



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

MEETING MINUTES
August 15, 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
Town Planner Michelle Collette
Selectman Anna Eliot
Art Campbell, Talk About Groton

Meeting Called to Order:

Chairman Fleischer called the meeting to order at 7:00 pm in the Town Hall.

Permits Signed:

235 Pepperell Road; 22 Redskin Trail; 99 Boathouse Road; Old Dunstable Road, Lot 2; Paugus Trail, Lots 22, 23, 24, 25; Forest Drive, Lot 32

Minutes

Member Weber made a motion to accept the minutes of August 8, 2011 as amended. Chairman Fleischer seconded the motion. Member Horowitz abstained from the vote. Members Fleischer and Weber were in favor with a unanimous vote.

22 Redskin Trail

Present: Attorney Robert Collins; Rob Oliva, engineer; Cindy Kallio; Michael & Pam Mavilia, abutters

Attorney Collins stated that he and Mr. Oliva of David Ross Associates were before the Board on behalf of Richard Mavilia to seek variances needed in order to upgrade the septic system at 22 Redskin Trail.

Mr. Oliva explained that they tested 2 locations and received a 2 minute percolation rate and that the system was designed to be a pressure dosing bed system. He said that an impervious barrier would be installed prior to an existing wall to help with the grades.

Mr. Oliva read the following requested variances:

310 CMR 15.405 – Local Upgrade Approval

- *15.405(1)(a) – Reduction of system location setbacks to property lines. Proposed: 5' setback to existing street line.*

- *15.405(1)(b) – Reduction of system location setbacks from cellar wall. Proposed: 8' setback to cellar wall.*
- *15.405(1)(b) – Increase in maximum depth of system components from 36" to 72". Proposed: 72" to septic tank and pump chamber with h-20 tanks.*
- *15.405(1)(g) – Reduction of system location setbacks from private water supply wells, but not less than 50'. Proposed: 51' setback.*
- *15.405(1)(j) – Reduction of the requirement of a 12" separation between inlet and outlet tees and high groundwater. Proposed: all pipe joints shall be sealed with hydraulic cement or installed with watertight sleeves and tanks shall be proven watertight.*

Groton Board of Health Regulations

- *Section I.A.2 – Deep observation holes for the determination of groundwater elevations shall be performed during the months of March and April. Proposed: groundwater elevations determined during June.*
- *Section I.E.1 – Leaching facilities must be located at least 100' from any wetland. Proposed: 54' offset to wetland.*
- *Section 1.E.6 – A minimum of 20' must be available between any property line and the proposed leach area. Proposed: 7' setback from property line to proposed leach area.*
- *Section I.E.9 – A minimum of 15' must be available between the edge of a soil absorption system and an adjacent side slope. Walls and impervious barriers are not allowed to adjust side slope requirement and offset. Proposed: impervious barrier proposed to adjust the side slope requirement.*
- *Section I.F.1 – Leach beds shall be sized at 150% of Title 5 requirements. Proposed: leach bed designed for 100% of Title 5 requirements.*

Chairman Fleischer asked how many bedrooms the home had. Mr. Oliva said that it was a 3 bedroom home. Attorney Collins added that the home already had a 3 bedroom deed restriction on record.

Michael Mavilia expressed concern for the proposed grading and change in the slope and how this effort might affect drainage and the existing ramp that he used to access the beach area. He also was concerned about the close proximity of the proposed septic system to his well. Mr. Oliva replied that the proposed grading was going to be flat across the property and that the beach access ramp would not be affected.

Member Horowitz asked whether with a water tight system, if the lake were to flood would the sewage be taken to the lake. Mr. Oliva said that there was a 5 foot ground water offset to the leach bed and that the 100 year flood plain shown on the plan also showed the system above the flood plain.

Mr. Mavilia asked why this property was not being required to install a tight tank as many of the properties in the lake area had been required to do. Chairman Fleischer explained that the Mass DEP would only allow a tight tank to be installed if a full system would not fit.

Mr. Mavilia again expressed concern for his well and possible contamination in relation to the system being only 51 feet from his well. Mr. Grossman said that it was prudent of homeowners to keep track of their own water by having it tested. Chairman Fleischer said that the current situation would only improve given that the system was currently in failure.

Member Horowitz asked whether when the old system was removed if there was evidence of a hole or tampering could the Board of Health do anything about it. Mr. Grossman said that he wasn't sure how to answer that question. He said that it was a steel tank and that he would expect that it would have holes. He wasn't sure if he could determine anything related to foul play if it was inspected.

