



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

MEETING MINUTES
September 19, 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
~~Mr. George Pergantis~~
Art Campbell, The Groton Line

Meeting Called to Order:

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

Minutes

Member Weber made a motion to approve the minutes of August 23, 2011 as edited. Chairman Fleischer seconded the motion. Both were in favor with a unanimous vote. Member Horowitz abstained from the vote.

Invoices

Verizon Wireless; Terracon; Custom Carrier

Permits

290 Reedy Meadow Road; 456 Longley Road; Lot 28 Arbor Way; 163 Whitman Road; 217 West Main Street

Groton School – Indoor Pool Variance

Present: Stephen Pittman, Combined Energy Systems

Mr. Pittman explained that he was hired by the Groton School to install an automatic motorized pool cover on the existing indoor pool in an effort to save energy and lower costs. He said that he was before the Board to ask for a variance from 105 CMR 435.13 which would reduce the walkway from four (4) feet to three (3) feet.

Chairman Fleischer asked if accessibility regulations were still going to be met. Mr. Grossman said that it would. Member Horowitz asked if the walkway was reduced would there be enough room for a wheelchair to access the pool. Mr. Pittman said that ADA required a minimum of three (3) feet so ADA compliance would still be met. Mr. Weber asked if the cover being installed was one that someone could walk on and not worry about falling in. Mr. Pittman said that yes you could walk on the cover without falling in. He explained that there was a key that gets inserted into the motor and needed to be

used to open and close the pool. Once the key is taken out, the cover cannot be open or closed manually.

Member Horowitz made a motion to allow the Groton School to install a new automatic motorized pool cover and decrease the available walkway footage from four (4) feet to three (3) feet.

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

Mr. Pittman asked if they could begin installation. Mr. Grossman said that the variance and Board of Health decision needed to go to the State for final approval. This State could take up to 30 days to respond.

290 Reedy Meadow Road

Present: Steve Sears, engineer; Leonard Bennett, abutter; Mark & Carole Carter, homeowners

Mr. Sears explained that he was before the Board on behalf of Mr. & Mrs. Carter to present the proposed upgrade to the sewage disposal system and request variances required. Mr. Sears reviewed the proposed plan with the Board members and read the following requested variances:

Groton Board of Health Regulations

Section 1.E.6 – A minimum offset of 35 feet must be available between the road line and a proposed leach area. 14 foot offset is designed to avoid a breakout problem and the use of a concrete retaining wall.

Section 1.A.2 – Groundwater season is March and April. High groundwater determined by the use of Soil Morphology.

Local Upgrade Approval

310 CMR 15.405 (1)(b) – depth of cover over the components from 36" to 72". 66" to 45" cover is proposed to avoid a breakout problem and retaining wall.

Mr. Grossman said that he had no concerns with the plan, that it was pretty straight forward and that the design offered a better fix with fewer variances required.

Member Horowitz asked how many bedrooms there were. Mr. Sears said that there were four (4) bedrooms.

Chairman Fleischer recognized an abutter in the audience and asked if he had any questions or concerns. Mr. Bennett said that his only concern was that the 100 foot setback to his well was being met. He also said that based on the proposed plan that the proposed leach field looked to be almost the same size as the current one. Mr. Sears confirmed this and added that there were going to be 3 trenches instead of the 2 that were currently there.

Member Weber made a motion to accept the request for variances as specified in a letter from David E. Ross Associates dated July 21, 2011. 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 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.

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

128 Main Street

Present: George Pergantis, owner; Art Campbell, The Groton Line; Karen Corey, abutter

Buildings 2 & 3

Mr. Grossman said that he was able to find an old permit and plan for the septic system that services the Carriage House (function hall). He said that at the last meeting Mr. Pergantis was asked to contact Bridgette Braley of NABH to set up a preliminary inspection of the Carriage House. Ms. Lammi contacted Ms. Braley three (3) weeks ago and said they would call her back when they were ready for an inspection. Mr. Grossman said that Ms. Braley had not been contacted by Ms. Lammi or Mr. Pergantis since.

Member Horowitz asked if Mr. Grossman had been contacted since the last meeting to conduct an inspection and if not were they to assume that the outstanding issues had not been completed as of yet. Mr. Grossman said that he had not been contacted by Mr. Pergantis for any subsequent inspections.

