



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

MEETING MINUTES
October 3, 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
Michelle Collette; Land Use Director

Meeting Called to Order:

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

Invoices

Verizon Wireless; Nashoba Associated Boards of Health

Permits

Amelia Way, Lot 6; Amelia Way, Lot 7; 680 Townsend Road, LUA 3; 41 Saddle Lane, Lot 17; Cardinal Lane, Lot 10; Cardinal Lane, Lot 11

Well Regulations

Member Weber began by reading and briefly explaining all the proposed changes to the well regulations. These changes were specifically in Chapters 330-3 Definitions; 330-4 Fees; 330-6 Well Location and Use Requirements; 330-8 Water Sampling and Quality Testing Requirements; 330-9 Well Construction Requirements and 330-16 Variances.

Member Horowitz raised her concern with deleting the sentence in Chapter 330-16 item B – “and by publication in a newspaper of general circulation in the Town of Groton.” She explained that she thought the public had a right to be informed and thus the reason for the requirement for the public to be notified by means of a public hearing notice in the newspaper.

Member Horowitz made a motion to reinsert the sentence in Chapter 330-16 Variances Section B that reads “Notice of the hearing shall be given by the Board, at the applicant’s expense, at least 10 days prior thereto, by certified mail to all abutters within 300 feet of the property upon which the private well is located and by publication in a newspaper of general circulation in the Town of Groton.”

Member Weber seconded the motion.

Michelle Collette asked the Board why they thought it was necessary to post the well variance request in the local newspaper. She said that when the Board holds a public hearing on a well variance the abutters are notified by certified mail. She said that it was only in the case of an emergency that the applicant had been required to publish in the local newspaper. She asked why it was necessary to place a notice in the newspaper and wait at least 10 days to hold a hearing.

Member Horowitz did not recall when the discussion had taken place to remove the verbiage. She said that she did not agree with notifying the abutters to the abutters but thought that the hearing should be publicized to notify those abutters that are not within 300 feet of the property seeking variances.

Mr. Grossman said that he didn't agree with placing a notice in the newspaper and that this requirement created unnecessary process. He added that he thought it was sufficient that the abutters are notified by certified mail.

Member Horowitz said that if notifying the abutters to the abutters was taken out that those in the area of the property still need to be notified somehow.

Dawn Dunbar asked who was going to be responsible for placing the notices in the newspaper and who was going to assume the costs for publication. She added that the applicant or their contractor was currently responsible for notifying the abutters by certified mail. Michelle Collette said that the Board of Health would be responsible for placing the ad and notifying the abutters and would have to collect advertising fees from the applicant to cover costs.

Chairman Fleischer reminded the Members that there was a motion that had been seconded.

Member Horowitz and Chairman Fleischer voted in favor of the motion made by Member Horowitz. Member Weber abstained from the vote.

Mr. Grossman said that there had been discussion at the last meeting about the possibility of modifying the definition or adding a section in the well regulations to address geothermal wells. Member Horowitz said that she thought geothermal wells should have their own section especially because they seem to be coming up more and more frequently.

Chairman Fleischer asked if they were covered by their definition since a separate section on geothermal wells did not exist. Mr. Grossman said that it was covered by the definition but very loosely. He said that geothermal wells that are also potable are exactly like potable water wells and that the state doesn't treat them any differently. The local regulations do not treat any of the geothermal wells (or borings) differently from a potable well.

Member Horowitz made a motion to continue the public hearing until their next meeting on November 7, 2011.

Michelle Collette agreed with Member Horowitz and recommended to the Board that geothermal wells have their own section within the well regulations. She questioned why they felt as though well variance hearings needed to be publicized in the local newspaper. She went on to say that in the past the only well variance hearings that had been published in the newspaper were those that were true emergencies and did not have enough time to notify abutters. She also said that their current fees would not cover costs for admin time or advertising fees. She said that the application fee would most likely need to be raised to \$150.00 to cover the costs incurred by the town.

Pierre Comtois of the Lowell Sun asked why the costs needed to be raised. Michelle Collette responded by saying that the town would need to raise the application fees in order to cover advertising fees and administrative time. The current \$20 application fee was not sufficient.

