



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

**MEETING MINUTES  
May 20, 2013**

**Board of Health Members Present:**

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

**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.

**Member Horowitz moved to nominate Member Weber as Chairman. Member Fleischer seconded the motion. The motion carried unanimously.**

**945 Townsend Road – No one was present**

Ms. Dunbar explained that a letter had been mailed and one had been placed on the door at 945 Townsend Road explaining that a water quality test had not been done and needed to be done prior to the meeting; otherwise her presence would be required at the meeting that night. The test had not been done to her knowledge and she had not been contacted by the owner.

Member Horowitz moved to send 945 Townsend Road an order to comply letter with the water quality testing requirements with a built in timeframe by the first meeting in July. Member Fleischer seconded the motion. The motion carried unanimously.

**Minutes**

Member Horowitz moved to approve the minutes of March 18, 2013 as written. Member Fleischer seconded the motion. The motion carried unanimously.

Member Fleischer moved to accept the minutes of April 1, 2013 as written. Member Horowitz seconded the motion. The motion carried unanimously.

**6 Winding Way – Present: Scott Caswell, homeowner; Dan Temple, Danker Construction**

Mr. Grossman said that Mr. Caswell was before the Board to request a deed restriction in order to finish the basement. Mr. Dan Temple, of Danker Construction, said that they would be finishing half the basement with the intent to use it as a fitness room.

Member Fleischer moved to accept the bedroom count deed restriction for 6 Winding Way limiting the home to 4 bedrooms. Member Horowitz seconded the motion. The motion carried unanimously.

**26 Anthony Drive – No one was present**

Mr. Grossman said that this property had come to his attention recently as a sewer connection was made on the property over a year ago and the septic system had never been abandoned. He said that along with himself, the Sewer Department was working to see that the old system was abandoned.

**88 Pleasant Street – David and Kier Whiting, owners (were not present for the beginning of the discussion)**

Mr. Grossman said that he did a housing inspection as part of a possible Section 8 housing rental. He said that there was a lengthy violation list of which some items had not been completed and a re-inspection was not asked for. He said that even with an outstanding order, they moved a new tenant in a couple of months ago. He said that one of the outstanding issues was a ceiling height issue that because it was an older home would require a variance. He said that asbestos had been removed illegally and after numerous attempts to collect proof that the work was done, he had finally obtained it a couple of months ago. Member Horowitz asked if the owners lived there. Mr. Grossman said they do not live there. Chairman Weber asked if any children lived in the unit. Mr. Grossman said that he couldn't tell.

*Mr. & Mrs. Whiting arrived at the meeting.*

Mr. Grossman said that the fire escape needed to be addressed and may require a call to the building inspector to discuss what's required for code compliance. Mr. Whiting said that when they bought the property in 1997 there was nothing unacceptable about it then and wondered why they needed to go through all of this. Member Fleischer said that it was an issue because it was a rental property. Mrs. Whiting said that it was a rental property when they bought it. Mr. Whiting felt that if he called the building department he could be opening a can of worms. Mr. Grossman said that according to the state housing code they were required to bring it into compliance which meant that the fire escape needed to be corrected. Chairman Weber added that the request for Section 8 application for rental housing triggered this inspection and they were now required to see that the violations were completed. He said that violations like these were common with older homes. Member Horowitz suggested that the owners make an appointment with Mr. Grossman as soon as possible.

**84 Lost Lake Drive – Present: Mary Kulas, owner**

Member Horowitz disclosed that Ms. Kulas had been a client of hers adding that she could recuse herself if either Board member had an issue. Members Fleischer and Weber had no issues.

Mr. Grossman said that the system was found to be in failure in November 2010 and hadn't been corrected. Ms. Kulas said that because she was a widow she needed the Board to work with her. She added that it would be a financial hardship for her to put in a new system at this time. Member Fleischer asked if the loan program recently approved by town meeting could be beneficial for Ms. Kulas. Mr. Grossman said that it was still in the very early stages but it could be something she could apply for. Chairman Weber added that the low interest loan program was designed for those with failing septic systems but because it was in the early stages, they could not start accepting applications until the fall. Ms. Kulas said that she was the only person living in the home adding that she didn't have a dishwasher. Mr. Grossman said that the inspection revealed backup to the ground and the well 74 feet from the leach field.

