



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

MEETING MINUTES  
February 6, 2012

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

Meeting Called to Order:

Chairman Fleischer called the meeting to order at 7:05 pm in the Town Hall.

**Invoices Signed**

Verizon Wireless

**Permits Signed**

479 Boston Road

**409 Old Ayer Road**

**At the owner's request, Member Weber made a motion to continue the hearing until March 5, 2012. Member Horowitz seconded the motion and all were in favor with a unanimous vote.**

**47 Redskin Trail**

Mr. Grossman explained that he had received a formal written complaint relative to Mr. Pitre's property. Mr. Grossman said that he inspected the property and concluded that it was not a BOH issue.

**21 Redskin Trail**

**Member Weber made a motion to invite Mr. Michael Mavilia to their meeting on Monday, March 5. Member Horowitz seconded the motion and all were in favor with a unanimous vote.**

**Boston Road Marketplace**

Present: George Dimakarakos, Stamski & McNary

Mr. Dimakarakos explained that the owners of the Boston Road Marketplace, Supervalu, Inc., would like to have the flexibility to apply the unused sewage capacity from the three (3) un-built buildings and transfer that use to the existing built, un-occupied retail space.

Member Horowitz asked if this would mean a restaurant could potentially go there. Mr. Grossman said that he thought that was what was being asked and added that a restaurant would be a change in the original permit and would require approval. The existing permit was for dry goods. Member Horowitz stated that there were two (2) vacant retail spaces available and asked if a restaurant were to occupy one of the units could someone else rent the other unit. Mr. Grossman said that a restaurant would require 1,000 gallons of use.

Mr. Dimakarakos said that the soils on the site are great and that there was room for future expansion. He said that his client would like to use the remaining capacity for the built rental spaces and come back at a later date to discuss the possibility of an expansion. Member Weber said that the owner must understand that choices made now will determine choices to be made later and that it was the Board's obligation to protect public health.

Chairman Fleischer asked if this was just an agreement or if a new permit was required. Mr. Grossman said that he could revise the existing permit to revoke the capacity being saved for the un-built buildings. There was discussion about whether or not the entire system was going to have to be revisited in the future if the client wanted to expand. Mr. Grossman concluded that it was possible due to new Title 5 requirements from when the system was installed.

Member Weber said that he felt it was difficult to make a sound decision based on hypotheticals. Chairman Fleischer agreed and added that it would be better if they had an applicant with a proposed use. Mr. Dimakarakos said that the Board could condition it so that each application is subject to review and modifications by the Board of Health.

**Member Weber made a motion to allow the existing unused design flow assigned from un-built retail space A, B, & C to built retail space D & E. Each application for potential use will be subject to review by the Board of Health and may require modifications for things such as grease traps, tight tanks, etc. Member Horowitz seconded the motion. All were in favor with a unanimous vote.**

### **366 Lost Lake Drive**

Present: Luke Johnson, owner

Mr. Grossman explained that he had received multiple complaints with regard to the appearance of 366 Lost Lake Drive. He said that upon inspection Mr. Johnson had allowed the property to revert back to the condition it was, if not worse than it was when the Board took him to court almost 4 years ago. He said that an order to clean-up was issued about 25 days prior and because of that letter Mr. Johnson had requested an appointment with the Board.

Mr. Johnson said that he was extremely embarrassed and dismayed to be back before the Board again. He said that he had a problem and compared it to alcoholism. He said that he was not looking for sympathy but wanted to reach a solution. He told the Board that he would work with Mr. Grossman to reach a resolution.

Member Weber asked what sort of timeline was envisioned for compliance. Mr. Grossman said that it could take several months to clean up the property. Member Horowitz asked Mr. Johnson if he would benefit from timeframes in which to complete work by. Mr. Johnson said that he would do what was necessary.

**Member Weber made a motion to continue the matter until their next meeting on March 5. Mr. Johnson was also asked to meet with Mr. Grossman to develop an acceptable timeline in which to complete the clean-up of the property and asked that visible improvements by the road be made before their next meeting on March 5. Member Horowitz seconded the motion. All were in favor with a unanimous vote.**

#### **24 Indian Road**

Present: Ron Whittemore, homeowner; Brian, Whitman and Bingham

Mr. Whittemore explained that when he bought the property it was his intent to renovate the house. He had since determined that the house was worse than what he thought and would need to be taken down and rebuilt. He stated that he would like to propose building a three (3) bedroom and added that there was currently a two (2) bedroom there now.

