



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

MEETING MINUTES
June 20, 2011

Board of Health Members Present:

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

Others Present:

Nashoba Associated Board of Health Agent Ira Grossman
Land Use Assistant Dawn Dunbar
Pierre Comtois – Lowell Sun

Meeting Called to Order:

Chairman Fleischer called the meeting to order at 7:04 pm in the Town Hall.

Invoices Signed:

Community Healthlink Invoices (2)

Permits Signed:

144 Shelters Road; Robin Hill Road Lot 36A; Cardinal Lane Lot 12; 338 Lost Lake Drive; 102 Paquawket Path; 8 Bishop Way

Minutes

Member Horowitz made a motion to accept the minutes of May 23, 2011 as amended. Member Weber seconded the motion and all were in favor with a unanimous vote.

409 Old Ayer Road

Present: Attorney Thomas Gibbons; Jodie Gilson, owner

Attorney Gibbons stated that they were before the Board on November 15, 2010 at which time Ms. Gilson was given six (6) months to assess the best use for the property and do what was best for her family. Her greenhouse collapsed over the winter due to the weight of the snow and had since lost 75% of her business because of this. He said she was in a position where her decision about the property had not been made yet as her focus had been on sustaining her business. Attorney Gibbons asked the Board for an extension until August 2012 and for an update to be given at the Board's meeting in February 2012.

Mr. Grossman said that Title 5 allows for 2 years after a failure to meet compliance and did not allow for extensions.

Chairman Fleischer asked if the mobile home on the property was occupied. Attorney Gibbons said that it was being occupied by a single tenant. Member Horowitz asked if it was a long term tenant. Ms. Gilson said that it was and that the tenant had been there for almost 2 years.

Member Weber made a motion to:

- 1. Extend the deadline as requested to August 30, 2012**
- 2. That the well is to be tested within the next month and every 3 months after that with all test results being submitted to Nashoba Associated Boards of Health**
- 3. That Ms. Gilson provide the BOH with an update at the BOH's 1st meeting in February 2012.**

Member Horowitz seconded the motion and added that there be no change in tenant and any changes in the water test results would need to be reevaluated with the BOH at a meeting.

All were in favor with a unanimous vote.

15 Whitewood Road

Present: Russ Wilson, engineer; John Scira, landowner; Tom Orcutt, Groton Water Department

Mr. Wilson explained that the installation of the tight tank at 15 Whitewood Road had just been completed. He said that he was before the Board to see if the existing well could continue to be used instead of connecting to town water. Mr. Scira added that the water samples that had been tested showed passing nitrate levels.

Mr. Grossman said that Mr. Scira was required remove the well and connect to town water because the well was too close to the leach field and doesn't meet the setback requirements. He suggested that the well be destroyed to meet the requirements, comply with what had been permitted and Title 5.

Chairman Fleischer asked what the Board was being asked to do. Mr. Wilson said that Mr. Scira went over budget on the installation of the tight tank and could not afford to connect to town water. Mr. Grossman asked why this wasn't discussed at the last meeting Mr. Scira was at and asked if Mr. Scira had talked to the water department. Mr. Scira said that he had talked to the water department. Tom Orcutt of the Groton Water Department was present and said that he had not been contacted by Mr. Scira or any contractors regarding 15 Whitewood. He added that they provide free materials quotes and would be happy to provide Mr. Scira with one.

Mr. Grossman asked Mr. Scira if he had a quote to connect to town water. Mr. Scira said that he did and it was around \$30,000. Mr. Scira was asked if he had the quote and he did not have it with him.

Member Horowitz moved to continue the discussion to the Board's next meeting on July 18, 2011. Member Weber seconded the motion and told Mr. Scira that this continuance would enable him more time to contact Tom Orcutt and the Water Department to obtain a free estimate. Member Horowitz also asked that if Mr. Scira had any other houses he would like to get connected to package them together.

All were in favor with a unanimous vote.

144 Shelters Road

No one was present

Mr. Grossman explained that the homeowners were looking to replace their existing 650 gallon septic tank with a new 1500 gallon tank. The replacement is required to meet the current Title 5 requirements but needed a Local Upgrade Approval because the system would not be at least 10 feet from the foundation or 50 feet from the suction line for the water line.

Mr. Grossman said that he didn't have any concerns with the proposal and that the larger tank was an improvement. He added that there was no room to meet the requirements and the local upgrade was the best way.

Member Horowitz moved that they grant the request for a Local Upgrade Approval for a new 1500 gallon septic tank to be installed at 144 Shelters Road. Member Weber seconded the motion. All were in favor with a unanimous vote.

22 Redskin Trail

No one was present on behalf of 22 Redskin Trail

Mr. Grossman said that Attorney Collins had sent a letter to the Board of June 17th asking for a continuation until the Board's meeting on July 18th. He said that deadline given to Mr. Mavilia to submit an approved plan and start installation had come and gone. He explained that soil testing had been done on June 16th. He added that the apartment may have been recently vacated and had been advertised the past few weeks. Mr. Grossman stressed that fact that strict deadlines needed to be given in order to have any progress made.

