



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

**MEETING MINUTES  
February 4, 2013**

**Board of Health Members Present:**

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

**Others Present:**

Land Use Assistant, Dawn Dunbar  
Nashoba Associated Board of Health Agent, Ira Grossman

**Meeting Called to Order:**

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

**182-184 North Street – Present:** Kevin Ritchie, engineer

Mr. Ritchie said that the home was located near the Pepperell line on North Street. He said that the home was serviced by town water and had a failed septic system. He said that testing had been done in November and that groundwater was at 60" near the rear of the property. The variances requested were:

1. A.2 – to allow a design in Class I soil with observation holes conducted out of season.
2. A.5 – to allow for four feet of pervious material between the bottom of a leaching facility and the groundwater elevation rather than the requisite five feet. This variance will eliminate the need for pumping the effluent to the leaching facility.

Mr. Grossman had no objections. Chairman Horowitz asked how high the mound would be. Mr. Ritchie said it would be just over a foot high.

**Member Fleischer moved to grant the request for SDS variances for 182-184 North Street as listed in a letter from Civil Solutions dated January 22, 2013 with the standard conditions. Chairman Horowitz seconded the motion.**

Chairman Horowitz asked how many bedrooms there was between the two (2) units. Mr. Grossman said that there were five (5) total bedrooms.

**Member 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 2 years from the date of the sewage disposal system failure (8/31/2012) 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 5 bedroom house is to remain a 5 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.

**Members Horowitz and Fleischer were in favor of the above motion with a unanimous vote. Member Weber was not present for the vote.**

**78 Maplewood Ave** – Present: Kevin Ritchie, engineer; Mike Shumtek, owner

Mr. Ritchie said that he was before the Board on behalf of Mr. Shumtek to request permission to install a tight tank at 78 Maplewood Ave. He said that there was currently a cesspool and a drywell for the kitchen. He said that there was not more than 100ft from one side of the property to the other. He said that they looked into installing a new well but Skillings wasn't able to get the required machinery on the property. He said that the owner was looking to sell the property and the tight tank was their only option. A 3000 gal tight tank at only 31 feet from the lake was proposed.

Mr. Grossman said that there were very few options available adding that it was a seasonal dwelling which allowed it the option of a tight tank. Chairman Horowitz asked if they could limit it to a seasonal dwelling. Mr. Grossman said that they could condition the approval to say that. Chairman Horowitz asked if a barrier to protect the lake was being used. Mr. Grossman said that a retaining wall would be installed. Chairman Horowitz asked if plastic would help as an extra barrier. Mr. Grossman said that plastic wouldn't provide additional protection and felt comfortable with the concrete products used. He said that the concrete would have to be signed off on and added that it's waterproof. Chairman Horowitz asked if an alarm was going to be installed. Mr. Grossman said "yes" adding that the panel would be visible from the exterior. Chairman Horowitz asked about pumping requirements. Mr. Grossman said that it was required to be under a maintenance agreement to include pumping. Member Fleischer asked if the property was near town water. Mr. Ritchie said that it was not. Member Weber asked Mr. Grossman if there was anything he would change to make this better. Mr. Grossman said "no."

An abutter from 72 Maplewood Ave asked how close the tank could be to his well. Mr. Grossman said 50ft.

**Member Weber moved to approved the variance request for 78 Maplewood Ave to allow placement of a "leaching facility" to be placed 31 feet from a surface water rather than the requisite 100 feet" with standard conditions. Member Fleischer seconded the motion adding that a condition be added that the property remain seasonal.**

Member 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 2 years from the date of the sewage disposal system failure (2/4/2013) 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.
10. The property located at 78 Maplewood Ave is to remain seasonal.