After no further discussion, Member Weber seconded the motion made by Member Horowitz. All were in favor of continuing the public hearing until their next meeting November 7, 2011.

Lost Lake Sewer

Present: Carol Quinn, Tom Orcutt – Lost Lake Sewer Advisory Committee

Carol Quinn explained that they were before the Board to update them on the Lost Lake Sewer project and the 3 articles that were on the Fall Town Meeting Warrant.

Ms. Quinn explained that engineer Woodard and Curran had provided a report to the Lost Lake Sewer Advisory Committee over the summer. The report and bottom line figures established that it was not going to be affordable to build or maintain a treatment facility. It was also determined that the Grotonwood property was not large enough to house a leach field. She said that that they have had conversations and meetings with the Ayer Treatment Plant and that are amenable to the proposed Lost Lake sewer tying into their treatment facility. This option would reduce the total cost of the effort by 30-35% making sewer more affordable for the residents.

Chairman Fleischer asked where the water goes once it is treated in Ayer. Tom Orcutt explained that it goes into the Nashua River. Member Horowitz asked where the sewer line would come out in Forge Village. Tom Orcutt said that the force main would go from the Sargisson Beach area, down Whiley Road and that a gravity system would take it from the four corners area to the Ayer town line.

Chairman Fleischer asked when it was anticipated that residents would be able to hook up to town sewer. Tom Orcutt said that late 2014 early 2015 would be earliest possible date.

Member Horowitz asked if they were before the Board for informational purposes or if they were looking for the Board's position. Chairman Fleischer stated that they needed to vote on their position that night because they did not meet again until November. Member Weber asked why they (the Board) wouldn't support the Lost Lake Advisory Committee and town sewer for the Lost Lake residents. Tom Orcutt added that the article under consideration is for funding the Environmental Impact Report (EIR).

Chairman Fleischer asked what the cost would be to hook up and wondered whether or not they might get resistance from the residents. Ms. Quinn said that it was hard for the engineers to say what the final costs were going to be as they may vary. Tom Orcutt said that the expected average betterment was approximately \$20,000.

Mr. Grossman said that the goal was to clean up the lake area. He suggested to the Board that if they support town sewer that they also support a mandatory requirement to connect. Michelle Collette agreed with Mr. Grossman and added that if the Town and the Commonwealth go ahead and spend all this money, it should be made mandatory that all homes tie in which would also lower everyone's fees.

Member Horowitz made a motion to meet as a Board on Monday, October 17, 2011 at 6:30pm at the Middle School Cafeteria to vote whether to support the Lost Lake Sewer Advisory Committee's article on the Town Meeting Warrant.

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

7 Rockwood Lane

Present: Wayne Kim, homeowner

Mr. Kim explained to the Board that he wanted to finish his basement as an open space.

Mr. Grossman said that he saw no issues with the plan and that Mr. Kim was asked to come before the Board because this finished room would make the 10th room and required a bedroom count deed restriction.

Member Horowitz made a motion to approve the deed restriction for 7 Rockwood Lane and added that the 4 bedroom home is to remain a 4 bedroom home.

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

234 Hoyts Wharf Road

Present: Jefferson Perley, engineer; Mr. & Mrs. Murdock, owners

Mr. Perley explained that he was before the Board on behalf of his clients, Mr. & Mrs. Murdock. He explained that their sewage disposal system with its 1,000 gallon septic tank was in failure and required an upgrade. He requested the following variances:

1. 310 CMR 15.211(1) – Minimum Setback Distances

Distance from water supply suction line to septic tank

Required: 50 feet Provided: 21+/- feet to existing septic tank #1 (existing condition)
Provided: 36 +/- feet to proposed septic tank #2 due to lack of space

Distance from water supply suction line to soil absorption system

Required: 100 feet Provided: 46 +/- feet to proposed leaching trenches due to lack of space

2. Groton Section 1 A.2 – Testing Requirements: Deep holes in Class I soils were excavated outside the months of March and April due to this being an emergency repair situation.

3. Groton Section 1 E.6 – Distance Requirements: Distance from street sideline to leaching area
Required: 35 feet Provided: 11 feet due to lack of space outside of wetland buffer zone

Mr. Grossman asked for discussion purposes why they were planning on using the existing suction line and not upgrading to a pressure line. Mr. Perley said that the suction line was a brand new line. Mr. Murdock added that they would have to put in a new well if they changed to a pressure line.