Brian of Whitman and Bingham said that they had been looking at a couple of different scenarios and can meet Title 5 with an extension of the water line. He said that they would need a couple of variances from the Groton Board of Health Septic Regulations. He said soils would be tested in season.

Member Horowitz asked if the building was going to be completely torn down. Mr. Whittemore said that the intent was to tear the entire building down. Member Horowitz said that the new home was not going to be allowed by the Board to be a three (3) bedroom because it would be considered new construction and the Board does not grant variances for new construction. She said that the Board would allow him to use the same footprint (a two (2) bedroom) but nothing larger. Mr. Grossman repeated what Member Horowitz said. Mr. Whittemore asked if they could revisit the bedroom count at a later date. Member Horowitz said that if there were variances that were needed because it would be considered new construction then, "no" they could not revisit the discussion. Chairman Fleischer said that new construction must meet the regulations.

#### **16 Ridgewood Ave**

Present: Jane Danielson, owner; Matt Bombaci, GPR, Inc.

Mr. Bombaci explained that he was before the Board on behalf of his client, Ms. Danielson to seek approval to upgrade the septic system serving the property. Mr. Bombaci asked for the following variances:

#### **310 CMR 15.405 – Local Upgrade Approval**

- **15.405 (1)(A):**  
Required: 10 foot setback from leaching area and dosing chamber to property line  
Requested 2 foot setback from leaching area to right-of-way property line, 6.5 foot setback from leaching area to abutting property to the east, and 5.9 foot setback from dosing chamber to abutting property to the east
- **15.405 (1)(B):**  
Required: 20 foot setback from leaching area to foundation wall

- Requested: 6.8 foot setback from leaching area to foundation wall with impervious barrier to protect foundation wall
- **15.405 (1)(F):**
  - Required: 100 foot setback from leaching area to well
  - Requested: Leaching facility located 76.5 feet from well serving subject property, 58.4 feet from suction line serving subject property, 98.2 feet from well on abutting property across Ridgewood Ave, and 89.9 feet from suction line on abutting property across Ridgewood Ave
- **15.405 (1)(K):**
  - Required: Two deep holes per disposal area
  - Requested: One deep hole that adequately characterizes the soils

Groton Board of Health Regulations

- **Section I (A)(2):**
  - Required: Deep observation holes for the determination of ground water elevations may be performed during the months of March and April.
  - Requested: Use of deep observation holes performed in November, with the use of soil mottling to determine seasonal groundwater elevation.
- **Section I (E)(1):**
  - Required: Leaching facilities must be located at least one hundred (100) feet from any wetland.
  - Requested: Leaching facility located at a minimum of 86 feet from Knops Pond.
- **Section I (E)(6):**
  - Required: A minimum of thirty-five (35) feet must be available between the edge of any street and leaching areas.
  - Requested: Leaching area located two (2) feet from the right-of-way property line.
- **Section I (E)(7):**
  - Required: A minimum of twenty (20) feet must be available between any property line and leaching areas.
  - Requested: Leaching area located two (2) feet from the right-of-way property line and 6 and one half (6.5) feet from the abutting property to the east.
- **Section I (E)(9):**
  - Required: A minimum of 15 feet must be available between the edge of a soil absorption area and an adjacent side slope. Walls and impervious barriers are not allowed to adjust the side slope requirement and offset.
  - Requested: Use of a wall and impervious barrier to meet breakout requirements.
- **Section VI:**
  - Required: Leaching facility to be located 100 feet from well.
  - Requested: Leaching facility located 76.5 feet from well serving subject property, 58.4 feet from suction line serving subject property, 98.2 feet from well on abutting property across Ridgewood Ave, and 89.9 feet from suction line on abutting property across Ridgewood Ave.

Member Weber asked Mr. Grossman if this was the best option for this property. Mr. Grossman said that without getting into innovative technology this was the best option.

Mr. Friedrich, an abutter, asked how construction access to the site was going to work. Mr. Bombaci said that they would come in from the street and work their way up.

Mr. Ruskin, an abutter, stated that she had concerns over the variances because the system was being placed close to her property and because trees were slated to have to come down. She asked if a tight tank could be installed so that the trees would not have to be taken down. Member Weber said that a tight tank could not be approved where a full system would work. Ms. Ruskin stated that she also had concern that if there was a problem with the system that the effluent could run downhill towards her property. Member Weber said that the property would be safe based on the engineering standards employed.

**Member Horowitz made a motion to accept the variances as requested for 16 Ridgewood Avenue as requested. Member Weber seconded the motion. All were in favor with a unanimous vote.**

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 including issuance of a Certificate of Compliance shall be completed by December 1, 2013. 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.

