



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

**MEETING MINUTES  
August 19, 2013**

**Board of Health Members Present:**

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

**Others Present:**

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

**Meeting Called to Order:**

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

**89 Boathouse Road – No one was present**

Member Horowitz disclosed that Mr. Rosa's son was a member of the Lost Lake Sewer Committee and that she could recuse herself if necessary. The other members didn't feel it was necessary. Chairman Weber said that they were in receipt of a request from Attorney Collins to continue the matter as revisions to the plan had not been completed yet.

*Member Horowitz moved to continue the discussion as per Attorney Collins request. Member Fleischer seconded the motion. The motion carried unanimously.*

**60 Valley Road – Present: Stan Dillis, engineer; Paul Johnson, owner**

Mr. Dillis said that Mr. Johnson had previously received approval for the install and use a 4,000gal tight tank. They were before the Board to present a redesigned plan for a 3,000gal tight tank. The change was due to property constraints. He said that it would also be a stronger tank. Mr. Grossman said that he had no issues with the change in the size of the tank but the paperwork was important and needed to be put on record at the Registry of Deeds.

*Member Horowitz moved to allow the permit to be changed from a 4,000gal tight tank to a 3,000gal tight tank. Member Fleischer seconded the motion. The motion carried unanimously.*

Mr. Grossman said that the tank was supposed to be installed by August 1<sup>st</sup> and thought since the deadline had passed that the Board should impose a deadline. Mr. Dillis said that they had to run the change by the Conservation Commission and thought the work could be done by the end of October. Mr. Johnson added that they are usually flooded out by October 15<sup>th</sup>. Chairman Weber said that based on that statement, the upgrade was to happen by October 15<sup>th</sup>.

**15 Forge Village Road – No one was present**

The owner requested the hearing and was not present to discuss reason for request.

**Minutes**

*Member Horowitz moved to approve the minutes of July 1, 2013 as amended. Member Fleischer seconded the motion. The motion carried unanimously.*

**Marijuana Dispensaries**

Mr. Grossman said that the State approved the regulations a couple of months ago and were taking applications for dispensaries on a case by case basis. The State could have up to 40 approved dispensaries. Member Horowitz

asked who they would seek permission from, state or local authorities. Mr. Grossman said the state would be the approving authority. It was decided that no action needed to take place at that time. The Board agreed to keep it on their radar.

**9, 11, 15 & 23 Whitewood Road** – No one was present

Mr. Grossman said that he had received word that Mr. Scira would not be present because he was in the hospital but he had also explained to Mr. Scira's attorney that they would be discussing the matter at the meeting that night anyway. Mr. Grossman said that when he went to court the first time, the judge had not looked at all 4 Whitewood properties as he had hoped. He said that Mr. Scira didn't have the finances to install the shared system, decommission the wells and connect to town water as he had been ordered. He was due back in court on September 9<sup>th</sup> and wanted guidance from the Board as to next steps. Member Horowitz asked what they could ask for. Mr. Grossman said a number of things like a receiver, daily fine, removal from the house and even condemnation.

*Member Horowitz moved to allow Mr. Grossman to ask the courts for removal and receivership of 9, 11, 15 & 23 Whitewood Road and that all 4 properties be vacated. Member Fleischer seconded the motion.*

Mr. Grossman said he wasn't sure he could get all 4 properties involved because of the original complaint and how the judge addressed of the matter the last time. Member Horowitz rescinded her original motion and recused herself from the matter.

*Member Fleischer moved that 11 Whitewood be vacated and that the courts be petitioned for a receivership. Chairman Weber seconded the motion. The motion carried unanimously with Member Horowitz abstaining from the vote.*

**120 Boston Road** – Present: Peter & Andrea Myette, owner; Attorney Rob Ancil; Shane Grant, abutter

Attorney Ancil said that he was present representing PCM Realty Trust, the owners of 120 Boston Road. He said that they were in receipt of a letter dated June 26, 2013 ordering that 120 Boston Road be connected to Town Sewer. He said that he prepared a letter to the Board dated August 2, 2013 requesting an extension but in the meantime the Myette's had decided to connect to town sewer sooner. He explained that 120 Boston Road was on a shared system which was installed in 1996 and was shared by 120 Boston Road and 116 Boston Road. Attorney Ancil said that an escrow agreement had been established when the shared system was installed and that each party was supposed to have made a yearly contribution and have inspections done yearly. He said that no contributions had been made for years and no inspections had been done until a Title 5 was done recently. Attorney Ancil requested a 60-day extension to the order.

Mr. Grossman said that he thought it was a reasonable request adding that he had just received a copy of the Title 5 inspection which had passed. Member Horowitz asked if it had been 2 years since town sewer was extended in that area. Attorney Ancil said it had been 4 years. Chairman Weber said he thought there was a requirement that you had to connect within 2 years if sewer was available. Mr. Grossman said that you had 2 years to request a variance from connectivity. Chairman Weber asked if the owners had received notice that they had to connect. Attorney Ancil said that the owners had been paying betterments for the past 4 years adding that Mr. Gmeiner of the Sewer Commission said it was not their policy to send out enforcement letters. Attorney Ancil said that there was currently \$5,000 being held in escrow. Attorney Ancil added that he thought it was irrelevant whether or not notice had been received, if deadlines are missed, you must be forced to comply. He added that it didn't make sense to grant a variance in this case adding that the Board would hear that case be made by the abutter who shares the shared system.

Mr. Shane Grant introduced himself as Ms. Dorothy Janes finance adding that he was present as she was on vacation. He said that she intended to request her own meeting with the Board upon her return adding that they had not received an order. Chairman Weber asked if Mr. Grant was the agent for the property. Mr. Grossman said that the letter had been mailed twice via certified mail and not claimed. The same letters sent regular mail had not been returned. Mr. Grant said that he had been dealing with Mr. Myette on this issue. Chairman Weber asked if one property could connect to town sewer without the other. Mr. Grossman said yes adding that it would be more complicated than just that.