Mrs. Pam Mavilia said that she swims in the lake and has seen septic flowing into the water and through the rock wall. She wanted to make sure that a new system would not do this.

Attorney Collins reminded the Board that they were going to be required to obtain an Order of Conditions from the Conservation Commission and to keep that in mind when setting deadlines.

Member Weber made a motion to approve the request for 5 local upgrade and 6 Groton Board of Health variances for 22 Redskin Trail as outline in a letter dated July 27, 2011 and submitted by David Ross Associates.

Member Horowitz seconded the motion.

Member Weber added to the original motion that the septic system is to be installed by November 30, 2011 with the expectation that the Board will be informed well ahead of time if there are any problems.

Member Horowitz seconded the motion.

Member Weber amended the original motion to require the addition of an extension barrier to the roadway. Member Horowitz added that all wells within 100 feet of the system were required to be tested.

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 including issuance of a Certificate of Compliance shall be completed by November 30, 2011. 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 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 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.

Member Horowitz made a motion to continue the condemnation hearing of 22 Redskin Trail until their first meeting in December – December 5, 2011.

Member Weber seconded the motion and all were in favor with a unanimous vote.

Lot 28 Academy Hill

Present: Todd Lobo, engineer

Mr. Lobo explained that his client, Habitech, Inc. had been issued an extension permit on May 17, 2010 after some changes had been made as requested by Mr. Grossman. He said that they were told in July that the permit had expired on May 21, 2011. Mr. Lobo said that he and his client felt that the permit should fall under the permit extension act as it fell within the time period specified by the act. He added that the permit states that no further renewal is allowed.

Mr. Grossman explained that the permit was specific in that no extension was allowed if ruled on by the Local Board of Health.

Member Horowitz asked if there was a problem with renewing the permit. Mr. Grossman said that there have been no new test holes since the permit was issued in 2007, no magnetic locating devices were depicted on the plan and the d-box was greater than 9” of cover with no riser shown.

Member Horowitz asked if new test holes would change anything. Mr. Grossman said that the old test holes wouldn't be in compliance with Title 5. Mr. Lobo said that he had no personal objection to performing new test holes but that his client would rather not have to dig new ones and pay for another review.

There was a brief discussion as to the different interpretations of the Permit Extension Act and whether or not this instance qualified. It was decided that in the essence of saving time, the applicant would perform new test holes.

Member Weber made a motion that the request for an extension on the SDS permit made by Mr. Lobo be denied and that the property at 43 Arbor Way (Lot 28) must comply with Title 5.

Member Horowitz seconded the motion and all were in favor with a unanimous vote.

15 Whitewood Road

Present: John Scira, owner

Mr. Scira thanked the Board for allowing him more time to acquire financing and to connect to Town water. He said that he had applied to 12 banks and had not been able to secure financing. He said that he had also put a few of his properties including his own on the market to try to raise funds to complete this tie in. He said that a well test had just been completed and that the test results had been better than before and hoped that he could continue to use the well until he acquired financing. He asked for suggestions/recommendations from the Board.

Mr. Grossman said that the 2 bedroom system had been in failure for the past 2 ½ years. The Board issued a permit for a tight tank in anticipation of town sewer coming. Part of the compliance was to also tie into town water. Mr. Grossman added that Mr. Scira put in a larger tank than what was proposed due to ledge but that it was less than 45 feet away from the well. He added that if town sewer was not likely to be brought in, Mr. Scira was also required under his permit to re-explore the install of a shared system.

Member Weber said that this was a violation of Title 5 and asked why they couldn't allow more time for Mr. Scira to acquire financing where he had been trying.

Mr. Grossman said that the Board could issue a Title 5 variance offset to the tank. Chairman Fleischer said that the shared system would not be something they would discuss this evening and added that he was not inclined to issue a variance because it would be permanent. Mr. Grossman suggested that the Board continue the matter.

Member Weber asked Mr. Scira if he could provide the Board with financial records to back up his claim of a financial hardship. He said that it was not intended to be made part of public record. Member Horowitz suggested that they go into executive session. Dawn Dunbar was asked to speak with the Town Clerk and see if it was possible to keep this sensitive matter private.

Member Weber made a motion to continue the matter for 90 days and give Mr. Scira 30 days notice to compile the requested information and submit it to the Board of Health once it is determined if the financial records could be viewed outside of a public meeting.

Member Horowitz seconded the motion and all were in favor with a unanimous vote.