Member Weber asked about performing a water test. Mr. Grossman said that for around \$60, a Title 5 water test could be done. There was a brief discussion about short and long term plans in an attempt to work with Ms. Kulas. Mr. Grossman asked Ms. Kulas if he could stop by to see if there was currently anything discharging to the ground. Ms. Kulas had no issues with Mr. Grossman conducting a site visit.

**Member Horowitz moved to continue until June 17<sup>th</sup> during which time Ms. Kulas was to have the water tested and have Mr. Grossman conduct a site visit. Member Fleischer seconded the motion. The motion carried unanimously.**

**73 Pleasant Street – No one was present**

Member Horowitz disclosed that Mrs. Coven, the property owner, had been a client of hers in the past. Mr. Grossman said the Sewer Department had received an email from Mr. Coven about work that had been done on a cesspool. The home was supposed to have all been connected to town sewer years ago. Both Mr. Grossman and

Mr. Orcutt had tried to obtain clarification on what work had actually occurred and whether or not there was an old cesspool still located on the property. It should have been abandoned when the sewer tie in was done. He said that it could have been a cesspool for a 2<sup>nd</sup> system. He added that there was an issue a few years ago where a dog fell in the un-abandoned cesspool.

Chairman Weber asked if there were any reasons why they couldn't send a direct letter asking for compliance within 30 days. Mr. Grossman said he wasn't sure if this fell under BOH or Sewer jurisdiction. He suggested a dual approach between the two (2) departments. Mr. Orcutt thought a joint letter was a good idea.

**Member Fleischer moved that an order be issued that the cesspool be properly abandoned within 30 days at 73 Pleasant Street. Member Horowitz seconded the motion. The motion carried unanimously.**

**366 Lost Lake Drive** – Present: Luke Johnson

Mr. Grossman said that he met with Mr. Johnson and addressed the minor goals that were to be completed for that meeting. He was asked to remove the debris along the front wall; adding that the work had not been done. He said that the side of the building where all the wood debris had been removed looked good. Member Fleischer asked what was behind the plywood leaning up against the fence. Mr. Grossman said "stuff." Chairman Weber asked what the next steps were. Mr. Grossman said that when he met with Mr. Johnson, they had also discussed the building permit application process with regard to the dwelling with the Building Commissioner, Ed Cataldo, who was also present for the site visit. Mr. Grossman asked the Board to discuss the condemnation of the dwelling. Mr. Grossman said that he and the Building Commissioner had concerns about the safety of the structure and felt it needed to be addressed.

Mr. Johnson said that they may not agree on the safety of the building adding that he didn't think it was going to fall down on him. He said that it was his intention to tear it down and rebuild it. Mr. Grossman suggested that Mr. Johnson submit a Form of Intent so that he may receive comments from all departments. Mr. Johnson said that he had done that.

Chairman Weber asked if Mr. Johnson's intentions were "ok" if the dwelling were to be condemned. Mr. Grossman said that the structure was a non-habitable and unsafe structure. The condemnation would put a new timeline on it. Mr. Johnson said that he had done some research on condemnation and felt his schedule adhered if not moved faster than the condemnation schedule of one (1) year. He felt as though he had cooperated with the Board adding that having the structure come down would make it more difficult on his end. He said that he knew if his safety were in danger adding that it would make it harder for him to access his belongings. Mr. Grossman said that he couldn't sleep there but could still remove his belongings. Mr. Johnson said that he knew the structure was a big issue and wanted to solve it.

**Member Fleischer moved to condemn the structure at 366 Lost Lake Drive in light of the Building Commissioner's letter dated 5/15/13. Member Horowitz seconded the motion. The motion carried unanimously.**

Member Weber added that the Board was here to help.

Mr. Grossman said that with regard to the fence, he asked for additional time to review the Form of Intent and respond. Member Weber suggested continuing the discussion for four (4) weeks. Mr. Grossman suggested that Mr. Johnson talk to the Building Commissioner in the meantime.

**797 Boston Road** – Present: Mark Sullivan, contractor

Mr. Sullivan said that he was present to represent 119 Partners, LLC. Mr. Grossman said that when Mr. Sullivan was before the Board on 5/6/13, he was asked to come back in with a report of whether or not the home can be repaired or if notices to quit were going to be issued. Mr. Grossman added that he had received a letter from 119 Partners, LLC giving permission for Mr. Sullivan to act on their behalf.

