



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

**MEETING MINUTES
May 6, 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.

366 Lost Lake Drive / Fuccillo Property-West Main Street– Present: Luke Johnson, owner; Patrick Blouin; Jeff Hulslander; Christian Walzel

Mr. Grossman said that he drove by 366 Lost Lake Drive last Friday and noticed that no progress had been made but when driving by again today noticed that a lot of progress had been made over the weekend. He said that two (2) cars (now under tarps) were found under the large wood pile.

Chairman Horowitz said that according to the March 18, 2013 meeting minutes the Fuccillo property on West Main Street was supposed to have been cleared of debris. Mr. Grossman said that there were still 2 small piles of debris on the property. Chairman Horowitz asked if Mr. Grossman had received any dumpster receipts. Mr. Grossman said that he had not received any receipts nor had he been receiving updates as requested of Mr. Johnson. Mr. Blouin said that he had four (4) 30 yard containers on site from Hunter Appliance and Disposal in Littleton. He added that he also brought some stuff to a dumpster on Westford Road. He said that he didn't see why there was a rush to have the other two (2) piles removed adding that he needed to use the pallets on a job he was doing. Chairman Horowitz asked when the pallets would be gone. Mr. Blouin said in a week or two (2). Mr. Blouin said that the remaining debris was rotting and asked how much compost one could have on their property in Groton. Mr. Grossman said that nothing rotted could be composted adding that the debris was not generated onsite. Chairman Horowitz said that by the next meeting in two (2) weeks the pallets and debris would be gone making the Fuccillo property on West Main Street clear of debris.

Mr. Grossman said that the right side of 366 Lost Lake Drive had been cleaned up and along with the two (2) cars that were uncovered when the wood was removed, 50 or so tires were discovered. Member Fleischer asked where the debris had gone. Mr. Johnson said that he had the debris taken away in a dumpster provided by Hunter Appliance and Disposal. Chairman Horowitz asked if the two (2) cars could be removed in the next two (2) weeks. Mr. Johnson said that he could do that.

Mr. Grossman said the next area that needed to be discussed was behind the barn. He said everything behind the barn and between the house and Lost Lake Drive that's accumulated again needed to be cleaned up. Mr. Johnson said that he would meet with Mr. Grossman as some things had been put there on purpose and questioned why everything needed to be clear cut. Mr. Grossman said that he was happy to meet with Mr. Johnson on site.

Member Fleischer asked if the possible condemnation of the house was a matter for the Board. Mr. Grossman said that the house was in deplorable condition and recommended that the house be condemned. Member Weber asked what the benefit of condemnation was. Mr. Grossman said that it would help make sure no one lives in the house. He said that if they voted to condemn the house, a one year clock would start during which time Mr. Johnson would need to tear down the home. If he didn't tear it down within a year, the BOH could step in and tear it down. Mr. Blouin said that to condemn the building would be unreasonable. He said that there had been a shift in building inspectors and because they had been busy cleaning up the exterior they hadn't had time to meet with the building inspector. He said that they would do that the next day adding that the BOH was the reason the building permit application was being held up. Mr. Grossman said that they were supposed to provide the building department with more information in order to make the application complete. He said that the application was denied both times due to missing items and the amount of debris on the ground. He said that this was supposed to have been done weeks ago. Mr. Johnson said that they had been religiously cleaning the property and that has come first. He said that they fully intend to work on the house and the roof problems were because of the snow storm in October. Chairman Horowitz said that if everything they talked about was cleaned up by the next meeting and if they did in fact talk to the Building Inspector the next day, she was willing to hold off on having the condemnation discussion for another two weeks.

Mr. Hulslander said that he hadn't been to a meeting in three months but wanted to mention that there had been no activity until this past weekend. Chairman Horowitz said that they were prepared to go to housing court the next day based on the update they had received last Friday. Chairman Horowitz added that along with cleaning the areas mentioned earlier, she wanted to request something in writing from the Building Inspector for the next meeting. Mr. Johnson said that he wanted to finish the outside before he talked to the Building Inspector. Chairman Horowitz reiterated that Mr. Johnson needed to touch base with the Building Inspector within the next two weeks.

Mr. Hulslander asked about the fence. Chairman Horowitz said that the fence viewer was not happy with the fence. Mr. Johnson said that he talked to the fence viewer who said he wasn't sure if he needed a permit or not. Chairman Horowitz said that the fence was still on their list and would be discussed at a later date.

