



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

**MEETING MINUTES
November 1, 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 7:01 pm in the Town Hall.

Permits Signed:

181 Flavell Road, Lot 10

Invoices Signed:

Nashoba Associated Boards of Health; Verizon Wireless

Variances Signed:

79 Raddin Road

Deed Notice Signed:

50 Hoyts Wharf Road

Other Business:

Flu Clinics:

Michelle Collette started by explaining to the Board that she asked for this item to be added to the agenda. The local Board is the policy maker on flu clinics.

This year's October flu clinic was held at the Senior Center and Nashoba was asked not to advertise the clinic by the Senior Center.

A number of inquiries were received throughout October as to when clinics would be held in Groton. The Town Manager, Mark Haddad, asked Michelle to send an email out to all town employees notifying them of the clinic in October as Nashoba's policy is that their clinics are open to anyone from the towns serviced by NABH. If the flu clinics are going to be an issue for the Senior Center then moving the clinics should be looked into for next year. A clinic was held today at Groton-Dunstable High School and they will continue to be held at the other area schools as originally advertised.

Michelle continued by suggesting that Groton's clinics should not be run any differently those in other towns served by NABH.

Mr. Grossman replied that Jim Garreffi, Director of NABH, did not advertise at the request of Martha Campbell of the Senior Center.

Member Horowitz moved to vote on a policy that normal flu clinics will be held at Senior Center and open to everyone. If need be, the Town Manager can put his stamp on it. She further explained that having the clinics at the library is really not an option as there is not ample parking.

Chairman Weber moved to vote or hold a future hearing on this.

Member Horowitz moved to vote that flu clinics be held at Senior Center.

Chairman Weber interrupted wondering if separate policies should be implemented.

Member Horowitz continued by saying she was moving to vote that clinics be held at the Senior Center, open to the general public, unless a special circumstance arises and that clinics are to be conducted in conjunction with NABH.

Chairman Weber asked the board to move to establish a policy that "public clinics" are open to all but to be cautious about tying them to a specific location.

Member Fleischer suggested setting a default location.

Chairman Weber suggested that the Board just set a policy but not a location.

Member Horowitz stated that the Town Manager, currently Mark Haddad, is the only person who can or can't say where clinics can be held.

Michelle Collette stated that a lot depends on NABH and who the target population is. She also wanted to go on record as saying that NABH has been extraordinarily helpful throughout this process.

Member Fleischer asked if schools could be required to hold the clinics as they are a separate entity and not tied to the town.

Michelle Collette replied that the local schools, including Groton-Dunstable, were holding clinics early in November to try to get as many children vaccinated as possible.

A vote was taken and all members were in favor of the policy as stated by Member Horowitz.

Groton Community School
Present: Terri Martin

Chairman Weber began by disclosing that a family member was an alumnus of the school.

Mrs. Martin started by explaining to the board that she attended a Board of Health meeting roughly 1 year ago requesting a variance for the summer camp, Camp Kaleidoscope at Groton Community School. She received her license for the summer camp but after conversations with Michelle Collette, Jim Garreffi and Dawn Dunbar, a variance was never issued after it had been granted by the Board last year.

Chairman Weber remembered the variance being requested.

Mrs. Martin stated that she is here tonight for the upcoming 2011 summer camp.

Member Horowitz moved that the Board approve the variance and asked if this needs to be requested every year.

Member Fleischer stated that the variance sounded reasonable but asked why a preschool program needs a variance.

Mrs. Martin replied that the summer camp was requesting a variance of the staffing ratio. The summer camp was requesting a ratio of 1 staff for every 8 children under 6 in comparison to the ratio of 1 staff to every 5 children under 6 during the school year preschool program.

Member Fleischer asked if this really needs to be done every year.

Mr. Grossman replied that it does because this matter falls under the state camp regulations.

Member Horowitz moved to grant the variance as requested.

Mr. Grossman reminded the board that this vote was for this coming year's summer camp.

Chairman Weber moved to grant the variance for 1 staff member per 8 campers under the age of 6 for Camp Kaleidoscope for summer 2011.

Member Horowitz asked that a letter be sent out every year as a reminder.

Member Fleischer asked if the Board needed to send the letter out at this time every year.

Mrs. Martin responded that this is a good time for her to request a variance. She also asked if she could get a copy of the minutes.

Member Horowitz added that she apologized for the confusion and the lack of a variance letter from last year, saying that it was not a normal year for the board due to staffing changes.

Member Horowitz seconded the motion and the motion passed unanimously.

181 Flavell Road

Present: Gary Shepard, engineer
Larry Prestia, Homeowner

Mr. Shepard started by saying that they are before the board, not because the system is in failure but because the Prestia's would like to voluntarily upgrade the existing system due to an increase in designed flow from 3 to 4 bedrooms. They are not looking to add the 4th bedroom now, but would like the option to do so at a future date.

