

**MEETING MINUTES**  
**APPROVED**  
**March 2, 2009**  
**Groton Town Hall, Groton, Massachusetts 01450**

Board of Health Members Present:

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

Others Present:

Ira M. Grossman, R.S.; Debra Butcher

Meeting Called to Order:

Chairman Hanninen called the meeting to order at 7:32pm.

Minutes:

The minutes of February 17, 2009 were approved as amended.

Septic System Permits Signed/Approved:

None Submitted

Bills Signed/Approved:

- \*Global Montello Group-\$366.84
- \*Global Montello Group-\$929.65
- \*Global Montello Group-\$22.16
- \*Groton Electric Light Dept.-\$69.12
- \*Groton Electric Light Dept.-\$240.70
- \*Moison Ace Hardware-\$67.33
- \*P.N. Laggis-\$9.44
- \*Verizon (SW)-\$18.27
- \*Verizon Wireless (SW)-\$12.74
- \*E.L. Harvey-\$846.38
- \*Verizon (BOH)-\$34.18

22 Redskin Trail

Attorney Robert Collins was not present due to the weather and requested that the meeting be rescheduled to March 16, 2009. Via fax, he provided a draft copy of the deed restriction notice for the Board to approve.

Chairman Hanninen made a motion to continue this meeting to March 16, 2009 at 8pm. The motion was seconded by Member Horowitz and voted unanimously.

993 Boston Road

Mr. Field and Mr. Tierney did not attend the meeting. The Board requested that Ms. Butcher contact the Conservation Commission concerning whether they were pursuing purchasing the abutting parcel and concerning the 40 (or 42 foot) foot right of way. The Board voted unanimously to reschedule the meeting to April 6, 2009 at 8:00pm.

Groton School

Attorney Robert Collins was not present due to the weather and requested that the meeting be rescheduled to March 16, 2009.

331A & 331B Pepperell Road Present: Dan Wolfe, P.E., Ross Associates

Mr. Wolfe provided the certified mail receipt cards for the record. He stated that the house was situated on 5 ¼ acres with wetlands all around the back of the property and ledge prevalent throughout the area. He reported that the existing system was in the front and because of the constraints with the lot; he designed a Presby-Enviro septic system in the same area after many attempts in other areas.

He requested the following variances:

310 CMR 15.405 – Local Upgrade Approval

310 CMR 15.405(1)(h) - Reduction of the required four (4) foot separation between the bottom of the soil absorption system and the high ground water elevation. *Request for a two (2) foot ground water offset provided utilizing the Presby Enviro-septic system remedial use.*

310 CMR 15.405(1)(k) - Two observation holes per disposal area as required by 310 CMR 15.102. *Request for one (1) deep hole so as not to disturb existing leaching area.*

Town of Groton's Local Regulations

Section I.A.2 - Deep observation holes for determination of ground water elevations may be performed during the months of March and April. *Testing performed in December 2008.*

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. *Request for a two (2) foot ground water offset utilizing the Presby Enviro septic system.*

Section I.E.6 - Minimum of (35) feet must be available between the edge of any road and the entire perimeter of any proposed leach areas. *Request to allow an offset of twenty-one (21) feet.*

Section I.E.9 - Minimum of fifteen (15) feet must be available between the edge of the soil absorption system and an adjacent side slope. Walls and impervious barriers are not allowed to adjust the side slope requirement and offset. *Request to allow polyethylene barrier at five (5) feet from the edge of the soil absorption system.*

Chairman Hanninen asked if Health Agent Ira Grossman had any comments. Mr. Grossman concurred that the wetlands issues and supported the plan before the Board. Mr. Wolfe found it amazing that such a large parcel of land had problems siting a system. Mr. Wolfe replied that this is usually why parcels are large.

Member Horowitz questioned how big the house was. Mr. Wolfe stated that it was a four (4) bedroom house that included the apartment. Member Horowitz recommended that the Board condition that there be no increase in size and footprint if approved.

Member Weber questioned whether the in-law was treated like any bedroom. Mr. Wolfe stated "yes" and it would have a two-compartment tank.

