



TOWN OF GROTON
Board of Health
173 Main Street
Groton, Massachusetts 01450

MEETING MINUTES
October 4, 2010

Board of Health Members Present:

Jason Weber, Chairman
Robert Fleischer, Member
Dr. Susan Horowitz, Member

Others Present:

Nashoba Associated Board of Health Agent Ira Grossman
Land Use Assistant Dawn Dunbar

Meeting Called to Order:

Chairman Weber called the meeting to order at 7:05 pm in the Town Hall.

Permits & Variances Signed:

148 Lost Lake Dr; 51 Kailey's Way, Lot 8A; 65 Rawding Road, Lot 71; 35 Whitney Pond Road; 58 Indian Road; 201 Flavell Road, Lot 12; 178 Townsend Road; 49 Cherry Tree Lane, Lot 45; Arbor Way, Lot 31; Indian Hill Road, Lot 1; 54 Hill Road; Monarch Path, Lot 3; 79 Raddin Road; 19 Baby Beach Road

Minutes Approved

The Board accepted the minutes, as amended, for September 13, 2010. All were in favor.

The Board accepted the minutes, as amended, for September 20, 2010. All were in favor.

Invoices Signed

Terracon

Old Business

15 Whitewood Road: Mr. Grossman presented the Board with a letter seeking approval to send to Mr. Scira. All voted unanimously to send the letter with a few minor edits.

83 Castle Drive: Member Horowitz started by asking what the letter was all about. Mr. Grossman explained that there was a complaint from an abutter claiming that a

neighbor was repairing their septic system on their own and without a permit. The abutter was concerned that their water was being contaminated. The abutter's well water was tested and no contamination was found.

Mr. Grossman further stated that he did not believe there was an issue that required the Board to order a Title 5 inspection.

Member Horowitz asked Mr. Grossman if 83 Castle Drive knew that there had been a complaint filed.

Mr. Grossman replied that they did not. However upon researching the property, Mr. Grossman stumbled upon a bedroom count discrepancy between the permit and the as-built. Member Horowitz asked if a letter could be sent regarding the bedroom count issue and the possible need for a Title 5 inspection.

Mr. Grossman responded that the homeowner would get a letter once the text was Ok'ed by the Board.

Member Horowitz asked if the abutter could be sent an email asking him/her to come forward if they believe there is a viable complaint.

Mr. Grossman replied that there is no visible complaint.

Chairman Weber asked if there was a contamination issue. Mr. Grossman replied that the water test results indicated that there was not.

22 Redskin Trail

Present: Michael Mavilla, brother / abutter
Attorney Robert Collins

Attorney Collins started the meeting by explaining that he was asked to come to the meeting to report on the status of 22 Redskin Trail. He stated that this property has been an issue for some time, with questions regarding the SDS and related approvals. He stated that the house is now as it was constructed.

Attorney Collins explained that requested well testing was conducted Skillings. He said that the water quality has remained constant and that Mr. Mavilla has done everything asked of him. He also stated that a camera was sent down inside the septic tank and that this showed no signs of holes as had been alleged. He added that there were no signs of system failure and that if the property were to be sold, the system would meet Title 5 standards.

Mr. Michael Mavilla interrupted, claiming that this was not true. Attorney Collins interjected, asking Mr. Mavilla to wait his turn. After a brief statement regarding his emotional state, Mr. Mavilla complied.

Attorney Collins continued by explaining that Ducharme & Dillis had visited the site some time ago and determined that the system did not meet requirements but was not

failing. He also stated that Mr. Mavilla does not want to spend money on an SDS system now as there is the possibility that 5 years down the road there could be public sewage lines available.

Member Horowitz commented on how the bedroom count requirements lead the Board here.

Mr. Grossman affirmed that there was an order issued in 2008 because the system had failed due to high nitrate levels. The 2008 documentation stated that Mr. Mavilla needed to upgrade the system by 2010. Title 5 inspection was not completed in 2010. The engineer felt the system is in failure. There was evidence of sewage on top of the pipes. Statements have continually been made that the system will be upgraded.

Mr. Mavilla tried to interrupt and Chairman Weber asked him to hold on.

Conversation ensued as to whether the tank was metal or not.

Attorney Collins asked the Mr. Grossman if he had seen sewage on top of the pipes.

Mr. Grossman replied that he had not when he was there and that he did not have an answer as to whether or not the tank was metal.

Mr. Mavilla explained that when his father owned the property the septic was flooding the house when it rained and it came up through the toilets. They used to have to pump it when it backed up.

He stated that pictures of the pump used had been given to the Conservation Commission approximately 9 years ago. He stated that saying the system is not in failure is a big lie. Mr. Mavilla was visibly upset at this point.

Mr. Mavilla mentioned that the laundry room gets drained into a hole (55 gal drum). He offered to allow the Board to dig on his property, 21 Redskin Trail so that they could see/ confirm his claims.

Member Horowitz asked if there was still a tenant there.

Mr. Mavilla responded that there was and that a new one was moving in.

