



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

BOARD OF HEALTH
Robert J. Fleischer, Chairman
Susan Horowitz, Member
Jason Weber, Member

MINUTES

Date: Monday, February 6, 2017
Time: 7:00 PM
Location: 2nd Floor Meeting Room, Town Hall, 173 Main Street
Members Present: Robert Fleischer, Chairman; Dr. Susan Horowitz, Member;
Jason Weber, Member
Others Present: Ira Grossman, Nashoba Associated Board of Health Agent
Robin Eibye, Executive Assistant

Chairman Fleischer called the meeting to order at 7:00 p.m.

284 WHILEY ROAD – SDS Variance Request continued from January 9, 2017.

Jack Visniewski, Project Engineer for Cornerstone Land Consultants presented on behalf of John Valentine. Mr. Visniewski provided green cards as requested. Chair, Robert Fleischer asked the audience if anyone in attendance had any questions or comments related to this matter. No one responded. The Board reviewed and signed the Notice of Board of Health Decision #2017-02 for 284 Whiley Road.

The Board reviewed the minutes dated January 9, 2017, and Dr. Horowitz moved to approve the minutes dated January 9, 2017, as amended.

Mr. Weber seconded and the motion carried 3:0.

54 NATE NUTTING ROAD – SDS Variance Request

Jack Maloney, Sr. Project Manager for Ducharme & Dillis presented on behalf of Stephen Drowne. Mr. Maloney provided copies of the plan to the Board for review and requested the following variances:

- 1) **1.315-1(E):** There must be a minimum of five feet of pervious material between the bottom of the leaching facility and the groundwater elevation. (Provided-4 Feet)
- 2) **315-3(H):** At least five feet of naturally occurring materials must be in place over ledge. (Provided-4').
- 3) **315-5(G):** A minimum of 20' must be available between any property line and the entire exterior perimeter of any proposed leach areas. (Provided-11 Feet).

The Board asked Ira Grossman if he had any objections and/or recommended changes to the proposed plan. Mr. Grossman had none, and a brief discussion ensued.

Mr. Weber moved to accept the following variances subject to the BOH Standard Conditions and prior to occupancy:

- 1) **1.315-1(E):** There must be a minimum of five feet of pervious material between the bottom of the leaching facility and the groundwater elevation. (Provided-4 Feet)
- 2) **315-3(H):** At least five feet of naturally occurring materials must be in place over ledge. (Provided-4').
- 3) **315-5(G):** A minimum of 20' must be available between any property line and the entire exterior perimeter of any proposed leach areas. (Provided-11 Feet).

Groton Board of Health 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 ensure 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 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.

Dr. Horowitz seconded and the motion carried. 3:0.

Douglas Smith of Soilsmith Designs presented on behalf of Howard Scott Baker. Mr. Smith provided copies of the plan to the Board for review and requested the following variances:

- 1) Chapter 315-6 Leach beds shall be sized at 150% of title 5 requirements. Proposed is using the 150% increase factor then applying the 40% Presby reduction.
- 2) Chapter 315 -3-1 Percolation rates over 14 minutes per inch require leaching trenches. Proposed is a Presby Enviroseptic system.
- 3) Chapter 315-3-K Whenever a system must be pumped the soil absorption system must be pressure dosed (cannot pressure dose a Presby system)

A discussion ensued about the bedroom count, and Mr. Smith confirmed the proposed SDS system is a 3-bedroom system.

The Board asked Mr. Grossman for his opinion on the plan and requested variances. Mr. Grossman confirmed that he was comfortable with out-of-season testing, and noted that the proposed system increases the existing two-bedroom count to three. A brief discussion ensued, and the Board decided to continue the discussion to the next BOH meeting so that changes could be made to the proposed system. Mr. Smith agreed to provide an updated design to Mr. Grossman for review prior to the next BOH meeting on Monday, March 6, 2017.

267 Whiley Road – SDS Variance Request

Neil Gorman of David E. Ross Associates, Inc., presented on behalf of Lisa Cahill Munroe. Mr. Gorman provided copies of the plan to the Board for review and requested the following variances:

310 CMR 15.000 Title 5 - Local Upgrade Approvals

- 1) 15.405(1)(b) – Increase in the maximum allowable depth of system components required by 310 CMR 15.221(7), from 36 inches to 72 inches below finish grade, provided adequate venting and adequate access are provided and H-20 loading is provided for all system components.
- 2) 15.405(1) (g) – Reduction of the leaching system location setback from private wells (locus) from 100 feet to 84 feet.

