



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

**MEETING MINUTES**  
**September 16, 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 7:02 pm in the Town Hall.

**366 Lost Lake Drive – No one was present**

Mr. Grossman said that he spoke with the attorney representing Mr. Johnson. Mr. Johnson was the one that had requested the meeting in response to an order letter he had received to remove all standing water at 11 Pine Trail. Mr. Grossman reminded the Board that Mr. Johnson had until September 21<sup>st</sup> to have 366 Lost Lake Drive demoed and a foundation installed. Member Horowitz asked how they should be proceeding. Mr. Grossman said that the thought he should file in housing court and continue the matter if they need to. Chairman Weber asked what the filing would be for. Mr. Grossman said that if the Board was happy with how the clean-up had been going, he would be filing paperwork for the demo of the house.

*Member Horowitz moved that if the house was not down and the entire property not cleaned by September 22, 2013, that Mr. Grossman had permission to file in housing court. Member Fleischer seconded the motion. The motion carried unanimously.*

Member Horowitz asked what they should do with 11 Pine Trail. Mr. Grossman offered to talk to Mr. Johnson and go over all things that may collect water. Chairman Weber said that they seem to see the best results when they take one matter at a time. Member Fleischer said that he didn't want to see 11 Pine Trail start accumulating debris like 366 Lost Lake Drive.

*Member Horowitz moved that Mr. Grossman send a notice of non-compliance letter to Mr. Johnson for 11 Pine Trail. Member Fleischer seconded the motion. The motion carried unanimously.*

**Whitewood Road**

Mr. Grossman provided the Board with an update on where he was in the court proceedings with Mr. Scira. He said that 15 Whitewood was for sale by owner and that 23 Whitewood Road had been re-rented despite an outstanding order. Mr. Grossman asked if the Board would like to send a letter to the tenant informing them of the order not to re-rent. Member Fleischer thought it was a good idea to send a friendly letter adding that it should be mentioned to the judge in court also.

*Chairman Weber moved to send a letter to the tenant at 23 Whitewood Road. Member Fleischer seconded the motion. The motion carried unanimously with Member Horowitz abstaining.*

**Appointment with Sewer Committee – Present: Jim Gmeiner**

Mr. Gmeiner said that the sewer committee had forwarded some possible language to the Board for their review in hopes that something could be worked out with the Board of Health as far as the mandatory connection bylaw

was concerned. Member Horowitz asked what the minutes from 1993 said that Mr. Gmeiner had attached. Mr. Gmeiner said that that was the last joint meeting between the Sewer Committee and the Board of Health where it was agreed that no property owner was going to have to hook-up to town sewer until a repair was needed or a failure was documented. He said that the bylaw came into effect around the same time as Title 5 changes were initiated. Member Horowitz asked if Title 5 superseded what was described in the minutes of that meeting in 1993. Mr. Grossman said "no" adding that it's all in how the bylaw was interpreted. Mr. Gmeiner said that enforcement was never clear and needed to be addressed. Another proposed change was that anyone that wasn't currently hooked-up to town sewer either hook-up immediately or have a Title 5 inspection done. If a property owners system was fully compliant they would be required to conduct another Title 5 inspection in 2 years and so on. Member Horowitz said that they could work together to figure out the missing enforcement piece of the bylaw as well as the triggers for connection to town sewer. Mr. Gmeiner said that the other option they could discuss was to throw out the entire bylaw altogether. Chairman Weber said that the Boards duty was to protect public health and with that duty they needed to consider what was in the town's best interest. He asked if everyone not currently connected were to connect tomorrow, would the system be oversubscribed. Mr. Gmeiner said "no." Member Fleischer said that he didn't see any point in forcing a compliant system to perform frequent Title 5 inspections. Member Horowitz suggested that Mr. Gmeiner and Mr. Grossman take a look at the bylaw and draft something together to present to the Board of Health and the Sewer Commission.

#### **Appointment – Paul Funch – Trails Vision Committee**

Mr. Funch stated that he was before the Board and explained that the Trails Vision Committee was formed to take a look at and assess the existing trails, walkways, etc. They would be taking a look at providing better access to schools, benefits to the community and costs associated with expanding the current trails. They would also be able to make a strong case for state grants should the need be determined. He said that the initial Trails Vision Committee would be researching and writing a report by the end of the year, in order to possibly bring a proposal forward to the Spring Town Meeting. He was present to see if a member of the Board of Health would be willing to serve on the Committee. Chairman Weber asked if Mr. Funch knew what the time commitment would be. Mr. Funch said that he envisioned a meeting once every couple of weeks to get things started. The Board members decided to think it over and look at their schedules.

#### **116 Boston Road – Present: Dorothy Janes, owner; Shane Grant, Mr. & Mrs. Myette, abutter; John Amaral, Omni Properties; Rob Anctil**

Ms. Janes said that she asked for the meeting to request clarification on the Boards decision made on August 19, 2013 with regard to the order to connect to town sewer within 60 days. Member Fleischer said that the order was issued to 120 Boston Road and because it was a shared system, that was the reasoning behind the required connection for 116 Boston Road. Mr. Grossman added that the original order dated June 26, 2013 was also issued to 116 Boston Road and was done because of non-compliance by both parties over the years. Ms. Janes said that she was prepared to apply for a variance and would take it to court. She said that she found the order to be discriminatory and wondered because there was no change of use and no need to connect at this time why she was being forced to do so. She said that 80% of that system was allocated to her and was when she purchased the property. She said that the Title 5 inspection passed and thus she had no objection to her abutter removing his property from the system. Ms. Janes said that she needed time to understand the Boards decision adding that there were easements involved also. Member Horowitz asked if it was possible that the system was in a spot where the septic could still be used by Ms. Janes moving forward. Mr. Grossman said "not to his understanding." Ms. Janes said that the planning Board had not approved the new building layout yet. Mr. Grossman said that based on preliminary plans of the building layout, the system could not still be used by Ms. Janes.