Member Weber moved that the following areas be addressed within the next two weeks:

- 1. The area between the house and Lost Lake Drive be cleared;**
- 2. The area behind the barn be cleared;**
- 3. The two cars under tarps be removed;**
- 4. That Mr. Johnson contact the Building Inspector and complete the building permit process under good faith.**

Member Fleischer seconded the motion adding that if the Building Inspector made further clean-up conditions, that those also be addressed before the next meeting.

The motion carried unanimously.

797 Boston Road – Present: Mark Sullivan, contractor; Catherine Wright, tenant; Molly Jones, tenant; Tayt Dame, tenant

Mr. Grossman said that since their last meeting the Building Inspector had gone out as asked, that he had received an email from the contractor with proposals which had not been completed and there had been no contracts received for work. This was all supposed to have been completed by that night.

Mr. Sullivan introduced himself as a general contractor from Chelmsford. He said that he was contacted by the owner two weeks ago to look at the property. He said that he had been through Unit 1 with the tenant and because there was so much work that needed to be done he said that an agreement had been reached and that tenant has agreed to vacate the unit on or before June 30th. He said that he had a 10am appointment scheduled with the tenant in Unit 3 to go through that unit. He said there was no way he was going to be able to put something together in two weeks as was instructed. He said that as soon as he was able to get into all three units he would be able to make a recommendation to the owner on whether or not to tear the structure down. Member Weber asked if he could make a determination based on what he had seen thus far. Mr. Sullivan said that

based on what he had seen, he would recommend that it be torn down, but he was told that the other two units weren't as bad.

Mr. Grossman said that even if they had a final decision it was going to be a long period of time before things got done. He said that 119 Partners, LLC had had a month so far to do things and had not done anything. He recommended that the Board move forward with a complaint in court which could always be cancelled if a decision were made within the next two weeks. Mr. Sullivan requested an additional two weeks in order to be able to assess the other two units. Member Fleischer asked if he would be able to come back in two weeks with a decision. Mr. Sullivan said "yes." Member Weber said that he wasn't sure why Mr. Sullivan would object to the Board filing in housing court as he would still have two weeks no matter what. He asked Mr. Sullivan if he had a financial interest or ownership in the property. Mr. Sullivan said "no."

The tenant in Unit B said that things had been going on for too long and really needed to be brought to court. He said that people have been walking around the property and knocking on the door with no advance notice. Member Weber asked Mr. Sullivan when he would like to schedule a time to look at Unit B. Mr. Sullivan said that he could not address that with the gentleman in Unit B as he was not on the lease. Ms. Wright said that it had been a long process for her as well. She didn't feel okay with further delay.

Mr. Sullivan said that he would email Mr. Grossman the following Thursday as to what he's done and what the owners' plans were. Member Fleischer asked if Mr. Sullivan was able to speak on behalf of the owner. Mr. Sullivan said "yes." Member Weber said that they would need something in writing which reflected that.

Mr. Grossman explained that his complaint could only reflect the violations cited not anything having to do with the tenants' rights. He said that under the law the owners could not retaliate against the tenants and the tenants had their own rights to file in court.

Member Weber moved to continue for two weeks at Mr. Sullivan's request to allow for more time. Member Fleischer seconded the motion adding that Mr. Sullivan or the owner would provide the Board with a conclusion at their next meeting in two weeks. The motion carried unanimously.

43 Arbor Way – Present: John Harvey, contractor

Mr. Harvey said that they were under P&S agreement with a buyer and part of that agreement was to have the basement finished. Mr. Grossman said that in order to do this a deed restriction would be required restricting the home to 4 bedrooms. He had no objections to the request.

Member Fleischer moved to grant the deed restriction for 43 Arbor Way limiting it to a 4 bedroom home. Member Weber seconded the motion. The motion carried unanimously.

973 Lowell Road – Present: Mr. & Mrs. Maahs; Paul Catalano, contractor

Chairman Horowitz disclosed that the Maahs's had been clients of hers in the past. Members Weber and Fleischer had no issues with Chairman Horowitz participating.

Mr. Grossman said that the BOH regulations required that a designated reserve area not be used/covered unless another area could be shown and designated as a reserve area. He said that the proposed addition was large and took up some space and was limited in its location due to the wetlands on the property. He said that he had no objection to the placement of the addition and the newly proposed reserve area but wanted to make sure the Board saw the plan. It was discussed that the above ground pool could be taken down if need be.

Member Fleischer moved to accept the plan for construction of a garage at 973 Lowell Road. Chairman Horowitz added that they had been informed of the potential difficulties. Member Weber seconded the motion. The motion carried unanimously.