**All were in favor with a unanimous vote.**

**West Main Street – Assessors' ID#106-41 Fucillo – No one was present**

Mr. Grossman said that he had sent another letter requesting the property owner's presence at the meeting. Member Weber suggested proceeding to court as necessary since their requests had been ignored twice. Mr. Patrick Blouin said that he rents the land from the Fucillo's adding that he would remove the material in question if he needed to. Chairman Horowitz said that as of that night they were requiring that the material be removed. Mr. Blouin asked if he could be granted more time. Member Weber asked if the tenant could act as the landlord. Mr. Grossman said that if he was not power of attorney than no. He added that the Order issued in December of 2012 had been specific. Mr. Blouin asked if he could provide the Board with a letter providing a date that the material would be removed by. Chairman Horowitz said that he would like to see the material removed in two (2) weeks. Mr. Blouin agreed to have the material removed in two (2) weeks and said that he would provide the Board with a dumpster receipt.

Mr. Blouin asked "what if someone wanted it?" Mr. Luke Johnson said that there was a misconception about the material adding that some of it was worth something. Chairman Horowitz said that when the state had come out it was determined that it was rubbish. Mr. Johnson argued that it was "good wood" and that it was not all rubbish. Mr. Johnson added that the building inspector said that it could be used and then changed his story. Mr. Grossman said that the building inspector changed his story once he had seen the condition of the material. Mr. Johnson said that it came down to sorting it out. Chairman Horowitz said he had been attempting to sort it out for too many years and that Mr. Blouin had just agreed to remove it in two (2) weeks. She added that if a contractor wanted to take the material that that individual would be responsible for the wood/rubbish and that the Board wanted proof that the material taken was usable. Mr. Grossman said that it had been determined by the state that it was rubbish and it had been dumped on a vacant lot which was improper disposal of solid waste from a manufacturing facility.

**Member Weber moved to accept the offer made by Mr. Blouin to remove the material within two (2) weeks, that a receipt be provided for disposal/dumpster, and reaffirming that that there was a right to private property, that a receipt with an identifiable name and contact number be obtained for anyone claiming the material. Member Fleischer seconded the motion.**

Mr. Blouin said that they would be logging the property the following week and so the stuff needed to be removed anyway.

**All were in favor with a unanimous vote.**

**366 Lost Lake Drive – Present: Luke Johnson, owner; Patrick Blouin**

Chairman Horowitz said that from what she understood nothing had been accomplished since their last meeting. Mr. Johnson said that he had brought wood down from the house to burn. He said that it had been too cold to do yard work. Mr. Grossman said that there had been little progress made. He said that the wood pile next to the house remained untouched even after the meeting with DEP. He added that they really needed to start discussing the condemnation of the structure as Mr. Johnson had indicated that he was sleeping there once a month. This was a safety issue. Member Fleischer asked if the condemnation was theirs. Mr. Grossman said that if Mr. Johnson was sleeping there then it did. If he wasn't sleeping there then it would fall under the building department. He said that because Mr. Johnson said that he was sleeping there occasionally that it was their responsibility to discuss it. Member Weber asked Mr. Johnson if he was living there. Mr. Johnson said that he only camped out there to keep rights to the building. He said that the plan was to tear it down and to rebuild it in the spring/summer. He said that he was trying to avoid the condemnation of the house as he would lose his rights to rebuild. Member Weber asked if the structure was full of material and if so where was the stuff going to go if he were to rebuild it. Mr. Johnson said that his focus had been on the outside thus far. He said that his plan was to work on the inside in the spring and tear it down. Chairman Horowitz pointed out that this had been the first time Mr. Johnson said he planned to tear it down.

Mr. Grossman said that the town's fence viewer had been asked to take a look at the fence. He concluded that repairs and alterations needed to happen.

Chairman Horowitz asked what happened to the schedule set to remove the wood outside. Mr. Johnson said that the timing had not been right. He saw that the wood pile had been blown out of perspective and thought that the decisions made were politically and arbitrarily driven. Chairman Horowitz said that she took offense to that comment stating that the decisions being made were not arbitrary or political adding that they had rules and regulation's set by the Commonwealth of Massachusetts that they had to follow. She asked Mr. Blouin how long it would take to clean up 366 Lost lake Drive with a dumpster. Mr. Blouin said that the dumpster was on order to be delivered the following week.