Mr. Pergantis said that Mr. Grossman's report of the pool fence being broken was untrue and added that the gate was simply left open. He said that the buzzers on the doors had been installed; he replaced one board on the porch with pressure treated wood and was told by the Building Inspector that this was okay. He said that the chimneys would no longer be used because he was switching to electric heat. He said that any violations given by Mr. Grossman had been corrected except for the chimney which he planned on attending to at a later date. Mr. Pergantis then asked that someone other than Mr. Grossman conduct the inspections on his property.

Member Weber asked if a substitute could be assigned at the Boards discretion. Member Horowitz said that Mr. Grossman had been there from the beginning and was the only one who knew what needed to be corrected. Member Weber wondered if there would be added expenses to the Town to have another inspector from NABH conduct the inspections. Chairman Fleischer suggested that maybe Mr. Grossman and one of his colleagues could go together. Member Horowitz asked Mr. Grossman if there would be a problem updating Jim Garreffo, Director of NABH and asking if he could conduct the inspection.

Mr. Grossman said that the outstanding items could have been completed by now and that there have been no calls to date from Mr. Pergantis to have a re-inspection done. Mr. Grossman said he had no problem asking one of his colleagues to conduct the inspection. He said that whether or not the owner and he had a difference of opinion was beside the point as the items needing corrections had been put in writing and required re-inspection. Mr. Grossman added that the housing code is very black and white and differs from what building code says.

Member Horowitz asked if Mr. Grossman had the ability to have a state inspector do the inspection. Mr. Grossman said that it was neither prudent nor required and added that anyone from his office was capable of doing it.

Mr. Pergantis said that he was not ready right now but that he would call when he was ready. Mr. Grossman suggested to the Board that they ask Mr. Pergantis to be specific with his time frame. He said that Mr. Pergantis was beyond the 30 day deadline as outlined in the Orders. Chairman Fleischer asked Mr. Pergantis how long before he would be ready for an inspection. Mr. Pergantis said that he was only one person and that he had been working all by himself every day. Chairman Fleischer told Mr. Pergantis that even if he had a couple of items ready to be inspected to have them inspected. It didn't need to be inspected all at once. Mr. Pergantis said that he was working on the apartments and also trying to work at the Inn to move everything out prior to demolition. Member Weber asked that given the many things Mr. Pergantis was working on when could he be ready for an inspection. Mr. Pergantis stated that he would be ready early the following week. Mr. Grossman said that he would not be able to commit to a time if he was not the one doing the inspection.

Member Weber told Mr. Pergantis that every time he stated that Mr. Grossman was not doing something properly he should either provide evidence or not make the claim. He told Mr. Pergantis that no one was trying to make this hard for him but that the Town had laws and regulations that they were required to follow and enforce. Member Horowitz told Mr. Pergantis that they could get him a copy of the codes/laws if he would like a hard copy to review.

Member Weber made a motion to continue the discussion on the apartments (buildings 2 & 3) until their next meeting on October 3, 2011.

Chairman Fleischer seconded the motion.

Karen Corey introduced herself as an abutter and friend of Mr. Pergantis. She asked Mr. Grossman for clarification on the dates of the Condemnation Orders. Mr. Grossman said that the first Order was dated August 4, 2011 and the second one was dated August 12, 2011. Ms. Corey asked if the 30-day timeframes given were unreasonable in lieu of the tragedy that had occurred. Member Weber said that it was their legal obligation to protect public health. Chairman Fleischer said that the timeframes were based on the severity of the issues. Member Weber said that if something terrible was to happen and that they as a Board did not enforce the law as required by them that that would only make it worse.

Member Weber asked what needed to be done with the chimney. Mr. Grossman said that the chimneys were viewed as being in poor condition. They both lean and although some repairs had been done in the past, there are still pieces that have fallen off onto the walkways. Mr. Pergantis said that he was converting the apartments to electric heat and the chimneys were not needed. Mr. Grossman said that they were in violation of Chapter 2 as not being structurally safe. Chairman Fleischer asked if the new electric heat were in place if the tear down of the chimney could be placed under contract for a short period of time. Mr. Grossman said that no electric permit had been pulled to date for the conversion to electric heat.

The motion to continue made by Member Weber and seconded by Chairman Fleischer was approved unanimously by all members.