135 Mill Street – Present: Dan Wolfe, engineer; Mr. Western, owner

Mr. Wolfe said that the septic system at 135 Mill Street was in failure and needed to be upgraded. He said that testing had been done in the open field with a 6 min/inch perc. rate. He said that they were proposing a Presby System to allow them to lower the system so that they didn't have to have a huge mound in an open field.

Mr. Wolfe reviewed the following requested variances:

310 CMR 15.405 – Local Upgrade Approval

- 15.405(1)(j) Reduction of the requirement of a twelve (12) inch separation between the inlet and outlets tees and high groundwater.

Groton Board of Health Regulations

- Section 1.A.1 Two groundwater observation holes and two percolation tests must be performed on each lot to prove a suitable primary and expansion area for each lot. *Proposed: One percolation test provided.*
- Section 1.A.2 Deep observation holes for determination of ground water elevation may be performed during the months of March and April. *Proposed: groundwater observations performed in November.*
- Section 1.A.5 There must be a minimum of five (5) feet of pervious material between the bottom of the leaching facility and the ground water elevation and/or impervious layer. *Proposed: An offset from the groundwater elevation of two (2) feet provided with utilization of the Presby Enviro-Septic System.*
- Section 1.C.1 Whenever a system must be pumped, the soil absorption system shall be pressure dosed. *Proposed: The proposed Presby Enviro-Septic System leach field cannot be pressure dosed.*

Mr. Wolfe explained that they were also requesting a variance to the requirement for the system to be designed at 150% over Title 5 requirements. They had also changed the specifications to include a monolithic tank and where the floats were set in the chambers. Mr. Grossman said that he had no objections.

Mr. Wickfield, an abutter asked how many vent stacks there were and where they were located. Mr. Wolfe said there were two vent stacks of which one was being placed near the road behind a tree. Mr. Wickfield asked if he would be able to notice any odors at his home across the street from the vent stack. Mr. Wolfe said that he couldn't say there would be no odor but added that it wouldn't be an odor like he thought. Mr. Wickfield asked if it could be moved further away from the road. Mr. Wolfe said that because it was an open space, they opted to place it behind the tree to hide it. Mr. Wickfield was also concerned about the fact that the test holes were done in November and not in the spring and what if any impact that may have had on the groundwater results. Mr. Grossman said that he was very comfortable with the groundwater observation that had been done. Mr. Wolfe added that it was a very dry spring last year and they would have found groundwater levels to be very low.

Member Fleischer moved to grant the local upgrade approval and BOH variances for 135 Mill Street as outlined in a letter from David Ross Associates dated March 14, 2013. Member Weber seconded the motion. The motion carried unanimously.

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 issuance of the permit 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 Weber added that the only changes that can be made to the plan without the engineer having to come back to the BOH for approval were for the relocation of the vents. Mr. Grossman was designated to allow for these changes out of a meeting.

945 Townsend Road – No one was present

Mr. Grossman said that a well contractor had contacted the Board of Health seeking permission to replace the point well that was there. The home had apparently been without water for months. Permission had been granted to allow the work to be done due to the emergency. A letter requesting a water quality test had been sent and received no response. He said that it was his understanding that the homeowner was experiencing a financial hardship and assumed the cost of the water test was a problem. Chairman Horowitz suggested that a letter be sent certified return receipt explaining why the test was necessary and that monetary consequences may be applicable. Since there are young children involved, it was suggested that DYS be copied also. Chairman Horowitz asked Ms. Dunbar to look into whether or not there were funds in town available to the homeowner.

Old/Other Business

Minutes

Member Weber moved to approve the minutes of February 4, 2013 and March 4, 2013 with minor grammatical changes. Member Fleischer seconded the motion. The motion carried unanimously.

Member Fleischer moved to accept the minutes of March 18, 2013 as written. Chairman Horowitz seconded the motion. Members Fleischer and Horowitz voted in favor with Member Weber abstaining from the vote.

Mosquitoes

Chairman Horowitz asked Ms. Dunbar to draft a letter to Town Manager Haddad requesting that possible participation in the Central Mass Mosquito Control project be added to the Fall 2013 Town Meeting Warrant.

Algae

Mr. Grossman said that he had been asked to take a look at algae around the boat launch and around Redskin Trail. He said that it was back in those two areas but not alarming in quantity. He said that he would monitor it but that no action was required at this time.

Chairman Horowitz adjourned the meeting at 9:05pm.

Respectfully submitted,

Dawn Dunbar
Land Use Assistant