128 Main Street – Groton Inn

Present: George Pergantis, Gloria Lammi

Mr. Grossman began by updating the Board. He said that water and electric service had been restored to the apartments in Building 2 & 3; that the lead inspection had been received that day.

Ms. Lammi said that they wanted to ask the Board permission to allow one other tenant a 24 year old student to move back into his apartment.

Mr. Grossman said that there multiple outstanding code issues that needed to be remedied before tenants could re-occupy the apartments. Ms. Lammi said that with no tenants living in the apartments, they had no income coming in.

Mr. Pergantis updated the Board on what code violations had been fixed in Buildings 2 & 3 to date.

Ms. Lammi said that a Title 5 inspection had been done in the 1980's but that she could not find the records. She asked how long an inspection was good for. Mr. Grossman said that he had not found any record that a Title 5 inspection had been conducted in the 1980's but that the system would not meet the current Title 5 requirements with one reason being the high water table.

It was determined that in order for Mr. Pergantis to allow tenants to re-occupy the apartment units, a striker needed to be installed on the entry door of building 3 as per Chapter 2 and as outlined in the Condemnation Order.

Mr. Grossman asked for clarification as to why the Order issued by the Board of Health was being appealed. Ms. Lammi said that it was because they were looking for permission for one (1) other tenant to move back into his apartment as soon as possible. Mr. Grossman reiterated that the building was required to meet the minimum requirements for safety and that according to Chapter 2 of the XXXX, the entrance doorway needed to have a striker and be self locking.

Member Weber asked if they had an executed contract from a licensed contractor to perform the work. Member Horowitz said that the work didn't need to be completed but that the Board would accept an executed contract for the work to be done in a timely manner. She said that the tenants could move back in once the contract had been executed.

Michelle Collette said that the original housing code violation issued on August 4 and voted on by the Board of Health on August 8 and in a follow-up letter to Mr. Pergantis on August 10 stated that the following 4 items needed to be corrected prior to the re-occupancy of the apartments:

1. Water and electric service must be restored to buildings 2 and 3.
2. The outdoor stairway on Building #2 must be in compliance with Chapter 2 and the Massachusetts State Building Code, Eighth Edition.
3. The entry doors must be in compliance with Chapter 2 and the Massachusetts State Building Code, Eighth Edition.
4. The property owner must have entered into a contract with a Licensed Lead Inspector, to inspect the premises and certify compliance with Code (see 105 CMR 460.000). Full compliance with lead provisions will also be required within the time frames pursuant to those requirements.

Mr. Grossman said that if the 4 code violations had been remedied and / or a contract for the work had been executed then the code violations would need to be inspected and signed off on. Once this was done existing tenants could move back in. The other code violations would need to be addressed within 30 days of issuance of the Order, including the Title 5 inspection. He added for clarification purposes this was only an inspection of the septic system. Mr. Pergantis was not being asked in the Order to install a new septic system.

Mr. Pergantis & Ms. Lammi left the meeting.

Member Weber asked Mr. Grossman if he would condemn the apartments if the 1 violation was not taken care of or if he would issue an order. Mr. Grossman said that he would issue an order and

request a contract be executed for the work. He said that the Orders had been very clear and that he was frustrated with the amount of time that has been spent in meetings talking about the same questions.

Mr. Grossman informed the Board that Mr. Pergantis had been granted permission to re-occupy his unit without the consent of the Board of Health. Member Horowitz asked how this could have happened and if there was anything that would be done about it. Michelle Collette suggested that they contact Town Manager, Mark Haddad. Member Horowitz suggested that a meeting be set up within the next week and to include the Fire Chief, Building Inspector, Town Manager, BOH and Mr. Grossman.

Selectman Anna Eliot asked what the specific issue was. Michelle Collette said that it was to make sure that all the different parties involved were moving forward in a coordinated matter and that the misunderstanding was addressed with all parties involved.

127 Main Street

Mr. Grossman explained that a complaint had been made by the abutters on Broadmeadow. The dumpster used by Tip Towing on the property at 127 Main Street and located in the rear of the building was allegedly overflowing and possibly contained hazardous materials such as oil. Mr. Grossman said that he had gone by there a couple of times and had not witnessed the dumpster overflowing and did not see any hazardous materials being disposed of in the dumpster. He did not feel there was an issue at that time.

Member Horowitz made a motion to adjourn the meeting at 9:30pm. Member Weber seconded the motion and all were in favor with a unanimous vote.

Respectfully submitted,

Dawn Dunbar
Land Use Assistant