Groton Board of Health Regulations:

- 1) 315-1.B – Deep observation holes for the determination of groundwater elevations may be performed during the months of March and April. Use of holes conducted in months other than March and April will be limited to Class II and Class III soils with a percolation rate greater than 5 minutes/inch. Proposed: Deep observation holes for Class I soils with a percolation rate of less than 2 minutes/inch performed in the month of September and October.
- 2) 315-1.K – Whenever a system must be pumped, the soil absorption system shall be pressure dosed. Proposed: The proposed Presby Enviro-Septic System cannot be pressure dosed.
- 3) 315-5.A – Leaching facilities must be located at least 100 feet from any wetland, watercourse, wetland vegetation, seasonal streams and drainage ditches. Proposed – an offset of 54 feet is provided.

- 4) 615-5.I – A minimum of 15 feet must be available between the edge of a soil absorption system and an adjacent side slope, measured from the top of the pea stone elevation in the soil absorption system. The finished side slope is not to be steeper than 3:1 (Horizontal-Vertical). Walls and impervious barriers are not allowed to adjust side slope requirement and offset. Proposed: an impervious polyethylene barrier is proposed a minimum of 5 feet from the proposed Presby Enviro-Septic Leaching System.

A discussion ensued about the increase in the maximum allowable depth of system components required by 310 CMR 15.221 (7), from 36 inches to 72 inches below finish grade. Dr. Horowitz asked for confirmation that the bedroom count would not increase. Mr. Grossman confirmed the existing 1-bedroom house would remain a 1-bedroom house with no increase in the number of bedrooms. Mr. Grossman recommend that "any changes in the room layout, number of rooms, or expansion or modifications shall be reviewed for approval by the BOH" be added to the standard conditions.

Mr. Weber moved to accept the following variances as written subject to water quality testing, the BOH Standard Conditions, and prior to occupancy:

310 CMR 15.000 Title 5 - Local Upgrade Approvals

- 1) 15.405(1)(b) – Increase in the maximum allowable depth of system components required by 310 CMR 15.221 (7), from 36 inches to 72 inches below finish grade, provided adequate venting and adequate access are provided and H-20 loading is provided for all system components.
- 2) 15.405(1) (g) – Reduction of the leaching system location setback from private wells (locus) from 100 feet to 84 feet.

Groton Board of Health Regulations:

- 1) 315-1.B – Deep observation holes for the determination of groundwater elevations may be performed during the months of March and April. Use of holes conducted in months other than March and April will be limited to Class II and Class III soils with a percolation rate greater than 5 minutes/inch. Proposed: Deep observation holes for Class I soils with a percolation rate of less than 2 minutes/inch performed in the month of September and October.
- 2) 315-1.K – Whenever a system must be pumped, the soil absorption system shall be pressure dosed. Proposed: The proposed Presby Enviro-Septic System cannot be pressure dosed.
- 3) 315-5.A – Leaching facilities must be located at least 100 feet from any wetland, watercourse, wetland vegetation, seasonal streams and drainage ditches. Proposed – an offset of 54 feet is provided.
- 4) 615-5.I – A minimum of 15 feet must be available between the edge of a soil absorption system and an adjacent side slope, measured from the top of the pea stone elevation in the soil absorption system. The finished side slope is not to be steeper than 3:1 (Horizontal-Vertical). Walls and impervious barriers are not allowed to adjust side slope requirement and offset. Proposed: an impervious polyethylene barrier is proposed a minimum of 5 feet from the proposed Presby Enviro-Septic Leaching System.

Groton Board of Health 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 ensure 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 prior to occupancy. 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 1-bedroom house is to remain a 1-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) Any changes in the room layout, number of rooms, expansion or modifications shall be reviewed for approval by the Groton BOH.

474 BOSTON ROAD – Deed Restriction

It was confirmed that the homeowner was not present. Mr. Grossman provided an update to the Board, and the proposed renovation plans were reviewed. A brief discussion ensued.

Dr. Horowitz moved to approve the Deed Restriction. Mr. Weber seconded and the motion carried. 3:0.

38 RIDGEWOOD ROAD – SDS Certificate of Compliance Discussion

Mr. Grossman provided an update to the Board and recommended that the Certificate of Compliance be issued. A brief discussion ensued and the Board unanimously agreed to issue the Certificate of Compliance.

635 TOWNSEND ROAD – Well Discussion

Matt Swierk was present. Mr. Grossman provided an update to the Board and explained the results of the water quality testing. The Board agreed that because the well water does not meet Regulations, 635 Townsend Road should be required to hook up to Town water.

Dr. Horowitz moved to require 635 Townsend Road to hook up to Town water and to decommission the existing well in accordance with BOH Regulations.