Carriage House

Mr. Pergantis explained that the function hall was open for business in the early 1980's as a full restaurant and included a full liquor license. He said that the equipment was still there. He said that his plan was to re-open the function hall as a seafood restaurant, Coach Seafood and Grille. He said that all his liquor licenses and food licenses, which had the capacity needed, were current. Chairman Fleischer said that he understood Mr. Pergantis would like to open the restaurant within a month but that the question was whether or not the permits were conveyable to the Carriage House.

Mr. Grossman said that the current food service permits did not cover the Carriage House and added that the original septic permits he found allowed for a maximum of 85 seats in the Carriage House. Bridgette Braley, District Food Inspector for NABH, stated that the Carriage House was not currently permitted and hadn't been for years. She said that the current food service permit states that there was a seating capacity of 425 seats allowed to Mr. Pergantis in the Inn and additional room for outdoor seating such as a function under a tent. She said the function hall kitchen had not been inspected in years and the only permitted kitchen was the main kitchen in the Inn. She said that she had explained this to Ms. Lammi three (3) weeks ago and said that if Mr. Pergantis submitted plans and had the function hall inspected that would give them a better idea of what was needed to possibly have it permitted. She had not heard from anyone since that conversation. Mr. Pergantis told Ms. Braley that she could come anytime. Ms. Braley said that she wanted to see a plan on paper prior to coming for an inspection. She also explained that if the new restaurant was going to have a different name and a different type of menu that she needed to review the menu prior to a permit being issued. She also explained that before a permit was issued, other related issues needed to be dealt with such as the septic system.

Ms. Corey asked if the Board was saying that the Carriage House did not currently have permits. Ms. Braley said that it had not been permitted since approximately 1993 and that even then the inspectors' reports did not specify what the Carriage House had done just that it wasn't operational as a restaurant.

Mr. Pergantis said that he would get Ms. Braley plans and a menu and contact her for an inspection. He added that he was going to connect to town sewer by the end of the year.

Mr. Grossman stated that the septic system which serves the function hall was not currently in compliance and that the Board would need to make a decision as to whether or not this was considered a change in use.

Member Horowitz made a motion to continue the discussion to their next meeting on October 3, 2011 so that they could wait for more information and inspections to occur.

Art Campbell of The Groton Line asked if hot water in the apartments was being run off the boilers. Mr. Pergantis said that it was coming from the electric heat.

Member Weber told Mr. Pergantis that he needed to provide Ms. Braley with a new application, proposed menu and plan of the function hall including the kitchen all in advance of an inspection. Ms. Braley said that it was up to the Board to determine whether or not the septic was okay to proceed with the permitting of the kitchen/function hall as a restaurant. Member Weber asked if there could be a condition on the food service permit that stated that within a given amount of time the septic must be upgraded to town sewer. Ms. Braley said that there could be a restriction put on it.

Chairman Fleischer stated that there was still a motion on the table. Member Weber seconded the motion made by Member Horowitz to continue the discussion and all were in favor with a unanimous vote.

90 Tavern Road

Present: Peter Braudis, owner; Mike Pelletier, Skillings and Sons

Mr. Grossman explained that the applicant submitted for permits for two (2) geothermal wells and was before the Board to seek its approval because the application had been denied due to distance offsets. Mr. Grossman added that according to the state it was considered a well.

Mr. Pelletier said that they were closed loop bore holes that were drilled down like a well. Chairman Fleischer asked how deep they were. Mr. Pelletier said that they were less than 500 feet.

Mr. Grossman said that it didn't have to bring water up but that it was still boring into the ground which the state considers a well. Member Horowitz asked how other wells of this nature had been approved. Mr. Grossman said they have permitted them with offset requirements. He said that a variance could be issued but that he would like to see the bore holes moved away from each other before a variance is issued.

There was a brief discussion and review of the plan which showed that there was some room to move the bore holes as Mr. Grossman suggested.

Member Horowitz made a motion to approve the variance request to the local regulations. The distance to the leaching area is not to be less than 50 feet and the utility easement is not to be less than 10 feet.

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

Old/Other Business

15 Whitewood Road – The Board was informed that they were not permitted under the Open Meeting Law to enter into Executive Session to review an individual's financial records. It was decided that whether or not Mr. Scira wanted to submit his tax returns in a public meeting for the Board to consider a financial hardship would need to be left up to him.

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

Respectfully submitted,
Dawn Dunbar