Chairman Fleischer asked if water quality testing should be done. Mr. Grossman said that this was always good practice with shallow wells to test for coliform and bacteria.

Member Horowitz asked how long ago the well was put in if the suction line was brand new. Mr. Murdock said that the shallow well was installed about 3-4 months ago. Mr. Grossman said that he was not aware of a well being installed and that no permits had been granted to do so. Member Horowitz asked who installed the well. Mr. Murdock could not remember who the installer was at that time. Dan

Wolfe asked if a new suction pump or a whole new well had been installed. Mr. Murdock said that it was a whole new well.

Member Weber made a motion to approve the variances as submitted by Mr. Jeffrey Perley in a letter to the Groton Board of Health dated August 31, 2011 with a condition that the water be tested for coliform annually.

Member Horowitz asked how shallow the well was. Mr. Murdock said that it was 25 feet down.

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.

Mr. Grossman asked for Mr. & Mrs. Murdock to provide him with any paperwork pertaining to the new well and contact information of the well installer within the next day or so in order to find out about the new well.

Mr. Grossman reiterated that he still had no problem with the variances requested and issuance of a permit for the septic upgrade and that they could discuss the well at a later date.

Chairman Fleischer stated that the motion made by Member Weber had been seconded.

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

73 Pepperell Road – Tarbell School

Present: Dan Wolfe, engineer

Mr. Wolfe explained that he was before the Board on behalf of the Town of Groton to request variances needed to upgrade the failed septic system at the Tarbell School. He said that the original system was installed in 1972 and was designed for a capacity of 700gal/day (which was slightly larger than a 6 bedroom single family home). He said that the property presented a few problems as he tried to design a plan. The front of the property had ledge and the rear of the property was hilly. He said that he found an area on the left hand side of the property close to St. James Ave. where there was a lot of fill and which would allow for four (4) feet of natural material. Mr. Wolfe read the following requested variances:

Local Upgrade Approval

- 15.405(1)b – Increase in the maximum depth of system components from 36” to no greater than 72”. A depth of 62” to the top of the septic tanks and pump chamber are proposed.
- 15.405(1j) – Reduction of the requirement of a 12” separation between the inlet/outlet tees and the high ground water table. Less than 12” is proposed with all pipe joints being sealed with hydraulic cement or installed with watertight sleeves and tanks will be proven watertight.

Groton Board of Health Regulations

- Section 1.A.2 – Deep observation holes for determination of groundwater elevations may be performed during the months of March and April. Groundwater elevations were determined in June and July.
- Section 1.A.5 – There must be a minimum of 5 feet of pervious material between the bottom of the leaching facility and groundwater. A 4’ offset is proposed.
- Section 1.C.11 – Whenever a system must be pumped, the soil absorption system shall be pressure dosed. Pressure dosing is not provided.
- Section 1.E.6 – A minimum of 35’ must be available between the road line and the proposed leach area. An offset of 10 feet is provided.
- Section 1.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 requirements. An impervious barrier is proposed to adjust the side slope requirement.

Mr. Grossman said that even though the school was converted into office space Title 5 states that the system capacity is determined by how the property was originally permitted. Mr. Wolfe agreed with Mr. Grossman and added that no matter what the future use of the building was, you would go back to how it was originally permitted. Any future use would not be able to exceed the original approved capacity which in this case would be no more than 700gal/day.

Chairman Fleischer asked as a taxpayer if they would be limiting the the use of the building based on the Boards decision. Mr. Wolfe said that the design would limit certain uses allowed. In this case future use would be limited to the capacity of a 6 bedroom house. Mr. Grossman said that the maximum use was being accessed.

Alison Manugian an abutter to the Tarbell School asked if the trees located on the property were going to be impacted. Mr. Wolfe replied that there were 4 trees within the vicinity of the proposed design

area with 2 being very close to the leach field. He said that the design allowed for an impervious barrier to be installed limiting the amount of fill put in. Michelle Collette added that the trees were in the town's right of way and could not be taken down as part of the Scenic Road bylaw. A Planning Board hearing and tree warden approval would be required to remove such trees.