**Member Weber moved that the Board accept the offer to clean the entire right side of the house by their next meeting on March 4, 2013. Member Fleischer seconded the motion. All were in favor with a unanimous vote.**

Chairman Horowitz said that Mr. Johnson needed to speak to Mr. Moore regarding the fence. She added that the Board had been very lenient thus far but that the rope was shortening.

**8 Autumn Leaf Drive – Present: Brian Bettencourt, owner**

Mr. Grossman explained that Mr. Bettencourt of 8 Autumn Leaf Drive was present to request a bedroom count deed restriction in order to finish his basement. Member Fleischer asked how many bedrooms there was. Mr. Bettencourt said he had four (4) bedrooms. Mr. Grossman said that he had no concerns.

**Member Fleischer moved to accept the deed restriction as proposed for 8 Autumn Leaf Drive. Member Weber seconded the motion and all were in favor with a unanimous vote.**

**9, 11, 15 & 23 Whitewood Road – Present: Attorney Robert Collins**

Chairman Horowitz said that she wanted to disclose to the rest of the Board that she saw Mr. Scira's dog for an emergency three (3) weeks prior. She said that he was not a regular client of hers. Member Weber said he felt there was no need for her to recuse herself. Member Fleischer agreed.

Attorney Collins said that he was present on behalf of Mr. Scira who could not be present that night. He said that Mr. Scira had applied for a building permit to make some repairs to 214 Lost Lake Drive as ordered by Mr. Grossman. He said that everything but the roof repair had been completed. Attorney Collins said that a

joint inspection between Mr. Grossman and the building inspector would be set up once everything was completed. He said that it was also a similar issue with 11 Whitewood Road and a joint inspection would be set up for that one as well. Attorney Collins said he spoke to David Boyer at DEP with regard to the shared system legal documents. Attorney Collins said that he was trying to get Mr. Scira to pull together funds in order to retain town counsel to review the shared system documents. He was hoping to have this done by the next meeting.

Attorney Collins said that with regard to the two (2) special permit applications he had brought forth to the ZBA, Mr. Scira had withdrawn the applications and would be filing for the demolition permits before the next BOH meeting.

Mr. Grossman said that Mr. Scira owed quarterly water quality reports which he had not been submitting. Attorney Collins said that he had been told that they had been done adding that he would try to get the paperwork from Mr. Scira.

**45 Prescott Street – Present: Lyle Webster**

Mr. Grossman asked Mr. Webster for the green certified cards showing proof of mailing to abutters. Mr. Webster said he was unaware that the notices to abutters needed to be sent certified mail. Mr. Grossman said that the hearing was going to have to wait until the Board's meeting in March so that the abutters could be notified properly. Member Weber asked if the board could move forward contingent that the letter to abutters be sent certified mail. Mr. Grossman agreed.

**Member Fleischer moved to continue the matter of 45 Prescott Street until the next meeting on Monday, March 4<sup>th</sup>. Member Weber seconded the motion and all were in favor with a unanimous vote.**

**73 Pepperell Road – Tarbell School – Present: Mike Rasmussen, Dan Wolfe, Robin Kane**

Mr. Wolfe said that in September 2011 a plan for an upgrade to the SDS at the Tarbell School was approved. The approved plan was for a school that had been in existence for many years. The approved capacity was for 140 elementary school children at a capacity of 700 gal/day. He said that the town currently had a purchase and sales agreement with Robin Kane and Mike Rasmussen to relocate an existing business, Country Kids at Rivercourt to the old Tarbell School. He said that the plan was for Country Kids to occupy the ground floor of the building and rent out the first floor. He said the problem they had reached was if Country Kids was considered a daycare, they would use the entire capacity according to Title 5 regulations. He said they were present to ask the Board for confirmation that Country Kids was in fact an elementary school at a capacity of 5 gal/day per person. He added that they had a small daycare component but mostly pre-K and kindergarten classes.