Attorney Collins stated that the bedroom count had not changed.

Mr. Grossman added that the owner was not supposed to rent the apartment until the SDS was upgraded.

Mr. Mavilla added that Richard Mavilla had the apartment listed in the most recent Action Unlimited.

Attorney Collins stated that he was not aware that an order had been issued by Mr. Grossman.

Member Horowitz asked how the Board should handle tenants.

Mr. Grossman replied that Mr. Richard Mavilla is in violation of his restriction and suggested housing court as one option.

Mr. Mavilla again spoke about the pictures submitted 9 years ago. He further explained how his tenant can smell something. He continued by saying that his brother is pumping sewage out of the toilet. "This is not a story; this is the truth."

Attorney Collins replied that at this time he would feel better if he heard this from his client and not from Mr. Michael Mavilla.

Attorney Collins asked the Board if he could consult with his client and come to the next meeting with a resolution. He suggested that Mr. Grossman could issue an order if he wished.

Member Fleischer suggested that minimum qualifications be given. Attorney Collins replied that this was unnecessary.

Member Horowitz asked Mr. Grossman if a system could be put in.

Mr. Grossman replied that without consulting with an engineer he was not sure. It would be okay to wait until the next meeting for resolution.

Mr. Mavilla asked the Board "What about the renters?" Mr. Grossman replied that the deed was still in effect.

Chairman Weber added that the deed stated it was a 3 bedroom home including the apartment.

Attorney Collins commented that a specific tank was needed to accommodate 2 apartments.

Member Horowitz added that this was not in compliance with the access bill.

Chairman Weber further added that under 40A Section 6 that it would be grandfather in.

Mr. Mavilla further added that the house was not built with an apartment.

Attorney Collins replied that the house has not changed bedroom count to accommodate the apartment.

Chairman Weber asked Mr. Grossman if the pump was legal.

Mr. Grossman replied that it is not legal to pump to the surface.

Chairman Weber asked if the legal pump constituted a failure. Is there any way to confirm the existence of the pump?

Mr. Mavilla added that the Board would not find it now. It is a sump pump that is put in and taken out. Chairman Weber asked why it would be seen. Mr. Mavilla replied that it's removable.

Member Horowitz stated that in her opinion the Board should wait to see what resolution Attorney Collins presented to the Board at the next meeting and Mr. Grossman could at that point proceed with housing court if need be. Member Horowitz asked Attorney Collins if Mr. Richard Mavilla was available for the next meeting. Attorney Collins replied that it was better not to have him here.

Attorney Collins further added that he would convey to his client that there is an order not to rent.

Member Horowitz also asked Attorney Collins to have his client remove the ad from the Action Unlimited.

Member Horowitz asked that Mr. Mavilla be placed on the agenda for the November 1, 2010.

2 Allison Park

Present: Attorney Robert Collins
Kristen Cianci, homeowner

Attorney Collins started the meeting by stating that he was consulted by Mr. Grossman to represent Mrs. Cianci with the bedroom count issue because he knows about the system in her development. Attorney Collins then handed the Board a letter from himself.

The letter explains how the system was unique when designed and how the initial approval had been for 12 units – Exclusive Use Areas (EUA), and not lots at the Deerhaven subdivision. This development ended up being just 11 lots.

Attorney Collins explained that the system was designed for 1 more EUA than existed. This was the first shared system in the town with lots.

He pointed out in the document that 9 of the lots have 4 bedrooms and 2 lots have 5 bedrooms, one of them belonging to the Cianci's. Both of the 5 bedroom houses were built that way; no bedrooms have been added. Therefore there is additional flow for 2 people to add 1 bedroom or 1 person to add 2 bedrooms.

Member Horowitz remembered this discussion from some time ago. Mr. Grossman responded that it had been before the Board a long time ago.

Member Fleischer commented that it didn't sound as though there was necessarily excess available but that there just allowance for 2 extra bedrooms.

Member Horowitz asked what had brought this up because she was not present for the discussion at the previous meeting.

Mr. Grossman responded that the deed paperwork presented at the previous meeting showed 4 bedrooms not 5. The papers should have shown 5 bedrooms.

Mrs. Cianci stated that she showed her floor plans and that's how the issue arose.

Attorney Collins explained that the tank is sufficient for 5 bedrooms, The Cianci's had wanted a 5 bedroom but the original plans only showed 4 bedrooms; however this did not change the septic capacity.

Member Fleischer asked who owns the excess capacity.

Attorney Collins replied that it is an asset of the homeowners trust.

Member Fleischer asked how this solves the issue.

Mr. Grossman replied that the Board accepted the 5 bedroom plan and that the capacity is there.

Member Horowitz moved to accept the 5 bedrooms.

Mrs. Cianci stated that they are just looking to add an extra room not a bedroom and that the 11 rooms would still be okay until the 5 bedroom septic plan.

Mr. Grossman replied that they could modify the existing permit.

Chairman Weber moved to amend:

1. The existing building as a 5 bedroom house

Chairman Weber asked for all in favor. Motion to adjust the bedroom count and for permit to finish basement unanimously passed.