Ms. Manugian asked if the Board granted a permit that evening what was the typical timeframe given with the permit. Mr. Wolfe said three (3) years but added that he had heard the Board say to another applicant earlier that they had two (2) from date of failure to upgrade the system.

Ms. Manugian asked if there could be a condition added that use for the building be defined before upgrade of the system is started. She added that RFP's had been put out there and that a preschool is looking into occupying the Tarbell School. If the preschool does not work out this would be a reason to delay installation.

Mr. Wolfe said that they were being dictated by the original capacity and that original capacity could not be increased. Mr. Grossman added that if the building remained vacant it didn't need to be upgraded right away.

A gentleman in the audience asked for affirmation that the trees would not be taken down. Mr. Wolfe said that a 30 mil. polyethylene sheet would be installed and that the state requires that they maintain the same elevations for 15 feet before it drops off. He said that this barrier would protect the trees and would reduce the amount of fill needed. The gentleman asked if there would be a hump in the ground. Mr. Wolfe said that the grades would change slightly but that there would not be a monstrous mound. The gentleman asked if this was an accepted practice. Mr. Wolfe said that it was allowed by DEP.

Mike Manugian, an abutter stated that he would like to see the Tarbell School re-used. He asked if a member of the Board of Health would re-present major points discussed at their meeting to residents at Town Meeting. Chairman Fleischer said that he would be present.

Mr. Grossman told the Board that if they issue an upgrade permit the applicant has two (2) years to upgrade the system but that this permit was good for three (3) years because it was not currently being used. He added that the applicant had the right to request a 1 year extension giving them the ability to have four (4) years to upgrade the system. The requirement should be for the system to be installed prior to use (per Title 5).

Ms. Manugian said that according to the Town Manager tentative plans had been made to install the system this fall. She re-asked if the Board could condition the permit. Member Weber said that it was not in their jurisdiction to do that. He added that because it was on the Town Meeting Warrant that it was subject to debate and a vote at town meeting.

Member Weber made a motion to accept the variances as requested by David E. Ross Associates in a letter dated September 2, 2011.

Member Horowitz seconded the motion.

Chairman Fleischer 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 3 years from the date the permit is issued or prior to any stated use of the building within the confines of Title 5. 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 shall not exceed 700gal/day capacity and no change is to be made without prior approval of the Board of Health and any other applicable Board or Commission.*
8. *The existing 700gal/day capacity is to remain a 700gal/day capacity with no increase in capacity, 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.

128 Main Street – Groton Inn

Present: George Pergantis, Gloria Lammi, Karen Corey

Mr. Grossman stated that he and Jim Garreffo, Director of Nashoba Associated Boards of Health conducted an inspection of the apartments on September 30th. He said that there were still a number of outstanding violations that had not been corrected and that he had taken photos as advised by the Board of Health. Chairman Fleischer suggested that they go through each item. Mr. Grossman said that it was not necessary to go through each outstanding item. They were the same items listed on the two (2) Orders. He said that things like missing globes on light fixtures, broken windows, holes in the buildings were a few of the outstanding items. He said that the de-leading had not been contracted for. He said that they were a month beyond the initial order letters and the compliance date given.

Ms. Lammi said that they had not received the check from the insurance company as of yet and since they could not move anyone else in they had no income to fix the remaining items. Ms. Corey asked Mr. Grossman if Mr. Pergantis had accompanied him during the inspections. Mr. Grossman said that Mr. Pergantis walked through each inspection with him.

Mr. Grossman asked the Board members for their consensus on another timeframe. Member Horowitz stated that nothing big was going to happen until the insurance check was issued. She said because of Town Meeting, the Board was not going to meet until November 7th which would give Mr. Pergantis one (1) more month to correct the violations. She asked Mr. Pergantis how many tenants were presently

living in the apartments. Mr. Pergantis said that there were two (2) tenants. Member Weber stated that they had allowed the old tenants to move back in to the apartments because the major violations on the Order had been completed but that no new tenants could move in until all violations on the Order had been corrected. He added that it was not the duty of Mr. Grossman to point out each instance of every outstanding violation and that the onus was on the owner to take a walk around and to repair anything that needs to be fixed. Mr. Pergantis promised to go through each building and fix everything that needs to be fixed.