Member Horowitz asked what the next steps for the Board were. Mr. Grossman said that he just wanted to see the system made compliant.

Member Horowitz moved to continue the hearing until July 18th and asked that a cease and desist letter be sent to Mr. Mavilia ordering him not to advertise the apartment.

Member Weber asked if there was any further action the Town could take to not allow him to rent out the apartment. Mr. Grossman said that the Board could hold a condemnation hearing.

Pam Mavilia stated that she lived across the street at 21 Redskin Trail and explained that she recently sent the Board a letter with copies of the Action Unlimited showing the apartment listing for the past 3 weeks as well as a police report dated 5/14/11 and made by the former tenants at 22 Redskin Trail.

Member Weber told Ms. Mavilia that he could sense her frustration but that she needed to make a request of the Board. Ms. Mavilia said she was frustrated because it sounded as though the Board was just going to send another letter to Richard Mavilia.

Member Horowitz asked if they could condemn the apartment. Chairman Fleischer said that 22 Redskin Trail was going to be before the Board on July 18th and Member Weber added that they had test holes dug but asked Mr. Grossman for his recommendation. Mr. Grossman said that he was careful in mentioning that the deadlines given had not been met. He said that he didn't want to see this issue go on any longer and also didn't want to see the apartment rented.

Chairman Fleischer asked what condemnation did especially where a tenant could rent without prior knowledge of an issue. Member Horowitz said that a condemnation puts a notice on the home.

Member Horowitz asked that 22 Redskin Trail be put on the July 18th BOH meeting as a condemnation hearing. Mr. Grossman said that he would send a letter to Mr. Mavilia and Attorney Collins notifying them of the condemnation hearing on July 18th.

Member Horowitz restated her earlier motion to continue the discussion to July 18th and moved that at that time the Board would hold a condemnation hearing for 22 Redskin Trail as well as discuss the solution and deadlines for bringing the SDS at 22 Redskin Trail into compliance. Member Weber seconded the motion.

Member Weber asked that the letter to Mr. Mavilia also state that it was the intent of the Board to have plans presented and deadlines set so as to resolve the issue and not condemn the property.

All were in favor of the motion with a unanimous vote.

338 Lost Lake Drive

Present: Stan Dillis, engineer

Mr. Dillis explained to the Board that the system recently failed a Title 5 inspection because the system was located under the garage but that they had designed a new system that would address the issues. He said that he before the Board to seek permission for the following variances:

Groton Board of Health

Sewage Disposal Regulations – Section I(E) – Distance Requirements

Regulation 1

Required – A minimum of one hundred (100) feet between any wetland, watercourse,...and any proposed leach area.

Proposed – A minimum distance of fifty-nine (59) feet between Lost Lake and the proposed leaching area.

Regulation 6

Required – A minimum of thirty-five (35) feet between any street, passageway or road line and any proposed leach area.

Proposed – A minimum distance of five (5) feet between Lost Lake Drive and the proposed leaching area.

Regulation 7

Required – A minimum of twenty (20) feet must be available between any property line and the entire exterior perimeter of any proposed leach areas.

Proposed – A minimum distance of five (5) feet between the property line and the proposed leaching area.

Well Regulations – Section VI – Well Location and Use Requirements

Minimum Lateral/Circumferential Distance

Well to a property line -	Required: 50 feet	Proposed: 11 feet
Well to a public way -	Required: 75 feet	Proposed: 11 feet
Well to surface water -	Required: 100 feet	Proposed: 51 feet

Title 5 Variances / Local Upgrade Approval

310 CMR 15.405 (1)(a): To allow reduction of the system location setbacks for property lines.

Septic tank to property line -	Required: 10 feet	Proposed: 7 feet
Soil absorption system to property line -	Required: 10 feet	Proposed: 5 feet

310 CMR 15.405 (1)(b): To allow reduction of system location setbacks to a cellar wall.

Septic tank to cellar wall -	Required: 10 feet	Proposed: 6 feet
Soil absorption system to cellar wall -	Required: 20 feet	Proposed: 17 feet

310 CMR 15.405 (1)(k): To allow use of a single deep hole within the proposed disposal area.

Mr. Grossman said that he had no issues with the proposed plan.

Member Weber made a motion to approve the plan and variances as read by Mr. Dillis. Member Weber then read the variances as listed above. Member Horowitz seconded the motion.

Member 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 Selectmen, Conservation Commission, Building Inspector, DPW Director, Planning Board, Stormwater Advisory Committee, and Zoning Board of Appeals.
3. Any construction (or related activity) within 100 ft 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 approval 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. Compliance with Title 5 shall be within 2 years from the date of the sewage disposal system failure unless otherwise ordered to "upgrade" at a sooner date. The applicant must comply with the requirements of Title 5 for a "failed" system pursuant to section 15.305.
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 2-bedroom house is to remain a 2-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 a certified copy of a Notice of 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.

All were in favor of the motion with a unanimous vote.

Present: Stan Dillis, engineer

Mr. Grossman began by stating that he had not received the revised plan until that morning and he was unable to have the permit prepared for the meeting.