Member Fleischer asked how much of the program was daycare age. Ms. Kane said that they were currently enrolling 70% preschool, pre-K and kindergarten and 30% infants/toddlers. She said that her intent was to move further away from the infants and toddlers but wanted to be able to limit it to those with older siblings enrolled in the program. She added that the 20-30% doesn't use the facilities. Mr. Rasmussen said that when he read Title 5 it seemed as though a lot of effort was spent in spelling out schools and daycare seemed like the catchall. He said that no waste from the toddlers went into the septic system. Mr. Wolfe said that it was their desire to confirm that 5 gal/day would be acceptable. He added that if the Board was not comfortable, then maybe a formula could be drafted up.

Chairman Horowitz asked what would happen if anyone disputed this. Mr. Grossman said that they could take the Board (Town) to court. Chairman Horowitz asked Anna Eliot, one of the Selectmen present, if the Board of Selectmen were open to the possibility that someone could take them to court. Ms. Eliot said that the Board of Selectmen had a vested interest and felt as though they could be well represented. Member Weber asked who would own the building. Ms. Kane said that Country Kids would own the center and the partners would own the building. She said that she wanted as minimal impact on the SDS as did everyone

else. Chairman Horowitz asked Mr. Wolfe if he had any issues with this from an engineer's standpoint. Mr. Wolfe said he had not problems with this.

**Member Fleischer moved that they regard Country Kids School at Tarbell School with design flow of an Elementary School. Member Weber seconded the motion and all were in favor with a unanimous vote.**

**Ag Commission** – Present: George Moore, Michelle Collette

Chairman Horowitz said that she had been in attendance at an Ag Commission meeting. The discussion was relative to amending the Ag regulations. It had come to everyone's attention that it was not legal to specify the number of pigs without having regulations about pigs. Her concern was whether or not they needed to adopt animal regulations in order to deal with just the pigs. Ms. Collette said that Ag uses are exempt and based on phone conversations with Town Counsel it was determined that the zoning bylaws needed to be amended to remedy this. She added that the keeping of animals should be done through BOH regulations along with manure management. Mr. Moore said that as animal inspector for the Town he found the state regulations to be vague. Mr. Grossman said that the Board could get involved with a farm if it was a nuisance but pigs were complicated. Ms. Collette said that the advantage of the BOH adopting regulations would be that the farmers would know the expectations. She said that other town's animal regulations had been pulled that day and could be used as a reference tool. She said that there was a situation that was about to blow-up and there was nothing they could do under the current zoning. She added that it was going to end up on the Board's doorstep.

Chairman Horowitz asked if they could add to the stable regulations, something small for the best management practices of all animals. Ms. Collette recommended that the BOH work closely with the Ag Commission. Mr. Grossman said that they should have guidelines that were enforceable. They would need regulations in place so that there was something to fall back on. Chairman Horowitz asked if they had the authority to shut down a piggery (as an example) without regulations in place. Mr. Grossman said yes, if it was a nuisance. He added that if they had regulations, it would be easier.

Ms. Collette said that based on Town Counsel's advice, she recommended that the BOH adopt regulations to deal with this. She said it didn't need to be large, but small and concise. Chairman Horowitz said that she was still hearing that it would be done with regulations. Member Weber said that he agreed adding that he was not prepared to make a decision that night. He said that if it was the right thing to do, they should talk about adopting regulations. Chairman Horowitz said that she was going to be present at the Ag Com. Meeting on 2/13/13 and she would relay to the Commission that the BOH was considering regulations.

Other Business

**Member Fleischer moved to submit the proposed warrant article wording for the SDS Loan Program for Spring Town Meeting. Member Weber seconded the motion and all were in favor with a unanimous vote.**

The meeting was adjourned at 9:50pm.

Respectfully submitted,

Dawn Dunbar  
Land Use Assistant