Member Horowitz made a motion to approve the variance requests stated in Mr. Wolfe's letter dated February 5, 2009 concerning 331 Pepperell Road with the following conditions:

1. The dwelling shall not increase in size, sewage flow, square footage, height or bedrooms and these conditions must be recorded on the property deed.
2. A full Title 5 inspection must be conducted annually for (5) years with a copy submitted to the Board of Health office.
3. Notice to be placed on the property deed for the use of the Presby Enviro-septic system.

The motion was seconded by Member Weber.

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

Member Weber questioned whether the deed restriction would be unacceptable to his client. Mr. Wolfe stated that he will explain to them.

Clover Farm Market Present: Selectmen Peter Cunningham

Chairman Hanninen began by expressing his disappointment that the situation at Clover Farm Market has not changed in that tables and chairs were still set up as restaurant seating. He also stated that last Friday evening (February 27, 2009) there was a music event. Health Agent Ira Grossman stated that the store is operating under a change in use because they don't have approval for public events.

Member Horowitz stated that the store owner was turning the store into a restaurant. She expressed her disappointment as well because the Board wrote an "elegant" solution to the problem which Ms. Hurst refuses to acknowledge. She stated that both she and Chairman Hanninen visited the store in January and were told by Ms. Hurst that it was her intention to comply with the Memorandum of Understanding dated December 22, 2008. Member Horowitz stated that Ms. Hurst didn't want any more problems with the Board.

Mr. Grossman stated that the Building Inspector was asked to investigate the change in use and to report back with his finding. Member Horowitz stated that if Ms. Hurst wanted to have events at the store that she needed to go to the Planning Board for Site Plan Review and to the Board of Selectmen for a "one day liquor license" if she wanted to continue with wine tasting events.

Selectmen Peter Cunningham questioned what portion of Title 5 does this apply to with the addition of tables and chairs. Member Horowitz said that it changes the use and turns this into a restaurant and not a take out market. She stated that their original permit was for a market with (2) employees and other than that, she would need to bring the store into full compliance with Title 5.

Mr. Grossman explained that it would need 1000 gallon minimum if there is a change in use from a market to a restaurant.

Selectmen Cunningham questioned whether there was any waiver in the Code to help Ms. Hurst. Mr. Grossman stated "no".

Discussion followed concerning Mr. Michael Moore's correspondence concerning the food code. Member Weber made a motion to answer Mr. Moore's letter in an efficient manner. The motion was seconded and voted unanimously.

Member Horowitz insisted that it was not the Board's intention to shut the store down. Chairman Hanninen agreed and stated that the Board was only enforcing the laws for "full and fair compliance". He stated that the same laws apply to everyone and there are no exceptions. Member Horowitz stated that she would like Ms. Hurst to attend a meeting so the Board can discuss this with her but she has been unavailable for the last three meetings.

Mr. Grossman recommended that the Board vote to send her an order to comply letter. He recommended that the Board order her to remove the chairs and tables. Member Weber suggested that the Board's first step would be to order her to comply with the Memorandum of Understanding (MOU).

Chairman Hanninen suggested that the Board order Ms. Hurst to comply with the MOU within (5) days of receipt at which time Nashoba Associated Boards of Health will conduct an inspection and to place this on the agenda for March 16, 2009 at 8:30pm and ask Ms. Hurst or her representative to attend.

Chairman Hanninen questioned at what point does the Board consider legal action against Ms. Hurst. Mr. Grossman stated that the Board has given her ample time to comply and that the Board should take her to court if there is no compliance.

Member Weber suggested that the Board receive guidance from the Board of Selectmen. Selectmen Cunningham stated that it was a "shame to force her out of business" if the end result is that. He stated that he understood that the Board needs to enforce the Code but he said he wasn't sure a "genuine health threat" existed. He asked if patrons consuming food while standing would make a difference. Chairman Hanninen stated that the store is permitted as a "take out".

Selectmen Cunningham asked what constitutes a restaurant and whether it isn't a restaurant if there are no tables and chairs present. He said it is difficult to have discussion concerning the store without having the owner present. He said he wants to see her succeed and it would be a shame if she couldn't. Chairman Hanninen stated that the Board agrees with him.