Mr. John Amaral introduced himself as representative of PCM Realty Trust. He said that what had been put forth that night was opinions. He said this was not the right forum to debate what percentage of the system was allocated to each property. He said that his client was planning on connecting to town sewer as it was more cost effective to connect than to fund the escrow account for all the years that it was not funded. Mr. Amaral said that his client had been paying betterments ever since town sewer came past the property at 120 Boston Road and had heard from the Board of Health that night that all septic systems eventually fail. He said it was their intent to put the tank out of service.

Member Fleischer asked what the relationship was between the two parties. Mr. Grossman said that the two properties shared a septic system and according to the documents recorded at the Registry of Deeds the escrow account has not been funded for many years and the system has not been inspected on a yearly basis. He added that the order was sent out because of the town's mandatory connection bylaw and the fact that the requirements of a shared system had not been met.

Mr. Amaral said that 120 Boston Road was willing to pay for hook-up of their building and the costs related to dismantling the existing system. He added that PCM Realty Trust was asked to pay for the hookup of 116 Boston Road but no agreement had been reached after numerous discussions. Chairman Weber asked if the proposed project was possible without getting rid of the existing system. Mr. Amaral said that it was not due to parking and grading concerns that the Planning Board had expressed, not to mention zoning and conservation constraints.

Ms. Janes said that as far as the escrow account goes, she had been funding the account up until around 2005. Chairman Weber said that they had heard earlier that the account hasn't been funded. Ms. Janes said that it was a deeded escrow account. Chairman asked if she had funded the account. Ms. Janes said "yes." Chairman Weber asked if it was a separate bank account and whether or not there were statements. Ms. Janes said that it had been changed to a passbook account. She added that she had requested a full accounting from Mr. Myette which she had not received adding she believed Mr. Myette had cut himself a check for \$5,000 out of the account.

Mr. Grossman asked what Ms. Janes actual request was. Ms. Janes said that she was requesting they do nothing. She said that this would damage 80% of her assets and would like to apply for a variance. Mr. Grossman said that the bylaw states a mandatory connection was required. He said that a request for waiver should have been done within 2 years of town sewer becoming available. Member Fleischer asked if 120 Boston Road could connect without an order. Mr. Grossman said "yes."

Mr. Amaral said that the escrow account requests had been made by an individual not listed on the property deed. The last contribution made to the escrow fund was in 2000. He said the contribution amount per the agreement was \$2,000/year. He said that he also didn't agree with the 80/20 split Ms. Janes referred to adding that the usage has to be approved. He said that 13 years multiplied by \$2,000 each (120 & 116 Boston Road) would be more of a hardship for Ms. Janes that connecting to town sewer. Mr. Amaral proceeded to ask Mr. Myette if he would be willing to pay for 116 Boston Road to connect to town sewer. Mr. Myette said "yes, with conditions." Ms. Janes said that this needed to be resolved in court and requested that the BOH continue to work with her on this. Chairman Weber asked Mr. Grossman where they go from here. Mr. Grossman recommended to the Board that the order stay as written. Mr. Grant said that the tanks were placed on 116 Boston Road's property by an easement making it easy for 120 Boston Road to connect to sewer and plug the septic tank allowing 116 Boston Road the ability to continue using the septic system. He said that tearing out the existing system would make a mess of their parking lot and would not be done in a reasonable time frame.

Ms. Janes argued that connection to town sewer would not give her a betterment. It was an inferior product, she would have less capacity and her water bills would quadruple. She said that he hoped the Board would punt on this one for the night and allow her to request a waiver. Member Horowitz reminded Ms. Janes that the system had not been taken care of for years. Ms. Janes asked if she could appeal the decision stating she wasn't notified. Chairman Weber suggested to Ms. Janes that she seek the opinion of an attorney. Ms. Janes asked what would happen if she didn't connect within the 60 days. Mr. Grossman said that they would have to file in court for non-compliance. Ms. Janes asked if the Board would be amenable to continue the discussion allowing her time to apply for a waiver. Mr. Grossman said that she had 7 days to appeal the order and a waiver would have had to have been requested when sewer was available. He said that the appeal period had also gone by. Mr. Amaral added that Ms. Janes had been reimbursed from the escrow account for the cost of the Title 5 inspection.

Chairman Weber asked if 116 Boston Road didn't connect to town sewer, could the property become uninhabitable. Mr. Grossman said that he hadn't read the language in the agreement but it was theoretically possible.

*Member Fleischer moved that the order stand as issued. Member Horowitz seconded the motion. The motion carried unanimously.*

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**Mosquitoes**

The Board discussed and decided that the criteria be repeated for any elevation in the mosquito threat level. Ms. Dunbar was asked to send out an email to all parties emailed last year to alert them of any changes in dusk to dawn activities.

**78 Maplewood Ave**

Mr. Grossman said that the Board had received a request for a change of use at 78 Maplewood Ave from seasonal to year round.

*Member Horowitz moved to allow 78 Maplewood Ave to be used year round. Member Fleischer seconded the motion. The motion carried unanimously.*

**Burial Agents**

*Member Horowitz moved to designate John McGaffigan and David Badger as burial agents for the Town of Groton. Member Fleischer seconded the motion. The motion carried unanimously.*

The meeting was adjourned at 9:27pm.

Respectfully submitted,

Dawn Dunbar  
Land Use Assistant