Member Horowitz asked Mrs. Cianci to make sure that the trust was aware of what was going on. Attorney Collins stated that he would send a letter to the trust president as well.

Chairman Weber moved to have the document entered into the record. He also moved to have the Board notify the trustee Jim Selders. The Board is to also notify the trust that they are due for an inspection.

79 Raddin Road

Present: Stan Dillis, engineer
Don Black

Mr. Dillis started the meeting by showing the Board proposed plans.

Member Horowitz asked if there were other variances.

Mr. Grossman read the Board the variances submitted by Ducharme and Dillis and also stated that he had no further comments as there were not a whole lot of choices here.

Member Horowitz asked if the house had burnt down.

Mr. Black responded yes.

Member Fleischer asked if there was a suction line.

Mr. Grossman responded that there was and that its presence does not change anything.

Mr. Dillis stated that there is plenty of water.

Chairman Weber stated that if Mr. Grossman had no concerns, he moved to approve the request as written:

§1.E.6.

1. A minimum of 35 feet between any street, passageway or road line and any proposed leach area.
2. A minimum of ten feet between Raddin Road and the proposed leaching area.

§1.E.7.

1. A minimum of 20 feet must be available between any property line and the entire exterior perimeter of any proposed leach area.
2. A minimum distance of 11 feet between the property line and the proposed leaching area.

310 CMR 15.405 (1)(g)

1. To allow reduction of system location setbacks to a water supply line (suction line). It is proposed to maintain a minimum distance of 50 feet between the sewage disposal system upgrade components and the suction water line from the existing well.

310 CMR 15.405 (1)(k)

1. To allow use of a single deep hole within the proposed disposal area.

Member Horowitz seconded the motion.

Chairman Weber read the following conditions:

1. The applicant must submit any proposed change in the above referenced plans to the Board of Health for its review and approval before the change is implemented.
2. The applicant is responsible for obtaining any other permits (including but not limited to) those required by the Board of Selectman, Conservation Commission, Building Inspector, DPW Director, Planning Board, Stormwater Advisory Committee, and Zoning Board of Appeals.

3. Any construction activities (or related activities) within 100 feet of a wetland or resource protection area requires approval of the Groton Conservation Commission.
4. It is the applicant's responsibility to insure that the contents of this permit are made known to all contractors who perform work at this site.
5. It is the applicant's responsibility to contact Dig Safe prior to the commencement of any work at the site.
6. If the project is not completed, including issuance of a Certificate of Compliance, by 25 May 2011, it is the responsibility of the applicant to request an extension. The Board of Health may grant extensions for additional time provided that the applicant submits a written request for renewal no later than 25 April 2012, 30 days prior to expiration of permit.
7. Any change in use or increased sewage flow is not to be made without prior approval of the Board of Health and any other applicable Board or Commission.
8. The existing 3 bedroom house is to remain a 3 bedroom house with no increase in the number of bedrooms, unless expansion plans are reviewed and approved by the Groton Board of Health.
9. This variance shall not be in effect until certified copy of the variance decision is recorded at the Middlesex South Registry of Deeds. Evidence of such recording shall be submitted to the Board of Health by the applicant.

Mr. Grossman added that since home is under construction the septic needs to be done prior to occupancy sign-off. This was a reminder as it is procedure anyway.

Member Fleischer asked Mr. Dillis if suction line has to be a certain distance from wetlands.

Mr. Dillis replied that it has already been presented to Conservation Commission.

Member Fleischer seconded the motion and it passed unanimously.

Other Business

Member Horowitz asked Dawn Dunbar to find the 2001 minutes regarding Drumlin Hill Road and Habitat for Humanity house.

AL Prime

Member Horowitz asked if a letter needed to be sent to AL Prime regarding the sale of prepared food prior to having their permit.

Mr. Grossman responded that there is no need for a letter at this time. He has sent their attorney an email.

Member Horowitz reiterated the limitations of their pending food permit (frozen pizza, hot dogs and coffee only).

Mill Run

Member Horowitz brought to the Board's attention that hair is being done at Mind, Body, Spirit.

Mr. Grossman responded that it is not an issue to the NABH.

Dunkin Donuts

It was mentioned that nothing had changed.

Mr. Grossman mentioned that there is a new restaurant going in on Hollis Street. He proceeded to show the Board their proposed, limited menu. It was also mentioned that the hair salon located on Hollis Street was also limited to the size of the addition they could put on the back.

Member Horowitz asked if it was ADA compliant. Mr. Grossman replied that Mark Dupell, Building Commissioner would need to be consulted.

Clover Farm

Chairman Weber addressed the letter that Mr. Grossman drafted to Clover Farm regarding non-permitted seating at the market.

He stated that everyone is aware that customers are eating at the tables and that the people count is low.

Member Horowitz stated that she would rather not go down this road again.

Mr. Grossman stated that the market and its food permit cannot be changed ever again.

Chairman Weber adjourned the meeting at 8:55PM.

Respectfully Submitted,

Dawn Dunbar