Member Weber made a motion to continue the discussion of the outstanding violations at buildings 2 & 3 until November 7, 2011.

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

Groton Inn - Carriage House

Mr. Pergantis explained that he spoke with Bridgette Braley of Nashoba Associated Boards of Health who asked him to provide her with a kitchen plan and a menu which he did. He had a follow-up conversation with her that day and she was scheduled for an inspection the next day at 11am.

Member Horowitz asked for Bridgette to follow-up with the Board after her inspection. Mr. Grossman said that the Carriage House would most likely not be able to be discussed until their next meeting. He said that an application was needed for a new restaurant also a time frame for sewer connection needed to be discussed not to mention approvals from other boards and committees. Chairman Fleischer said that any approval and use of septic would be for a short time or the permit could be contingent upon sewer connection within a certain timeframe given.

Michelle Collette said that from a zoning perspective a new restaurant in the Carriage House would be considered a change of use as it had been used as a function hall for the past 20 years. Because it had not been used as a restaurant within the past 2 years it would be considered a change of use and would require a site plan review by the Planning Board and could require a special permit from the Zoning Board of Appeals because the building sits on the property line. She added that the Board of Health's jurisdiction was over the food service permit.

Member Horowitz stated that Mr. Pergantis would have to go to speak to the building Commissioner to review the rules and requirements and speak with the Planning Board about the site plan review process.

Ms. Corey asked if Mr. Pergantis contacted the Building Inspector would he guide him through the process. Michelle Collette said that Mr. Pergantis could talk to Mike Kinney the Building Commissioner and that he would guide him through the process.

Mr. Grossman said that a restaurant in the Carriage House would be considered a new application and a new use. He said that it had been determined that the current Carriage House does not have a food service permit. The original septic capacity for the Carriage House was for 85 seats. Chairman Fleischer asked if any other department had jurisdiction to require connection to sewer. Michelle Collette said no, that the Board of Health had the jurisdiction. Mr. Pergantis said that he didn't need the food service permit right now because he was not ready to open.

Chairman Fleischer said that it seemed as though sewer could be connected prior to the issuance of a food service permit and would make the decision easier.

Ms. Corey said that Mr. Pergantis was working very hard every day with only one (1) other person to repair all the violations. His only constraint right now was lack of money. Member Horowitz said that they understood and that's why they had been trying to work with him. Member Weber asked if she had any suggestions on how they could work better with him. Ms. Corey said that Ms. Lammi reads everything to him and explains what needs to be done and that in good faith he was working hard to meet compliance.

It was decided that the Board would wait until Bridgette Braley conducted her inspection and they would revisit the discussion at their next meeting on November 7, 2011.

95 Overlook Drive

Present: Michael Gray, contractor; Richard Crane, homeowner

The applicant was before the Board seeking variances to install a closed loop geothermal well. Mr. Gray read the following requested variances:

- Closest bore hole to leaching field 60'. 100' is required.
- Closest bore hole to abutters leaching field 75'. 100' is required.
- Closest bore hole to property line 12'. 50' is required.

Mr. Grossman said that the locations met the DEP requirements for bore holes but that they did not meet the Groton Board of Health Regulations. He added that abutters had not been notified but that waiting until the meeting on November 7th would be a hardship because there is presently no way of heating the home.

Member Horowitz made a motion to accept the requested variances for 95 Overlook Drive for three (3) closed loop geothermal wells.

Member Weber seconded the motion.

Member Horowitz added to the motion that this was granted as an emergency situation and that a letter was required notifying abutters of the variances requested.

All were in favor with a unanimous vote.

Clover Farm Market

Mr. Grossman said that he stopped at Clover Farm for a cup of coffee and was concerned about what the owner was selling. He said that she had not yet applied for her food service permit and that the market appeared to be focusing more on sandwiches. He added that he had observed that she had 4 separate small tables with chairs positioned around the tables which was in violation of her Memorandum of Understanding. Member Horowitz suggested that a reminder letter be sent to the owner.

Member Horowitz made a motion to adjourn the meeting at 10:05pm. Member Weber seconded the motion and all were in favor with a unanimous vote.

Respectfully submitted,

Dawn Dunbar