## **5 Baby Beach**

Present: Mr. Shattuck

Mr. Grossman explained that he had sent an order in 2009 to remove the outhouse and to address the non-existence of plumbing in the house. Mr. Shattuck said that in August 2011 Ducharme and Dillis was contracted to develop a plan for a tight tank. Mr. Grossman said that he would like to see the Board

establish timeframes for progress. Member Horowitz asked when plans could be done by. Mr. Shattuck said that he didn't know there was a deadline. Mr. Grossman said that with no system the structure was considered non-habitable. Member Horowitz suggested that Mr. Shattuck submit a plan for review no later than June 1, 2012 and plan to install the system as soon as the plan is approved. Member Weber asked that 5 Baby Beach be added to the June 5, 2012 agenda.

#### **444 Nashua Road**

Present: Steven Sampson, owner

Mr. Sampson explained to the Board that his garage had burnt down and that he was ready to rebuild and add to the existing footprint. When he applied for his building permit, it was pointed out to him by Mr. Grossman that the existing well was too close to the proposed addition. He said that since speaking with M. Grossman he was able to reverse the plan made the garage 12 feet away from the well.

Mr. Grossman said that a variance was not necessary if the Board determined that the existing foundation was grandfathered for the distance to the well. Member Horowitz said that she thought it should be grandfathered. Chairman Fleischer and Member Weber agreed.

**Member Horowitz made a motion to recognize the existing garage foundation at 444 Nashua Road as grandfathered. The foundation to well offset is not required. Member Weber seconded the motion and all were in favor with a unanimous vote.**

#### **126 & 128 Main Street**

Present: George Pergantis, owner; Gloria Lammi

Mr. Grossman said that the carpentry items had been taken care of which left the actual work for the lead paint issue still outstanding. They had a contract for the deleading but there were no start or completion dates noted on the contract.

Member Weber said that the matter of the fine should be continued contingent upon the deleading being completed. He said that progress seems to only be made when an economic downside is present. He suggested asking Mr. Pergantis for an acceptable and reasonable timeline. Mr. Pergantis said that the building had been scraped and primed and that he would be finished in two (2) weeks and ready for an inspection by the state at that time.

**Member Weber made a motion to continue the discussion about fines until March 5, 2012.**

Chairman Fleischer asked when the fines stopped. Member Weber said that the date of the lead contract was January 28, 2012 which meant the fines stopped accruing on January 27, 2012.

Ms. Lammi argued that they were not aware of the fines until they received an email. Member Weber said that that was a false statement; that the Board does not email, that notification of the fines was provided in the form of a vote at a previous meeting and that if they did not understand why they were being fined that they needed to seek legal guidance. Member Horowitz suggested that Mr. Pergantis and Ms. Lammi request a copy of the Board's meeting minutes from November 21, 2011 at which time a unanimous vote was taken to impose a \$100/day fine for outstanding work relative to the orders issued in August 2011. She added that it was further explained to Mr. Pergantis at that same meeting by his agent Mr. Ross.

**Member Horowitz seconded the motion. All were in favor with a unanimous vote.**

Mr. Pergantis asked if he could have permission to open his restaurant if he connected to town sewer. Member Horowitz said that he must first have approval from all other town boards and committees before the Board could issue a food service permit. Mr. Pergantis showed the Board a proposal from Lagasse Trucking to install town sewer. Member Weber made note that the proposal was not signed or dated by Mr. Pergantis. Mr. Pergantis signed the proposal and dated it 2/6/11 in the presence of the Board.

#### **Old / Other Business**

##### **8 Cypress Road & 15 Whitewood Road**

Mr. Grossman explained that he had received a complaint regarding trash that had been accumulating on the property located at 8 Cypress. He said that he contacted Mr. Scira, the property owner to clean up the property.

Mr. Grossman said that 15 Whitewood Road was still not in compliance. He said that Mr. Scira had not connected to town water which was part of the compliance with Title 5 and the tight tank approval. Member Horowitz asked that Mr. Scira be added to the Boards next agenda.

##### **128 Main Street**

**Member Weber made a motion to notify Mr. Pergantis via mail that he is allowed to re-rent the vacant apartments effective today, February 6, 2012. Member Horowitz seconded the motion and all were in favor with a unanimous vote.**

**Member Weber made a motion to adjourn at 9:25pm. Member Horowitz seconded the motion and all were in favor with a unanimous vote.**

Respectfully submitted,

Dawn Dunbar  
Land Use Assistant