Mr. Shepard explained that there is good soil and that he has confidence in the water table.

Mr. Grossman supported the recommendation and request.

Chairman Weber asked if there was any better way to propose the system and asked the Board if they had any other questions. The answer to both was no.

Chairman Weber asked if the permit was ready to be signed.

Member Fleischer asked if standard conditions applied.

Chairman Weber then asked Land Use Director, Michelle Collette for any input she would care to offer.

Michelle Collette replied that the permit was at the Boards discretion. The standard conditions were just a boiler plate and can be looked at on a case by case basis. She went on further to say that the document is meant to be used as an outline; all may be applicable or some may need to be added or subtracted depending on the circumstance.

Member Fleischer stated that some have been tailored case by case.

Michelle Collette reiterated that the document is only an outline, a starting place the Board can amend and revise as appropriate.

Attorney Robert Collins stepped in and stated that the Conservation Commission has standard conditions that are attached to every Order of Conditions and it can get confusing because some don't apply. He suggested limiting them to what applies.

Michelle Collette stated that the Earth Removal Committee has similar standards and they are used as applicable. The template is used as an outline and is not limited to those conditions.

Member Fleischer stated that they need to distinguish between the restatement of general conditions and conditions specific to the case at hand. He is willing to approve this case and maybe the Board needs to work towards setting separate standards.

Chairman Weber moved to approve the variance to the Groton Board of Health Regulation Section I (A)(2) with standard conditions.

The variance to Groton Board of Health Regulation I (A)(2) requested reads:

Deep observation holes for the determination of ground water elevations may be performed during the months of March and April. Use of holes conducted in months other than March and April will be limited to Class II and Class III soils, with a percolation rate of greater than five (5) minutes/inch. Observation holes in March and April may be required by the Board of Health or its agents at their discretion on all sites.

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, within 3 years from date of permit issuance, 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 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 4 bedroom house is to remain a 4 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.

The Board voted unanimously in favor of the variance.

22 Redskin Trail

Present: Attorney Robert Collins

Attorney Collins started by explaining that when he was before the Board a month ago, the Board asked Mr. Richard Mavilla to provide his plans in writing, which he has now done. Attorney Collins handed the Board members a letter dictated by Mr. Mavilla and typed by Attorney Collins.

Member Fleischer stated that this was a 3 bedroom house including the apartment.

Attorney Collins stated that Mr. Grossman had visited the property in the spring at which time the problem was almost resolved. A deed notice was recorded by Attorney Collins stating that it was a 3 bedroom house. A copy could be provided by Attorney Collins if the Board wished to see it.

Attorney Collins explained that this escalated situation stems from bad blood and that Brandon Ducharme had been out to the property and had not witnessed sewage spitting out.

He further explained that all but 2 or 3 people have to pass Mr. Mavilla's property every day due to the fact that his septic system is only 8 feet from the road. No one else on the street has issued any complaints.

Attorney Collins added that parts of the system are 30 years old and that there are probably parts that need to be replaced. Brandon Ducharme had put together a proposal in the spring and Mr. Mavilla has been saving to get it fixed.

Attorney Collins proposed that between now and the spring; Ducharme & Dillis will put together variances needed to install the system in the area on the left side of the home. This will allow Mr. Mavilla more time to save.

Attorney Collins stated that he asked his client about the 2 bedroom apartment ad in the paper and that his client stated that he had not placed the advertisement. He has had a tenant for some time now. The apartment is only a one bedroom.

Member Fleischer asked if the Board was being asked to do anything.

Mr. Grossman stated that there was an outstanding order with a completion date of September 15, 2010. The system was in failure. He added that he has no objections to waiting until June 1, 2011 but more than just a plan of action was needed.

Member Horowitz asked how long the tenant had been there.

Attorney Collins did not know but said he could find out.

Mr. Grossman stated that he was not interested in pursuing the tenant matter at this point; he would just like to see the system become compliant.

Attorney Collins commented on how it was in the interest of his client to not come to these meetings but that Mr. Mavilla understands the matter at hand and thanks the Board for its patience. Attorney Collins continued by saying his client was aware that once the apartment becomes vacant he was not to rent it out again and that something needed to be done about the septic system – timing had been a big issue.

Attorney Collins explained that there was no change in the well tests over 30 years.

Mr. Grossman stated that it may meet the drinking water standards but that the nitrogen levels were high which was the issue.

Member Horowitz motioned that the Board give Mr. Richard Mavilla of 22 Redskin Trail until June 1, 2011 to have a plan and a signed contract.