Mr. Weber seconded and the motion carried 3:0.

464 Boston Road – Sanitary Code Violation Hearing.

Attorney Connie Sullivan was in attendance and presented on Alberta Ericson's behalf. Attorney Sullivan explained that there was an error in the notes due to the fact that there are two different unit numbers 464 and 464A. Attorney Panas representing tenants, Mairi Elliott and Andrew Saball said his clients were properly notified, had received the violation order, and are aware of the violations.

Mr. Grossman confirmed that notification went to the owner at 464 Boston Road per the current records on file with the town. Mr. Grossman confirmed that he inspected the occupied unit. A discussion ensued about proper notification and unit numbers, and Mr. Grossman said he would reissue the order with proper notice to 464A, if necessary.

Attorney Sullivan said there was a fire at 464 Boston Road and the tenants vacated their unit at 464A due to the damage. Attorney Sullivan said the tenants moved back into their unit on December 26, 2016, against the property owner's wishes. Attorney Sullivan said the tenants were then given notice on December 30, 2016, to vacate the premises.

A brief discussion ensued and it was confirmed that the Board of Health inspection took place on January 9, 2017, after notice to vacate had been received. Attorney Sullivan said there were multiple errors on the inspection form, specifically, [1] the number of occupants and [2] the bedroom count. Attorney Sullivan said the violation included two bedrooms in the basement that were never intended—by the tenants or any other parties—as bedrooms.

A discussion ensued about Sanitary Code.

Attorney Panas said the unit had been rented as a four-bedroom unit. He said his clients were a family of five and they would not rent a two-bedroom, because it would be "much too small" for their family. Attorney Panas said the two-bedrooms in question have heat and that the main furnace provides the heat.

Mr. Weber suggested that the Board focus on the matter at hand which is relief from the order that was issued. The Board agreed.

A discussion ensued about the number of occupants to which the apartment was rented.

Attorney Sullivan said Ms. Erickson hired a plumber to address some of the violations, however the tenants had denied the plumber access to the unit. Attorney Panas said the plumber was there to disconnect the heat in the two bed-rooms. Mr. Grossman explained that the two bedrooms in the basement exist, are currently heated and used as bedrooms, and disconnecting the heat would be a violation.

Mr. Weber inquired as to whether the plumbing violations have been fixed. Ms. Elliott and Mr. Saball confirmed the plumbing has not been fixed. A discussion ensued, and It was agreed that

[1] the plumbing would be fixed, and [2] Ms. Elliott and Mr. Saball would be provided 48-hours' notice prior to the plumber's arrival, and [3] Ms. Elliott and Mr. Saball would allow the plumber access to the property to do the work.

A discussion about the egress obstruction ensued and whether or not the basement rooms are living space. Attorney Sullivan contested the egress obstruction violation. Mr. Grossman said the egress obstruction was of serious concern, and he wanted to be "on record" that this violation was a critical safety violation.

Ms. Ericson said the tenants have never notified her of any of these complaints in all their time renting.

The violations were reviewed and it was agreed that the Weathertight Elements violation would be addressed.

Attorney Sullivan said Ms. Erickson is contesting a total of six violations due to the bed-room count dispute.

A discussion ensued about the bedrooms in question. Mr. Grossman said the bedrooms needed to be brought into full compliance or the tenants needed to vacate the bedrooms.

The violation order was further reviewed and Ms. Elliott and Mr. Saball said they would like the bulk head/egress violation addressed. A discussion ensued.

Attorney Sullivan requested that the Board allow Ms. Erikson 90 days to address the following six contested violations:

1. 410.201 - Temperature Requirements
2. 410.250 – Habitable Rooms Other than Kitchen – Natural Light and Electric Outlets
3. 410.280 – Natural and Mechanical Ventilation
4. 410.300 – Sanitary Drainage System Required
5. 410.401 – Ceiling Height
6. 410.451 –Egress Obstruction

The Board agreed that they'd like to receive an update from both the home owner and the tenants within two weeks on the progress of the work.

Mr. Weber moved that the request for updates be given to the Board by 1:00 p.m. on Friday, February 17, 2017, and that the tenants provide a schedule of availability to the homeowner's attorney, and the homeowner provide at least 48-hours' notice prior to the appointment, and the hearing is continued to Monday, March 6, 2017.

Dr. Horowitz seconded and the motion carried 3:0.

Dr. Horowitz moved to adjourn the meeting at 10:00 p.m.

The meeting adjourned at 10:00 p.m.

Respectfully submitted by Robin Eibye, Executive Assistant

APPROVED: April 3, 2017