Chairman Weber asked if an agreement had been made with one of the tenants. Mr. Sullivan said that one agreement had been reached and that tenant in Unit 1 had agreed to vacate by June 30, 2013. Mr. Sullivan said

that the lead assessment was to be done but they were still uncertain as to whether or not they would remediate yet. He said that he had also done a walkthrough of units 2 and 3 and both had been emailed agreements for their review to which he had not received responses. He said that it was hard to give the Board a response as to what their plan would be without hearing back from the other two (2) tenants. Chairman Weber said that the Board's only duty was to attend to the code violations. Member Horowitz asked if 119 Partners was going to repair the building or tear it down. Mr. Sullivan said that because he had not heard back from the other two (2) tenants, he didn't have an answer. Mr. Grossman said that the Board had been very specific at the last meeting. They were supposed to have been provided with a plan for the building that night. He said that the repairs needed to be made adding that they were no further along than they were two (2) weeks prior. He suggested filing in court. Member Horowitz asked if they filed in court and the tenants responded to the owners in the meantime, did that mean they could take the matter out of housing court. Mr. Grossman said "no," the repairs still needed to be taken care of.

Mr. Sullivan asked what the Board's stance would be if he suggested they tear the building down. Mr. Grossman said it didn't matter as the Board had not been provided with contracts for work or a date for repairing the items. Mr. Grossman added that the tenants didn't have to let Mr. Sullivan know if they planned to stay or not. Mr. Sullivan said that they had a right to file a notice to quit adding that it would be easier to make the repairs with the units vacant. Member Fleischer said that it was still the responsibility of the owners to make the repairs and correct the violations. It didn't matter if the units were occupied or vacant. Mr. Sullivan said that in that case they would tear the building down. If the tenants didn't want to work with the owners then he would recommend to the owners the next day that they tear down the building. Member Fleischer suggested they allow Mr. Grossman to file in housing court.

Ms. Catherine Wright of Unit C said that Mr. Sullivan had come to see her, without making an appointment. She said that rent cannot be collected if there are housing code violations cited. She said that she was living in a already illegal dwelling due to old housing code issues not to mention they owed her money for the illegal billing of heating oil. She said that she had been working with the owners, but also knew her rights. Member Weber said that those were all issues between her and 119 Partners adding that both parties had rights.

**Member Fleischer moved that the Board direct Mr. Grossman to take the matter to housing court. Member Horowitz seconded the motion. The motion carried unanimously.**

**116 Paquawket Path** – Present: Mr. & Mrs. Mather, owners; Mr. MacDonald, prospective buyer; Kevin Ritchie, engineer

Member Horowitz disclosed that the Mather's were at one time a client of hers. Members Weber and Fleischer had no issues.

Mr. Ritchie said that they were before the Board to seek variances in order to upgrade the septic system which had outlived its time. One of the variances sought was for a reduction in the offset of the leaching field to the road from 35ft to 10ft. Another was for reduced setbacks from a well suction line. Mr. Grossman said that the well was built prior to the well regulations being adopted adding that it was a point well below grade. He said that the water test showed elevated nitrates. Member Horowitz asked if there were any alternatives. Mr. Grossman said they could grant the variances to the well or request that the point well be replaced with a drilled well. Mr. Mather argued that the water passed the EPA standards. Mr. Grossman agreed that the water was good but was concerned over the elevated nitrates. Mr. MacDonald, the prospective buyer, said that the lab told him that the water was safe adding that he had a family and wouldn't want them exposed to anything harmful. Member Horowitz asked if it made sense to have the water tested. Mr. MacDonald was receptive to that. Member Horowitz also suggested that if the point well screen clogged in the future, a deep well would be required to be installed. Mr. MacDonald appreciated Mr. Grossman's concerns. Mr. Grossman also suggested that the water be tested regularly for coliform. Mr. MacDonald agreed.

**Member Fleischer moved to grant the variances as requested in a letter dated May 9, 2013 to include yearly testing for coliform. Member Horowitz seconded the motion.**

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 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 along with a certified copy of a Notice of Decision shall be recorded at the Middlesex South Registry of Deed prior to the issuance of a Certificate of Compliance. Evidence of such recording shall be submitted to the Board of Health by the applicant.

**The motion carried unanimously.**

The meeting was adjourned at 9:30pm.

Respectfully submitted,

Dawn Dunbar  
Land Use Assistant