



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

Date: Monday, June 17, 2019
Time: 7:00 PM
Location: Lunch Room, Groton Town Hall, 173 Main Street
Members Present: Robert Fleischer, Chairman; Dr. Susan Horowitz, Member; Jason Weber, Member; Ira Grossman, Nashoba Associated Board of Health Agent
Others Present: Sammie Kul, Erich Garger and Jon Winkler from Nashoba Valley Voice

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

46 REDSKIN TRAIL – Septic and Well Consideration for Proposed Garage

Erich Garger, homeowner of 46 Redskin Trail was present. Mr. Garger is seeking approval to replace the existing shed on his property with a garage.

Ira Grossman provided brief recap from the last meeting. The exact location of the septic system is unknown. This will further limit the ability to place any type of repair, extension or replacement system there. There is no optimal setup for the septic system that would work well with a garage there. Discussion ensued regarding whether there are any other options available to the homeowner that would still be in compliance with the septic regulations.

Mr. Grossman's recommendation is that the Board of Health deny this application. Building a garage would further reduce the ability to put in any septic system. Any space that may be taken by any additional structure will further restrict the ability to install a septic system due to the private wells, pond and very restrictive lot size and shape.

Jason Weber recognizes the possible sufficiency but based on 1) reduced protection and 2) lack of a plan, Mr. Weber moves that the Board of Health recommend that the ZBA decline this application.

Chairman Fleischer seconded; Dr. Susan Horowitz voted against 2:1

Mr. Garger asked for clarification as to why a new septic system cannot be placed in the same location as where it currently is. Mr. Grossman informed him that the current location does not meet compliance. Therefore, in the event that the system needs to be replaced we would want to ensure that it is in compliance as much as possible.

NEW/OLD BUSINESS

ANNUAL BOARD REORGANIZATION

The Board of Health reorganized for the ensuing year as follows:

- Jason Weber – Chair
- Susan Horowitz – Member
- Robert Fleischer – Member

Dr. Susan Horowitz moved to nominate Jason Weber for Chairman for a term of one year. Robert Fleisher seconded and the motion carried.

401 NASHUA ROAD – Vote on Decision Document

Jason Weber read his current draft of the Decision Document to the Board members (please see attached).

Board members discussed making a couple of minor edits.

Mr. Weber will resend the updated copy for the Board members to review and provide any comments.

Robert Fleischer suggested that they include a description of this religious event for those who may not be familiar with it.

INVOICES

Board members signed and reviewed permits.

Board members reviewed a Membership Dues Invoice from the Massachusetts Association of Health Boards (MAHB). There were no funds in FY2019 allocated for dues and memberships. The Board will look into adding this as a budget item for the Board of Health Budget for FY2020.

Dr. Susan Horowitz moved that the Board of Health join the Massachusetts Association of Health Boards. Jason Weber seconded and the motion carried.

MEETING MINUTES

The Board reviewed the meeting minutes dated June 3, 2019. A minor change was made.

Jason Weber moved to accept the meeting minutes dated June 3, 2019 with the noted changes. Dr. Susan Horowitz seconded and the motion carried.

Jason Weber moved to adjourn the meeting at 8:03 p.m. Dr. Susan Horowitz seconded and the motion carried.

Minutes by Sammie Kul.

APPROVED: July 1, 2019

The Groton Board of Health (the Board) would like to thank:

- The citizens who contacted the Board with their questions and concerns
- The citizens who attended any of the public hearings related to this matter
- Last but certainly not least, the landowner of 401 Nashua Road

For many of us, modern life is filled with various demands and claims on our time. The Board recognizes and encourages the engagement of the town's citizenry in this matter, and all others.

Background:

The initial complaint was received at Town Hall. The Board and its agent's efforts included:

- Consulting with
 - State and Federal Inspectors
 - Building Commissioner
 - Conservation Commission
 - Animal Inspector
- Requesting additional input and/or guidance from
 - The Town Administrators office
 - Town Counsel
 - Fire and Police Departments

The Board also invested substantial efforts trying to make sense of the regulations and permitting process for a slaughterhouse located in Massachusetts. Regrettably, his effort proved quite frustrating. The Board's attempt to determining the relative importance of the religious exemption vs. secular regulations for public safety was ultimately a failure. This failure was due to the state's agent being unable and/or unwilling to explain the relevant legal principles. The state's agent was:

- Unwilling to provide guidance for any hypothetical scenarios
- Unable or unwilling to explain if/when the religious exemption would not apply
- Certain that the religious exemption applied in this case at 401 Nashua Rd
- Confident that any contradictory state regulations were "intended as written"
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Findings:

Initially, the exemption for the farm appeared to be contained in the State Code (105 CMR 500). However, the Board was advised that a broader exemption in MA General Law Chapter 94 section 139G applies in this case. The issue of guests and attendees removing portions of the slaughter animals is explicitly disallowed in the State Code. However, this behavior is allowed in the General Law which, the Board is advised, takes precedence in this case. Specifically, the rights of an individual to exercise their beliefs free from government oversight are upheld in this General Law.

The Board strives to always be vigilant in its protection of the public health. At no time were any obvious threats to the public health observed during the August (year?) event. As part of the (subsequently retracted) slaughter(?) license application the following parties inspected the facilities and property at 401 Nashua Rd:

- Board of Health Agent
- Building Commissioner
- Animal Inspector
- Fire Department
- State Inspector(s?)
- Federal Inspector(s?)

Based on the consolidated findings from the above parties, the Town Manager wrote via email on August 23, 2018:

Based on our thorough review of the matter and receiving an opinion from Town Counsel, the Town cannot take any further action with regard to this event. Town Counsel has advised me that unless we can establish fraudulent activity at this location, it is exempt based on the religious activity. Interfering with this activity in any way would open the Town up to serious litigation and Town Counsel has advised the Town to remain neutral and not get involved.

Follow ups by the Board on public health concerns with the property owner confirmed that:

- No blood was being stored onsite
- Animal viscera and scraps were removed by a rendering company
- The property was cleaned of rubbish and garbage in a very timely manner

Based on the evidence from the above, the Board found that no violations of the Board of Health or State regulations had occurred. Additionally, the Building Commissioner found that the event did not constitute a violation of the town's zoning requirements and was not considered a business enterprise.

Additional Considerations:

The Board of Health notes the concerns expressed by neighbors of the farm related to water quality. Based on the relevant science, the Board finds that no neighboring individual well was likely impacted by the August event. However, the Board routinely recommends that any well, not just those in proximity of a farm, be periodically tested for water quality. Any such testing should be conducted by a state certified laboratory that is both [1] in good standing with the State and [2] certified by the State for the relevant parameters to be analyzed.

The Board encourages all of us to be tolerant—even if not respectful—of our neighbors, and the beliefs and practices of others. Religious freedom may not be an exercise in rationality, but it is enshrined in our founding documents.

The Board does not address areas of concern beyond its scope. Generally, considerations such as the aesthetics of the farm, “cooking” fires, picnicking, temporary use of “coolers,” and parking fall outside the purview of the Board.

The condition of the barn and the care and treatment of the animals was investigated and addressed by the Animal Inspector. In summary, he did not express any actionable concerns to the Board.

DRAFT