Mr. Grossman added that the Board would meet again with Attorney Collins and Mr. Mavilla in June 2011 to review and set new goals.

The Board voted unanimously in favor of meeting with Attorney Collins and Mr. Mavilla in June 2011 to discuss progress and new goals.

21 Moose Trail

Present: Dan Wolfe, Ross Associates

Mr. Wolfe started the discussion with some background information on this property regarding various permits and restrictions that have been granted by the Conservation Commission as well as the ZBA. The homeowner wants to add a garage to the property. As a result, Mr. Wolfe is proposing to install a new well to be located at the front of the property.

Mr. Wolfe is before the Board to ask for the following Well Variances:

Groton Board of Health Well Regulations

Section VI – Well Location and Use Requirements

The proposed well should be located at least 100-feet from a Leaching Facility. A 92-foot offset is proposed from the leaching facility serving the Wilson property and a 74-foot offset from the leaching facility serving the Tremblay property.

The proposed well should be located at least 50-feet from a property line. A 15-foot offset is proposed.

The proposed well should be located at least 75-feet from the Public Way. A 15-foot offset is proposed.

The proposed well should be located at least 100-feet from any type of surface water. A 63-foot offset is proposed.

310 CMR 15.405 – Local Upgrade Approval

15.405(1)(g) – Reduction of well location set backs from private sewage disposal systems. An offset of 92 feet from the leaching facility serving the Wilson property and 74-foot offset from the leaching facility serving the Tremblay property is proposed.

Mr. Wolfe further explained that the current well abuts the neighbor's septic system. Moving the well further from the septic would help prevent contamination.

Member Horowitz stated that she remembered the property being related in some fashion to a turtle crossing. Discussion ensued regarding the new well and how moving it would benefit turtles.

Member Fleischer asked if there were any other options. Mr. Wolfe responded that there were no other locations due to the drop off and water table.

Member Horowitz asked where town water was. Mr. Wolfe responded that it is approximately 1 ½ miles away.

Chairman Weber moved to approve the variance requested by Mr. Wolfe as stated above.

Michelle Collette asked to make a suggestion that the abutting properties be referenced as map and parcel numbers and not by last name as stated in the variance request. Mr. Wolfe responded that the 2 abutting properties had no street numbers but that the map and parcel numbers could be used.

Member Horowitz and Member Fleisher both agreed to put standard conditions on this variance.

Chairman Weber read the following standard 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.
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.

Member Horowitz seconded the motion to approve said variances and all members were in favor.

Working Group – Deed Restriction Recommendations

Present: Land Use Director Michelle Collette, Attorney Robert Collins, Former BOH Member Robert Hanninen, Health Agent Ira Grossman, and Design Engineer Dan Wolfe

Michelle Collette began by thanking the Members for their patience and apologized that it had taken the Working Group since May to put together their recommendations.

Prior to the meeting, the members were given a Memorandum outlining the Working Groups recommendations.

Michelle Collette explained what each document was.

1. Deed Restriction – The Working Group suggested adopting an abbreviated deed restriction limiting the number of bedrooms. Michelle Collette informed the Members that Town Counsel had recommended that any restrictions be executed by the Board of Health, as the “Local Approving Authority.”
2. Notice of Alternative Sewage Disposal System – The Working Group suggested to the Members that they utilize the standard form located in Title 5 that is provided by the Department of Environmental Protection (DEP).
3. Instruction on “How to Record Documents” – The Working Group has compiled instructions for applicants and homeowners on “How to Record Documents”. Michelle Collette further explained that because the process can be confusing and daunting and applicants may not know what is

expected and that the instructions will serve as something that anyone can use and will serve as a real asset.

4. "Notice of Board of Health Decision" – Michelle Collette explained that the group could not reach a consensus on this item. The discussion was whether or not variances granted for sewage disposal systems or wells should be recorded at the Registry of Deeds.

Michelle Collette ended the presentation of the documents by stating that the Board Members should take the winter months to take a look at their regulations and determine what was applicable and what was not so that they as a Board feel comfortable with their regulations and do what is best for public health.

Member Horowitz responded by stating that this is a goal for the upcoming year.

Michelle Collette also suggested that the review its fees. The Board of Health currently has the lowest fees in town and the fees might not cover the inordinate amount of time spent on various items. The fees need to be fair to all parties involved.

Member Horowitz responded that no one is objecting to the low fee amounts but no one had asked for the fees to be raised.

Dan Wolfe then spoke to the Board regarding his position on the recording of variances. His thoughts are based on his experiences with homeowners and their feedback regarding the paperwork load. He feels that the current regulations are good planning tools but that once they are recorded on a deed; they often serve only to raise a red flag. He feels that anything that varies from Title 5 standards should be recorded and that anything that varies solely from local regulations and not from Title 5 standards should not be recorded. Many homeowners don't understand the process and adding the recording of a variance to their deed only adds to the confusion and the paperwork for homeowners.