She said that Ms. Hurst has been advised by the Board and she is not taking their advice. She stated that there isn't an imminent health threat but as a town did we want to deal with the State because we're allowing Clover Farm Market to be in non-compliance. She said it could result in the town being taken to court and why should tax payers take on that burden.

Selectmen Cunningham stated that it would be unfortunate to see a vacant building in West Groton and he is not suggesting that the Board not pursue due diligence with this.

Hearing no other comments, Chairman Hanninen requested that the Board vote on whether they want to pursue an order letter. Member Weber made a motion to send a letter ordering Ms. Hurst to comply with the MOU dated December 22, 2008 and to include a copy of the MOU with the order letter. He stated that the letter should include (5) days to comply and failure to comply would result in an invitation to attend a meeting. Member Horowitz asked to have a copy of the letter sent to the Building Department, Planning Board and Board of Selectmen.

The motion was seconded by Chairman Hanninen.

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

#### 749 Lowell Road

The Board received a request to approve a (4) bedroom deed restriction. Health Agent Ira Grossman stated that the Board has received a copy of the condominium documents and floor plan as requested and supported the request.

Member Horowitz made a motion to approve the request. The motion was seconded by Chairman Hanninen and approved unanimously.

#### Groton Wellness

The applicants did not attend the meeting as scheduled. Chairman Hanninen made a motion to continue the discussion to March 16, 2009 at 8:45pm. The motion was seconded and approved unanimously.

A copy of the Groton Plumbing Inspector's memorandum was given to the Board. Health Agent Ira Grossman stated that he researched whether these units were in existence in Massachusetts and spoke with the Department of Environmental Protection and Department of Public Health and both departments indicated that they knew of none in existence. Mr. Grossman recommended that the Board vote against it. Member Horowitz recommended that Mr. Grossman get in touch with the State Plumbing Commission to find out if any of these units are used and approved by the State. Chairman Hanninen stated that he was uncomfortable discussing this without the applicant present.

#### OTHER BUSINESS

#### Hazelwood Avenue/William Carson correspondence

The Board reviewed correspondence from Mr. Carson stating that a survey conducted to determine property lines alleges that the septic system at 8 Hazelwood Avenue is a cesspool and located in the lake water table. His letter states that the cesspool is a source of contamination to the lake as well as to his onsite private well. He requested help from the Board of Health.

The Board voted unanimously to have Mr. Grossman do a "drive by" and to send a letter to the owner of 8 Hazelwood Avenue instructing them to do a Title 5 inspection as soon as possible and to provide a copy to the Board of Health. The Board will follow up on the status at their April 6, 2009 meeting.

### Professional Engineer/Registered Sanitarian Certification Stamp on Plans

The Board voted unanimously to approve a policy that allows a Registered Sanitarian the ability to stamp plans for systems designed up to 2000 gallons per day.

### Sewage Works Construction Permits – One Year Renewal

The Board voted unanimously that there be no automatic one year renewal of permits unless the system construction has been started.

### Innovative/Alternative Systems – Inspection Compliance

In an effort to assistance with compliance on I/A systems, Mr. Grossman asked the Board for approval to have a notice recorded on the property deed before the physical permit is released. Member Horowitz questioned whether the applicants could be fined if there is no compliance. Mr. Grossman stated that would result in a long and legal process and could be costly to the town. The Board voted unanimously to approve the request.

### 124 Mill Street

The Board voted unanimously to have Mr. Grossman inspects the property from the road concerning the pallets. Member Horowitz requested that the Fire Chief be informed of the inspection status. Chairman Hanninen stated that the Board needed to determine whether the pallets were defined as “trash”.

### HEALTH AGENT UPDATE

Mr. Grossman had no update to report.

### ADMINISTRATIVE ASSISTANT UPDATE

Ms. Butcher had no update to report.

The meeting adjourned at 9:35pm by unanimous vote.

GROTON BOARD OF HEALTH

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Robert Hanninen, Chairman

Dr. Susan Horowitz

Jason Weber

Respectfully Submitted,  
Debra A. Butcher