*Member Horowitz moved to allow 120 Boston Road a 60-day extension in order to connect to town sewer.*

Mr. John Amaral, of Omni Properties, introduced himself as a representative of PCM Realty Trust. He said that the bylaw was in place because of the will and order of the people of Groton and an order had been issued by the Health Agent because compliance had not been met. He said that it was the intent of his client to connect and thus the reason for the 60-day extension request. He added that his client felt there were environmental issues that needed to be looked at because the system had not been in compliance with the conditions given for over 10 years. Mr. Amaral added that leaving the tank in use did not comply with regulations.

Member Horowitz asked if the property at 116 Boston Road was being used. Mr. Grant said that it was used by appointment only or about 3 times per week. Member Horowitz said that she was going back to her original motion. He didn't like that they had basically been ignored 4 years ago by not connecting to town sewer. She added that she wanted to see the properties hooked up to town sewer and as part of compliance that meant that the shared system must be disengaged. Member Horowitz said that they hadn't heard from Ms. Janes directly and weren't available to do so until their next meeting on September 16<sup>th</sup>. She asked Mr. Grossman how long it would take to hook up to town sewer. Mr. Grossman said he wasn't exactly sure but thought it may take 30 days to bid and award the job but that the job itself shouldn't take more than 2 days.

*Member Horowitz restated her original motion and added to it that 120 Boston Road would disconnect from the shared system and abandon the system currently in place. Member Fleischer seconded the motion.*

Member Fleischer stated that they hadn't heard from the other property owner. Mr. Grant said that Ms. Janes was not avoiding anyone adding that she needed to get lawyers involved. He said there were easements and right of ways that needed to be dealt with not to mention that they had a passing Title 5 and a system that was causing no harm. Member Horowitz said that 4 years ago both building were supposed to have hooked up to town sewer adding that they could put Ms. Janes on their next meeting agenda to hear her side of the story.

Attorney Anctil asked if it could be noted in the minutes that Mr. Grant had received a copy that night of the order letter from Mr. Grossman.

Member Fleischer said that when someone comes before the Board with a failed system, they have allowed extra time for a variety of reasons. Mr. Grant said that they just weren't in the position to connect to sewer at that time. Member Horowitz said that they had been told that people were willing to help Ms. Janes. Mr. Grant asked why CVS and the Emerson building were not being asked to connect adding that he didn't see the emergency. Member Horowitz said that they weren't here to discuss those properties adding that the emergency was the fact that 116 & 120 Boston Road were not connected to town sewer 4 years ago.

Chairman Weber asked for 2 separate motions based on what he was hearing.

*Member Horowitz rescinded her original motion.*

*Member Horowitz moved that 116 Boston Road comply with the Board of Health order of June 26, 2013 to hook up to the Groton town sewer and properly abandon the existing sewage disposal system with 60 days. Member Fleischer seconded the motion. The motion carried unanimously.*

*Member Horowitz moved that 120 Boston Road comply with the Board of Health order of June 26, 2013 to hook up to the Groton town sewer and properly abandon the existing sewage disposal system with 60 days. Member Fleischer seconded the motion. The motion carried unanimously.*

**38 Ridgewood Ave – Present:** Attorney Rob Anctil; Mr. & Mrs. Mallard, owners

Mr. Grossman provided the Board with some background information on why the Mallards were present. Attorney Anctil said that the property was essentially an island and the home was accessible via a walkway. He said that the Mallards purchased the property in 1987 adding that it was a seasonal residence. He said that because his client had taken ill, the home was not used as often as it had been. He said that when Mr. Grossman came out to the property to investigate an issue with beavers and a beaver lodge, Mr. Grossman wondered how the property could be compliant with Title 5. The Mallards had been in receipt of letters from the Board of Health

requesting documentation relative to the septic system. The Mallards had Dan Wolfe of David Ross Associates out to the property to assess the situation and Mr. Wolfe was unable to conclude whether or not the system failed Title 5 standards because the groundwater couldn't be determined. They were present to ask the Board to consider alternatives. He said that a gravity fed system with a tight tank was one option. Attorney Anctil proposed water quality testing until such time of transfer of ownership on an annual basis. If they failed to submit, they would comply with an order and upgrade.

Member Horowitz asked how deep the well was. Attorney Anctil said it was a point driven well. Mr. Grossman said that if a water quality test came back with E. Coli, that should be a trigger. He said that a water test of the well water should be independent of a water test on the lake adding that if nitrates and nitrites came back the same as the lake results, he would be okay with it.

Chairman Weber asked Mr. Grossman if he had any issues with the proposal. Mr. Grossman said that the proposal was fair. An upgrade would need to be done at transfer of ownership. Attorney Anctil said that his clients were retired and on a fixed income and because they were looking at 3 systems to pump the waste up the hill it just wasn't possible at that time. Attorney Anctil asked for annual water quality testing until it failed. Mr. Grossman had an issue with the lack of an end date of the proposal. Member Fleischer thought that it should be reviewed again in 2 years. Discussion ensued.

*Member Fleischer moved that the Board order water quality testing for 38 Ridgewood Ave. within the next 30 days and again in August 2014 and August 2015. In August 2015, the owners are to return to the Board with their water quality results and a Title 5 inspection. The property is to remain seasonal and if there are any issues, the Mallards are to return to the Board of Health. Member Horowitz seconded the motion. The motion carried unanimously.*

The meeting was adjourned at 9:17pm.

Respectfully submitted,

Dawn Dunbar  
Land Use Assistant