Michelle Collette added that the committee did not disagree with Dan. The gray area seems to be the local rules and regulations. The committee is suggesting that the Board only record variances reducing Title 5 regulations.

Member Fleischer asked if they are always on record at town hall.

Michelle Collette responded that most home buyers don't look at the records on file. They leave it up to the real estate agents and it is missed. Approximately 10% of home buyers look at the records.

Attorney Collins explained that more info is better than less for potential homeowners. People used to come to town hall; you don't see that level of detail anymore. Recording a notice of decision is not harmful. Attorney Collins stated that he is in favor of recording something. He also mentioned that the local regulations are double that of Title 5.

Michelle Collette added that the registry has everything online. A perspective home buyer doesn't have to wait for an attorney to search online for the info, they can do it themselves. This might also prompt them to ask questions.

Dan Wolfe further explained that coming from the standpoint of a homeowner and working with homeowners the instructions that Attorney Collins developed are a good tool. A homeowner is often in shock with having to go through this process.

Attorney Collins added that it is still better to know and be prepared ahead of time rather than finding something out 5 years down the road, although he appreciated Dan Wolfe's point of view.

Dan Wolfe added that the current approach causes unnecessary alarm. Title 5 changes should be recorded.

Member Horowitz agreed with Attorney Collins but added that it was an education process and that they were not doing anyone a disservice.

Dan Wolfe added that he can see both sides.

Attorney Collins added that it needs to be an across the board decision and not on a case by case basis.

Chairman Weber asked if the committee was looking for a decision now.

Robert Hanninen commented that he would be reluctant to sit there and say he is going to get rid of policies in 6 months. He would use the Notice of Decision.

Attorney Collins agreed with her comment and added that less than 10% probably read the file.

Member Fleischer commented that even though he is the new kid on the block he agrees that notices should be recorded but is hesitant to say that the local regulations are arbitrary and not very important.

Dan Wolfe added that the local regulations are great planning tools.

Chairman Weber asked if it was valid for the Board to have planning tools.

Member Horowitz replied that some stuff is more stringent. When you look at what it is DEP says and means the more info we can give the town the better.

Member Fleischer asked what kind of information a buyer would find interesting.

Attorney Collins replied that offsets can really have an impact. It forces them to look at the property more completely.

Michelle Collette commented that from the other side of this a few years ago a homeowner built a swimming pool and cabana and after realized that it was all within a drainage easement. The homeowner was required to move the pool and cabana. It was not only inconvenient was very costly. Most of the people that do their research have been burnt before and learned from the experience.

Member Fleischer asked for confirmation that they were talking about variances and not permits. Attorney Collins replied "correct."

Chairman Weber responded that he personally would like some time to digest all the information presented by the committee.

Michelle Collette responded that the Board does not need to make a decision tonight.

Member Fleischer asked if the Board should pick a time to discuss further.

Chairman Weber asked that it be discussed at the 1st meeting in December at the end of the meeting.

Chairman Weber asked the committee for clarification on when to use Title 5 Decision Notice vs. Notice of Decision.

Attorney Collins responded that the Board should use Title 5 Decision Notice for 2 bedroom systems for sake of consistency and use the Notice of Decision for anything above 2 bedrooms.

Chairman Weber thanked the committee for both their efforts and their contributions.

Dan Wolfe added that all questions should be forwarded to Michelle Collette.

Attorney Collins stated that the committee is happy to reconvene if necessary.

Dan Wolfe added that he is happy to discuss regulation changes with the Board or could provide them with a suggested list of changes.

Additional Old / Other Business

50 Hoyts Wharf

Dawn Dunbar handed Board Members a Deed Restriction – Radon for this property to be signed by members so it could be recorded. **The Board signed the restriction.**

122 Old Ayer Road

Mr. Grossman stated that this property failed Title 5 five years ago. He sent a letter and had not heard anything since. Mr. Grossman asked the Board for permission to draft a 2nd notice for Chairman Weber's approval. **The Board agreed.**

Minutes from May 17th as well as October 4th BOH meetings were discussed. Chairman Weber had reviewed and commented. Dawn Dunbar was asked to distribute for

Members Horowitz and Fleischer to review and return their comments back to Dawn Dunbar.

175 Gratuity Road

Mr. Grossman asked for the Boards permission to sign a Certificate of Compliance for this property in an effort to expedite a closing for the property. **The Board agreed.**

The Meeting was adjourned at 9:10 PM.

Respectfully Submitted,

Dawn Dunbar