



TOWN OF GROTON

Board of Health
173 Main Street
Groton, MA 01450

BOARD OF HEALTH

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

Date: Monday, July 1, 2019
Time: 7:00 PM
Location: 1st Floor Meeting Room, Groton Town Hall, 173 Main Street
Members Present: Jason Weber, Chairman; Dr. Susan Horowitz, Member; Robert Fleischer, Member; Ira Grossman, Nashoba Associated Board of Health Agent
Others Present: Sammie Kul

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

NEW ENGLAND SHIRDI SAI TEMPLE – Discussion of Violation of Denied Well Permit

Ira Grossman provided a brief overview.

An "irrigation" well was drilled at this site despite the permit application being denied. The contractor spoke with Mr. Grossman and stated he was under the wrongful assumption that the well permit had been approved. There have not been any violations issued yet. The contractor stated that he was considering that it would possibly be a better option to destroy the existing well and find another location for a new well. They may also apply for a variance request for the existing well although it is deemed to be the less ideal of the two options. Brief discussion ensued. Mr. Grossman will communicate these options to the property owner and his contractor and request that they let us know by the next two weeks what they plan to do.

NEW/OLD BUSINESS

401 NASHUA ROAD – Vote on Decision Document

The below edits were added to the draft document for 401 Nashua Road.

- August 2018 event
- 1 state inspector, 1 federal inspector
- Included name of the holiday - Eid Al-Adha Observance

The final version of the document will be made available to the public (please refer to the document attached).

46 REDSKIN TRAIL – Email Inquiry from Applicant in Response to ZBA Notice

The Board reviewed the email response from the applicant in regards to Board of Health decision made for 46 Redskin Trail at the last meeting.

Ira Grossman reiterated to the Board that there is no space available for the proposed garage without further compromising septic requirements therefore identifying the location will not change anything in regards to the limitations discussed.

The Board said that this is not likely going to change their decision. There is a procedure in place when handling these types of situations. The Board's objective is to ensure that any Board of Health concerns are prioritized and addressed.

Although the Board does appreciate the applicant's offer to engage in additional measurement this does not address the fundamental concerns specifically related to public safety.

15 SHELTERS ROAD – Discussion of Septic Permit Application

Ira Grossman provided brief background for septic permit application for 15 Shelters Road. Applicant is proposing to install several chambers for the system. Mr. Grossman will notify applicant that he will need to request a variance hearing.

INVOICES

Board members reviewed and signed permits.

MEETING MINUTES

The Board reviewed the meeting minutes dated June 17, 2019.

Robert Fleischer moved to accept the meeting minutes dated June 17, 2019. Dr. Susan Horowitz seconded and the motion carried.

Robert Fleischer moved to adjourn the meeting at 7:28 p.m. Dr. Susan Horowitz seconded and the motion carried.

Minutes by Sammie Kul.

APPROVED: July 15, 2019

**TOWN OF GROTON**

Board of Health
173 Main Street
Groton, MA 01450

BOARD OF HEALTH

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

MEMO

TO: Town of Groton Residents

FROM: Town of Groton, Board of Health

DATE: July 3, 2019

SUBJECT: 401 Nashua Road, Groton, Massachusetts

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 Administrator's 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 Road
- Confident that any contradictory state regulations were "intended as written"

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 2018 Eid Al-Adha observance. As part of the (subsequently retracted) slaughter license application the following parties inspected the facilities and property at 401 Nashua Road:

- Board of Health Agent
- Building Commissioner
- Animal Inspector
- Fire Department
- State Inspector
- Federal Inspector

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.

cc: NABH
BOH file