Mr. Dillis said that the existing system failed a Title 5 inspection and that test holes performed in the lowest spot on the lot produced more desirable soil and depth. Mr. Dillis then said that the following variances would be required:

Title 5

1. 310 CMR 15.240 (1) -Requires the soil absorption system (SAS) be located in an area where at least four feet of naturally occurring pervious soil. The area where the SAS is located has 3.25' of naturally occurring pervious soil.
2. 310 CMR 15.227(5) - Requires the outlet tee be at least 12" above the estimated seasonal high groundwater elevation. In accordance with 310 CMR 405(1)(j) the outlet pipe will be approximately 1.5' below the e.s.h.g.w. elevation. The inlet and outlet tee shall be made water tight.

Local Variances:

1. Section 1.a.2.- Requires deep holes for the determination of groundwater elevation to be performed during the months of March and April.
2. Section 1.c.8.- There must be a minimum five (5) feet of naturally occurring material above ledge.
3. Section 1.c.11.- When the system must be pumped, the soil absorption area shall be pressure dosed
4. Section 1.f.1.- Leach beds will be sized at 150% of Title 5 requirements.

Mr. Grossman said that he had no concerns for the septic design but since the house had 10 or more rooms a deed restriction for the home, limiting it to 4 bedrooms, was necessary.

Member Horowitz made a motion to accept the variances as read by Mr. Dillis for 65 Common Street. Member Weber seconded the motion and 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 Selectmen, Conservation Commission, Building Inspector, DPW Director, Planning Board, Stormwater Advisory Committee, and Zoning Board of Appeals.
3. Any construction (or related activity) within 100 ft 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 approval 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. Compliance with Title 5 shall be within 2 years from the date of the sewage disposal system failure unless otherwise ordered to "upgrade" at a sooner date. The applicant must comply with the requirements of Title 5 for a "failed" system pursuant to section 15.305.
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 a certified copy of a Notice of 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.
10. A Deed Restriction shall be placed on the deed and recorded at the Middlesex South Registry of Deeds restricting the number of bedrooms to four (4). Evidence of such recording shall be submitted to the Board of Health by the applicant.

All were in favor of the motion with a unanimous vote.

43 Sheple Lane

A sister of the homeowner was present

Member Weber recused himself due to the fact that he is an officer of the Sheple Lane Condo Association.

Mr. Grossman explained that the homeowner had applied for a building permit to finish a room over the garage as well as the basement and at the time it was discovered that the septic permit was originally issued for a 3-bedroom home when in fact the home is a 4-bedroom home. He added that the shared system was large enough to accommodate a 6-bedroom home. Mr. Grossman said that the only action the Board needed to take was to modify the original permit to reflect the 4-bedroom system and added that the added rooms were well within the confines of the system. He had no problems with the request.

Member Horowitz made a motion to accept the modification of the original SDS permit to reflect a 4-bedroom instead of a 3-bedroom. Chairman Fleischer seconded the motion and all were in favor with a unanimous vote.

Old/Other Business

21 Redskin Trail

Present: Pam Mavilia

Mr. Grossman said that the Board of Health and he had received numerous complaints regarding 21 Redskin Trail and an alleged 4th apartment being rented. He said that the Assessor's records did not reflect the home having a 4th apartment and added that the failed system located on the property was

to be fixed including COC issued by August 2011. He said that they needed to compare the information and resolve the number of bedrooms there were actually suppose to be.

Member Horowitz asked Mr. Grossman what the easiest way to resolve this was. Mr. Grossman said if he could get into the home to count the number of rooms and bedrooms that would hopefully resolve everything.

Mrs. Mavilia said that they had 2 apartments in their home with 4 bedrooms total. They rent out the first floor and they occupy the 2nd and 3rd floors. She said that the apartment has 1 bedroom and the main house where they live has 3 bedrooms. Mr. Grossman said that what he was hearing was 2 units total, the main house and 1 rental. Mrs. Mavilia confirmed that statement.

Mr. Grossman said that the Assessors record showed 4 units with 5 bedrooms total and reminded Mrs. Mavilia that they needed to put a notice on their deed. She acknowledged the request and said that they had been meaning to place the notice on their deed.

Chairman Fleischer asked for confirmation that the system was in fact in failure. Mr. Grossman said that it had been in failure since 1997 and that the deadline for it to be brought into compliance was August 2011.

Member Horowitz asked Mrs. Mavilia if she had any problem with Mr. Grossman walking through the home to check the bedroom count and finalize this once and for all.

Mrs. Mavilia said that she had no problem with that.

Member Weber asked who would be the one to clear up the assessor's record. Mr. Grossman said that it would be up to the homeowner to do this. Member Weber told Mrs. Mavilia that the Board would like to see this get straightened out as soon as possible. Mrs. Mavilia agreed.

Blackberry Playbook Tablet / PHER Funds

Member Horowitz made a motion to allow Mr. Grossman to use PHER Funds to purchase a Blackberry Playbook Tablet. Member Weber seconded the motion and all were in favor with a unanimous vote.

Member Horowitz made a motion to adjourn the meeting at 8:45pm. Member Weber seconded the motion and all were in favor with a unanimous vote.

Respectfully submitted,

Dawn Dunbar