15.211 - Leach area required to be within 20 feet of existing foundation; *20 feet required; 12.5 feet provided.*

Chairman Hanninen questioned the number of bedrooms in total. Mr. Romano stated there are (7). Mr. Grossman asked if the water quality tests were conducted. Mr. Romano stated

that he spoke with his client and the tests were done and were awaiting the results. Mr. Grossman said that he supported the plan because there was no other alternative due to the peninsula and having water on three sides. Mr. Grossman stated that the design plan was not considered a shared system by definition.

Member Horowitz requested that water testing continue and because of the Presby design that full Title 5 inspection be conducted annually for five years. She asked that the garage never be allowed to be converted to living space and that the property remains in common ownership and not be subdivided. Mr. Grossman suggested that the Board put that in their conditions of the permit.

Member Horowitz made a motion to approve the variances as requested with the following conditions:

1. A full Title 5 inspection must be conducted annually for (5) years and a copy of the report submitted to the Board of Health office. Notice is required to be placed on the property deed for the use a of a Presby-Enviro system.
2. There shall be no increase in size, footprint, square footage, sewage flow and bedrooms. These conditions must be recorded on the property deed.
3. The property shall remain in common ownership and cannot be subdivided.
4. The garage may not be converted to habitable space.

The motion was seconded by Member Weber.

VOTE: Member Weber-Aye; Chairman Hanninen-Aye; Member Horowitz-Aye. The motion carried unanimously.

993 Boston Road Present: Matthew Field

Mr. Grossman stated that an order letter, dated October 14, 2008, was sent to the owner notifying him that he was in violation of the State Environmental Code, Title 5 for both the failure to upgrade the septic system within two years of the date of discovery and the failure to perform a Title 5 inspection. Mr. Grossman also stated that there was no evidence of a full water test as required by the Town of Groton's Well Regulations because of the transfer of the property and because the well may be less than 100 feet from the leaching system.

Mr. Field explained that the property has changed ownership two times and there hasn't been a Title 5 inspection. He said there are presently tenants living in the house; however, there are potentially two interested buyers for the property, one being the Town of Groton. The Board questioned how the property was sold without a Title 5 inspection being done. Mr. Field did not have an explanation for the Board.

Chairman Hanninen requested that Mr. Field have a full water quality test done in accordance with the Town's regulations within (2) weeks and that the Board would review the results at their December 1, 2008 meeting and to begin the process of the septic upgrade within (2) months and to have a variance hearing within 30 days.

Mr. Field stated that he did not have the funds to do the septic system repair at this time. Discussion continued on a timeframe for compliance.

Health Agent Ira Grossman stated that Mr. Field should complete the system by springtime. Member Horowitz made a motion to require a water quality test conducted in accordance with the Town of Groton's Well Regulations immediately and to have the septic system installed with a Certificate of Compliance by June 1, 2008. She stated that if the tenants leave, the dwelling is not to be reoccupied. The motion was seconded by Member Weber.

VOTE: Member Weber-Aye; Chairman Hanninen-Aye; Member Horowitz-Aye. The motion carried unanimously.

47 Off Prescott Street Present: Douglas Smith, Soilsmith Designs

Mr. Smith stated that during construction of the septic system, the septic tank was not placed in the correct location and now requires a 4' variance from the suction waterline to the tank. He stated that he took full responsibility for the mistake because he approved the field change when the installer contacted him.

He requested the following variance:

310 CMR 15.211 Local Upgrade Approval

Suction waterline must be 50 feet to the tank, actual distance is 46 feet.

Chairman Hanninen asked Mr. Grossman if he had any concerns. Mr. Grossman stated "no". Member Horowitz said that the installer should have contacted the Board's Agent instead and that future field changes be directed to him only.

Discussion followed concerning restrictions. The Board agreed to condition the approval with the following conditions:

1. One bedroom deed restriction shall be recorded on the property deed.
2. No increase in bedrooms, square footage, sewage flow or footprint. These conditions shall be recorded on the property deed.

Chairman Hanninen made a motion to approve the variance as requested with conditions. The meeting was seconded by Member Weber.

VOTE: Member Horowitz-Aye; Member Weber-Aye; Chairman Hanninen-Aye. The motion carried unanimously.

159 Pepperell Road Present: Chris MacKenzie, Whitman & Bingham; Robert Proctor

Mr. MacKenzie presented a design plan for an upgrade to the onsite sewage disposal system that includes the use of a barrier wall to adjust the Title 5 grading. He stated that the design was out of the 100 foot wetland buffer.

The following variances were requested:

Town of Groton's Local Regulations

Section I.A.2 - Deep observation holes may be performed in the months of March and April. *Deep observation holes were performed on May 14, 2008.*

Section I.C.3 - Copy of the survey plan for the property shall be submitted with the engineered plan. *A property line survey has not been performed on this property, the deed description is sufficient for determining the property line locations.*

Section I.E.9 - Walls and impervious barriers are not allowed to adjust the side slope requirements and offset. *Impervious barrier proposed to preserve the existing shed.*

Chairman Hanninen questioned whether Mr. Grossman had any comments and/or concerns. Mr. Grossman stated the design was the most suitable considering the conditions of the site.

Member Horowitz requested that the Board put conditions on the approval and not allow the dwelling to increase and to use a poly-barrier to preserve the shed.

Member Weber stated that the variances were straightforward and made a motion to accept the variances as written. The motion was seconded by Member Horowitz.

VOTE: Chairman Hanninen-Aye; Member Horowitz-Aye; Member Weber-Aye. The motion carried unanimously.

The Board voted unanimously to allow Health Agent Ira Grossman to sign for them.

OTHER BUSINESS

China – Food Products

The Board discussed the best approach for educating the public about food safety and products from China. The Board asked that the public be aware of food safety and the potential for contamination and that it should make a statement to keep residents aware of food sources and to pay attention to them.

Nashoba Boards of Health – Permit Renewals

The Board requested that permit renewal applications be reviewed by the Board prior to issuance. Additionally, they asked that future permits reflect seating capacity. The Board requested that a new process be implemented where the applicant must “initial” all requirements on the permit.

ADMINISTRATIVE ASSISTANT UPDATE

Payroll Approval Procedure

Ms. Butcher informed the Board that the Tax Collector/Treasurer’s office will now receive faxed approvals from the Board. Member Horowitz agreed to be the approval authority for payroll.

FY10 Budgets – Solid Waste/Board of Health

The Board voted unanimously to “level fund” the FY10 Board of Health budget. They voted unanimously to increase the FY10 budget for Solid Waste by \$5K for paint recycling which was omitted last fiscal year.

The Board voted unanimously to adjourn at 10:00pm.

GROTON BOARD OF HEALTH

Robert Hanninen, Chairman

Dr. Susan Horowitz

Jason Weber

Respectfully Submitted,
Debra A. Butcher